

**CAMPUS FREE SPEECH AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kim F. Coleman**

Senate Sponsor: Todd Weiler

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8	Adam Gardiner	Jeremy A. Peterson	Mike Winder
9	Timothy D. Hawkes	Susan Pulsipher	
10	Ken Ivory	Marc K. Roberts	

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**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

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **53B-27-101**, Utah Code Annotated 1953

34 **53B-27-102**, Utah Code Annotated 1953

35 **53B-27-201**, Utah Code Annotated 1953

36 **53B-27-202**, Utah Code Annotated 1953

37 **53B-27-203**, Utah Code Annotated 1953

38 **53B-27-204**, Utah Code Annotated 1953

39 **53B-27-205**, Utah Code Annotated 1953



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

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

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

44 **Part 1. General Provisions**

45 **53B-27-101. Title.**

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

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

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

49 **53B-27-102. Definitions.**

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

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

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

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

54 **53B-27-201. Title.**

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

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

57 **53B-27-202. Definitions.**

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

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

60 (2) distributing literature;

61 (3) carrying a sign; or

62 (4) circulating a petition.

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

64 **53B-27-203. Expressive activities at an institution.**

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

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

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

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

71 (c) leave open ample alternative channels for communication.

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

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

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

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

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

80 **53B-27-204. Cause of action.**

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

84 (a) the attorney general; or

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

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

89 (a) shall enjoin the violation;

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

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

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

95 (c) may award a prevailing plaintiff:

96 (i) compensatory damages;

97 (ii) reasonable court costs; or

98 (iii) reasonable attorney fees.

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

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

102 **53B-27-205. Statute of limitations.**

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

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

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