

House Engrossed Senate Bill
colleges; universities; free speech zones

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1013

AN ACT

AMENDING SECTIONS 15-1864 AND 15-1865, ARIZONA REVISED STATUTES; RELATING
TO POSTSECONDARY INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-1864, Arizona Revised Statutes, is amended to
3 read:

4 15-1864. Students' right to speak in a public forum; protests
5 and demonstrations; invited speakers; court
6 actions

7 A. A university or community college shall not restrict a student's
8 right to speak, including verbal speech, holding a sign or distributing
9 fliers or other materials, in a public forum, but may impose reasonable
10 time, place and manner restrictions as ~~permitted below~~ ALLOWED IN THIS
11 SECTION.

12 B. A university or community college shall not impose restrictions
13 on the time, place and manner of student speech that occurs in a public
14 forum and THAT is protected by the first amendment to the United States
15 Constitution unless the restrictions:

16 1. Are reasonable.

17 2. Are justified without reference to the content of the regulated
18 speech.

19 3. Are necessary to achieve a compelling governmental interest.

20 4. Are the least restrictive means to further that compelling
21 government interest.

22 5. Leave open ample alternative channels for communication of the
23 information.

24 6. Allow spontaneous assembly and distribution of literature.

25 C. A person who is lawfully present on a university or community
26 college campus may ENGAGE IN EXPRESSIVE ACTIVITY, INCLUDING A protest or
27 ~~demonstrate on that campus~~ DEMONSTRATION, IN ANY AREA WHERE THE PERSON IS
28 LAWFULLY PRESENT. Individual conduct that materially and substantially
29 infringes on the rights of other persons to engage in or listen to
30 expressive activity is not allowed and is subject to sanction. This
31 subsection does not prohibit:

32 1. A UNIVERSITY OR COMMUNITY COLLEGE FROM REGULATING ECONOMIC
33 ACTIVITY ON THE UNIVERSITY'S OR COMMUNITY COLLEGE'S CAMPUS.

34 2. Faculty members from maintaining order in the classroom.

35 D. The public areas of university and community college campuses
36 are public forums and are open on the same terms to any speaker.

37 E. University and community college campuses are open to any
38 speaker whom a student, student group or faculty member has invited.

39 F. A university or community college shall make reasonable efforts
40 and make available reasonable resources to address the safety of an
41 invited speaker and other persons in attendance. A university or
42 community college may not charge security fees based on the content of the
43 speech of the person who invited a speaker or of the invited speaker. A
44 university or community college may restrict the use of its nonpublic
45 facilities to invited individuals.

1 G. An individual student or a faculty or staff member of a
2 university or community college may take a position on the public policy
3 controversies of the day, but the institution is encouraged to attempt to
4 remain neutral, as an institution, on the public policy controversies of
5 the day unless the administrative decisions on such issues are essential
6 to the day-to-day functioning of the university or community college.

7 H. ~~The~~ A university or community college may not take action, as an
8 institution, on the public policy controversies of the day in a way that
9 requires students or faculty members to publicly express or endorse a
10 particular view of a public policy controversy.

11 I. The following persons may bring an action in a court of
12 competent jurisdiction to enjoin any violation of this article by any
13 university, community college, faculty member or administrator or to
14 recover reasonable court costs and reasonable attorney fees:

15 1. The attorney general.

16 2. A person whose expressive rights were violated by a violation of
17 this article.

18 J. In an action brought under subsection I of this section, if the
19 court finds that a violation of this article occurred, the court shall
20 award the aggrieved person injunctive relief for the violation and shall
21 award reasonable court costs and reasonable attorney fees. The court
22 shall also award damages of ~~one thousand dollars~~ \$1,000 or actual damages,
23 whichever is greater.

24 K. A person shall bring an action for a violation of this article
25 within one year after the date the cause of action accrues. For the
26 purpose of calculating the one-year limitation period, each day that the
27 violation persists or each day that a policy in violation of this article
28 remains in effect constitutes a new violation of this article and shall be
29 considered a day that the cause of action has accrued.

30 Sec. 2. Section 15-1865, Arizona Revised Statutes, is amended to
31 read:

32 15-1865. Free speech; prohibition

33 Subject to reasonable time, place and manner restrictions, a
34 community college or university may not limit any area on campus where
35 free speech may be exercised BY A PERSON WHO IS LAWFULLY PRESENT.

36 Sec. 3. Community college districts; expenditure limitations;
37 withholding

38 Notwithstanding section 41-1279.07, Arizona Revised Statutes, for
39 fiscal years 2023-2024 and 2024-2025, if a community college district
40 exceeds its expenditure limitation prescribed in article IX, section 21,
41 Constitution of Arizona, and pursuant to section 41-563, Arizona Revised
42 Statutes, the community college district shall have its state aid pursuant
43 to section 15-1466, Arizona Revised Statutes, withheld as follows:

44 1. If the excess expenditures are less than five percent of the
45 limitation, an amount equal to \$5,000.

1 2. If the excess expenditures are equal to or greater than five
2 percent but less than ten percent of the limitation, an amount equal to
3 \$15,000.

4 3. If the excess expenditures are equal to or greater than ten
5 percent but less than twelve percent of the limitation, an amount equal to
6 \$20,000.

7 4. If the excess expenditures are equal to or greater than twelve
8 percent of the limitation, an amount calculated pursuant to section 41-
9 1279.07, Arizona Revised Statutes, except that for any provisional
10 community college district established pursuant to section 15-1402.01,
11 Arizona Revised Statutes, before December 31, 2015 that is in a county
12 with a population that does not exceed three hundred thousand persons, the
13 maximum amount of state aid withheld may not exceed one percent of the
14 provisional community college district budget.

15 Sec. 4. Retroactivity

16 Section 3 of this act applies retroactively to from and after June
17 30, 2022.