



**Colorado
Legislative
Council
Staff**

SB17-062

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0170	Date: June 22, 2017
Prime Sponsor(s): Sen. Neville T. Rep. Humphrey; Bridges	Bill Status: Signed into Law
	Fiscal Analyst: Anna Gerstle (303-866-4375)

BILL TOPIC: STUDENT FREE SPEECH PUBLIC HIGHER ED CAMPUSES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures General Fund	Potential increase.	
Appropriation Required: None.		
Future Year Impacts: Potential ongoing increase.		

Summary of Legislation

The bill prohibits an institution of higher education from limiting or restricting a student's verbal or written expression in a student forum based on the content of the expression or the reaction or opposition to the expression by observers. Institutions of higher education may not designate an area of campus as a free speech zone or implement any policy that restricts a student's expressive actions to a particular area. Subjecting a student to disciplinary action as a result of the expression also violates the prohibition.

Institutions of higher education may only restrict the time, place, and manner of student expression if the restrictions are:

- reasonable;
- justified without reference to the content of the restricted speech;
- serving a significant government interest; and
- leaving open alternative ways to communicate the information.

Any student who was denied access to a student forum for expressive purposes may file suit for relief up to one year after an alleged violation occurred. The court is to award reasonable court costs and attorney fees if it finds that a violation has occurred. The bill specifies that each day the violation occurs or each day a policy that violates SB 17-062 exists is considered a new violation.

The bill specifies that the prohibition does not prevent an institution of higher education from prohibiting, limiting, or restricting expression that is not protected by Article II, Section 10 of the Colorado Constitution or the First Amendment to the US Constitution, nor does it allow members of an institution's students, faculty, or staff to disrupt previously scheduled activities in a student forum. In addition, the bill defines expression and student forum.

Background

The First Amendment to the U.S. Constitution protects freedom of speech and expressive activity, as well as the right to peacefully assemble. Article II, Section 10 of the Colorado Constitution protects the freedoms of speech and the press. The fiscal note assumes that institutions of higher education act in compliance with the First Amendment and the Colorado Constitution.

State Expenditures

Beginning in FY 2017-18, the bill may increase costs and workload for institutions of higher education, the Judicial Department, and the Department of Law, as described below. Any increase is expected to be accomplished within existing appropriations.

Institutions of higher education. The bill may increase workload or expenditures for institutions of higher education to eliminate any existing free speech zones, or to adjust operations to accommodate expressive activities in areas on campus where such events are not typically held. To the extent that the bill increases litigation related to First Amendment rights, the bill may also increase legal costs for institutions of higher education. The increase in costs or workload has not been estimated.

Judicial Department. To the extent that individuals file claims related to unreasonable restrictions on their freedom of speech, the bill increases the workload in trial courts in the Judicial Department. The fiscal note assumes that institutions of higher education abide by the First Amendment and the Colorado Constitution; however, any increase in workload is assumed to be minimal.

Department of Law. To the extent that the bill increases litigation related to First Amendment rights, the bill may increase the workload for the Department of Law. Any impact is expected to be accomplished within existing appropriations; however, should additional resources be required, the department will request them through the annual budget process.

Effective Date

The bill was signed into law by the Governor on March 20, 2017, and takes effect on August 9, 2017, assuming no referendum petition is filed.

State and Local Government Contacts

District Attorneys
Judicial

Higher Education
Law