



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2443/1
MDK:klm&wlj

2017 BILL

1 **AN ACT to create** 36.02 and 38.05 of the statutes; **relating to:** free speech at the
2 University of Wisconsin and technical college systems and granting
3 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates statutory requirements and prohibitions regarding free speech at the University of Wisconsin and technical college systems. The bill declares that it is not the role of a UW institution or technical college to shield individuals from speech that is protected by the First Amendment of the U.S. Constitution. The bill imposes requirements throughout both systems, including the following: 1) students, faculty, and staff have the right to assemble and engage in expressive activity; 2) the campuses are open to any speaker who is invited by students, faculty, or staff; 3) the public areas of campuses are traditional public forums; 4) administrators must remain neutral on public policy controversies; 5) administrators may not take action that requires students, faculty, or staff to express specified viewpoints; and 6) any person lawfully present on campus is allowed to protest or demonstrate.

The bill also requires administrators to make all reasonable efforts and make available all reasonable resources to ensure the safety of individuals invited to speak on campuses. If administrators determine that they cannot ensure an individual's safety, the bill requires that the individual must be allowed to speak in spite of that determination. The bill prohibits any protest or demonstration that infringes on the rights of others to engage in or listen to expressive activity and requires

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administrators to sanction individuals who violate that prohibition. The bill also prohibits a person from threatening an invited speaker or threatening to organize protests or riots or to incite violence with the purpose to dissuade or intimidate an invited speaker from attending a campus event.

The bill requires the UW Board of Regents and Technical College System Board to promulgate rules establishing a disciplinary process for students, faculty, and staff who violate the bill or engage in conduct that inhibits free speech. The rules must include disciplinary sanctions specified in the bill. Finally, the bill provides that it shall not be construed to prohibit the Board of Regents, a UW institution, the TCS Board, or a technical college district from regulating speech or activities that are prohibited by law or that substantially disrupt the functioning of a UW institution or technical college.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 36.02 of the statutes is created to read:

2 **36.02 Free speech. (1) DECLARATION OF POLICY.** It is not the role of a university
3 or college campus to shield individuals from speech that is protected by the First
4 Amendment of the U.S. Constitution.

5 **(2) REQUIREMENTS AND PROHIBITIONS.** All of the following apply throughout the
6 system:

7 (a) Students, faculty, and academic and university staff have the right to
8 assemble and engage in expressive activity.

9 (b) The campuses are open to any speaker who is invited by students, faculty,
10 or academic or university staff.

11 (c) The public areas of campuses are traditional public forums.

12 (d) University and college campus administrators shall remain neutral on
13 public policy controversies and may not take action that requires students, faculty,
14 or academic or university staff to express specified viewpoints.

15 (e) Any person lawfully present on campus may protest or demonstrate.

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1 (f) University and college campus administrators shall make all reasonable
2 efforts and make available all reasonable resources to ensure the safety of
3 individuals invited to speak on campuses.

4 (g) University and college campus administrators shall notify an individual
5 invited to speak on campus if the administrators determine that they cannot ensure
6 the individual's safety and shall allow the individual to speak on campus in spite of
7 that determination.

8 (h) Any protest or demonstration that infringes on the rights of others to engage
9 in or listen to expressive activity is prohibited and university and college campus
10 administrators shall sanction individuals who violate that prohibition. This
11 paragraph does not prohibit faculty and academic staff from maintaining order in a
12 classroom.

13 (i) No person may threaten an invited speaker or threaten to organize protests
14 or riots or to incite violence with the purpose to dissuade or intimidate an invited
15 speaker from attending a campus event.

16 **(3) DISCIPLINE.** (a) The Board of Regents shall promulgate rules that establish
17 all of the following:

18 1. A disciplinary process for students, faculty, and academic and university
19 staff who violate sub. (2) or engage in conduct that inhibits free speech.

20 2. A process allowing any individual to complain to a university or college
21 campus that his, her, or any other individual's free speech rights have been or will
22 be inhibited.

23 (b) The rules promulgated under par. (a) 1. shall include the following
24 disciplinary sanctions for students:

25 1. A written reprimand.

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- 1 2. Denial of specified university or college campus privileges.
- 2 3. Payment of restitution.
- 3 4. Educational or service sanctions, including community service.
- 4 5. Disciplinary probation.
- 5 6. Imposition of reasonable terms and conditions on continued student status.
- 6 7. Removal from a course in progress.
- 7 8. Enrollment restrictions on a course or program.
- 8 9. Suspension.
- 9 10. Expulsion.

10 (c) The rules promulgated under par. (a) 1. shall include the following
11 disciplinary sanctions for faculty or academic or university staff:

- 12 1. A written reprimand.
- 13 2. Reduction in salary or rank.
- 14 3. Suspension.
- 15 4. Dismissal.

16 (4) CONSTRUCTION. Nothing in this section shall be construed to prohibit the
17 Board of Regents or a university or college campus from regulating speech or
18 activities that are prohibited by law or that substantially disrupt the functioning of
19 a university or college campus.

20 **SECTION 2.** 38.05 of the statutes is created to read:

21 **38.05 Free speech. (1) DECLARATION OF POLICY.** It is not the role of a technical
22 college to shield individuals from speech that is protected by the First Amendment
23 of the U.S. Constitution.

24 (2) REQUIREMENTS AND PROHIBITIONS. All of the following apply throughout the
25 technical college system:

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1 (a) Students, faculty, and staff have the right to assemble and engage in
2 expressive activity.

3 (b) The campuses are open to any speaker who is invited by students, faculty,
4 or staff.

5 (c) The public areas of campuses are traditional public forums.

6 (d) Technical college administrators shall remain neutral on public policy
7 controversies and may not take action that requires students, faculty, or staff to
8 express specified viewpoints.

9 (e) Any person lawfully present on campus may protest or demonstrate.

10 (f) Technical college administrators shall make all reasonable efforts and make
11 available all reasonable resources to ensure the safety of individuals invited to speak
12 on campuses.

13 (g) Technical college administrators shall notify an individual invited to speak
14 on campus if the administrators determine that they cannot ensure the individual's
15 safety and shall allow the individual to speak on campus in spite of that
16 determination.

17 (h) Any protest or demonstration that infringes on the rights of others to engage
18 in or listen to expressive activity is prohibited and technical college administrators
19 shall sanction individuals who violate that prohibition. This paragraph does not
20 prohibit faculty and staff from maintaining order in a classroom.

21 (i) No person may threaten an invited speaker or threaten to organize protests
22 or riots or to incite violence with the purpose to dissuade or intimidate an invited
23 speaker from attending a campus event.

24 **(3) DISCIPLINE.** (a) The board shall promulgate rules that establish all of the
25 following:

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1 1. A disciplinary process for students, faculty, and staff who violate sub. (2) or
2 engage in conduct that inhibits free speech.

3 2. A process allowing any individual to complain to a technical college that his,
4 her, or any other individual's free speech rights have been or will be inhibited.

5 (b) The rules promulgated under par. (a) 1. shall include the following
6 disciplinary sanctions for students:

7 1. A written reprimand.

8 2. Denial of specified technical college privileges.

9 3. Payment of restitution.

10 4. Educational or service sanctions, including community service.

11 5. Disciplinary probation.

12 6. Imposition of reasonable terms and conditions on continued student status.

13 7. Removal from a course in progress.

14 8. Enrollment restrictions on a course or program.

15 9. Suspension.

16 10. Expulsion.

17 (c) The rules promulgated under par. (a) 1. shall include the following
18 disciplinary sanctions for faculty and staff:

19 1. A written reprimand.

20 2. Reduction in salary or rank.

21 3. Suspension.

22 4. Dismissal.

