

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2451

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DATE	D-PG	OFFICIAL STATUS
02/20/2018	6124	Introduction and first reading
		Referred to Higher Education Finance and Policy
02/26/2018	6210	Author added Johnson

1.1 A bill for an act

1.2 relating to higher education; requiring MnSCU and requesting the University of

1.3 Minnesota to create a free expression policy, including a disciplinary policy for

1.4 free expression violations; requiring MnSCU and requesting the University of

1.5 Minnesota to submit a report on free expression on their campuses; proposing

1.6 coding for new law in Minnesota Statutes, chapter 135A.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. **[135A.70] FREE EXPRESSION POLICY.**

1.9 Subdivision 1. **Free expression policy.** (a) The Board of Trustees of the Minnesota State

1.10 Colleges and Universities shall, and the Board of Regents of the University of Minnesota

1.11 is requested to, adopt a policy on free expression that contains at least the following

1.12 provisions.

1.13 (b) The primary function of an institution of higher education is the discovery,

1.14 improvement, transmission, and dissemination of knowledge by means of research, teaching,

1.15 discussion, and debate. To fulfill this function, the institution must strive to ensure the fullest

1.16 degree of intellectual freedom and free expression.

1.17 (c) It is not the proper role of the institution to shield individuals or groups from speech

1.18 protected by the First Amendment of the United States Constitution and the Minnesota

1.19 Constitution, article I, section 3, including ideas and opinions that may be considered

1.20 controversial, disagreeable, or offensive.

1.21 (d) Students, faculty, and staff have the freedom to discuss any issue or problem that

1.22 presents itself, within the limits of content-neutral and viewpoint-neutral restrictions on

1.23 time, place, and manner of expression provided that these restrictions are clear, published,

1.24 and provide ample alternative means of expression. Students, faculty, and staff shall be

2.1 permitted to assemble and engage in spontaneous expressive activity as long as such activity
2.2 is not unlawful and does not materially and substantially disrupt the functioning of the
2.3 institution. Students, faculty, and staff are free to take positions on all issues. Students,
2.4 faculty, and staff may not be required to express specified viewpoints as a condition of
2.5 enrollment, employment, or as part of a course requirement.

2.6 (e) The campuses of the institution are open to speakers whom students, student groups,
2.7 or members of the faculty or staff have invited.

2.8 (f) The public areas of campuses of the institution are public forums and any person
2.9 lawfully present on campus may protest or demonstrate there. Protests and demonstrations
2.10 that infringe upon the rights of others to engage in or listen to expressive activity shall not
2.11 be permitted.

2.12 (g) A public institution of higher education shall strive to remain neutral, as an institution,
2.13 on the political and public policy controversies of the day, except insofar as administrative
2.14 decisions on such issues are essential to the day-to-day functioning of the institution.

2.15 (h) Nothing in the policy statement shall be construed to prohibit professors or other
2.16 instructors from maintaining order in the classroom.

2.17 Subd. 2. **New student orientation.** The Board of Trustees of the Minnesota State Colleges
2.18 and Universities shall, and the Board of Regents of the University of Minnesota is requested
2.19 to, include in new student orientation programs a section describing the policies and
2.20 regulations regarding free expression consistent with this section.

2.21 Subd. 3. **Permissible regulations.** Nothing in this section shall be construed to prevent
2.22 institutions from regulating student speech or activity that is prohibited by law. Except as
2.23 further limited by statute, institutions shall be allowed to restrict student expression only
2.24 for expressive activity not protected by the First Amendment of the United States
2.25 Constitution, including violations of state or federal law.

2.26 Sec. 2. **[135A.72] DISCIPLINARY POLICY ON FREE EXPRESSION.**

2.27 The Board of Trustees of the Minnesota State Colleges and Universities shall, and the
2.28 Board of Regents of the University of Minnesota is requested to, adopt a policy that provides
2.29 disciplinary sanctions for anyone under the jurisdiction of the institution who materially
2.30 and substantially interferes with the free expression of others. The Board of Trustees of the
2.31 Minnesota State Colleges and Universities shall, and the Board of Regents of the University
2.32 of Minnesota is requested to, include the following provisions in such a policy:

3.1 (1) in all disciplinary cases involving expressive conduct, students are entitled to a
3.2 disciplinary hearing under published procedures, including, at minimum: (i) the right to
3.3 receive advanced written notice of the charges; (ii) the right to review the evidence in support
3.4 of the charges; (iii) the right to confront witnesses against them; (iv) the right to present a
3.5 defense; (v) the right to call witnesses; (vi) a decision by an impartial arbiter or panel; and
3.6 (vii) the right of appeal;

3.7 (2) any student who has twice been found responsible for infringing the expressive rights
3.8 of others will be suspended for a minimum of one year or expelled; and

3.9 (3) when suspension for longer than 30 days or expulsion are potential penalties, students
3.10 are entitled to active assistance of counsel.

3.11 **Sec. 3. FREE EXPRESSION REPORT.**

3.12 (a) The Board of Trustees of the Minnesota State Colleges and Universities shall, and
3.13 the Board of Regents of the University of Minnesota is requested to, submit a report to the
3.14 members of the legislative committees with jurisdiction over higher education, the governor,
3.15 and the commissioner of the Office of Higher Education no later than February 1, 2020.

3.16 (b) The report shall include:

3.17 (1) a description of any barriers to or disruptions of free expression within the respective
3.18 state institutions of higher education;

3.19 (2) a description of the administrative handling and discipline relating to these disruptions
3.20 or barriers; and

3.21 (3) a description of substantial difficulties, controversies, or successes in maintaining a
3.22 posture of administrative and institutional neutrality with regard to political, public policy,
3.23 or social issues.

3.24 (c) The commissioner of the Office of Higher Education shall make the report publicly
3.25 available on the Web site of the Office of Higher Education.