

Effective 5/9/2017

Chapter 27 Campus Individual Rights Act

Part 1 General Provisions

53B-27-101 Title.

- (1) This chapter is known as the "Campus Individual Rights Act."
- (2) This part is known as "General Provisions."

Enacted by Chapter 440, 2017 General Session

53B-27-102 Definitions.

As used in this chapter, "institution" means an institution of higher education listed in Section 53B-1-102.

Enacted by Chapter 440, 2017 General Session

Part 2 Campus Free Expression Act

53B-27-201 Title.

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

Enacted by Chapter 440, 2017 General Session

53B-27-202 Definitions.

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

- (1) peacefully assembling, protesting, or speaking;
- (2) distributing literature;
- (3) carrying a sign; or
- (4) circulating a petition.

Enacted by Chapter 440, 2017 General Session

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.

Enacted by Chapter 440, 2017 General Session

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 notification; and
 - (c) may award a prevailing plaintiff:
 - (i) compensatory damages;
 - (ii) reasonable court costs; or
 - (iii) reasonable attorney fees.
- (3) Notwithstanding Title 63G, Chapter 7, Governmental Immunity Act of Utah, an institution that violates this part is not immune from suit or liability for the violation.

Enacted by Chapter 440, 2017 General Session

53B-27-205 Statute of limitations.

- (1) Except as provided in Subsection (3), an action under this part may not be brought later than one year after the day on which the cause of action accrues.
- (2) Each day that a violation continues after an initial violation, and each day that an institution's policy in violation of this part remains in effect, shall constitute a continuing violation of this part.
- (3) For a continuing violation described in Subsection (2), the limitation described in Subsection (1) shall extend to one year after the day on which the most recent violation occurs.

Enacted by Chapter 440, 2017 General Session

Part 3
Student Civil Liberties Protection Act

53B-27-301 Definitions.

As used in this part:

- (1) "Civil liberty" means a civil liberty enumerated in the United States Constitution or the Utah Constitution.

- (2) "Initiate rulemaking proceedings" means the same as that term is defined in Section 63G-3-601.

Amended by Chapter 365, 2020 General Session

53B-27-302 Policies requiring rulemaking -- Policy review.

- (1) An institution may not make or amend a policy that directly affects a student's civil liberty, unless the policy is made a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Each institution shall:
- (a) before November 30, 2018, review the institution's policies as of May 11, 2018, and identify any policy that directly affects a student's civil liberty; and
 - (b) before August 1, 2019, for each policy identified under Subsection (2)(a), repeal the policy or initiate rulemaking proceedings to make the policy a rule.

Enacted by Chapter 325, 2018 General Session

53B-27-303 Complaint process -- Reporting.

- (1) Before August 1, 2019, the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the board alleging a policy of the institution directly affects one or more of the student's civil liberties.
- (2)
- (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the board shall:
 - (i) examine the complaint and, within 30 days after the day on which the board receives the complaint, determine whether the complaint is made in good faith; and
 - (ii)
 - (A) if the board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or
 - (B) if the board determines that the complaint is made in bad faith, dismiss the complaint.
 - (b) Before November 30 of each year, the board shall submit a report to the Rules Review and General Oversight Committee detailing:
 - (i) the number of complaints the board received during the preceding year;
 - (ii) the number of complaints the board found to be made in good faith during the preceding year; and
 - (iii) each policy that is the subject of a good-faith complaint that the board received during the preceding year.
- (3) If the board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the board directs the institution.

Amended by Chapter 178, 2024 General Session

Part 4

Campus Anti-harassment

53B-27-401 Definitions.

As used in this part:

- (1) "Discriminatory harassment" means student-on-student speech that:
 - (a) is unwelcome;
 - (b) discriminates on the basis of a classification protected under federal or state law; and
 - (c) is so severe, pervasive, and objectively offensive, and that so undermines and distracts from a student's educational experience, that the student is effectively denied access to an institution's resource or opportunity.
- (2) "Student" means an individual enrolled at an institution.
- (3)
 - (a) "Student-on-student speech" means verbal, written, or other communication that is:
 - (i) communicated by a student; and
 - (ii) directed at another student.
 - (b) "Student-on-student speech" does not include an act of physical contact between a student and another student.

Enacted by Chapter 125, 2021 General Session

53B-27-402 Institution duties.

- (1) An institution is in violation of this part if the institution:
 - (a) gains actual knowledge of discriminatory harassment in the institution's program or activity; and
 - (b) acts with deliberate indifference to the discriminatory harassment.
- (2)
 - (a) An institution may not sanction or discipline, as discriminatory harassment, student-on-student speech that does not constitute discriminatory harassment.
 - (b) An institution is not liable under this part for failing to sanction or discipline a student who communicates student-on-student speech that is not discriminatory harassment.
- (3) Nothing in this part prevents an institution from sanctioning or disciplining student-on-student speech that is otherwise not protected under the First Amendment to the United States Constitution.
- (4) Nothing in this part prevents an institution from responding to student-on-student speech that is not discriminatory harassment by taking nonpunitive actions designed to promote a welcoming, inclusive environment.
- (5) Nothing in this part prevents an institution from maintaining policies prohibiting stalking or other criminal activity.

Enacted by Chapter 125, 2021 General Session

53B-27-403 Cause of action.

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Enacted by Chapter 125, 2021 General Session

53B-27-404 Statute of limitations.

- (1) Except as provided in Subsection (3)(b), the attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.
- (2) For an action alleging a violation of Subsection 53B-27-402(2)(a), the cause of action accrues on the day on which the student receives final notice, from the institution, of sanction or discipline that violates Subsection 53B-27-402(2)(a).
- (3)
 - (a) For an action alleging a violation of Subsection 53B-27-402(1), the cause of action accrues on the day on which the institution gains knowledge of the discriminatory harassment.
 - (b) For an action described in Subsection (3)(a), the limitation described in Subsection (1) extends to one year after the day on which the most recent known act of discriminatory harassment, involving the same parties as a prior known act of discriminatory harassment, occurs.

Enacted by Chapter 125, 2021 General Session

53B-27-405 Student religious accommodations.

- (1) An institution shall:
 - (a) reasonably accommodate a student's absence from an examination or other academic requirement under the circumstances described in Subsection (2) for reasons of:
 - (i) the student's faith or conscience; or
 - (ii) the student's participation in an organized activity conducted under the auspices of the student's religious tradition or religious organization; and
 - (b) ensure that an accommodation described in Subsection (1)(a) does not adversely impact the student's academic opportunities.
- (2) An institution shall make an accommodation described in Subsection (1) if:
 - (a) the time at which an examination or academic requirement is scheduled to occur creates an undue hardship for a student due to the student's sincerely held religious belief; and
 - (b) the student provides a written notice to the instructor of the course for which the student seeks the accommodation regarding the date of the examination or academic requirement for which the student seeks the accommodation.
- (3) An institution shall establish policies related to the accommodation described in Subsection (1) that:
 - (a) require the institution to provide the accommodation with respect to when the student participates in examinations and other academic requirements;
 - (b) allow an instructor who receives a notice described in Subsection (2)(b) to:
 - (i) schedule an alternative examination time before or after the regularly scheduled examination; or
 - (ii) make accommodations for other academic requirements related to the accommodation; and
 - (c) require an instructor who receives a notice described in Subsection (2)(b) to keep confidential a student's request for the accommodation.
- (4)
 - (a) The commissioner shall annually:
 - (i) create a list of the dates of religious holidays for the following two years; and
 - (ii) distribute the list described in Subsection (4)(a) to an institution.

- (b) The creation and distribution of the list described in Subsection (4)(a) does not prohibit a student from seeking, or an institution from granting, an accommodation for a date of a religious holiday that is not included on that list.
- (5) An institution shall:
 - (a) designate a point of contact for information about an accommodation described in Subsection (1);
 - (b) establish a process by which a student may submit a grievance with regards to implementation of this section; and
 - (c) publish the following information on the institution's website and update the information annually:
 - (i) the institution's religious accommodation policies described in Subsection (3);
 - (ii) the point of contact described in Subsection (5)(a);
 - (iii) the list described in Subsection (4);
 - (iv) a description of the general procedure to request an accommodation described in Subsection (1); and
 - (v) the grievance process described in Subsection (5)(b).

Amended by Chapter 378, 2024 General Session

Part 5

Free Expression Policies

53B-27-501 Free expression policies.

- (1) As used in this section, "free expression policy" means an institution's policy, regulation, or other expectation related to student expression.
- (2) An institution shall:
 - (a) publish the institution's free expression policies:
 - (i) in the institution's student handbook; and
 - (ii) on the institution's website;
 - (b) include information about the institution's free expression policies in an orientation program for students enrolled in the institution; and
 - (c) develop a program, procedures, and materials to ensure that an individual who has responsibility for the discipline or education of a student at the institution understands the institution's free expression policies.
- (3) An individual described in Subsection (2)(c) includes an institution:
 - (a) administrator;
 - (b) campus police officer;
 - (c) residence life official; and
 - (d) faculty member.
- (4) An institution shall ensure that a free expression policy is consistent with the provisions of this chapter.

Enacted by Chapter 125, 2021 General Session

Part 6

Student Legal Representation

53B-27-601 Application.

The provisions of this part do not:

- (1) govern campus law enforcement departments or law enforcement personnel; or
- (2) otherwise replace or amend criminal procedures that govern law enforcement activities.

Enacted by Chapter 74, 2024 General Session

53B-27-602 Definitions.

As used in this part:

- (1) "Academic dishonesty" means an act of dishonesty relating to a student's academic work or performance.
- (2) "Accused student" means an individual enrolled in an institution who has allegedly violated a policy or rule.
- (3) "Accused student organization" means a student organization, recognized by an institution, that has allegedly violated a policy or rule.
- (4) "Alleged victim" means an individual whose rights are allegedly infringed or who is otherwise allegedly harmed by an accused student's or a student organization's violation of a policy or rule.
- (5) "Evidence" means information that is inculpatory or exculpatory as the information relates to an accusation against an accused student or accused student organization, including:
 - (a) a complainant statement;
 - (b) a third-party witness statement;
 - (c) electronically stored information;
 - (d) a written communication;
 - (e) a post to social media; or
 - (f) demonstrative evidence.
- (6) "Full participation" means the opportunity in a student or student organization disciplinary proceeding to:
 - (a) make opening and closing statements;
 - (b) examine and cross-examine a witness;
 - (c) introduce relevant evidence; and
 - (d) provide support, guidance, or advice to an accused student, accused student organization, or alleged victim.
- (7) "Legal representation" means an attorney, who is licensed to practice law in this state and whom:
 - (a) an accused student selects to assist the student in the student's disciplinary proceeding;
 - (b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or
 - (c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.
- (8) "Nonattorney advocate" means an individual, who is not licensed to practice law and whom:
 - (a) an accused student selects to assist the student in the student's disciplinary proceeding;
 - (b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

- (c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.
- (9) "Policy or rule" means a policy or rule, or a relevant section of a policy or rule, of an institution that, if violated, may result in:
 - (a) for a student, a suspension of 10 calendar days or more or expulsion from the institution; or
 - (b) for a student organization, the suspension or the removal of institutional recognition of the student organization.
- (10) "Proceeding" means an adjudicatory hearing, including an appeal, in which evidence is presented to a hearing officer or a hearing panel, and that is:
 - (a) required by a policy or rule; or
 - (b) held to determine whether a policy or rule has been violated.
- (11)
 - (a) "Student disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student has violated a policy or rule.
 - (b) "Student disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.
- (12) "Student organization" means a club or other organization:
 - (a) that meets during noninstructional time;
 - (b) that is recognized by the institution at which the organization meets; and
 - (c) with a majority of members who are current students at the institution.
- (13)
 - (a) "Student organization disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student organization has violated a rule or policy.
 - (b) "Student organization disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

Enacted by Chapter 74, 2024 General Session

53B-27-603 Student disciplinary proceedings -- Legal representation.

- (1) An institution may not prohibit:
 - (a) an accused student from being represented, at the accused student's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the accused student; or
 - (b) an accused student's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the accused student.
- (2) An institution may not prohibit:
 - (a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the alleged victim; or
 - (b) the alleged victim's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the alleged victim.
- (3)
 - (a) An institution shall provide an accused student described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student's or alleged victim's rights under this section.
 - (b) The institution shall ensure that the notice provided to an accused student under Subsection (3)(a) notifies the accused student that:

- (i) the accused student is entitled to a student disciplinary proceeding to contest the charges against the accused student;
- (ii) the accused student is entitled to a presumption of innocence; and
- (iii) the presumption of innocence remains until:
 - (A) the accused student acknowledges responsibility for the alleged violation; or
 - (B) the institution has established every element of the alleged violation at a student disciplinary proceeding.
- (c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student's or alleged victim's rights as soon as practicable but no later than seven days before a student disciplinary proceeding that pertains to the accused student or alleged victim.

Enacted by Chapter 74, 2024 General Session

53B-27-604 Student organization disciplinary proceedings -- Legal representation.

- (1) An institution may not prohibit:
 - (a) an accused student organization from being represented, at the accused student organization's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the accused student organization; or
 - (b) an accused student organization's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the accused student organization.
- (2) An institution may not prohibit:
 - (a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the alleged victim; or
 - (b) the alleged victim's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the alleged victim.
- (3)
 - (a) An institution shall provide an accused student organization described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student organization's or alleged victim's rights under this section.
 - (b) The institution shall ensure that the notice provided to an accused student organization under Subsection (3)(a) notifies the accused student organization that:
 - (i) the accused student organization is entitled to a student organization disciplinary proceeding to contest the charges against the accused student organization;
 - (ii) the accused student organization is entitled to a presumption of innocence; and
 - (iii) the presumption of innocence remains until:
 - (A) the accused student organization acknowledges responsibility for the alleged violation; or
 - (B) the institution has established every element of the alleged violation at a student organization disciplinary proceeding.
 - (c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student organization's or alleged victim's rights as soon as practicable but no later than seven days before a student organization disciplinary proceeding that pertains to the accused student organization or alleged victim.

Enacted by Chapter 74, 2024 General Session

53B-27-605 Exchange of evidence.

- (1)
 - (a) An institution shall ensure that an accused student, an alleged victim, or an accused student organization has access to all material evidence that is in the institution's possession, including both inculpatory and exculpatory evidence, unless the material is subject to a legal privilege, no later than one week before the day on which a proceeding begins.
 - (b) Evidence that is an accused student's or an alleged victim's personal medical record, mental health record, therapy note, or journal may not be used as evidence in a proceeding unless the accused student or alleged victim consents to the use of the evidence in the proceeding.
 - (c) Any evidence presented in a proceeding under this part is confidential and may not be:
 - (i) used as evidence in a subsequent proceeding; or
 - (ii) used or disclosed to a third-party for any other purpose other than for the proceeding.
- (2) Nothing in this part:
 - (a) provides for formal or informal discovery beyond the exchange of evidence described in Subsection (1); or
 - (b) incorporates or binds an institution to:
 - (i) the Utah Rules of Civil Procedure or the Utah Rules of Evidence; or
 - (ii) the Federal Rules of Civil Procedure or the Federal Rules of Evidence.

Enacted by Chapter 74, 2024 General Session

53B-27-606 Conflict of interest.

- (1) An institution shall conduct a student disciplinary proceeding or student organization disciplinary proceeding in an impartial manner free from conflicts of interests.
- (2) Except as provided in Subsection (3), in order to avoid conflicts of interest created by a comingling of roles, an institution shall prohibit an individual employed by or otherwise representing an institution from acting as an adjudicator, hearing officer, or appellate hearing officer in a student disciplinary proceeding or student organization disciplinary proceeding if the individual has also served in one of the following roles in the same matter:
 - (a) an advocate or counselor for an alleged victim, accused student, or accused student organization;
 - (b) an investigator;
 - (c) an institutional prosecutor; or
 - (d) an advisor to a person described in Subsection (2)(a), (b), or (c).
- (3) If an individual employed by the institution or otherwise representing the institution serves as an investigator and an institutional prosecutor for the alleged violation of a policy or rule, the institution shall advise an accused student, accused student organization, or alleged victim before the investigation proceeding.
- (4) An individual may not serve as an investigator or institutional prosecutor and an advocate for an accused student, accused student organization, or alleged victim in the same matter.
- (5) In a proceeding conducted under this part, an institution shall allow an accused student, accused student organization, or an alleged victim to raise objections to issues that could potentially compromise the impartiality of the proceedings, including any potential conflicts of interest in violation of this section.

Enacted by Chapter 74, 2024 General Session

53B-27-607 Application -- Institution policies.

- (1) This part does not prohibit an institution from temporarily suspending an accused student or accused student organization pending the completion of a student or student organization disciplinary proceeding.
- (2) An institution shall:
 - (a) enact policies to govern proceedings in which a student has a right to an active legal representation or a nonattorney advocate in accordance with this part;
 - (b) train adjudicators, hearing officers, and appellate hearing officers on relevant evidence and nonrelevant, nonprobative evidence; and
 - (c) enact policies and procedures to notify a student of the student's right to bring a cause of action in violation of this part to the attorney general's office.
- (3) An institution may adopt a policy requiring a legal representation or nonattorney advocate of an accused student, alleged victim, or accused student organization to submit questions for an opposing party to the hearing officer.

Enacted by Chapter 74, 2024 General Session

53B-27-608 Cause of action.

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Enacted by Chapter 74, 2024 General Session

53B-27-609 Statute of limitations.

- (1) The attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.
- (2) The cause of action accrues on the day on which the student or student organization receives final notice, from the institution, of sanction or discipline that violates an institution's rule or policy.

Enacted by Chapter 74, 2024 General Session