



Sen. Graciela Guzmán

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1 AMENDMENT TO SENATE BILL 2202

2 AMENDMENT NO. _____. Amend Senate Bill 2202, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. References to Act. This Act may be referred to
6 as the Academic Freedom of Expression Act.

7 Section 3. Findings and encouragement.

8 (a) The General Assembly finds that:

9 (1) Institutions of higher education are essential
10 forums for the open exchange of ideas that foster the free
11 search for truth, robust debate, and innovation, which
12 benefits this State and supports the tenets of a thriving
13 democracy. Academic freedom is indispensable to this
14 mission and therefore warrants statutory protection.

15 (2) Academic freedom serves not only individual
16 interests but also the broader public interest by

1 safeguarding the independence and integrity of teaching,
2 learning, and scholarship, which are vital to the economic
3 and cultural well-being of the State.

4 (3) Students benefit when this State affirms core
5 principles, including free inquiry, content-neutral and
6 viewpoint-neutral access to programs and activities,
7 safety, nondiscrimination, and academic excellence.
8 Institutions of higher education benefit when this State
9 provides clear, workable standards and when institutions
10 are not subjected to expansive or uncertain liability due
11 to their good-faith efforts at substantial compliance.

12 (4) This State has an interest in ensuring the
13 exercise of academic freedom so that institutions of
14 higher education are not threatened through undue
15 influence by external pressures, including actions by
16 public officials or governmental bodies that seek to
17 influence or restrict teaching, research, or expression.
18 Such actions undermine the mission of higher education and
19 are contrary to the public interest.

20 (b) The General Assembly encourages the governing board of
21 each post-secondary educational institution, as defined in the
22 Private College Act, to adopt or amend institutional policies
23 that incorporate, at a minimum, the academic freedoms, rights,
24 and obligations for public institutions of higher education
25 set forth in Section 8 of the Public Higher Education Act. The
26 General Assembly further encourages each private

1 post-secondary educational institution to make the
2 institution's policies on academic freedom, if applicable,
3 publicly available on the institution's website.

4 Section 5. The Public Higher Education Act is amended by
5 adding Section 8 as follows:

6 (110 ILCS 167/8 new)

7 Sec. 8. Academic freedom.

8 (a) As used in this Section:

9 "Harassment" means conduct directed at a particular
10 individual or group that is so severe, pervasive, and
11 objectively offensive that it effectively denies a person
12 equal access to a public institution of higher education's
13 educational programs or activities, consistent with applicable
14 federal and State law.

15 "Hate crime" has the meaning given to that term in Section
16 12-7.1 of the Criminal Code of 2012.

17 "Intimidation" means a course of conduct directed at a
18 particular individual or group that would cause a reasonable
19 person to fear for their physical safety or the physical
20 safety of others and that is not protected by the First
21 Amendment to the Constitution of the United States, consistent
22 with applicable federal and State law.

23 "Public institution of higher education" has the meaning
24 given to that term in Section 5 of this Act. "Public

1 institution of higher education" does not include laboratory
2 schools, as defined in Section 18-8.15 of the School Code.

3 "Threat" means a statement or course of conduct made with
4 knowledge or reckless disregard that a reasonable person would
5 interpret as a serious expression of intent to commit an act of
6 unlawful violence against a particular individual or group,
7 consistent with applicable federal and State law.

8 (b) Every faculty member of a public institution of higher
9 education has the right to all of the following, without fear
10 of direct or indirect retaliation by the institution or
11 discipline up to and including termination:

12 (1) Freedom in teaching, including the right to select
13 pedagogical methods, course materials, and forms of
14 assessment and to present and freely discuss the subject
15 matter of course material, as long as such methods,
16 materials, forms of assessment, and discussions are
17 relevant to the course content and conducted consistent
18 with published lawful institutional policies and standards
19 of the discipline.

20 (2) Freedom in research, including the right to
21 pursue, produce, publish, and disseminate
22 scholarship-related research, subject only to professional
23 ethics standards, published lawful institutional policies,
24 institutional responsibilities, contractual obligations,
25 and applicable laws and regulatory requirements governing
26 research activities.

1 (3) Freedom of expression, where the faculty member is
2 acting in an individual capacity and does not purport to
3 represent the views of the institution unless the faculty
4 member is authorized to do so, on matters of public
5 concern, including the right to comment on institutional,
6 local, State, or federal policies, practices, governance,
7 or administration. This freedom shall be exercised in a
8 manner consistent with applicable laws.

9 (4) Freedom to attend a political rally or public
10 demonstration, as long as the faculty member is not absent
11 from class or other official responsibilities, and to
12 write or publicly comment on political issues or related
13 topics, as long as the faculty member is acting in an
14 individual capacity outside the scope of their assigned
15 institutional duties and without the use of institutional
16 resources, consistent with applicable law and published
17 lawful institutional policies.

18 Nothing in this Section shall be construed to create an
19 inconsistent or unequal application of lawful institutional
20 policies governing expressive activity among faculty, staff,
21 or other employees of the public institution of higher
22 education, except as necessary to account for differences in
23 assigned institutional responsibilities.

24 (c) Every student of a public institution of higher
25 education has the freedom or right to all of the following,
26 without fear of direct or indirect retaliation by the

1 institution or discipline:

2 (1) Freedom to freely discuss the subject matter of
3 teaching material in the classroom, as long as such
4 discussion is relevant to the course content, conducted
5 consistent with published lawful institutional policies,
6 and in conformity with the class management expectations
7 established for the applicable class.

8 (2) Freedom in research, including the right to
9 pursue, produce, publish, and disseminate
10 scholarship-related research, subject only to applicable
11 ethics standards, published lawful institutional policies,
12 contractual obligations, and laws and regulatory
13 requirements governing research activities.

14 (3) Freedom of expression on matters of public
15 concern, including the right to comment on institutional,
16 local, State, or federal policies, practices, governance,
17 or administration. This freedom shall be exercised in a
18 manner consistent with published lawful institutional
19 policies and applicable laws.

20 (4) Freedom to attend a political rally or public
21 demonstration and to write or publicly comment on
22 political issues or related topics.

23 (5) Freedom to engage in lawful, peaceful protest in
24 the generally accessible and open outdoor areas of campus,
25 subject to any reasonable content-neutral and
26 viewpoint-neutral time, place, and manner restrictions

1 that are in furtherance of a significant institutional
2 interest and that leave ample alternative means of
3 expression, including restrictions that prevent conduct
4 that is unlawful or that intentionally, materially, and
5 substantially disrupts the functioning of the institution.

6 (d) This Section may not be construed to:

7 (1) prevent this State or a public institution of
8 higher education from enacting generally applicable
9 academic standards, degree requirements, or governance
10 structures developed through established
11 shared-governance processes;

12 (2) limit compliance with federal or State civil
13 rights, health and safety, or fiduciary laws;

14 (3) supersede any valid collective bargaining
15 agreement provisions that afford equal or greater
16 protection;

17 (4) limit the authority of an institution to regulate
18 the speech or expressive conduct of faculty, staff, or
19 students to the extent permitted under federal or State
20 law, including through any reasonable content-neutral and
21 viewpoint-neutral time, place, and manner restrictions
22 that are in furtherance of a significant institutional
23 interest and that leave ample alternative means of
24 expression, and the regulation of speech in nonpublic
25 forums;

26 (5) restrict an institution's ability to clarify that

1 speech or expression by faculty, staff, or students is
2 undertaken in an individual capacity and does not
3 represent the views of the institution unless the faculty,
4 staff, or students were expressly authorized by the
5 institution;

6 (6) prohibit an institution from adopting and
7 enforcing published policies addressing unlawful
8 harassment, discrimination, threats, intimidation, hate
9 crimes, or conduct that intentionally, materially, and
10 substantially disrupts the functioning of the institution
11 or that interferes with the rights of others to
12 participate in or benefit from institutional programs or
13 activities, consistent with federal and State law; or

14 (7) impose obligations that would cause an institution
15 to violate applicable law, including any federal
16 requirements, or risk the loss of federal or other funds.

17 (e) No State officer or employee, member of a State
18 governing or coordinating board, or institutional
19 administrator may penalize any faculty member of a public
20 institution of higher education concerning the specific
21 content of, viewpoints presented in, or method of the faculty
22 member's teaching or scholarship, except as necessary to
23 ensure that a faculty member's teaching or scholarship is
24 reasonably germane to the faculty member's field or fields of
25 study or assigned instructional responsibilities and that
26 non-germane speech does not comprise a substantial portion of

1 classroom instruction or to comply with applicable law.

2 (f) The governing board of each public institution of
3 higher education shall, by July 1, 2027, adopt or amend
4 institutional policies to incorporate, at a minimum, the
5 rights and obligations set forth in this amendatory Act of the
6 104th General Assembly, in consultation with recognized
7 faculty governing bodies and, if applicable, collective
8 bargaining representatives.

9 Each public institution of higher education shall make the
10 institution's policies on academic freedom publicly available
11 on the institution's website by July 1, 2027 and within 60 days
12 after any subsequent revisions to the policy.

13 Each public institution of higher education shall submit
14 the institution's policies on academic freedom to the Illinois
15 Community College Board or the Board of Higher Education,
16 whichever is applicable, by July 1, 2027 and within 60 days
17 after any subsequent revisions to the policy. The Illinois
18 Community College Board and the Board of Higher Education
19 shall make the policies received from each institution under
20 this subsection (f) publicly available on their respective
21 websites by January 1, 2028 and within 60 days after any
22 subsequent revisions to the policy. The Illinois Community
23 College Board and the Board of Higher Education shall each
24 submit to the General Assembly a report compiling the policies
25 received from each institution under this subsection (f) by
26 January 1, 2028.

1 (g) Alleged violations of this Section shall first be
2 addressed through a public institution of higher education's
3 established grievance or administrative review procedures or
4 applicable collective bargaining agreements. A faculty member
5 or student of an institution at the time that the institution
6 has made or enforced any rule in violation of this Section may
7 commence a civil action to obtain appropriate injunctive and
8 declaratory relief as determined by a court if the faculty
9 member or student has first exhausted applicable institutional
10 grievance or administrative review procedures or remedies
11 available under any applicable collective bargaining
12 agreement. Upon motion, the court may award reasonable
13 attorney's fees and costs, including expert witness fees and
14 other litigation expenses, to a prevailing plaintiff in a
15 civil action brought under this Section.

16 Nothing in this Section shall be construed to create a
17 private right of action for damages against an institution.

18 (h) This Section shall be construed in accordance with,
19 and not in conflict with, applicable federal and State law,
20 including, but not limited to, Title VI of the federal Civil
21 Rights Act of 1964, Title IX of the federal Education
22 Amendments of 1972, the federal Jeanne Clery Disclosure of
23 Campus Security Policy and Campus Crime Statistics Act, the
24 federal Family Educational Rights and Privacy Act of 1974, the
25 federal Americans with Disabilities Act of 1990, Section 504
26 of the federal Rehabilitation Act of 1973, and the Illinois

1 Human Rights Act.

2 Section 15. The Public Community College Act is amended by
3 changing Section 2-15 as follows:

4 (110 ILCS 805/2-15) (from Ch. 122, par. 102-15)

5 Sec. 2-15. Recognition. The State Board shall grant
6 recognition to community colleges which maintain equipment,
7 courses of study, standards of scholarship and other
8 requirements set by the State Board. Application for
9 recognition shall be made to the State Board. The State Board
10 shall set the criteria by which the community colleges shall
11 be judged and through the executive officer of the State Board
12 shall arrange for an official evaluation of the community
13 colleges and shall grant recognition of such community
14 colleges as may meet the required standards.

15 Recognition shall include a review of a community
16 college's compliance with Section 8 of the Public Higher
17 Education Act. Recognition shall also include a review of
18 compliance with Section 3-65 of this Act and other applicable
19 State and federal laws regarding employment contracts and
20 compensation. Annually, the State Board shall convene an
21 advisory committee to review the findings and make
22 recommendations for changes or additions to the laws or the
23 review procedures.

24 If a community college district fails to meet the

1 recognition standards set by the State Board, and if the
2 district, in accordance with: (a) generally accepted
3 Government Auditing Standards issued by the Comptroller
4 General of the United States, (b) auditing standards
5 established by the American Institute of Certified Public
6 Accountants, or (c) other applicable State and federal
7 standards, is found by the district's auditor or the State
8 Board working in cooperation with the district's auditor to
9 have material deficiencies in the design or operation of
10 financial control structures that could adversely affect the
11 district's financial integrity and stability, or is found to
12 have misused State or federal funds and jeopardized its
13 participation in State or federal programs, the State Board
14 may, notwithstanding any laws to the contrary, implement one
15 or more of the following emergency powers:

16 (1) To direct the district to develop and implement a
17 plan that addresses the budgetary, programmatic, and other
18 relevant factors contributing to the need to implement
19 emergency measures. The State Board shall assist in the
20 development and shall have final approval of the plan.

21 (2) To direct the district to contract for educational
22 services in accordance with Section 3-40. The State Board
23 shall assist in the development and shall have final
24 approval of any such contractual agreements.

25 (3) To approve and require revisions of the district's
26 budget.

1 (4) To appoint a Financial Administrator to exercise
2 oversight and control over the district's budget. The
3 Financial Administrator shall serve at the pleasure of the
4 State Board and may be an individual, partnership,
5 corporation, including an accounting firm, or other entity
6 determined by the State Board to be qualified to serve,
7 and shall be entitled to compensation. Such compensation
8 shall be provided through specific appropriations made to
9 the State Board for that express purpose.

10 (5) To develop and implement a plan providing for the
11 dissolution or reorganization of the district if in the
12 judgment of the State Board the circumstances so require.
13 All local funds under the control of the State Board as a
14 result of the dissolution or reorganization of the
15 district shall be expended by the State Board for purposes
16 of providing educational services in the territory from
17 which those local funds were acquired.

18 (Source: P.A. 103-940, eff. 8-9-24.)".