

# SB2897



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2897

Introduced 1/26/2024, by Sen. Tom Bennett

### SYNOPSIS AS INTRODUCED:

New Act

Creates the Campus Free Speech Act. Requires the governing board of each public university and community college to develop and adopt a policy on free expression; sets forth what the policy must contain. Requires the Board of Higher Education to create a Committee on Free Expression to issue an annual report. Requires public institutions of higher education to include in their freshman orientation programs a section describing to all students the policies and rules regarding free expression that are consistent with the Act. Contains provisions concerning rules, construction of the Act, and enforcement.

LRB103 38302 RJT 68437 b

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 Act.

6 Section 5. Legislative findings. The General Assembly  
7 finds the following:

8 (1) Section 4 of Article I of the Illinois  
9 Constitution recognizes that "all persons may speak, write  
10 and publish freely, being responsible for the abuse of  
11 that liberty. In trials for libel, both civil and  
12 criminal, the truth, when published with good motives and  
13 for justifiable ends, shall be a sufficient defense".

14 (2) Public institutions of higher education have  
15 historically embraced a commitment to freedom of  
16 expression in policy.

17 (3) In recent years, some public institutions of  
18 higher education have abdicated their responsibility to  
19 uphold free-speech principles, and these failures make it  
20 appropriate for all public institutions of higher  
21 education to restate and confirm their commitment in this  
22 regard.

23 (4) In 1974, the Committee on Free Expression at Yale

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

14 (5) The General Assembly views freedom of expression  
15 as being of critical importance and requires that each  
16 public institution of higher education ensure free,  
17 robust, and uninhibited debate and deliberation by  
18 students of public institutions whether on or off campus.

19 (6) The General Assembly has determined that it is a  
20 matter of statewide concern that all public institutions  
21 of higher education officially recognize freedom of speech  
22 as a fundamental right.

23 Section 10. Definition. In this Act, "public institution"  
24 means a public university or public community college in this  
25 State.

1           Section 15. Policy on free expression required. The board  
2 of trustees of a public institution shall develop and adopt a  
3 policy on free expression that contains, at least, the  
4 following:

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

13           (2) A statement that it is not the proper role of the  
14 institution to shield individuals from speech protected by  
15 the First Amendment, including, without limitation, ideas  
16 and opinions they find unwelcome, disagreeable, or even  
17 deeply offensive.

18           (3) A statement that students and faculty have the  
19 freedom to discuss any problem that presents itself, as  
20 the First Amendment permits and within the limits of  
21 reasonable viewpoint and content-neutral restrictions on  
22 time, place, and manner of expression that are consistent  
23 with this Act and that are necessary to achieve a  
24 significant institutional interest; provided that these  
25 restrictions are clear, are published, and provide ample

1 alternative means of expression. Students and faculty  
2 shall be permitted to assemble and engage in spontaneous  
3 expressive activity as long as the activity is not  
4 unlawful and does not materially and substantially disrupt  
5 the functioning of the institution, subject to the  
6 requirements of this Act.

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

15 (5) A statement that the outdoor public areas of  
16 campuses of the institution are designated public forums,  
17 open on the same terms to any speaker, and that any person  
18 lawfully present on campus may leaflet, protest, or  
19 demonstrate in those outdoor public areas.

20 (6) A provision setting forth the affirmative steps  
21 that the institution will take to protect the free-speech  
22 rights of invited speakers.

23 (7) A provision that, in all disciplinary cases  
24 involving expressive conduct, students are entitled to a  
25 disciplinary hearing under published procedures. When  
26 suspension for longer than 30 days or expulsion are

1 potential penalties, students are entitled to the right to  
2 active assistance of counsel.

3 (8) A statement that the institution may not take  
4 action, as an institution, on the public policy  
5 controversies of the day in such a way as to require  
6 students or faculty to publicly espouse any given  
7 viewpoint, provided that the institution may prescribe the  
8 content of its curriculum.

9 (9) A statement that this policy supersedes and  
10 nullifies any prior provisions in the policies and  
11 regulations of the institution that restrict speech on  
12 campus and are, therefore, inconsistent with this policy  
13 on free expression. The institution shall remove or revise  
14 any such provisions in its policies and regulations to  
15 ensure compatibility with this policy on free expression.

16 Section 20. Committee on Free Expression.

17 (a) The Board of Higher Education shall create a single  
18 Committee on Free Expression consisting of all of the  
19 following members, all of whom shall serve without  
20 compensation:

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

24 (2) One member representing the University of Illinois  
25 at Springfield, appointed by the university's board of

1 trustees.

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

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

8 (5) One member representing Southern Illinois  
9 University at Edwardsville, appointed by the university's  
10 board of trustees.

11 (6) One member representing Western Illinois  
12 University, appointed by the university's board of  
13 trustees.

14 (7) One member representing Eastern Illinois  
15 University, appointed by the university's board of  
16 trustees.

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

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

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

24 (11) One member representing Governors State  
25 University, appointed by the university's board of  
26 trustees.

1           (12) One member representing Northeastern Illinois  
2 University, appointed by the university's board of  
3 trustees.

4           (13) Three members representing public community  
5 colleges, appointed by the Illinois Community College  
6 Board at its discretion.

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

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

13          (b) The Committee on Free Expression shall meet initially  
14 at the call of the Chairperson of the Board of Higher  
15 Education, shall select one member as chairperson at its  
16 initial meeting, and shall thereafter meet at the call of that  
17 chairperson. The Board of Higher Education shall provide  
18 administrative and other support to the Committee.

19          (c) The Committee on Free Expression shall report to the  
20 public, the Board of Higher Education, the Governor, and the  
21 General Assembly on September 1 of every year. The report  
22 shall include all of the following:

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

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



1           (3) A description of substantial difficulties,  
2           controversies, or successes in maintaining a posture of  
3           administrative and institutional neutrality with regard to  
4           political or social issues.

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

7           Section 25. Freshman orientation information. Public  
8           institutions shall include in their freshman orientation  
9           programs a section describing to all students the policies and  
10          rules regarding free expression that are consistent with this  
11          Act.

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

18          Section 35. Enforcement. The following persons may bring  
19          an action in a court of competent jurisdiction to enjoin any  
20          violation of this Act or to recover reasonable court costs and  
21          attorney's fees:

22                  (1) The Attorney General.

23                  (2) A person whose expressive rights are violated by a

1 violation of this Act.

2 In an action brought under this Act, if the court finds  
3 that a violation of this Act occurred, the court may award the  
4 aggrieved person injunctive relief for the violation and shall  
5 award reasonable court costs and attorney's fees.