



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3052

Introduced 2/19/2021, by Rep. Adam Niemerg

SYNOPSIS AS INTRODUCED:

New Act

Creates the Campus Free Speech Protection Act. Requires the governing board of each public institution of higher education to adopt policies governing free expression. Sets forth what those policies must ensure. Contains provisions concerning making those policies available to faculty and students. Sets forth both prohibited and permissible conduct. Provides for remedies for violations of the policies.

LRB102 14074 CMG 19426 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 Protection Act.

6 Section 5. Definitions. In this Act:

7 "Faculty" means any person, educator, or staff member
8 employed by or acting under the agency of a public institution
9 of higher education regardless of whether the person is
10 compensated by the public institution of higher education.

11 "Public institution of higher education" or "institution"
12 means the University of Illinois, Southern Illinois
13 University, Chicago State University, Eastern Illinois
14 University, Governors State University, Illinois State
15 University, Northeastern Illinois University, Northern
16 Illinois University, Western Illinois University, a public
17 community college in this State, or any other public
18 university, college, or community college now or hereafter
19 established or authorized by the General Assembly.

20 "Student" means an individual currently enrolled in at
21 least one credit hour at a public institution of higher
22 education or a student organization registered pursuant to the
23 policies of a public institution of higher education.

1 Section 10. Policies; notice of policies.

2 (a) Consistent with its obligations to respect the rights
3 secured by the Constitution of the United States and the
4 Constitution of the State of Illinois, the governing board of
5 each public institution of higher education, by no later than
6 January 1, 2022, shall adopt policies to ensure all of the
7 following:

8 (1) That the institution protects the fundamental and
9 constitutional right of all students and faculty to
10 freedom of expression.

11 (2) That the institution grants students and faculty
12 the broadest possible latitude to speak, write, listen,
13 challenge, learn, and discuss any issue.

14 (3) That the institution commits to maintaining a
15 marketplace of ideas in which the free exchange of ideas
16 is not suppressed because an idea put forth is considered
17 by some or even most of the members of the institution's
18 community to be offensive, unwise, disagreeable,
19 conservative, liberal, traditional, or radical.

20 (4) That students and faculty do not substantially
21 obstruct or otherwise substantially interfere with the
22 freedom of others to express views they reject so that a
23 lively and fearless freedom of debate and deliberation is
24 promoted and protected.

25 (5) That the expression of a student's religious or

1 political viewpoints in classroom, homework, artwork, and
2 other written and oral assignments is free from
3 discrimination or penalty based on the religious or
4 political content of the submission.

5 (6) That the selection of students to speak at
6 official events is made in a viewpoint-neutral manner. The
7 prepared remarks of a student are not to be altered before
8 delivery, except in a viewpoint-neutral manner or unless
9 requested by the student. However, student speakers shall
10 not engage in speech that is obscene, vulgar, offensively
11 lewd, or indecent. If the content of a student's speech is
12 such that a reasonable observer may perceive affirmative
13 institutional sponsorship or endorsement of the student
14 speaker's religious or political viewpoint, the
15 institution shall communicate, in writing, orally, or
16 both, that the student's speech does not reflect the
17 endorsement, sponsorship, position, or expression of the
18 institution.

19 (7) That student religious and political organizations
20 are allowed equal access to public forums on the same
21 basis as nonreligious and nonpolitical organizations.

22 (8) That no recognized religious or political student
23 organization is hindered or discriminated against in the
24 ordering of its internal affairs, selection of leaders and
25 members, defining of doctrines and principles, and
26 resolving of organizational disputes in the furtherance of

1 its mission or in its determination that only persons
2 committed to its mission should conduct such activities.

3 (9) That student activity fee funding to a student
4 organization is not denied based on the viewpoints that
5 the student organization advocates.

6 (10) That the generally accessible, open, outdoor
7 areas of the campus be maintained as traditional public
8 forums for students and faculty to express their views, so
9 that the free expression of students and faculty is not
10 limited to particular areas of the campus often described
11 as free speech zones.

12 (11) That there shall be no restrictions on the time,
13 place, and manner of student speech that occurs in the
14 outdoor areas of campus or is protected by the First
15 Amendment of the Constitution of the United States, except
16 for restrictions that are:

17 (A) reasonable;

18 (B) justified without reference to the content of
19 the regulated speech;

20 (C) narrowly tailored to serve a compelling
21 governmental interest; and

22 (D) limited to provide ample alternative options
23 for the communication of the information.

24 (12) That the requirements for permits do not prohibit
25 spontaneous outdoor assemblies or outdoor distribution of
26 literature, although an institution may adopt a policy

1 that grants members of the institution's community the
2 right to reserve certain outdoor spaces in advance.

3 (13) That all students and faculty are allowed to
4 invite guest speakers to campus to engage in free speech
5 regardless of the views of the guest speakers.

6 (14) That students are not charged fees based on the
7 content of their speech, the content of the speech of
8 guest speakers invited by students, or the anticipated
9 reaction or opposition of listeners to the speech.

10 (15) That the institution shall not disinvite a
11 speaker invited by a student, student organization, or
12 faculty member because the speaker's anticipated speech
13 may be considered offensive, unwise, disagreeable,
14 conservative, liberal, traditional, or radical by
15 students, faculty, administrators, government officials,
16 or members of the public.

17 (b) Nothing in the policies under this Section shall be
18 construed to grant students the right to engage in conduct
19 that intentionally, materially, and substantially disrupts
20 another's expressive activity if that activity is occurring in
21 a campus space previously scheduled or reserved for that
22 activity or under the exclusive use or control of a particular
23 group.

24 (c) The policies adopted under this Section shall be made
25 available to students and faculty by the following methods:

26 (1) by publishing the policies in the institution's

1 student handbook and faculty handbook, whether on paper or
2 electronically; and

3 (2) by posting the policies in a prominent location on
4 the institution's Internet website.

5 (d) The policies adopted under this Section may also be
6 made available to students and faculty by the following
7 methods:

8 (1) by mailing the policies electronically to students
9 and faculty annually using their institutionally provided
10 email addresses; or

11 (2) by including the policies in orientation programs
12 for new students and faculty.

13 Section 15. Prohibited conduct. The following conduct
14 violates this Act if the conduct intentionally, materially,
15 and substantially disrupts another's expressive activity and
16 if it significantly hinders the expressive activity of another
17 person or group or prevents the communication of a message or
18 the transaction of a lawful meeting, gathering, or procession
19 by:

20 (1) being of a violent or seriously disruptive nature;
21 or

22 (2) physically blocking or significantly hindering any
23 person from attending, hearing, viewing, or otherwise
24 participating in an expressive activity.

1 Section 20. Permissible conduct. The following conduct
2 does not violate this Act if the conduct does not
3 intentionally, materially, and substantially disrupt another's
4 expressive activity:

5 (1) the conduct is protected under the First Amendment
6 to the Constitution of the United States or is conduct
7 protected under the Constitution of the State of Illinois,
8 including, but not limited to, lawful protests and
9 counter-protests in the outdoor areas of campus generally
10 accessible to the public, except during times when those
11 areas have been reserved in advance for other events; or

12 (2) the conduct is an isolated occurrence that causes
13 minor, brief, and nonviolent disruptions of expressive
14 activity.

15 Section 90. Violations; remedies; statute of limitations.

16 (a) Any person aggrieved by a violation of a policy under
17 Section 10 of this Act shall have a cause of action against the
18 institution or any of its faculty acting in the faculty's
19 official capacity for damages arising from the violation,
20 including reasonable attorney's fees and litigation costs.

21 (b) A claim brought pursuant to this Section may be
22 asserted in any court of competent jurisdiction within one
23 year after the date the cause of action accrued. The cause of
24 action shall be deemed to have accrued at the point in time the
25 violation ceases or is cured by the institution.

1 (c) Excluding reasonable attorney's fees and litigation
2 costs, any prevailing claimant under this Section shall be
3 awarded no less than \$1,000 but no more than \$100,000
4 cumulatively per action. If multiple claimants prevail and the
5 damages awarded would exceed \$100,000, the court shall divide
6 \$100,000 among all prevailing claimants equally.