



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5428

Introduced 1/31/2022, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

New Act

Creates the Student Freedom of Speech Act. Contains a statement of legislative findings and intent. Provides that if a public institution of higher education in the State denies the freedom of speech of one of its students in contravention of the findings set forth in the Act, the student shall have a cause of action against that institution. Sets forth limitations. Provides that if a student prevails in an action under the Act, the institution shall reimburse the Office of the Attorney General in the amount of 3 times the legal fees incurred in the action, plus the amount of damages awarded as the court shall determine. Effective immediately.

LRB102 25073 RJT 34333 b

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
5 Student Freedom of Speech Act.

6 Section 5. Findings; intent.

7 (a) The General Assembly finds that:

8 (1) the principle of complete freedom of speech on all
9 subjects has from the beginning been regarded as
10 fundamental;

11 (2) neither now nor at any future time can the freedom
12 of speech be called in question;

13 (3) the resolution for ideas we, as Illinoisans and
14 Americans, oppose lies through open discussion rather than
15 through inhibition;

16 (4) institutions of higher education exist for the
17 sake of free and open inquiry in all matters, with the
18 broadest possible latitude to speak, write, listen,
19 challenge, and learn, for without it they cease to be
20 institutions of higher education;

21 (5) it is not the proper role these institutions to
22 attempt to shield individuals from ideas and opinions they
23 find unwelcome, disagreeable, or even deeply offensive;

1 (6) it is for individual members of the institution's
2 community, not the institution, to make those judgments
3 for themselves;

4 (7) those judgments should be made not by seeking to
5 suppress speech, but by openly and vigorously contesting
6 the ideas that individuals may oppose;

7 (8) students should have the freedom to discuss any
8 problem that presents itself, just as those outside of
9 institutions of higher education do;

10 (9) concerns about civility and mutual respect can
11 never be used as justification for closing off discussion
12 of ideas, however offensive or disagreeable they may be to
13 some individuals; and

14 (10) although members of an institution's community
15 are free to criticize and contest views expressed and
16 speakers invited on their campus, to act in conformity
17 with the principle of free speech, they may not obstruct
18 or otherwise interfere with the freedom of others to
19 express the views they reject or even loathe.

20 (b) It is the intent of the General Assembly that the
21 requirements set forth in this Act should apply equally to
22 each public institution of higher education in this State and
23 to the governing board of each public institution of higher
24 education in this State, except as otherwise provided in this
25 Act.

1 Section 10. Definitions. As used in this Act:

2 "Governing board of each public institution of higher
3 education" means the Board of Trustees of the University of
4 Illinois, the Board of Trustees of Southern Illinois
5 University, the Board of Trustees of Chicago State University,
6 the Board of Trustees of Eastern Illinois University, the
7 Board of Trustees of Governors State University, the Board of
8 Trustees of Illinois State University, the Board of Trustees
9 of Northeastern Illinois University, the Board of Trustees of
10 Northern Illinois University, the Board of Trustees of Western
11 Illinois University, and the board of trustees of each
12 community college district in this State.

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

21 Section 15. Right of Action. If a public institution of
22 higher education in the State denies the freedom of speech of
23 one of its students in contravention of the findings set forth
24 in this Act, the student shall have a cause of action against
25 that institution.

1 Section 20. Limits. Insofar as limitations on this freedom
2 are necessary to the basic functioning of a public institution
3 of higher education, the freedom to debate and discuss the
4 merits of competing ideas does not mean that individuals may
5 say whatever they wish, wherever they wish. An institution of
6 higher education may restrict speech in a content-neutral
7 manner if it:

8 (1) violates the law;

9 (2) falsely defames a specific individual;

10 (3) constitutes a genuine threat or harassment;

11 (4) unjustifiably invades substantial privacy or
12 confidentiality interests;

13 (5) unjustifiably creates a disturbance that prevents
14 a class from conducting its work;

15 (6) unjustifiably creates a disturbance that prevents
16 the ability to study or perform school work in a
17 designated study area or library;

18 (7) takes place in an area or building that would
19 otherwise be inaccessible for speech or physical access at
20 that time of day; or

21 (8) is otherwise directly incompatible with the
22 functioning of a public institution of higher education.

23 In addition, a public institution of higher education may
24 reasonably regulate the time, place, and manner of speech to
25 ensure that it does not disrupt the ordinary activities of the

1 institution. These exceptions are to be construed as narrowly
2 as possible, and never be used in a manner that is inconsistent
3 with an institution's commitment to a completely free and open
4 discussion of ideas.

5 Section 25. Fees. If a student prevails in an action under
6 this Act, the institution shall reimburse the Office of the
7 Attorney General in the amount of 3 times the legal fees
8 incurred in the action, plus the amount of damages awarded as
9 the court shall determine.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.