



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5387

by Rep. Thomas Morrison - Terri Bryant - Patrick Windhorst

SYNOPSIS AS INTRODUCED:

New Act

Creates the Campus Free Speech Act. Requires the governing board of each public university and community college to develop and adopt a policy on free expression; sets forth what the policy must contain. Requires the Board of Higher Education to create a Committee on Free Expression to issue an annual report. Requires public institutions of higher education to include in their freshman orientation programs a section describing to all students the policies and rules regarding free expression that are consistent with the Act. Contains provisions concerning rules, construction of the Act, and enforcement.

LRB101 17435 NHT 66844 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Campus
5 Free Speech Act.

6 Section 5. Legislative findings. The General Assembly
7 finds the following:

8 (1) Section 4 of Article I of the Illinois Constitution
9 recognizes that "all persons may speak, write and publish
10 freely, being responsible for the abuse of that liberty. In
11 trials for libel, both civil and criminal, the truth, when
12 published with good motives and for justifiable ends, shall
13 be a sufficient defense".

14 (2) Public institutions of higher education have
15 historically embraced a commitment to freedom of
16 expression in policy.

17 (3) In recent years, some public institutions of higher
18 education have abdicated their responsibility to uphold
19 free-speech principles, and these failures make it
20 appropriate for all public institutions of higher
21 education to restate and confirm their commitment in this
22 regard.

23 (4) In 1974, the Committee on Free Expression at Yale

1 University issued a statement known as the Woodward Report
2 that stands as a classic defense of free expression on
3 campuses; in 2015, the Committee on Freedom of Expression
4 at the University of Chicago issued a similar and widely
5 respected report; and in 1967, the Kalven Committee Report
6 of the University of Chicago articulated the principle of
7 institutional neutrality regarding political and social
8 issues and the essential role of such neutrality in
9 protecting freedom of thought and expression at
10 universities. The principles affirmed by these 3 highly
11 regarded reports are inspiring articulations of the
12 critical importance of free expression in higher
13 education.

14 (5) The General Assembly views freedom of expression as
15 being of critical importance and requires that each public
16 institution of higher education ensure free, robust, and
17 uninhibited debate and deliberation by students of public
18 institutions whether on or off campus.

19 (6) The General Assembly has determined that it is a
20 matter of statewide concern that all public institutions of
21 higher education officially recognize freedom of speech as
22 a fundamental right.

23 Section 10. Definition. In this Act, "public institution"
24 means a public university or public community college in this
25 State.

1 Section 15. Policy on free expression required. The board
2 of trustees of a public institution shall develop and adopt a
3 policy on free expression that contains, at least, the
4 following:

5 (1) A statement that the primary function of an
6 institution of higher education is the discovery,
7 improvement, transmission, and dissemination of knowledge
8 by means of research, teaching, discussion, and debate.
9 This statement shall provide that, to fulfill this
10 function, the institution must strive to ensure the fullest
11 degree of intellectual freedom and free expression.

12 (2) A statement that it is not the proper role of the
13 institution to shield individuals from speech protected by
14 the First Amendment, including, without limitation, ideas
15 and opinions they find unwelcome, disagreeable, or even
16 deeply offensive.

17 (3) A statement that students and faculty have the
18 freedom to discuss any problem that presents itself, as the
19 First Amendment permits and within the limits of reasonable
20 viewpoint and content-neutral restrictions on time, place,
21 and manner of expression that are consistent with this Act
22 and that are necessary to achieve a significant
23 institutional interest; provided that these restrictions
24 are clear, are published, and provide ample alternative
25 means of expression. Students and faculty shall be

1 permitted to assemble and engage in spontaneous expressive
2 activity as long as the activity is not unlawful and does
3 not materially and substantially disrupt the functioning
4 of the institution, subject to the requirements of this
5 Act.

6 (4) A statement that the campuses of the institution
7 are open to speakers invited by students, student groups,
8 or members of the faculty without regard to viewpoint or
9 content of the proposed speech. If a fee applies to a
10 speech by an invited speaker, the inviting students,
11 student groups, or members of the faculty may not be
12 charged greater or lesser amounts based on the viewpoint,
13 content, or expected reaction to the speech.

14 (5) A statement that the outdoor public areas of
15 campuses of the institution are designated public forums,
16 open on the same terms to any speaker, and that any person
17 lawfully present on campus may leaflet, protest, or
18 demonstrate in those outdoor public areas.

19 (6) A provision setting forth the affirmative steps
20 that the institution will take to protect the free speech
21 rights of invited speakers.

22 (7) A provision that, in all disciplinary cases
23 involving expressive conduct, students are entitled to a
24 disciplinary hearing under published procedures. When
25 suspension for longer than 30 days or expulsion are
26 potential penalties, students are entitled to the right to

1 active assistance of counsel.

2 (8) A statement that the institution may not take
3 action, as an institution, on the public policy
4 controversies of the day in such a way as to require
5 students or faculty to publicly espouse any given
6 viewpoint, provided that the institution may prescribe the
7 content of its curriculum.

8 (9) A statement that this policy supersedes and
9 nullifies any prior provisions in the policies and
10 regulations of the institution that restrict speech on
11 campus and are, therefore, inconsistent with this policy on
12 free expression. The institution shall remove or revise any
13 such provisions in its policies and regulations to ensure
14 compatibility with this policy on free expression.

15 Section 20. Committee on Free Expression.

16 (a) The Board of Higher Education shall create a single
17 Committee on Free Expression consisting of all of the following
18 members, all of whom shall serve without compensation:

19 (1) One member representing the University of Illinois
20 at Urbana-Champaign, appointed by the university's board
21 of trustees.

22 (2) One member representing the University of Illinois
23 at Springfield, appointed by the university's board of
24 trustees.

25 (3) One member representing the University of Illinois

1 at Chicago, appointed by the university's board of
2 trustees.

3 (4) One member representing Southern Illinois
4 University at Carbondale, appointed by the university's
5 board of trustees.

6 (5) One member representing Southern Illinois
7 University at Edwardsville, appointed by the university's
8 board of trustees.

9 (6) One member representing Western Illinois
10 University, appointed by the university's board of
11 trustees.

12 (7) One member representing Eastern Illinois
13 University, appointed by the university's board of
14 trustees.

15 (8) One member representing Illinois State University,
16 appointed by the university's board of trustees.

17 (9) One member representing Northern Illinois
18 University, appointed by the university's board of
19 trustees.

20 (10) One member representing Chicago State University,
21 appointed by the university's board of trustees.

22 (11) One member representing Governors State
23 University, appointed by the university's board of
24 trustees.

25 (12) One member representing Northeastern Illinois
26 University, appointed by the university's board of

1 trustees.

2 (13) Three members representing public community
3 colleges, appointed by the Illinois Community College
4 Board at its discretion.

5 (14) Four members representing faculty members, 2
6 appointed by the Board of Higher Education and 2 appointed
7 by the Illinois Community College Board.

8 (15) Four members representing students, 2 appointed
9 by the Board of Higher Education and 2 appointed by the
10 Illinois Community College Board.

11 (b) The Committee on Free Expression shall meet initially
12 at the call of the Chairperson of the Board of Higher
13 Education, shall select one member as chairperson at its
14 initial meeting, and shall thereafter meet at the call of that
15 chairperson. The Board of Higher Education shall provide
16 administrative and other support to the Committee.

17 (c) The Committee on Free Expression shall report to the
18 public, the Board of Higher Education, the Governor, and the
19 General Assembly on September 1 of every year. The report shall
20 include all of the following:

21 (1) A description of any barriers to or disruptions of
22 free expression within public institutions.

23 (2) A description of the administrative handling and
24 discipline relating to these disruptions or barriers.

25 (3) A description of substantial difficulties,
26 controversies, or successes in maintaining a posture of

1 administrative and institutional neutrality with regard to
2 political or social issues.

3 (4) Any assessments, criticisms, commendations, or
4 recommendations the committee sees fit to include.

5 Section 25. Freshman orientation information. Public
6 institutions shall include in their freshman orientation
7 programs a section describing to all students the policies and
8 rules regarding free expression that are consistent with this
9 Act.

10 Section 30. Rules; construction of Act. The Board of Higher
11 Education is authorized to adopt rules to further the purposes
12 of the policies adopted pursuant to this Act. Nothing in this
13 Act shall be construed to prevent public institutions from
14 regulating student speech or activity that is prohibited by
15 other federal, State, or local laws.

16 Section 35. Enforcement. The following persons may bring an
17 action in a court of competent jurisdiction to enjoin any
18 violation of this Act or to recover reasonable court costs and
19 attorney's fees:

20 (1) The Attorney General.

21 (2) A person whose expressive rights are violated by a
22 violation of this Act.

23 In an action brought under this Act, if the court finds

1 that a violation of this Act occurred, the court may award the
2 aggrieved person injunctive relief for the violation and shall
3 award reasonable court costs and attorney's fees.