



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4968

Introduced 2/18/2020, by Rep. Allen Skillicorn

SYNOPSIS AS INTRODUCED:

New Act

Creates the Campus Free Speech and Expression Act. Requires the board of trustees of each public university and community college in this State to adopt a policy that includes a statement that (1) the primary function of an institution of higher education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate; (2) it is not the proper role of an institution of higher education to shield individuals from speech protected by the First Amendment of the Constitution of the United States; (3) it is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage the peaceful, respectful, and safe exercise of First Amendment rights; (4) students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the First Amendment and subject to reasonable time, place, and manner restrictions; and (5) the outdoor areas of campus of an institution of higher education are public forums open on the same terms to any invited speaker, subject to reasonable time, place, and manner restrictions. Sets forth provisions concerning activities that are protected under the Act, deeming the outdoor areas of campuses public forums on campus, freedom of association, remedies, a statute of limitations, and immunity.

LRB101 17438 NHT 66847 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 and Expression Act.

6 Section 5. Definitions. In this Act:

7 "Benefit", with respect to a student organization at a
8 public institution of higher education, means any of the
9 following:

10 (1) Recognition.

11 (2) Registration.

12 (3) Use of facilities for meetings or speaking
13 purposes.

14 (4) Use of channels of communication.

15 (5) Access to funding sources that are otherwise
16 available to other student groups.

17 "Campus community" means students, administrators,
18 faculty, and staff at a public institution of higher education
19 and guests invited to a public institution of higher education
20 by the institution's students, administrators, faculty, or
21 staff.

22 "Intentionally, materially, and substantially disrupts"
23 means when a person, with the intent to or with knowledge of

1 doing so, engages in violent or other disorderly conduct that
2 significantly hinders a previously scheduled or reserved
3 activity occurring on campus grounds, buildings, and
4 facilities. "Materially and substantially disrupts" does not
5 include conduct that is protected under the First Amendment of
6 the Constitution of the United States, including, but not
7 limited to, lawful protests and counter-protests.

8 "Outdoor areas of campus" means the generally accessible
9 outside areas of campus where students, administrators,
10 faculty, and staff at a public institution of higher education
11 are commonly allowed, such as grassy areas, walkways, or other
12 similar common areas, and does not include areas outside health
13 care facilities, including both stand-alone facilities and
14 mixed-use facilities that are embedded within another
15 facility, veterinary medicine facilities, a facility or
16 outdoor area used by the institution's athletics program or
17 teams, or other outdoor areas where access is restricted to a
18 majority of the campus community. In recognition of the healing
19 environment that is essential to its clinical purposes, the
20 areas outside health care facilities, including both
21 stand-alone facilities and mixed-use facilities that are
22 embedded within another facility, are not designated as public
23 forums under this Act.

24 "Public institution of higher education" means a public
25 university or public community college in this State.

26 "Student" means an individual who is enrolled on a

1 full-time or part-time basis at a public institution of higher
2 education.

3 "Student organization" means a group officially recognized
4 at or officially registered by a public institution of higher
5 education or a group seeking such official recognition or
6 official registration comprised of students who are admitted
7 and in attendance at the public institution of higher education
8 and who receive or are seeking to receive student organization
9 benefits or privileges through the public institution of higher
10 education.

11 Section 10. Policy adoption. The board of trustees of each
12 public institution of higher education shall adopt a policy
13 that includes all of the following statements:

14 (1) That the primary function of an institution of
15 higher education is the discovery, improvement,
16 transmission, and dissemination of knowledge by means of
17 research, teaching, discussion, and debate. This statement
18 shall provide that, to fulfill this function, the
19 institution must strive to ensure the fullest degree of
20 intellectual freedom and free expression allowed under the
21 First Amendment of the Constitution of the United States.

22 (2) That it is not the proper role of an institution of
23 higher education to shield individuals from speech
24 protected by the First Amendment of the Constitution of the
25 United States, which may include ideas and opinions the

1 individual finds unwelcome, disagreeable, or even
2 offensive.

3 (3) That it is the proper role of an institution of
4 higher education to encourage diversity of thoughts,
5 ideas, and opinions and to encourage, within the bounds of
6 the First Amendment of the Constitution of the United
7 States, the peaceful, respectful, and safe exercise of
8 First Amendment rights.

9 (4) That students and faculty have the freedom to
10 discuss any problem that presents itself, assemble, and
11 engage in spontaneous expressive activity on campus,
12 within the bounds of established principles of the First
13 Amendment of the Constitution of the United States and
14 subject to reasonable time, place, and manner restrictions
15 that are consistent with established First Amendment
16 principles.

17 (5) That the outdoor areas of campus of an institution
18 of higher education are public forums open on the same
19 terms to any invited speaker, subject to reasonable time,
20 place, and manner restrictions that are consistent with
21 established principles of the First Amendment of the
22 Constitution of the United States.

23 Section 15. Protected activities.

24 (a) Noncommercial expressive activities protected under
25 this Act include, but are not limited to, any lawful oral or

1 written means by which members of the campus community may
2 communicate ideas to one another, including, but not limited
3 to, all forms of peaceful assembly, protests, speeches,
4 including by invited speakers, distribution of literature,
5 circulating petitions, and publishing, including publishing or
6 streaming on an Internet site, audio or video recorded in
7 outdoor areas of campus.

8 (b) A member of the campus community who wishes to engage
9 in noncommercial expressive activity in outdoor areas of campus
10 shall be permitted to do so freely, subject to reasonable time,
11 place, and manner restrictions, as long as the member's conduct
12 is not unlawful, does not impede others' access to a facility
13 or use of walkways, and does not disrupt the functioning of the
14 public institution of higher education, subject to the
15 protections of subsection (a). The public institution of higher
16 education may designate other areas of campus available for use
17 by the campus community according to institutional policy, but
18 in all cases access to designated areas of campus must be
19 granted on a viewpoint-neutral basis within the bounds of
20 established First Amendment principles.

21 (c) A public institution of higher education shall not deny
22 benefits or privileges available to student organizations
23 based on the viewpoint of a student organization or the
24 expression of the viewpoint of a student organization by the
25 student organization or its members protected by the First
26 Amendment of the Constitution of the United States. In

1 addition, a public institution of higher education shall not
2 deny any benefit or privilege to a student organization based
3 on the student organization's requirement that the leaders of
4 the student organization agree to and support the student
5 organization's beliefs, as those beliefs are interpreted and
6 applied by the organization, and to further the student
7 organization's mission.

8 (d) This Section shall not be interpreted as limiting the
9 right of student expression in a counter demonstration held in
10 an outdoor area of campus as long as the conduct at the counter
11 demonstration is not unlawful, does not materially and
12 substantially prohibit the free expression rights of others in
13 an outdoor area of campus or disrupt the functioning of the
14 public institution of higher education, and does not impede
15 others' access to a facility or use of walkways, subject to
16 reasonable time, place, and manner restrictions that are
17 consistent with established principles of the First Amendment
18 of the Constitution of the United States.

19 (e) This Section shall not be interpreted as preventing
20 public institutions of higher education from prohibiting,
21 limiting, or restricting expression that the First Amendment of
22 the Constitution of the United States does not protect,
23 including, but not limited to, a threat of serious harm and
24 expression directed or likely directed to provoke imminent
25 unlawful actions, or from prohibiting harassment, including,
26 but not limited to, expression that is so severe, pervasive,

1 and subjectively and objectively offensive that the expression
2 unreasonably interferes with an individual's access to
3 educational opportunities or benefits provided by a public
4 institution of higher education.

5 Section 20. Public forums on campus; freedom of
6 association.

7 (a) The outdoor areas of campuses of public institutions of
8 higher education shall be deemed public forums. Public
9 institutions of higher education may maintain and enforce
10 clear, published, reasonable viewpoint-neutral time, place,
11 and manner restrictions that are narrowly tailored in
12 furtherance of a significant institutional interest but shall
13 allow members of the campus community to engage in spontaneous
14 expressive activity and to distribute literature. Restrictions
15 instituted by a public institution of higher education under
16 this Section shall provide for ample alternative means of
17 expression.

18 (b) Except as provided in this Act, and subject to
19 reasonable time, place, and manner restrictions, a public
20 institution of higher education shall not designate any area of
21 campus a free-speech zone or otherwise create policies
22 restricting expressive activities to a particular outdoor area
23 of campus.

24 (c) Nothing in this Section shall be construed to grant
25 individuals the right to engage in conduct that intentionally,

1 materially, and substantially disrupts the expressive activity
2 of a person or student organization if the public institution
3 of higher education has reserved space in an outdoor area of
4 campus for activity by the person or student organization in
5 accordance with this Section.

6 Section 25. Remedies; statute of limitations; immunity.

7 (a) A member of the campus community aggrieved by a
8 violation of this Act may file a complaint with the board of
9 trustees of the public institution of higher education.

10 (b) A member of the campus community aggrieved by a
11 violation of this Act may assert such violation as a defense or
12 counterclaim in a disciplinary action or in a civil or
13 administrative proceeding brought against the member of the
14 campus community.

15 (c) A member of the campus community shall bring a claim
16 for violation of this Act pursuant to this Section no later
17 than one year after the day the cause of action accrues.

18 (d) This Section shall not be interpreted to limit any
19 other remedies available to a member of the campus community.

20 (e) Nothing in this Section shall be construed to make any
21 administrator, officer, employee, or agent of a public
22 institution of higher education personally liable for acts
23 taken pursuant to the individual's official duties.