

CAMPUS FREE SPEECH AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to expressive activity at an institution of higher education.

Highlighted Provisions:

This bill:

- defines terms;
- designates outdoor areas of campuses at institutions of higher education as traditional public forums;
- creates requirements for institutions of higher education related to expressive activity;
- creates a cause of action related to a violation of expressive rights at an institution of higher education; and
- enacts other provisions related to expressive activity at an institution of higher education.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



28 **53B-27-101**, Utah Code Annotated 1953
29 **53B-27-102**, Utah Code Annotated 1953
30 **53B-27-201**, Utah Code Annotated 1953
31 **53B-27-202**, Utah Code Annotated 1953
32 **53B-27-203**, Utah Code Annotated 1953
33 **53B-27-204**, Utah Code Annotated 1953
34 **53B-27-205**, Utah Code Annotated 1953

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **53B-27-101** is enacted to read:

38 **CHAPTER 27. CAMPUS INDIVIDUAL RIGHTS ACT**

39 **Part 1. General Provisions**

40 **53B-27-101. Title.**

41 (1) This chapter is known as the "Campus Individual Rights Act."

42 (2) This part is known as "General Provisions."

43 Section 2. Section **53B-27-102** is enacted to read:

44 **53B-27-102. Definition.**

45 As used in this chapter, "institution" means an institution of higher education listed in

46 Section **53B-1-102**.

47 Section 3. Section **53B-27-201** is enacted to read:

48 **Part 2. Campus Free Expression Act**

49 **53B-27-201. Title.**

50 This part is known as the "Campus Free Expression Act."

51 Section 4. Section **53B-27-202** is enacted to read:

52 **53B-27-202. Definitions.**

53 As used in this part, "expressive activity" includes:

54 (1) peacefully assembling, protesting, or speaking;

55 (2) distributing literature;

56 (3) carrying a sign; or

57 (4) circulating a petition.

58 Section 5. Section **53B-27-203** is enacted to read:

53B-27-203. Expressive activities at an institution.

(1) An outdoor area of an institution's campus is a traditional public forum.

(2) An institution may maintain and enforce reasonable time, place, or manner restrictions on an expressive activity in an outdoor area of the institution's campus, if the restrictions:

(a) are narrowly tailored to serve a significant institutional interest;

(b) are based on published, content-neutral, and viewpoint-neutral criteria; and

(c) leave open ample alternative channels for communication.

(3) Subject to Subsection (2), an institution may not prohibit:

(a) a member of the institution's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the institution's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the institution's campus if the person's conduct is lawful.

(4) This part does not apply to expressive activity in an area on an institution's campus other than an outdoor area.

Section 6. Section **53B-27-204** is enacted to read:

53B-27-204. Cause of action.

(1) The following persons may bring an action in a state court of competent jurisdiction to enjoin a violation of this part or to recover compensatory damages, reasonable court costs, or reasonable attorney fees:

(a) the attorney general; or

(b) a person claiming that the person's expressive rights, as described in this part, were violated.

(2) In an action brought under this part, if the court finds a violation of this part, the court:

(a) shall enjoin the violation;

(b) shall, if a person whose expressive rights were violated brought the action, award the person:

(i) at least \$500 for an initial violation; and

(ii) if the person notifies the institution of the violation, \$50 for each day the violation continues after the ~~initial violation~~ notification ; and

(c) may award a prevailing plaintiff:

90 (i) compensatory damages;

91 (ii) reasonable court costs; or

92 (iii) reasonable attorney fees.

93 (3) Notwithstanding Title 63G, Chapter 7, Governmental Immunity Act of Utah, an
94 institution that violates this part is not immune from suit or liability for the violation.

95 Section 7. Section **53B-27-205** is enacted to read:

96 **53B-27-205. Statute of limitations.**

97 (1) Except as provided in Subsection (3), an action under this part may not be brought
98 later than one year after the day on which the cause of action accrues.

99 (2) Each day that a violation continues after an initial violation, and each day that an
100 institution's policy in violation of this part remains in effect, shall constitute a continuing
101 violation of this part.

102 (3) For a continuing violation described in Subsection (2), the limitation described in
103 Subsection (1) shall extend to one year after the day on which the most recent violation occurs.

Legislative Review Note
Office of Legislative Research and General Counsel