

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: S2/9/23 S3/14/23 S3/15/23*
94th General Assembly **A Bill**
Regular Session, 2023

SENATE BILL 125

By: Senator J. Dotson
By: Representative Beck

For An Act To Be Entitled

AN ACT CONCERNING FREE SPEECH RIGHTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING FREE SPEECH RIGHTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 60, is amended to add an additional subchapter to read as follows:

Subchapter 14 – Free Speech Rights at State-Supported Institutions of Higher Education

6-60-1401. Legislative intent.

The General Assembly finds that:

(1) The First Amendment to the United States Constitution and Article 2, Section 6, of the Arkansas Constitution protect the right of free speech, including the speech of students enrolled in state-supported institutions of higher education and other members of campus communities;

(2) Student expression and the exchange of ideas is the primary way in which institutions of higher education fulfill educational missions; and

(3) It is a matter of statewide interest to protect the rights



of students and other members of campus communities to exercise their freedom of speech rights on campuses of state-supported institutions of higher education, while also recognizing the right of those state-supported institutions of higher education to enact reasonable restrictions that preserve their ability to fulfill their educational missions.

6-60-1402. Definitions.

As used in this subchapter:

(1) "Campus community" means the same as defined in § 6-60-1003(2);

(2) "Campus forum" means:

(A) An outdoor area of campus as defined in § 6-60-1003(7); or

(B) Any non-academic and publicly open portion of a facility that a state-supported institution of higher education has traditionally made available to members of the campus community for expressive purposes;

(3) "Expression" means any lawful verbal or written means by which an individual may communicate an idea to another individual;

(4) "State-supported institution of higher education" means the same as defined in § 6-60-1003(8); and

(5) "Student" means any person who is enrolled on a full-time or part-time basis in a state-supported institution of higher education.

6-60-1403. Protected expression.

(a) A state-supported institution of higher education shall not limit or restrict the expression of a member of the campus community in a campus forum based on the:

(1) Viewpoint of the expression; or

(2) Reaction or opposition from listeners to or observers of the expression.

(b) Except as permitted by the First Amendment to the United States Constitution and Article 2, Section 6, of the Arkansas Constitution, or as otherwise permitted under this subchapter, a state-supported institution of higher education shall not abridge the expression of a member of the campus community.

6-60-1404. Limitations.

Nothing in this subchapter shall be interpreted as:

(1) Giving a member of the campus community the right to disrupt a previously scheduled or otherwise reserved activity;

(2) Authorizing a member of the campus community to disregard a policy of the state-supported institution of higher education regarding:

(A) Compliance with state and federal laws on discrimination and harassment; or

(B) The productive and efficient operation of an instructional or work environment;

(3) Preventing a state-supported institution of higher education from prohibiting, limiting, or restricting expression that is not protected under the First Amendment to the United States Constitution or Article 2, Section 6, of the Arkansas Constitution; or

(4) Prohibiting a state-supported institution of higher education from imposing a restriction on the time, place, or manner of expression in or on a campus forum, provided the restriction on the time, place, or manner of expression:

(A) Is reasonable;

(B) Is justified without reference to the viewpoint of the speaker;

(C) Is narrowly tailored to serve a significant state interest; and

(D) Leaves open ample alternative channels for communication of the information or message contained in the expression.

6-60-1405. Policy – Required.

Each state-supported institution of higher education shall promulgate and implement a policy that:

(1) Protects the rights established by this subchapter; and

(2) Allows a member of the campus community to present his or her concerns to an appropriate administrator through a grievance procedure.

/s/J. Dotson