

FIRST REGULAR SESSION

HOUSE BILL NO. 576

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOHRMAN.

0951H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 173.1550, RSMo, and to enact in lieu thereof one new section relating to campus free expression.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 173.1550, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 173.1550, to read as follows:

173.1550. 1. **For purposes of this section, the following terms or phrases mean:**

(1) **"Constitutional time, place, and manner restrictions", restrictions on the time, place, and manner of free speech that do not violate the First Amendment to the United States Constitution or Article I, Sections 8 and 9, of the Constitution of Missouri that are reasonable, content- and viewpoint-neutral, and narrowly tailored to satisfy a significant institutional interest, and that leave open ample alternative channels for the communication of the information or message to its intended audience;**

(2) **"Faculty" or "faculty member", any person, whether the person is compensated by a public institution of higher education, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. The term "faculty" shall include tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. "Faculty" shall not include persons whose primary responsibilities are administrative or managerial;**

(3) **"Free speech", speech, expression, or assemblies protected by the First Amendment to the United States Constitution or Article I, Sections 8 and 9, of the Constitution of Missouri, verbal or written including, but not limited to, all forms of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking,
19 distribution of printed materials, carrying of signs, displays, or circulating of petitions.
20 "Free speech" does not include the promotion, sale, or distribution of any product or
21 service;

22 (4) "Institution", any public institution of higher education in this state;

23 (5) "Student":

24 (a) An individual currently enrolled in a course of study at the institution; and

25 (b) An organization that is comprised entirely of individuals currently enrolled in
26 a course of study at the institution, that is registered with an institution in accordance with
27 institutional rules.

28 2. The provisions of this section shall be known and cited as the "Campus Free
29 Expression Act". Expressive activities protected under the provisions of this section include, but
30 are not limited to, all forms of peaceful assembly, protests, speeches, distribution of literature,
31 carrying signs, and circulating petitions.

32 [2-] 3. The outdoor areas of campuses of public institutions of higher education in this
33 state shall be deemed traditional public forums. Public institutions of higher education may
34 maintain and enforce reasonable time, place, and manner restrictions in service of a significant
35 institutional interest only when such restrictions employ clear, published, ~~[content]~~ **content-**
36 **neutral**, and viewpoint-neutral criteria, and provide for ample alternative means of expression.
37 Any such restrictions shall allow for members of the university community to spontaneously and
38 contemporaneously assemble. **Public institutions of higher education shall not restrict**
39 **students' free speech only to particular areas of campus, sometimes known as "free speech**
40 **zones," or establish permitting requirements that prohibit spontaneous outdoor assemblies**
41 **or outdoor distribution of literature. A public institution of higher education may**
42 **maintain a policy that grants members of the institution's community the right to reserve**
43 **certain outdoor spaces in advance.**

44 [3-] 4. Any person who wishes to engage in noncommercial expressive activity on
45 campus shall be permitted to do so freely, as long as the person's conduct is not unlawful and
46 does not materially and substantially disrupt the functioning of the institution subject to the
47 requirements of subsection [2] 3 of this section.

48 [4-] 5. Nothing in this section shall be interpreted as limiting the right of student
49 expression elsewhere on campus.

50 [5-] 6. The governing board of each public institution of higher education in this
51 state shall develop and adopt a policy on free expression prior to January 1, 2020, that
52 includes, but is not limited to, the following principles of free speech, which are the public
53 policy of this state:

- 54 **(1) Students have a fundamental constitutional right to free speech;**
- 55 **(2) An institution shall be committed to giving students the broadest possible**
56 **latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to the**
57 **provisions of subsection 12 of this section;**
- 58 **(3) An institution shall be committed to maintaining a campus as a marketplace of**
59 **ideas for all students and all faculty in which the free exchange of ideas is not to be**
60 **suppressed because ideas put forth are thought by some or even by most members of the**
61 **institution's community to be offensive, unwise, disagreeable, conservative, liberal,**
62 **traditional, or radical;**
- 63 **(4) It is for an institution's individual students and faculty to make judgments**
64 **about ideas for themselves, and to act on those judgments not by seeking to suppress free**
65 **speech, but by openly contesting the ideas that they oppose;**
- 66 **(5) It is not the proper role of an institution to attempt to shield individuals from**
67 **free speech, including ideas and opinions they find offensive, unwise, disagreeable,**
68 **conservative, liberal, traditional, or radical;**
- 69 **(6) Although an institution should greatly value civility and mutual respect,**
70 **concerns about civility and mutual respect shall never be used by an institution as a**
71 **justification for closing off the discussion of ideas no matter how offensive, unwise,**
72 **disagreeable, conservative, liberal, traditional, or radical those ideas may be to some**
73 **students or faculty;**
- 74 **(7) Although all students and all faculty are free to state their own views about and**
75 **contest the views expressed on campus and to state their own views about and contest**
76 **speakers who are invited to express their views on the institution's campus, nothing in this**
77 **section grants them the right to intentionally substantially obstruct or otherwise**
78 **intentionally substantially interfere with the freedom of others to express views they reject**
79 **or even loathe. To this end, an institution has the responsibility to promote a lively and**
80 **fearless freedom of debate and deliberation and to protect that freedom;**
- 81 **(8) An institution shall be committed to providing an atmosphere that is most**
82 **conducive to speculation, experimentation, and creation by all students and all faculty, who**
83 **shall always remain free to inquire, to study and evaluate, and to gain new understanding;**
- 84 **(9) Although faculty are free in the classroom to discuss subjects within areas of**
85 **their competence, faculty should be cautious in expressing personal views in the classroom**
86 **to persuade rather than illustrate or illuminate, and faculty should be careful not to**
87 **introduce controversial matters that have no relationship to the subject taught, especially**
88 **matters in which they have no special competence or training; provided that, no faculty**
89 **shall face adverse employment action for classroom speech unless it is not reasonably**

90 germane to the subject matter of the class as broadly construed and comprises a substantial
91 portion of classroom instruction;

92 (10) An institution shall not deny student activity fee funding to a student
93 organization based on the viewpoints that the student organization advocates;

94 (11) An institution shall not charge students security fees based on the content of
95 their speech, the content of the speech of guest speakers invited by students, or the
96 anticipated reaction or opposition of listeners to speech;

97 (12) An institution shall allow all students and all faculty to invite guest speakers
98 to campus to engage in free speech regardless of the views of the guest speakers; and

99 (13) An institution shall not disinvite a speaker invited by a student, student
100 organization, or faculty member because the speaker's anticipated speech may be
101 considered offensive, unwise, disagreeable, conservative, liberal, traditional, or radical by
102 students, faculty, administrators, government officials, or members of the public.

103 7. The policy required under subsection 6 of this section shall be made available to
104 students and faculty annually through one or more of the following methods:

105 (1) Published annually in the institution's student handbook and faculty handbook,
106 whether paper or electronic;

107 (2) Made available to students and faculty by way of a prominent notice on the
108 institution's internet site other than through the electronic publication of the policy in the
109 student handbook or faculty handbook;

110 (3) Sent annually to students and employees to their institutionally-provided email
111 addresses; or

112 (4) Addressed by the institution in orientation programs for new students and new
113 faculty.

114 8. Nothing contained in subsections 6 and 7 of this section shall be interpreted as
115 granting students the right to disrupt previously scheduled or reserved activities occurring
116 in a traditional public forum.

117 9. With respect to disciplining students for their speech, expression, or assemblies,
118 an institution shall adopt a policy on "student-on-student harassment" defining the term
119 consistent with, and no more expansively than, unwelcome conduct directed toward a
120 person that is discriminatory as designated by the educational institution or on a basis
121 provided by federal, state, or local law and that is so severe, pervasive, and objectively
122 offensive that the victim is effectively denied equal access to the institution's resources and
123 opportunities.

124 10. With respect to disciplining students for their speech, expression, or assemblies,
125 an institution shall adopt a policy on "student-on-student intimidation" defining the term

126 consistent with, and no more expansively than, unwelcome conduct directed toward a
127 person that is so severe, pervasive, and objectively offensive that the victim is effectively
128 denied equal access to an institution's resources and opportunities.

129 **11. An institution shall not impose costs on students or student organizations on the**
130 **basis of the anticipated reaction or opposition to a person's speech by listeners.**

131 **12. Nothing contained in this section shall be interpreted as prohibiting an**
132 **institution from imposing content restrictions on speech that are reasonably related to a**
133 **legitimate pedagogical purpose, such as rules enacted by faculty for speech in the**
134 **classroom environs.**

135 **13. The following persons may bring an action in a court of competent jurisdiction**
136 **against an institution or its agents acting in their official capacities** to enjoin any violation
137 of this section or to recover compensatory damages, reasonable court costs, and attorney fees:

138 (1) The attorney general;

139 (2) Persons whose expressive rights were violated through the violation of this section.

140 ~~[6-]~~ **14. In an action brought under subsection [5] 13 of this section, if the court finds**
141 a violation, the court shall award the aggrieved persons no less than five hundred dollars for the
142 initial violation, plus fifty dollars for each day the violation remains ongoing.

143 ~~[7-]~~ **15. A person shall be required to bring suit for violation of this section not later than**
144 one year after the day the cause of action accrues. For purposes of calculating the one-year
145 limitation period, each day that the violation persists, and each day that a policy in violation of
146 this section remains in effect, shall ~~[constitute a new violation of this section and, therefore, a~~
147 ~~new day that the cause of action has accrued]~~ **reset the calculation of the statute of limitations.**

✓