



Kansas Family Voice Testimony in Support of S.B. 419
Brittany Jones
Senate Education Committee
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Chairwoman Erickson and members of the committee, my name is Brittany Jones. I am an attorney and the President of Kansas Family Voice. We represent thousands of members in Kansas who are concerned about the threat to free speech on college campuses.

Kansas Family Voice believes that the freedom to believe and the freedom to speak is fundamental to the fabric of our nation. This freedom is the basis for the other rights we enjoy. Unfortunately, the right to speak is under attack across college campuses in our state. That is why we support S.B. 419, the Kansas Intellectual Rights and Knowledge Act (KIRK Act).

This bill not only honors the life of Charlie Kirk; it takes action to protect something he was known for—defending the right to speak freely on campus. The KIRK Act establishes protections for students’ political and ideological expression and creates a civil cause of action with penalties for violations—something our current organizational protections lack. It protects students’ ability to express political, religious, and ideological beliefs at Kansas colleges and universities. It ensures that student organizations can operate according to their stated missions and values without institutional interference. And finally, it creates legal accountability for institutions that violate these rights.

College campuses are typically considered public forums subject to time, place, and manner restrictions. The Court has recognized that students do not shed their First Amendment rights at college.¹ Even in highly charged situations, the First Amendment does not diminish, though there are still limits to it. As the Supreme Court has stated “. . . we note that state colleges and universities are not enclaves immune from the sweep of the First Amendment.”² College campuses are acknowledged as the “marketplace of ideas.”³

On college campuses, unlike K-12, even vulgar and shocking political speech is protected under the First Amendment as long as it is not constitutionally obscene or otherwise unprotected.⁴ However, associational activities need not be tolerated where they infringe reasonable campus rules, interrupt classes, or substantially interfere with the opportunity of other students to obtain an education.⁵ To justify any exclusion from a public forum created by the university, state-operated universities must show that its regulation or prohibition of certain content is necessary to serve a compelling state

¹ *Healy v. James*, 408 U.S. 169 (1972).

² *Id.* at 180.

³ *Id.*

⁴ *Papish v. Bd. of Curators of Univ. of Missouri*, 410 U.S. 667 (1973).

⁵ *Healy* at 189.



interest and that it is narrowly drawn to achieve that end.⁶ Schools cannot discriminate against viewpoint discrimination.⁷

Courts have favored the freedom of speech over restrictive policies, unless they reach the standard of harassment or materially disrupt the campus.

While the caselaw around the First Amendment on campuses has been fairly well developed since the 1970s, college campuses have continued to struggle in periods of unrest, to maintain order and protect the freedom to speak and believe. Often, they have tended to shut down disfavored beliefs or expressions. Too often, they shut down disfavored beliefs or expressions while allowing near-riotous behavior depending on which side of the aisle is promoting the conduct.

The KIRK Act codifies current caselaw into statutes and creates a universal standard for colleges to follow as they attempt to balance these interests. The KIRK Act protects favored and disfavored speech equally. Colleges can still control the campus community and ensure that speech does not turn into violent actions. What it cannot do is restrict speech it does not like while promoting speech it prefers.

This is foundational to the First Amendment and is backed up by years of caselaw. We encourage this committee to pass S.B. 419 favorably for passage.

Thank you!

⁶ *Widmar v. Vincent*, 102 S.Ct. 269, at 274 (1981).

⁷ *Id.*