

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HOUSE BILL 2563

AN ACT

AMENDING SECTIONS 15-1861 AND 15-1864, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 14, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-1866, 15-1867, 15-1868 AND 15-1869; 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 15-1861, Arizona Revised Statutes, is amended to
3 read:

4 15-1861. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Community college" has the same meaning prescribed in section
7 15-1401.

8 2. "INDIVIDUAL CONDUCT THAT MATERIALLY AND SUBSTANTIALLY INFRINGES
9 ON THE RIGHTS OF OTHER PERSONS TO ENGAGE IN OR LISTEN TO EXPRESSIVE
10 ACTIVITY" MEANS CONDUCT BY A PERSON WHO, WITH THE INTENT TO OR THE
11 KNOWLEDGE OF DOING SO, MATERIALLY AND SUBSTANTIALLY PREVENTS THE
12 COMMUNICATION OF A MESSAGE OR PREVENTS THE TRANSACTION OF THE BUSINESS OF
13 A LAWFUL MEETING, GATHERING OR PROCESSION BY DOING ANY OF THE FOLLOWING:

14 (a) ENGAGING IN FIGHTING OR VIOLENT OR OTHER UNLAWFUL BEHAVIOR.

15 (b) PHYSICALLY BLOCKING OR USING THREATS OF VIOLENCE TO PREVENT
16 ANOTHER PERSON FROM ATTENDING, LISTENING TO, VIEWING OR OTHERWISE
17 PARTICIPATING IN AN EXPRESSIVE ACTIVITY.

18 (c) PREVENTING ANOTHER PERSON FROM ATTENDING, LISTENING TO, VIEWING
19 OR OTHERWISE PARTICIPATING IN AN EXPRESSIVE ACTIVITY THAT IS HELD AT A
20 LOCATION THAT IS NOT A PUBLIC FORUM, SUCH AS AN AUDITORIUM OR LECTURE
21 HALL.

22 ~~2.~~ 3. "Public forum" includes both a traditional public forum,
23 which is any open, outdoor area on the campus of a university or community
24 college, and a designated public forum, which is any facility, building or
25 part of a building that the university or community college has opened to
26 students or student organizations for expression.

27 ~~3.~~ 4. "University" means a university under the jurisdiction of
28 the Arizona board of regents.

29 Sec. 2. Section 15-1864, Arizona Revised Statutes, is amended to
30 read:

31 15-1864. Students' right to speak in a public forum; protests
32 and demonstrations; invited speakers; court
33 actions

34 A. A university or community college shall not restrict a student's
35 right to speak, including verbal speech, holding a sign or distributing
36 fliers or other materials, in a public forum.

37 B. A university or community college shall not impose restrictions
38 on the time, place and manner of student speech that:

39 1. Occurs in a public forum.

40 2. Is protected by the first amendment to the United States
41 Constitution unless the restrictions:

42 (a) Are reasonable.

43 (b) Are justified without reference to the content of the regulated
44 speech.

1 (c) Are ~~narrowly tailored to serve~~ NECESSARY TO ACHIEVE a
2 ~~significant~~ COMPELLING governmental interest.

3 (d) ARE THE LEAST RESTRICTIVE MEANS TO FURTHER THAT COMPELLING
4 GOVERNMENT INTEREST.

5 ~~(d)~~ (e) Leave open ample alternative channels for communication of
6 the information.

7 3. PROVIDES FOR SPONTANEOUS ASSEMBLY AND DISTRIBUTION OF
8 LITERATURE.

9 C. A PERSON WHO IS LAWFULLY PRESENT ON A UNIVERSITY OR COMMUNITY
10 COLLEGE CAMPUS MAY PROTEST OR DEMONSTRATE ON THAT CAMPUS. INDIVIDUAL
11 CONDUCT THAT MATERIALLY AND SUBSTANTIALLY INFRINGES ON THE RIGHTS OF OTHER
12 PERSONS TO ENGAGE IN OR LISTEN TO EXPRESSIVE ACTIVITY IS NOT ALLOWED AND
13 IS SUBJECT TO SANCTION. THIS SUBSECTION DOES NOT PROHIBIT FACULTY MEMBERS
14 FROM MAINTAINING ORDER IN THE CLASSROOM.

15 D. THE PUBLIC AREAS OF UNIVERSITY AND COMMUNITY COLLEGE CAMPUSES
16 ARE PUBLIC FORUMS AND ARE OPEN ON THE SAME TERMS TO ANY SPEAKER.

17 E. UNIVERSITY AND COMMUNITY COLLEGE CAMPUSES ARE OPEN TO ANY
18 SPEAKER WHOM A STUDENT, STUDENT GROUP OR FACULTY MEMBER HAS INVITED.

19 F. A UNIVERSITY OR COMMUNITY COLLEGE SHALL MAKE ALL REASONABLE
20 EFFORTS AND MAKE AVAILABLE ALL REASONABLE RESOURCES TO ENSURE THE SAFETY
21 OF AN INVITED SPEAKER AND OTHER PERSONS IN ATTENDANCE. A UNIVERSITY OR
22 COMMUNITY COLLEGE MAY NOT CHARGE SECURITY FEES BASED ON THE CONTENT OF THE
23 SPEECH OF THE PERSON WHO INVITED A SPEAKER OR OF THE INVITED SPEAKER. A
24 UNIVERSITY OR COMMUNITY COLLEGE MAY RESTRICT THE USE OF ITS NONPUBLIC
25 FACILITIES TO INVITED INDIVIDUALS.

26 G. AN INDIVIDUAL STUDENT OR A FACULTY OR STAFF MEMBER OF A
27 UNIVERSITY OR COMMUNITY COLLEGE MAY TAKE A POSITION ON THE PUBLIC POLICY
28 CONTROVERSIES OF THE DAY, BUT THE INSTITUTION IS ENCOURAGED TO ATTEMPT TO
29 REMAIN NEUTRAL, AS AN INSTITUTION, ON THE PUBLIC POLICY CONTROVERSIES OF
30 THE DAY UNLESS THE ADMINISTRATIVE DECISIONS ON SUCH ISSUES ARE ESSENTIAL
31 TO THE DAY-TO-DAY FUNCTIONING OF THE UNIVERSITY OR COMMUNITY COLLEGE.

32 H. THE UNIVERSITY OR COMMUNITY COLLEGE MAY NOT TAKE ACTION, AS AN
33 INSTITUTION, ON THE PUBLIC POLICY CONTROVERSIES OF THE DAY IN A WAY THAT
34 REQUIRES STUDENTS OR FACULTY MEMBERS TO PUBLICLY EXPRESS OR ENDORSE A
35 PARTICULAR VIEW OF A PUBLIC POLICY CONTROVERSY.

36 ~~6-~~ I. The following persons may bring an action in a court of
37 competent jurisdiction to enjoin any violation of this ~~section~~ ARTICLE BY
38 ANY UNIVERSITY, COMMUNITY COLLEGE, FACULTY MEMBER OR ADMINISTRATOR or to
39 recover reasonable court costs and reasonable attorney fees:

40 1. The attorney general.

41 2. A ~~student~~ PERSON whose expressive rights were violated by a
42 violation of this ~~section~~ ARTICLE.

43 ~~6-~~ J. In an action brought under subsection ~~6-~~ I of this section,
44 if the court finds that a violation of this ~~section~~ ARTICLE occurred, the
45 court shall award the aggrieved person injunctive relief for the violation

1 and shall award reasonable court costs and reasonable attorney fees. THE
2 COURT SHALL ALSO AWARD DAMAGES OF ONE THOUSAND DOLLARS OR ACTUAL DAMAGES,
3 WHICHEVER IS GREATER.

4 ~~F.~~ K. A person shall bring an action for a violation of this
5 ~~section~~ ARTICLE within one year after the date the cause of action
6 accrues. For the purpose of calculating the one-year limitation period,
7 each day that the violation persists or each day that a policy in
8 violation of this ~~section~~ ARTICLE remains in effect constitutes a new
9 violation of this ~~section~~ ARTICLE and shall be considered a day that the
10 cause of action has accrued.

11 Sec. 3. Title 15, chapter 14, article 6, Arizona Revised Statutes,
12 is amended by adding sections 15-1866, 15-1867, 15-1868 and 15-1869, to
13 read:

14 15-1866. Free expression policy; rules; Arizona board of
15 regents; community college district governing
16 boards; requirements

17 A. THE ARIZONA BOARD OF REGENTS AND EACH COMMUNITY COLLEGE DISTRICT
18 GOVERNING BOARD SHALL DEVELOP AND ADOPT A POLICY ON FREE EXPRESSION THAT
19 CONTAINS AT LEAST THE FOLLOWING STATEMENTS AND REQUIREMENTS:

20 1. THE PRIMARY FUNCTION OF AN INSTITUTION OF HIGHER EDUCATION IS
21 THE DISCOVERY, IMPROVEMENT, TRANSMISSION AND DISSEMINATION OF KNOWLEDGE BY
22 MEANS OF RESEARCH, TEACHING, DISCUSSION AND DEBATE. THIS STATEMENT SHALL
23 PROVIDE THAT, TO FULFILL THIS FUNCTION, THE UNIVERSITY OR COMMUNITY
24 COLLEGE MUST STRIVE TO ENSURE THE FULLEST DEGREE OF INTELLECTUAL FREEDOM
25 AND FREE EXPRESSION.

26 2. IT IS NOT THE PROPER ROLE OF AN INSTITUTION OF HIGHER EDUCATION
27 TO SHIELD INDIVIDUALS FROM SPEECH PROTECTED BY THE FIRST AMENDMENT,
28 INCLUDING, WITHOUT LIMITATION, IDEAS AND OPINIONS THAT MAY BE UNWELCOME,
29 DISAGREEABLE OR DEEPLY OFFENSIVE.

30 3. STUDENTS AND FACULTY MEMBERS HAVE THE FREEDOM TO DISCUSS ANY
31 PROBLEM THAT PRESENTS ITSELF, AS THE FIRST AMENDMENT ALLOWS AND WITHIN THE
32 LIMITS OF REASONABLE VIEWPOINT AND CONTENT-NEUTRAL RESTRICTIONS ON TIME,
33 PLACE AND MANNER OF EXPRESSION THAT ARE CONSISTENT WITH THIS ARTICLE AND
34 THAT ARE NECESSARY TO ACHIEVE A COMPELLING INSTITUTIONAL INTEREST IF THESE
35 RESTRICTIONS ARE CLEAR, ARE PUBLISHED AND PROVIDE AMPLE ALTERNATIVE MEANS
36 OF EXPRESSION. THIS STATEMENT SHALL SPECIFY THAT STUDENTS AND FACULTY
37 MEMBERS MAY ASSEMBLE AND ENGAGE IN SPONTANEOUS EXPRESSIVE ACTIVITIES IF
38 THOSE ACTIVITIES ARE NOT UNLAWFUL AND DO NOT MATERIALLY AND SUBSTANTIALLY
39 DISRUPT THE FUNCTIONING OF THE UNIVERSITY OR COMMUNITY COLLEGE, SUBJECT TO
40 THIS PARAGRAPH.

41 4. THERE IS A RANGE OF DISCIPLINARY ACTIONS FOR A STUDENT WHO IS
42 SUBJECT TO THE JURISDICTION OF A UNIVERSITY OR COMMUNITY COLLEGE AND WHO
43 ENGAGES IN INDIVIDUAL CONDUCT THAT MATERIALLY AND SUBSTANTIALLY INFRINGES
44 ON THE RIGHTS OF OTHER PERSONS TO ENGAGE IN OR LISTEN TO EXPRESSIVE
45 ACTIVITY.

1 5. IN ALL DISCIPLINARY PROCEEDINGS INVOLVING STUDENTS, INCLUDING
2 PROCEEDINGS INVOLVING EXPRESSIVE CONDUCT, A STUDENT IS ENTITLED TO A
3 DISCIPLINARY HEARING UNDER PUBLISHED PROCEDURES THAT INCLUDE, AT A
4 MINIMUM, ALL OF THE FOLLOWING:

5 (a) THE RIGHT TO RECEIVE ADVANCED WRITTEN NOTICE OF THE
6 ALLEGATIONS.

7 (b) THE RIGHT TO REVIEW THE EVIDENCE IN SUPPORT OF THE ALLEGATIONS.

8 (c) THE RIGHT TO CONFRONT WITNESSES WHO TESTIFY AGAINST THAT
9 STUDENT.

10 (d) THE RIGHT TO PRESENT A DEFENSE.

11 (e) THE RIGHT TO CALL WITNESSES.

12 (f) A DECISION BY AN IMPARTIAL PERSON OR PANEL.

13 (g) THE RIGHT TO APPEAL.

14 (h) IF EITHER A SUSPENSION OF MORE THAN THIRTY DAYS OR EXPULSION IS
15 A POTENTIAL CONSEQUENCE OF A DISCIPLINARY PROCEEDING UNDER THIS SECTION,
16 THE RIGHT TO ACTIVE ASSISTANCE OF COUNSEL.

17 6. IT IS THE SENSE OF THE LEGISLATURE THAT IF A STUDENT HAS
18 REPEATEDLY BEEN DETERMINED TO HAVE ENGAGED IN INDIVIDUAL CONDUCT THAT
19 MATERIALLY AND SUBSTANTIALLY INFRINGES ON THE RIGHTS OF OTHER PERSONS TO
20 ENGAGE IN OR LISTEN TO EXPRESSIVE ACTIVITY, A PUNISHMENT OF SUSPENSION OR
21 EXPULSION FROM THE UNIVERSITY OR COMMUNITY COLLEGE MAY BE APPROPRIATE.

22 7. THIS SECTION SUPERSEDES ANY PREVIOUS POLICIES OF A UNIVERSITY OR
23 COMMUNITY COLLEGE THAT RESTRICT SPEECH ON CAMPUSES AND THAT ARE
24 INCONSISTENT WITH THE STATEMENTS AND REQUIREMENTS PRESCRIBED IN THIS
25 SECTION. EACH UNIVERSITY AND COMMUNITY COLLEGE SHALL REMOVE OR REVISE ANY
26 PROVISIONS IN ITS POLICIES OR RULES IN ORDER TO COMPLY WITH THIS SECTION.

27 B. THE ARIZONA BOARD OF REGENTS AND EACH COMMUNITY COLLEGE DISTRICT
28 GOVERNING BOARD MAY ADOPT RULES TO FURTHER THE PURPOSES OF THE POLICY
29 ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION. THIS SECTION DOES NOT
30 PREVENT UNIVERSITIES AND COMMUNITY COLLEGES FROM REGULATING STUDENT SPEECH
31 OR ACTIVITY THAT IS PROHIBITED BY LAW. EXCEPT AS OTHERWISE PROVIDED BY
32 THIS ARTICLE, UNIVERSITIES AND COMMUNITY COLLEGES MAY RESTRICT STUDENT
33 EXPRESSION ONLY FOR EXPRESSIVE ACTIVITY THAT IS NOT PROTECTED BY THE FIRST
34 AMENDMENT OF THE UNITED STATES CONSTITUTION, INCLUDING:

35 1. A VIOLATION OF STATE OR FEDERAL LAW.

36 2. AN EXPRESSION THAT A COURT HAS DEEMED UNPROTECTED DEFAMATION.

37 3. HARASSMENT. FOR THE PURPOSES OF THIS PARAGRAPH, "HARASSMENT"
38 MEANS ONLY THAT EXPRESSION THAT IS SO SEVERE, PERVASIVE AND SUBJECTIVELY
39 AND OBJECTIVELY OFFENSIVE THAT IT UNREASONABLY INTERFERES WITH AN
40 INDIVIDUAL'S ACCESS TO EDUCATIONAL OPPORTUNITIES OR BENEFITS PROVIDED BY
41 THE UNIVERSITY OR COMMUNITY COLLEGE.

42 4. A TRUE THREAT. FOR THE PURPOSES OF THIS PARAGRAPH, "TRUE
43 THREAT" MEANS A STATEMENT THAT IS MEANT BY THE SPEAKER TO COMMUNICATE A
44 SERIOUS EXPRESSION OF AN INTENT TO COMMIT AN ACT OF UNLAWFUL VIOLENCE
45 AGAINST A PARTICULAR PERSON OR A GROUP OF PERSONS.

1 5. AN UNJUSTIFIABLE INVASION OF PRIVACY OR CONFIDENTIALITY THAT
2 DOES NOT INVOLVE A MATTER OF PUBLIC CONCERN.

3 6. AN ACTION THAT UNLAWFULLY DISRUPTS THE FUNCTION OF THE
4 UNIVERSITY OR COMMUNITY COLLEGE.

5 7. A REASONABLE TIME, PLACE AND MANNER RESTRICTION ON EXPRESSIVE
6 ACTIVITIES THAT ARE CONSISTENT WITH SECTION 15-1864.

7 15-1867. Arizona board of regents; committee on free
8 expression; annual report; committee termination

9 A. THE ARIZONA BOARD OF REGENTS SHALL ESTABLISH A COMMITTEE ON FREE
10 EXPRESSION CONSISTING OF AT LEAST FIFTEEN MEMBERS.

11 B. THE COMMITTEE ON FREE EXPRESSION SHALL SUBMIT AN ANNUAL REPORT
12 ON OR BEFORE SEPTEMBER 1 TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF
13 REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE ARIZONA BOARD OF
14 REGENTS SHALL POST A COPY OF THE ANNUAL REPORT ON ITS WEBSITE AND SHALL
15 SUBMIT A COPY OF THE ANNUAL REPORT TO THE SECRETARY OF STATE. THE ANNUAL
16 REPORT SHALL INCLUDE:

17 1. A DESCRIPTION OF ANY BARRIERS TO OR DISRUPTIONS OF FREE
18 EXPRESSION WITHIN THE UNIVERSITIES IN THIS STATE.

19 2. A DESCRIPTION OF THE ADMINISTRATIVE HANDLING AND DISCIPLINE
20 RELATING TO BARRIERS TO OR DISRUPTIONS OF FREE EXPRESSION WITHIN THE
21 UNIVERSITIES IN THIS STATE.

22 3. A DESCRIPTION OF SUBSTANTIAL DIFFICULTIES, CONTROVERSIES OR
23 SUCCESSES IN MAINTAINING A POSTURE OF ADMINISTRATIVE AND INSTITUTIONAL
24 NEUTRALITY.

25 4. ANY ASSESSMENTS, CRITICISMS, COMMENDATIONS OR RECOMMENDATIONS
26 THAT THE COMMITTEE DECIDES TO INCLUDE IN THE ANNUAL REPORT.

27 5. AN ACCOUNTING OF HOW STUDENT ACTIVITY FEES WERE ALLOCATED IN THE
28 PRIOR YEAR. FOR THE PURPOSES OF THIS PARAGRAPH, "STUDENT ACTIVITY FEES"
29 MEANS ANY FEE THAT IS CHARGED TO STUDENTS BY A UNIVERSITY IN THIS STATE
30 AND THAT IS USED TO SUPPORT AND FACILITATE THE EXPRESSION AND ACTIVITIES
31 OF STUDENTS OR STUDENT ORGANIZATIONS.

32 C. THE COMMITTEE ESTABLISHED PURSUANT TO THIS SECTION ENDS ON
33 JULY 1, 2026 PURSUANT TO SECTION 41-3103.

34 15-1868. Community college districts; committee on free
35 expression; annual report; committee termination

36 A. THE COMMUNITY COLLEGE DISTRICT GOVERNING BOARDS SHALL JOINTLY
37 ESTABLISH A COMMITTEE ON FREE EXPRESSION CONSISTING OF AT LEAST FIFTEEN
38 MEMBERS.

39 B. THE COMMITTEE ON FREE EXPRESSION SHALL SUBMIT AN ANNUAL REPORT
40 ON OR BEFORE SEPTEMBER 1 TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF
41 REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. EACH COMMUNITY COLLEGE
42 DISTRICT SHALL POST A COPY OF THE ANNUAL REPORT ON ITS RESPECTIVE WEBSITE,
43 AND A COMMUNITY COLLEGE DISTRICT THAT IS IN A COUNTY WITH A POPULATION OF
44 AT LEAST TWO MILLION PERSONS SHALL SUBMIT A COPY OF THE ANNUAL REPORT TO
45 THE SECRETARY OF STATE. THE ANNUAL REPORT SHALL INCLUDE:

1 1. A DESCRIPTION OF ANY BARRIERS TO OR DISRUPTIONS OF FREE
2 EXPRESSION WITHIN THE COMMUNITY COLLEGES IN THIS STATE.
3 2. A DESCRIPTION OF THE ADMINISTRATIVE HANDLING AND DISCIPLINE
4 RELATING TO BARRIERS TO OR DISRUPTIONS OF FREE EXPRESSION WITHIN THE
5 COMMUNITY COLLEGES IN THIS STATE.
6 3. A DESCRIPTION OF SUBSTANTIAL DIFFICULTIES, CONTROVERSIES OR
7 SUCCESSSES IN MAINTAINING A POSTURE OF ADMINISTRATIVE AND INSTITUTIONAL
8 NEUTRALITY.
9 4. ANY ASSESSMENTS, CRITICISMS, COMMENDATIONS OR RECOMMENDATIONS
10 THAT THE COMMITTEE DECIDES TO INCLUDE IN THE ANNUAL REPORT.
11 5. AN ACCOUNTING OF HOW STUDENT ACTIVITY FEES WERE ALLOCATED IN THE
12 PRIOR YEAR. FOR THE PURPOSES OF THIS PARAGRAPH, "STUDENT ACTIVITY FEES"
13 MEANS ANY FEE THAT IS CHARGED TO STUDENTS BY A COMMUNITY COLLEGE IN THIS
14 STATE AND THAT IS USED TO SUPPORT AND FACILITATE THE EXPRESSION AND
15 ACTIVITIES OF STUDENTS OR STUDENT ORGANIZATIONS.
16 C. THE COMMITTEE ESTABLISHED PURSUANT TO THIS SECTION ENDS ON
17 JULY 1, 2026 PURSUANT TO SECTION 41-3103.
18 15-1869. Information on free expression; freshman orientation
19 programs
20 EACH UNIVERSITY AND COMMUNITY COLLEGE SHALL INCLUDE IN ITS FRESHMAN
21 ORIENTATION PROGRAM INFORMATION DESCRIBING THE POLICIES AND RULES
22 REGARDING FREE EXPRESSION IN A MANNER THAT IS CONSISTENT WITH THIS
23 ARTICLE.