

1 State of Arkansas As Engrossed: S2/9/23 S3/14/23 S3/15/23

2 94th General Assembly

A Bill

3 Regular Session, 2023

SENATE BILL 125

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5 By: Senator J. Dotson

6 By: Representative Beck

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For An Act To Be Entitled

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AN ACT CONCERNING FREE SPEECH RIGHTS AT STATE-

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SUPPORTED INSTITUTIONS OF HIGHER EDUCATION; AND FOR

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OTHER PURPOSES.

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Subtitle

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CONCERNING FREE SPEECH RIGHTS AT STATE-

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SUPPORTED INSTITUTIONS OF HIGHER

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EDUCATION.

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

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22 SECTION 1. Arkansas Code Title 6, Chapter 60, is amended to add an

23 additional subchapter to read as follows:

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

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Education

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27 6-60-1401. Legislative intent.

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The General Assembly finds that:

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(1) The First Amendment to the United States Constitution and

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Article 2, Section 6, of the Arkansas Constitution protect the right of free

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speech, including the speech of students enrolled in state-supported

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institutions of higher education and other members of campus communities;

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(2) Student expression and the exchange of ideas is the primary

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way in which institutions of higher education fulfill educational missions;

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and

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



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

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7 6-60-1402. Definitions.

8 As used in this subchapter:

9 (1) "Campus community" means the same as defined in § 6-60-
10 1003(2);

11 (2) "Campus forum" means:

12 (A) An outdoor area of campus as defined in § 6-60-
13 1003(7); or

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

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

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

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

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25 6-60-1403. Protected expression.

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

29 (1) Viewpoint of the expression; or

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

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

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2 6-60-1404. Limitations.

3 Nothing in this subchapter shall be interpreted as:

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

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

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

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

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

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

20 (A) Is reasonable;

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

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

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

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28 6-60-1405. Policy – Required.

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

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

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

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35 /s/J. Dotson
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APPROVED: 4/11/23