

By Mr. Collins of Amherst, petition of Stephen J. Morgan, Nicholas Paleologos and James G. Collins for legislation to prohibit discrimination in the access to student fees. Education.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT RELATIVE TO NONDISCRIMINATORY ACCESS TO STUDENT FEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 (a) It is the sense of the General Court that institutions of higher
2 education should provide student organizations seeking to further
3 the educational objectives of students and should encourage
4 student initiative and understanding of the democratic and
5 governmental process equal opportunity to apply for and receive
6 student activity fees.

7 (b) The Secretary of Education in the Commonwealth is directed
8 to prepare a report for the General Court within 240 days of
9 enactment containing the following information gathered from a
10 sample of 15 institutions of higher education:

11 (1) A statement defining the criteria and procedures used in the
12 collection, appropriation and disbursement to student
13 organizations of all student activity fees or any funds available for
14 student activity purposes;

15 (2) A complete description of the types of collection systems
16 permitted;

17 (3) A statement of the procedures and rationale employed for
18 denials of requests for student organizations for funds by the
19 institution's officials or governing board;

20 (4) A description of the process of review of denials of funds,
21 including the time allowed for adjudication.

22 (c) Each institution of higher education receiving funds under
23 this act as amended shall provide "substantially equal treatment"
24 to all student organizations seeking funds collected from the
25 student body and shall make a general statement of intended use

26 prior to solicitation of the funds. For purposes of this section,
27 substantially equal treatment means —

28 (1) the opportunity to apply for funds collected as student
29 activity fees at that institution,

30 (2) full and fair consideration of applications for funds collected
31 as student activity fees,

32 (3) the opportunity to solicit or collect funds from the student
33 body other than student activity fees in a manner substantially the
34 same as the institution allows to any other student organization,

35 (4) the right to receive funds approved in accordance with
36 procedures of that particular institution of higher education, and

37 (5) the opportunity to solicit, collect or receive funds other than
38 student activity fees through a collection system described in a
39 petition which has been signed by more than fifty percent of the
40 activity fee paying students of the institution of higher education
41 within one academic year, and which petition requests that a
42 specific payment by the students at that institution to support the
43 activities described in the petition be collected pursuant to a system
44 to be instituted no less than 90 days after the petition is filed,
45 provided that each student has the right to request and receive a
46 refund of such payment.

47 *Provided:* That no institution of higher education organized or
48 operated by or on behalf of a religious organization of the type
49 described in 26 U.S.C. 501 (c) (3) shall be required to permit such
50 fund application, solicitation, collection, receipt, or collection
51 system if the purpose of the petitioning organization is fundamen-
52 tally at variance with the religious tenants of such religious
53 organization.

54 (d) Any student organization or any student who is a member of
55 such an organization may bring a civil action in the appropriate
56 United States district court against the institution of higher
57 education to enforce the provisions of section (c).

58 Any such action shall be determined by the court as
59 expeditiously as possible, and the court may grant such relief as
60 may be appropriate, and the relief granted may include an order
61 requiring equal treatment for the affected organization and
62 retroactive payment of funds wrongfully denied and including
63 award of costs of suit and reasonable fees for attorneys and expert
64 witnesses.