

Key Themes within State Free Expression Legislation¹

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	Does the law place an affirmative duty on public colleges and universities within the state?	Does the legislation create specific policies for fulfillment of the affirmative duty?	Are universities and colleges required to implement specific policies created by the legislation?
Alabama ²	Yes	Yes	No
	• Adopt a policy on free speech that is consistent with the state statute. • To prepare and disseminate an annual report on free expression.	• Shall include a section describing the free expression policy in all new student, faculty and staff orientation. • Shall disseminate the policy to all members of campus, and it make it available in their handbook and on the institution website. • Includes specific information to be included in the annual report.	• The schools are to adopt policies to ensure compliance with the law, but the law does not require them to adopt the specific wording and policies listed.
	Affirms the colleges and universities' ability to restrict unprotected speech and use reasonable time, place and manner restrictions on expressive activities consistent with the newly adopted policies.		
Arizona ³	Yes	Yes	Yes
	• To develop and adopt policies and statements on free expression. • To create a committee on free expression. • To create an annual report on free expression and report it to multiple state government officials. • To share the policies and regulations with the students and faculty.	• Includes the specific information that should be included in the annual report. • Includes a policy that the freshmen orientation program must describe the policies and rules regarding free expression.	• The law contains specific policies and statements related to the school's commitment to free expression, a school's obligation not to shield students from speech protected by the First Amendment, the discipline of students who infringe on the rights of others, and restrictions schools can implement to regulate unprotected speech.
	Includes a section on the rights of students to engage in free expression at universities and community colleges, and the rights of student organizations.		

	Does the law place an affirmative duty on public colleges and universities within the state?	Does the legislation create specific policies for fulfillment of the affirmative duty?	Are universities and colleges required to implement specific policies created by the legislation?
Arkansas ⁴	Yes	Yes	No
	• To submit a report to the Governor and Legislative Council when any changes or updates to their chosen course of action to comply with these statutes have been made. • Develop materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students understand the policies, regulations and duties of the state-sponsored institutions.	• Make public their policies, expectations and regulations of students regarding free expression via their handbooks, websites and student orientation programs.	
	Includes a section describing the expressive activities that are protected on campus by the statute and the First Amendment and a requirement that state sponsored institutions not deny a student organization benefits offered to other organizations based on requirements of the members of the organization to comply with an organization code of conduct, mission or beliefs. The statute also includes a cause of action a student may pursue for a violation of the statute or First Amendment.		
Colorado ⁵	No	No	No
	Includes a section on court actions students may take if their rights have been violated, the statute of limitations of a year for such actions, and the damages to be awarded. In addition, the law adds an explicit prohibition of free speech zones and a description of the continued restrictions that can be put in place to restrict non-protected speech and affirms the use of reasonable time, place, and manner restrictions on expressive activity.		
Florida ⁶	Yes	Yes	Yes
	• To conduct an annual assessment of the intellectual freedom and viewpoint diversity at the institution. • To adopt, by rule or regulation, a code of conduct and appropriate penalties for violations of rules or regulations.	• Includes a requirement to publish codes of conduct on the Institution's website.	• Includes specific due process requirements that at minimum must be adopted.
	Includes a cause of action students may pursue if their rights are violated by an action prohibited in the law, in addition to a description of expressive activities protected under the First Amendment. It also explicitly prohibits the creation of free speech zones, and affirms the restrictions schools may institute against non-protected speech and the use of reasonable time, place and manner restrictions on expressive activity. Students are also allowed to record video or audio of a lecture for their own personal use, as evidence, in connection to a complaint to the institution or in preparation for a criminal or civil proceeding. The Student Conduct Institute has previously reviewed the implications for Student Conduct Processes at Public Institutions of Higher Education based on the required adoption of the policies in the amended statutes in the SCItations Blog .		

	Does the law place an affirmative duty on public colleges and universities within the state?	Does the legislation create specific policies for fulfillment of the affirmative duty?	Are universities and colleges required to implement specific policies created by the legislation?
Georgia ⁷	Yes	Yes	No
	• To create and adopt policies to ensure the institution is protecting free expression and only restricting it as allowed by the State and the First Amendment. • To share the policies and regulations with students and faculty.	• The policies created are to be made available to students and faculty using the methods listed which include addition to the student handbook and website and shared at freshmen orientation.	• The schools are to adopt policies to ensure compliance with the law, but the law does not require them to adopt the specific wording and policies listed.
	Affirms the colleges and universities' ability to restrict unprotected speech and use reasonable time, place and manner restrictions on expressive activities consistent with the newly adopted policies.		
Iowa ⁸	Yes	Yes	Yes
	• Establish and publicize policies that prohibit institutional restrictions and penalties based on protected speech. • Develop materials, programs and procedures to ensure that those persons who have responsibility for discipline, instruction or administration of the campus community understand the policies, regulations and duties regarding free expression on campus consistent with the statute.	• Shall provide training on free speech under the Constitution to all students, faculty and staff on an annual basis where elected officials are permitted to attend.	• The state board of regents and board of directors for each community college shall adopt a policy that includes the statements provided by the statute on free expression.
	Includes a description of protected speech at the higher education institutions, which allows for the institution to implement time, place, and manner restrictions in addition to restricting unprotected speech. It also includes a section on the cause of action that can be pursued in the event of a violation of the statute. Furthermore, the statute includes a provision on student governments and their required compliance with the First Amendment and the statute, and a process for appealing if it is believed the student government is not in compliance. The statute also includes a provision prohibiting the institution in using race or sex stereotyping and race or sex scapegoating in their training programs.		
Kentucky ⁹	Yes	Yes	No
	• To create and adopt policies to ensure the institution is protecting free expression and only restricting it as allowed by the State and the First Amendment. • To share the policies and regulations with students and faculty.	• The policies created are to be made available to students and faculty using the methods listed which include addition to the student handbook and website and shared at freshmen orientation.	• The schools are to adopt policies to ensure compliance with the law, but the law does not require them to adopt the specific wording and policies listed.
	Includes the cause of action individuals have if specific sections are violated, damages they may receive and how long they have to bring the claim and affirms the restrictions colleges and universities can implement especially for intentional, material and substantial disruptions of another expressive activity and forms of unprotected speech.		

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Louisiana ¹⁰	Yes	Yes	No
	• To develop policies, regulations and expectations of students and faculty that are consistent with the those stated in the law. • To create an annual report on free expression. • To share the policies and regulations with students and faculty.	• Policy to post to website and include in first year orientation programs as a method of communication. • Includes a list of provisions that specify how the school should be implemented and additional rights they must include in their policies. • Includes specific information and incidents to include in their annual report.	• The schools are to adopt policies to ensure compliance with the law, but it does not require them to adopt the specific wording and policies listed.
	Includes a prohibition against the denial of privileges or benefits for belief-based student organization that other student organizations may receive and identifies outdoor areas of public secondary institutions as traditional public forums. In addition it affirms reasonable time, place and manner restrictions and restrictions on expressive activity.		
Montana ¹¹	Yes	No	No
	• A duty to train any person who has a responsibility for the discipline or education of students on the policies, regulations and duties regarding free expression.		
	Declares outdoor areas on campus as public forums and affirms a college or university's right to maintain and enforce reasonable time, place and manner restrictions on expressive activity, in addition to providing remedies for the violation of a students' freedom of expression and their statute of limitation for filing a claim. In contrast to other statutes, the college or university may prepare a report to identify the course of action to be taken by the institution to implement the requirements of the statute and if they do there are requirements to follow if they do publish a report.		
Missouri ¹²	No	No	No
	The statute provides that free expression shall be protected, in addition to defining outdoor areas of campuses as traditional public forums. The statute also affirms the right for institutions to restrict unprotected speech and use reasonable time, place and manner restrictions. Lastly, the statute provides for a cause of action against the institution for a violation of the statute.		

	Does the law place an affirmative duty on public colleges and universities within the state?	Does the legislation create specific policies for fulfillment of the affirmative duty?	Are universities and colleges required to implement specific policies created by the legislation?
North Carolina ¹³	Yes	Yes	Yes
	• A duty to adopt the policy statements at minimum. • A duty to establish a standing or special committee on Free Expression for the University of North Carolina System. • A duty to create an annual report on Free Expression. • A duty to share the policies and regulations with students and faculty.	• The colleges and universities are required to include in the annual report 4 specific elements in order for it to be complete and submitted by the annual deadline. • Colleges and universities may fulfill the publishing requirement by posting on the University of North Carolina System's Website. • Share with freshmen via a program describing the policies in Freshmen orientation.	• The universities and colleges must adopt policies and regulations that at least include the policy statements made in the law, although they are not required to adopt any further policies and regulations if they so choose.
	Includes a list of positions within the University of North Carolina System who cannot be personally liable for acts taken pursuant to their official duties, in addition to affirming the Universities right to restrict unprotect speech and make reasonable time, place, and manner restrictions.		
Ohio ¹⁴	Yes	Yes	Yes
	• Adopt a policy on harassment that is consistent with and adheres to the definition provided in the statute. • Develop materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students understand the policies, regulations and duties of the institutions. • Submit a report to the Governor and other government actors detailing the institution's course of action in accordance with the free expression policies.	• Make public the policies, regulations and expectations of students through the publication in the handbook, on its website and inclusion in its orientation programs. • Lists information to include in the report to the Governor. • The report must be available on its website and be accessible from the main page by no more than three links, be word-searchable, and be accessible to the public without registration. • If an action is brought against the Institution for a violation, the institution is required to submit a supplementary report.	• The definition of harassment is provided by the state for the institution to strictly adhere to in its adoption.
	The statute affirms the use of reasonable time, place and manner restrictions and includes a section which prohibits the denial of a religious group any benefit available to another group based on the requirement of the group that its leaders and members adhere to the beliefs or standards of the group.		

	Does the law place an affirmative duty on public colleges and universities within the state?	Does the legislation create specific policies for fulfillment of the affirmative duty?	Are universities and colleges required to implement specific policies created by the legislation?
Oklahoma ¹⁵	Yes	Yes	No
	• Develop and publish a report that details the institution's compliance with the free expression statutes. • Develop materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students understand the policies, regulations and duties of the state-sponsored institutions. • In the event of a violation of the statute, submit a supplementary report with the complaint to the Governor.	• Shall make public their policies on free expression in their handbooks, on their websites and through their orientation programs for students. • The report must be available on its website and be accessible from the main page by no more than three links, be word-searchable, and be accessible to the public without registration. • Includes a description of the information to include in the annual report.	
	The statute includes a cause of action for a person who has experienced a violation of the statute, in addition to detailing what expression is protected and affirming institutions right to restrict unprotected speech and use reasonable time, place and manner restrictions.		
South Dakota ¹⁶	Yes	Yes	No
	• Submit an annual report to the Governor and members of the legislature.	• Details the areas the report should include which are all actions taken to promote and ensure intellectual diversity and the free exchange of ideas, and description of events or occurrences that impeded those actions.	
	Includes the statement that the Board of Regents requires each institution to maintain a commitment to the principles of free expression. Additionally, a separate section affirms that funds for student organizations should be distributed in a nondiscriminatory manner and access to facilities should be equally available to all student organizations.		
Tennessee ¹⁷	Yes	Yes	No
	• To adopt policies that affirm the principles of free speech which are the public policy of the state and include the denial of free speech zones, permitting that restricts spontaneous outdoor assemblies, and the charging of students for security fees based on the content of speech. • To adopt a student-to- student harassment policy. • To make the policies publicly available.	• Includes a policy stating how the institution can make the policies publicly available to students and faculty annually.	• Although institutions are required to adopt a policy that is consistent with and no more expansive than the student-to-student harassment policy, it is not required to be the exact policy listed.
	Includes a description of the legislative intent of the policy, who it applies to in the state, the prohibition of costs being imposed on students on the basis of an anticipated reaction to the speech or opposition by listeners, and it affirms the restriction of non-protected speech and the use of reasonable time, place and manner restrictions on protected speech.		

	Does the law place an affirmative duty on public colleges and universities within the state?	Does the legislation create specific policies for fulfillment of the affirmative duty?	Are universities and colleges required to implement specific policies created by the legislation?
Texas ¹⁸	Yes	Yes	No
	• Adopt a policy detailing students' rights and responsibilities regarding expressive activities at the institution, disciplinary sanctions, and a grievance procedure. • Develop materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students understand the policies, regulations and duties of the state-sponsored institutions.	• Before adopting the new policies regarding free expression the institution's governing board must support the policies with a majority vote. • Post the policies on the institution's website. • Be made available to students and employees through inclusion in the student hand institution handbooks. • Shall provide a copy of the policies to each student during orientation.	
	The statute provides for a cause of action if violated and affirms the ability of institutions to restrict unprotected speech and utilize reasonable time, place and manner restrictions. Additionally, it prohibits the denial of a benefit to a student organization on the basis of the organization's viewpoint.		
Utah ¹⁹	Yes	Yes	No
	• Develop materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students understand the policies, regulations and duties of the state-sponsored institutions.	• Publish the institution's free expression policies in their student handbook and on the website. • Include information about the free expression policies in student orientation	
	The statute provides for a cause of action if violated, and affirms the ability of institutions to restrict unprotected speech.		

Free Expression Cause of Action Charts

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	Defendant and/or Plaintiff Identified	Statute of Limitations	Damages
Alabama ²⁰	Yes	No	No
	Plaintiff: The state Attorney General or the person whose expressive rights were violated		
Arizona ²¹	Yes	Yes	Yes
	- Defendants: the university, community college, faculty member or administrator - Plaintiff: The attorney general or the person whose expressive rights were violated	Within one year after the date of the cause of action accrues.	- Obtain injunctive relief - Award reasonable court costs and reasonable attorney fees - Award damages of \$1,000 or actual damages, whichever is greater.
Arkansas ²²	Yes	Yes	Yes
	- Plaintiff: a person or student organization aggrieved by the violation - Defendants: state supported-institution of higher education any other persons responsible for the violation	No action may be brought later than three years after the day the after the cause of action accrues.	- Injunctive relief - Reasonable attorney's fees - Expenses - Assert such violation as a defense or counterclaim in a disciplinary action, civil suit or administrative hearing.
Colorado ²³	No	Yes	Yes
	Does not expressly identify who the defendant shall be	One calendar year after the date of the violation	- Obtain injunctive relief - Award reasonable court costs and attorney fees

	Defendant and/or Plaintiff Identified	Statute of Limitations	Damages
Florida ²⁴	Yes		Yes
	Does not expressly identify who the defendant shall be, only that it is against the public institution.		- Obtain declaratory and injunctive relief and may be entitled to damages plus court costs and reasonable attorney fees (which may only be paid from nonstate funds). - Where an individual brings a cause of action for publishing video or audio recorded in a classroom in violation of paragraph 3(g), the individual could be awarded declaratory and injunctive relief and may be entitled to damages plus court costs and reasonable attorney fees, with the total amount not to exceed \$250,000.
Georgia ²⁵	No	No	No
Iowa ²⁶	Yes	No	Yes
	- Plaintiff: a member of the campus community aggrieved by a violation - Note: “nothing in this subsection shall be construed to make any administrator, officer, employee, or agent of a public institution of higher education personally liable for acts taken pursuant to the individual’s official duties.”		“Not later than one year after the day the cause of action accrues”
Kentucky ²⁷	Yes	Yes	Yes
	The cause of action can be against the institution, or any agent acting in their official capacity.	Within one year of the date that the cause of action accrued.	- Reasonable attorney’s fees and litigation costs - And, any prevailing claimant shall be awarded no less than \$1,000 but not more than \$100,000.
Louisiana ²⁸	No	No	No

	Defendant and/or Plaintiff Identified	Statute of Limitations	Damages
Missouri ²⁹	Yes	Yes	Yes
	Plaintiff: State Attorney General or person whose expressive rights were violated.	Not later than one day after the cause of action accrues.	- If the court finds a violation the court shall award the aggrieved person no less than \$500 for the first violation and \$50 for each day the violation remains ongoing. - Compensatory damages - Reasonable court costs - Attorney's fees
Montana ³⁰	Yes	Yes	Yes
	The cause of action can be against the public post-secondary institution and any employees acting in their official capacity who were responsible for the violation.	Within one year after the day the cause of action accrues.	- Reasonable attorney's fees and litigation costs - Injunctive relief - And, any prevailing claimant shall be awarded no less than \$2,000 but not more than \$75,00 to the aggrieved person or student organization.
North Carolina ³¹	No	No	No
	Specifically states that "Nothing in this Article shall be construed to make any chancellor, officer, employee, or member of a board of trustees of a constituent institution or the President, officer, employee, or member of the Board of Governors of The University of North Carolina personally liable for acts taken pursuant to their official duties."		
Ohio ³²	No	No	No
Oklahoma ³³	Yes	No	Yes
	- Plaintiff: student or religious student association aggrieved by a violation of section 2 or 3 of the statute. - Defendant: Public Institution of High Education		No Specifics provided - "Obtain appropriate relief, including damages"

	Defendant and/or Plaintiff Identified	Statute of Limitations	Damages
South Dakota ³⁴	No	No	No
Tennessee ³⁵	No	No	No
Texas ³⁶	No	No	No
Utah ³⁷	Yes • Plaintiff: The state Attorney General • Defendant: Institution or an institution's agent acting their official capacity	Yes • No action may be brought later than one year after the cause of action accrued.	No

¹The states included in the chart have statutes that were passed and are currently being enforced. There are additional states who are in the process of passing similar statutes, or who have had a statute overturned by courts.

² Code of Ala. §16-68 <https://casetext.com/statute/code-of-alabama/title-16-education/chapter-68-free-speech-rights-for-students-faculty-and-staff/section-16-68-3-adoption-of-free-expression-policy> .

³A.R.S. §15 -1861 <https://www.azleg.gov/arsDetail/?title=15> .

⁴ A.C.A. § 6-60-1003 <https://law.justia.com/codes/arkansas/2019/title-6/subtitle-5/chapter-60/subchapter-10/> .

⁵C.R.S. 23-5-144 <https://law.justia.com/codes/colorado/2017/title-23/state-universities-and-colleges/article-5/section-23-5-144/> .

⁶ FL §1001.03 and .706. http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=1000-1099/1013/1013.html .

⁷ O.C.G.A. §20-3-48 <https://casetext.com/statute/code-of-georgia/title-20-education/chapter-3-postsecondary-education/article-2-board-of-regents-and-university-system/part-1d-regulations-and-policies-relevant-to-free-speech-and-expression/section-20-3-48-adoption-of-free-speech-and-expression-regulations-disciplinary-sanctions-for-interfering-with-rights> .

⁸ Iowa Code § 261H <https://www.legis.iowa.gov/docs/code/2020/261H.pdf> .

⁹KRS §164.348 <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49294> .

¹⁰ La. R.S. §17:3399.31-34 <http://legis.la.gov/legis/Law.aspx?d=1108427> .

¹¹H.B. 218, 67th Leg., Reg. Sess. (Mt. 2021). <https://leg.mt.gov/bills/2021/billpdf/HB0218.pdf> .

¹² §173.1550 R.S. Mo. <https://revisor.mo.gov/main/OneSection.aspx?section=173.1550> .

¹³N.C. Gen. Stat. §116-300 https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_116/Article_36.pdf .

¹⁴ ORC Ann. 3345.011 <https://codes.ohio.gov/ohio-revised-code/chapter-3345> .

¹⁵ 70 Okl. St. §2120 <https://www.okhighered.org/cosa/prof-dev/wilfong-section-2120.pdf> .

¹⁶ S.D. Codified law §13-53 – (49-53). https://sdlegislature.gov/Statutes/Codified_Laws/2042839 .

¹⁷Tenn. Code Ann. §49-7-2401 <https://casetext.com/statute/tennessee-code/title-49-education/chapter-7-postsecondary-and-higher-education-generally/part-24-campus-free-speech-protection-act> .

¹⁸ Tex. Educ. Code §51.9315 https://texas.public.law/statutes/tex._educ._code_section_51.9315 .

¹⁹ 2021 Ut. HB 159 <https://le.utah.gov/~2021/bills/static/HB0159.html> .

²⁰ Code of Ala. § 16-68-7.

²¹A.R.S. § 15-1864 (I)-(K).

²² A.C.A. §6-60-1009,1010.

²³C.R.S. 23-5-144(6)-(8).

²⁴FL §1001.03 and .706.

²⁵O.C.G.A. §20-3-48.

²⁶Iowa Code § 261H.5.

²⁷KRS §164.348(3).

²⁸La. R.S. §17:3399.

²⁹§173.1550 R.S. Mo.

³⁰H.B. 218, 67th Leg., Reg. Sess. (Mt. 2021). P. 5 and 6.

³¹N.C. Gen. Stat. §116-304.

³² ORC Ann. 3345.011.

³³ 70 Okl. St. §2119.3

³⁴ S.D. Codified law §13-53

³⁵Tenn. Code Ann. §49-7-2405.

³⁶ Tex. Educ. Code §51.9315.

³⁷ 2021 Ut. HB 159.