

**SENATE BILL No. 340**

By Committee on Federal and State Affairs

1-30

1 AN ACT concerning postsecondary educational institutions; establishing  
2 the campus free speech protection act.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) This act shall be known and may be cited as the campus  
6 free speech protection act.

7 (b) The legislature finds that postsecondary educational institutions as  
8 defined in K.S.A. 74-3201b, and amendments thereto, are not immune  
9 from the sweep of the first amendment to the constitution of the United  
10 States or section 11 of the bill of rights of the constitution of the state of  
11 Kansas, which guarantees freedom of speech and expression.

12 (c) It is the intent of the legislature:

13 (1) That the postsecondary educational institutions embrace a  
14 commitment to the freedom of speech and expression for all students and  
15 all faculty;

16 (2) that postsecondary educational institutions, including their faculty,  
17 shall not require students or other faculty to adopt or to indicate their  
18 adherence to beliefs or orthodoxies on any particular political,  
19 philosophical, religious, social, or other such subject, although institutions  
20 may require students and faculty to conform their conduct to the  
21 requirements of law and policy; and

22 (3) that postsecondary educational institutions not stifle freedom of  
23 speech and expression by implementing vague or overbroad speech codes,  
24 establishing free speech zones, imposing unconstitutional prior restraints  
25 on speech, or disinventing speakers based on the anticipated reaction or  
26 opposition of others to the content of speech.

27 (d) As used in this act:

28 (1) "Constitutional time, place, and manner restrictions" means  
29 restrictions on the time, place, and manner of free speech that do not  
30 violate the first amendment to the constitution of the United States or  
31 section 11 of the bill of rights of the constitution of the state of Kansas that  
32 are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy  
33 a significant institutional interest, and leave open ample alternative  
34 channels for the communication of the information or message to its  
35 intended audience;

36 (2) "faculty" or "faculty member" means any person, whether or not

Proposed Amendments to SB340  
Prepared by: Mike Heim  
Office of Revisor of Statutes

1 the person is compensated by a public institution of higher education,  
2 regardless of political affiliation, who is tasked with providing scholarship,  
3 academic research or teaching. For purposes of this paragraph, the term  
4 "faculty" shall include tenured and non-tenured professors, adjunct  
5 professors, visiting professors, lecturers, graduate student instructors and  
6 those in comparable positions, however titled. For purposes of this  
7 paragraph, the term "faculty" shall not include persons whose primary  
8 responsibilities are administrative or managerial;

9 (3) "free speech" means speech, expression or assemblies protected  
10 by the first amendment to the constitution of the United States or section  
11 11 of the bill of rights of the constitution of the state of Kansas, verbal or  
12 written, including, but not limited to, all forms of peaceful assembly,  
13 protests, demonstrations, rallies, vigils, marches, public speaking,  
14 distribution of printed materials, carrying signs, displays or circulating  
15 petitions. "Free speech" does not include the promotion, sale or  
16 distribution of any product or service; and  
17 (4) "Student" means an individual currently enrolled in a course of  
18 study at the institution.

19 Sec. 2. (a) The governing authority of every postsecondary  
20 educational institution shall adopt a policy that affirms the following  
21 principles of free speech, which are the public policy of this state:

22 (1) Students have a fundamental constitutional right to free speech;

23 (2) an institution shall be committed to giving students the broadest  
24 possible latitude to speak, write, listen, challenge, learn and discuss any  
25 issue, subject to this act, and amendments thereto;

26 (3) an institution shall be committed to maintaining a campus as a  
27 marketplace of ideas for all students and all faculty in which the free  
28 exchange of ideas is not to be suppressed because the ideas put forth are  
29 thought by some or even by most members of the institution's community  
30 to be offensive, unwise, immoral, indecent, disagreeable, conservative,  
31 liberal, traditional, radical or wrong-headed;

32 (4) it is for an institution's individual students and faculty to make  
33 judgments about ideas for themselves and to act on those judgments not by  
34 seeking to suppress free speech, but by openly and vigorously contesting  
35 the ideas that they oppose;

36 (5) it is not the proper role of an institution to attempt to shield  
37 individuals from free speech, including ideas and opinions they find  
38 offensive, unwise, immoral, indecent, disagreeable, conservative, liberal,  
39 traditional, radical or wrong-headed;

40 (6) although an institution should greatly value civility and mutual  
41 respect, concerns about civility and mutual respect shall never be used by  
42 an institution as a justification for closing off the discussion of ideas,  
43 however offensive, unwise, immoral, indecent, disagreeable, conservative,

1 liberal, traditional, radical or wrong-headed those ideas may be to some  
2 students or faculty;

3 (7) although all students and faculty are free to state their own views  
4 about and contest the views expressed on campus, and to state their own  
5 views about and contest speakers who are invited to express their views on  
6 the institution's campus, they may not substantially obstruct or otherwise  
7 substantially interfere with the freedom of others to express views they  
8 reject or even loathe. To this end, an institution has a responsibility to  
9 promote a lively and fearless freedom of debate and deliberation and  
10 protect that freedom;

11 (8) an institution shall be committed to providing an atmosphere that  
12 is most conducive to speculation, experimentation and creation by all  
13 students and faculty; who shall always remain free to inquire, to study, to  
14 evaluate and to gain new understandings;

15 (9) the primary responsibility of faculty is to engage an honest,  
16 courageous and persistent effort to search out and communicate the truth  
17 that lies in the areas of their competence;

18 (10) an institution shall maintain the generally accessible, open,  
19 outdoor areas of its campus as traditional public forums for free speech by  
20 students;

21 (11) an institution shall not restrict students' free speech only to  
22 particular areas of the campus, sometimes known as "free speech zones";

23 (12) an institution shall not deny student activity fee funding to a  
24 student organization based on the viewpoints that the student organization  
25 advocates;

26 (13) an institution shall not establish permitting requirements that  
27 prohibit spontaneous outdoor assemblies or outdoor distribution of  
28 literature, although an institution may maintain a policy that grants  
29 members of the college or university community the right to reserve  
30 certain outdoor spaces in advance;

31 (14) an institution shall not charge students security fees based on the  
32 content of their speech, the content of the speech of guest speakers invited  
33 by students, or the anticipated reaction or opposition of listeners to speech;

34 (15) an institution shall allow all students and faculty to invite guest  
35 speakers to campus to engage in free speech regardless of the views of  
36 guest speakers; ~~and~~

37 (16) an institution shall not disinvite a speaker invited by a student,  
38 student organization or faculty member because the speaker's anticipated  
39 speech may be considered offensive, unwise, immoral, indecent,  
40 disagreeable, conservative, liberal, traditional, radical or wrong-headed by  
41 students, faculty, administrators, government officials or members of the  
42 public.

43 (b) The policies adopted pursuant to subsection (a) shall be made

Strike in line 36

for event requests or activism projects, an institution shall  
provide a written explanation to inform the student or faculty  
group why such event request or activism project was tabled or  
denied; and  
(17)

1 available to students and faculty annually through one or more of the  
2 following methods:

3 (1) Publishing, annually, in the institution's student handbook and  
4 faculty handbook, whether paper or electronic;

5 (2) making available to students and faculty by way of a prominent  
6 notice on the institution's internet site other than through the electronic  
7 publication of the policy in the student handbook and faculty handbook;

8 (3) sending, annually, to students and employees through their  
9 institutionally provided email addresses; or

10 (4) addressing the policies in the institution's orientation programs for  
11 new students and new faculty.

12 (c) Nothing in this section shall be construed to grant students the  
13 right to disrupt previously scheduled or reserved activities occurring in a  
14 traditional public forum.

15 Sec. 3. (a) With respect to disciplining students for their speech,  
16 expression or assemblies, an institution shall adopt a policy on student-on-  
17 student harassment, defining the term consistent with and no more  
18 expansively than the language contained in subsection (b).

19 (b) As used in this section, "student-on-student harassment" means  
20 unwelcome conduct directed toward a person that is discriminatory on a  
21 basis prohibited by federal, state or local law and that is so severe,  
22 pervasive and objectively offensive that it effectively bars the victim's  
23 access to an educational opportunity or benefit.

24 Sec. 4. Nothing in this act shall require an institution to fund costs  
25 associated with student speech or expression. An institution shall not  
26 impose costs on students or student organizations on the basis of the  
27 anticipated reaction or opposition to a person's speech by listeners.

28 Sec. 5. Nothing contained in this act shall be construed as prohibiting  
29 an institution from imposing measures that do not violate the first  
30 amendment to the constitution of the United States or section 11 of the bill  
31 of rights of the constitution of the state of Kansas, such as:

32 (1) Constitutional time, place and manner restrictions;

33 (2) reasonable and viewpoint-neutral restrictions in nonpublic  
34 forums;

35 (3) restrictions on the use of the institution's property to protect the  
36 free speech rights of students and faculty and preserve the use of the  
37 property for the advancement of the institution's mission;

38 (4) prohibition or limitation of speech, expression or assemblies that  
39 are not protected by the first amendment to the constitution of the United  
40 States or section 11 of the bill of rights of the constitution of the state of  
41 Kansas; or

42 (5) content restrictions on speech that are reasonably related to a  
43 legitimate pedagogical purpose, such as classroom rules enacted by

- 1 faculty;
- 2 Sec. 6. This act shall take effect and be in force from and after its
- 3 publication in the statute book.