



Rep. Peter Breen

Filed: 3/28/2017

10000HB2939ham001

LRB100 10436 NHT 24333 a

1 AMENDMENT TO HOUSE BILL 2939

2 AMENDMENT NO. _____. Amend House Bill 2939 by replacing
3 everything after the enacting clause with the following:

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

1 (3) In recent years, some public institutions of higher
2 education have abdicated their responsibility to uphold
3 free-speech principles, and these failures make it
4 appropriate for all public institutions of higher
5 education to restate and confirm their commitment in this
6 regard.

7 (4) In 1974, the Committee on Free Expression at Yale
8 University issued a statement known as the Woodward Report
9 that stands as a classic defense of free expression on
10 campuses; in 2015, the Committee on Freedom of Expression
11 at the University of Chicago issued a similar and widely
12 respected report; and in 1967, the Kalven Committee Report
13 of the University of Chicago articulated the principle of
14 institutional neutrality regarding political and social
15 issues and the essential role of such neutrality in
16 protecting freedom of thought and expression at
17 universities. The principles affirmed by these 3 highly
18 regarded reports are inspiring articulations of the
19 critical importance of free expression in higher
20 education.

21 (5) The General Assembly views freedom of expression as
22 being of critical importance and requires that each public
23 institution of higher education ensure free, robust, and
24 uninhibited debate and deliberation by students of public
25 institutions whether on or off campus.

26 (6) The General Assembly has determined that it is a

1 matter of statewide concern that all public institutions of
2 higher education officially recognize freedom of speech as
3 a fundamental right.

4 Section 10. Definition. In this Act, "public institution"
5 means a public university or public community college in this
6 State.

7 Section 15. Policy on free expression required. The board
8 of trustees of a public institution shall develop and adopt a
9 policy on free expression that contains, at least, the
10 following:

11 (1) A statement that the primary function of an
12 institution of higher education is the discovery,
13 improvement, transmission, and dissemination of knowledge
14 by means of research, teaching, discussion, and debate.
15 This statement shall provide that, to fulfill this
16 function, the institution must strive to ensure the fullest
17 degree of intellectual freedom and free expression.

18 (2) A statement that it is not the proper role of the
19 institution to shield individuals from speech protected by
20 the First Amendment, including, without limitation, ideas
21 and opinions they find unwelcome, disagreeable, or even
22 deeply offensive.

23 (3) A statement that students and faculty have the
24 freedom to discuss any problem that presents itself, as the

1 First Amendment permits and within the limits of reasonable
2 viewpoint and content-neutral restrictions on time, place,
3 and manner of expression that are consistent with this Act
4 and that are necessary to achieve a significant
5 institutional interest; provided that these restrictions
6 are clear, are published, and provide ample alternative
7 means of expression. Students and faculty shall be
8 permitted to assemble and engage in spontaneous expressive
9 activity as long as the activity is not unlawful and does
10 not materially and substantially disrupt the functioning
11 of the institution, subject to the requirements of this
12 Act.

13 (4) A statement that the campuses of the institution
14 are open to speakers invited by students, student groups,
15 or members of the faculty without regard to viewpoint or
16 content of the proposed speech. If a fee applies to a
17 speech by an invited speaker, the inviting students,
18 student groups, or members of the faculty may not be
19 charged greater or lesser amounts based on the viewpoint,
20 content, or expected reaction to the speech.

21 (5) A statement that the outdoor public areas of
22 campuses of the institution are designated public forums,
23 open on the same terms to any speaker, and that any person
24 lawfully present on campus may leaflet, protest, or
25 demonstrate in those outdoor public areas.

26 (6) A provision setting forth the affirmative steps

1 that the institution will take to protect the free speech
2 rights of invited speakers.

3 (7) A provision that, in all disciplinary cases
4 involving expressive conduct, students are entitled to a
5 disciplinary hearing under published procedures. When
6 suspension for longer than 30 days or expulsion are
7 potential penalties, students are entitled to the right to
8 active assistance of counsel.

9 (8) A statement that the institution may not take
10 action, as an institution, on the public policy
11 controversies of the day in such a way as to require
12 students or faculty to publicly espouse any given
13 viewpoint, provided that the institution may prescribe the
14 content of its curriculum.

15 (9) A statement that this policy supersedes and
16 nullifies any prior provisions in the policies and
17 regulations of the institution that restrict speech on
18 campus and are, therefore, inconsistent with this policy on
19 free expression. The institution shall remove or revise any
20 such provisions in its policies and regulations to ensure
21 compatibility with this policy on free expression.

22 Section 20. Committee on Free Expression.

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

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

4 (2) One member representing the University of Illinois
5 at Springfield, appointed by the university's board of
6 trustees.

7 (3) One member representing the University of Illinois
8 at Chicago, appointed by the university's board of
9 trustees.

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

13 (5) One member representing Southern Illinois
14 University at Edwardsville, appointed by the university's
15 board of trustees.

16 (6) One member representing Western Illinois
17 University, appointed by the university's board of
18 trustees.

19 (7) One member representing Eastern Illinois
20 University, appointed by the university's board of
21 trustees.

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

24 (9) One member representing Northern Illinois
25 University, appointed by the university's board of
26 trustees.

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

3 (11) One member representing Governors State
4 University, appointed by the university's board of
5 trustees.

6 (12) One member representing Northeastern Illinois
7 University, appointed by the university's board of
8 trustees.

9 (13) Three members representing public community
10 colleges, appointed by the Illinois Community College
11 Board at its discretion.

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

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

18 (b) The Committee on Free Expression shall meet initially
19 at the call of the Chairperson of the Board of Higher
20 Education, shall select one member as chairperson at its
21 initial meeting, and shall thereafter meet at the call of that
22 chairperson. The Board of Higher Education shall provide
23 administrative and other support to the Committee.

24 (c) The Committee on Free Expression shall report to the
25 public, the Board of Higher Education, the Governor, and the
26 General Assembly on September 1 of every year. The report shall

1 include all of the following:

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

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

6 (3) A description of substantial difficulties,
7 controversies, or successes in maintaining a posture of
8 administrative and institutional neutrality with regard to
9 political or social issues.

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

12 Section 25. Freshman orientation information. Public
13 institutions shall include in their freshman orientation
14 programs a section describing to all students the policies and
15 rules regarding free expression that are consistent with this
16 Act.

17 Section 30. Rules; construction of Act. The Board of Higher
18 Education is authorized to adopt rules to further the purposes
19 of the policies adopted pursuant to this Act. Nothing in this
20 Act shall be construed to prevent public institutions from
21 regulating student speech or activity that is prohibited by
22 other federal, State, or local laws.

23 Section 35. Enforcement. The following persons may bring an

1 action in a court of competent jurisdiction to enjoin any
2 violation of this Act or to recover reasonable court costs and
3 attorney's fees:

4 (1) The Attorney General.

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

7 In an action brought under this Act, if the court finds
8 that a violation of this Act occurred, the court may award the
9 aggrieved person injunctive relief for the violation and shall
10 award reasonable court costs and attorney's fees."