
Higher Education Committee

HB 2324

Brief Description: Requiring institutions of higher education to report incidents involving freedom of expression on campus.

Sponsors: Representatives Van Werven, Shea, Haler and Young.

Brief Summary of Bill

- Requires institutions of higher education to submit annual reports to the Governor and Legislature regarding the institution's handling of incidents involving freedom of expression on campus.

Hearing Date: 1/16/18

Staff: Trudes Tango (786-7384).

Background:

Freedom of expression for faculty and students is protected by the First Amendment of the U.S. Constitution, which applies to public institutions such as academic communities. Courts have also recognized that these communities are "special environments" with their own unique interests. In legal challenges, those interests become a factor in balancing an individual's rights and the institution's interest in effectively educating its students and precluding disruption in the classrooms. In addition, federal law provides that schools receiving federal funds may not deny students access to meet in certain areas of a school based on the political, philosophical, or religious nature of the students' speech. Speech that is generally not protected include speech that is intended to incite imminent violence or illegal acts (sometimes referred to as "fighting words"), libel, and obscenity.

Most institutions of higher education (IHE) have their own policies and rules addressing the use of campus facilities and the code of conduct for students, including procedures for disciplining students. Generally, the policies allow the use of facilities and public forum areas for activities protected by the first amendment, subject to procedural requirements and reasonable "time,

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place, and manner” restrictions. Some policies give discretion to the administration to cancel or limit the activity under certain circumstances, such as to prevent substantial harm or threat of substantial harm to the safety of persons or to prevent the substantial damage to property or the substantial disruption of school functions or operations.

Summary of Bill:

Institutions of higher education (IHE) must submit annual reports regarding the IHE’s handling of incidents involving freedom of expression on campus. Beginning December 1, 2019, reports must be submitted to the Governor and the Higher Education Committees of the House and Senate, summarizing incidents involving freedom of expression activities on its campus in which the IHE took action.

Reports must summarize incidents that occurred the previous academic year, whether or not there are any pending or unresolved proceedings at the time the report is due. Reports must, at a minimum, contain the following information in summary form:

- Complaints filed by or against students or campus officials regarding a student’s, student organization’s, or campus official’s freedom of expression activity;
- Any investigations and administrative proceedings (informal or formal) conducted by the IHE regarding any freedom of expression activity by a student, student organization, or campus official, and the IHE resolution of the investigation or proceedings;
- A description of any incidents of disruption of freedom of expression activity occurring on campus, including any attempts by students, student organizations, or campus officials, or the IHE to prohibit, restrict, or otherwise limit speakers; and
- Any incident in which the IHE has denied a student’s, student organization’s, or campus official’s use of or access to campus based on the content of the freedom of expression, and an explanation of the IHE’s reasons for denying use of or access to campus.

Reports must not contain individual identifying information. Reports must be made accessible on the IHE’s website and made accessible without requiring registration, use of a user name or password, or other user identification. Reports must also be searchable by keyword.

“Freedom of expression activity” means any activity protected by the First Amendment and may include, for example, speech-making, appearance of speakers, picketing, demonstrations, rallies, distribution of leaflets, and meetings to display group feelings or sentiments.

“Campus” includes, among other things the buildings, grounds, facilities, and the IHE’s online platforms.

“Campus official” means an employee of the IHE.

Appropriation: None.

Fiscal Note: Requested on January 9, 2018.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.