

REFERENCE TITLE: colleges; universities; free speech zones

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

SB 1013

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTIONS 15-1864 AND 15-1865, ARIZONA REVISED STATUTES; RELATING TO STUDENTS' RIGHTS.

(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 faculty members from maintaining order in the
32 classroom.

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

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

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