

## SENATE BILL No. 421

By Committee on Education

1-29

1 AN ACT concerning education; enacting the safeguarding personal  
2 expression at K-12 schools act; authorizing students to engage in  
3 protected speech or expression; providing limitations for such speech  
4 or expression; providing a civil cause of action for violations of the act.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) This section shall be known and may be cited as the  
8 safeguarding personal expression at K-12 schools or SPEAKS act.

9 (b) As used in the act:

10 (1) "School" means a school operated by a school district.

11 (2) "Student" means an individual who is enrolled in and attending a  
12 school full time or part time.

13 (c) No student shall be discriminated against or penalized by a school  
14 for:

15 (1) Engaging in religious, political or ideological speech or  
16 expressing a religious, political or ideological viewpoint in the same time,  
17 place and manner and to the same extent that other similarly situated  
18 students may engage in speech or express viewpoints at school; or

19 (2) expressing a religious, political or ideological viewpoint in a  
20 homework assignment, artwork, presentation or other written or oral  
21 assignment. Student work shall be assessed by ordinary academic  
22 standards of substance and relevance and against other legitimate  
23 pedagogical concerns identified by the school.

24 (d) A student may engage in protected speech or expression at school.  
25 Such speech or expression, includes, but is not limited to:

26 (1) Expressing a religious, political or ideological viewpoint on the  
27 topic or subject of discussion or study in class;

28 (2) expressing religious, political or ideological viewpoint in a  
29 homework assignment, artwork, presentation or other written or oral  
30 assignment;

31 (3) organizing religious, political or ideological gatherings before,  
32 during or after the school day to the same extent and with the same access  
33 to school facilities as other student-initiated gatherings;

34 (4) organizing religious, political or ideological clubs or organizations  
35 to the same extent and with the same access to school facilities as other  
36 student-organized clubs or organizations; and

1       (5) wearing clothing, accessories and jewelry that display religious,  
2 political or ideological messages or symbols in the same manner and to the  
3 same extent that other students are permitted to wear clothing, accessories  
4 and jewelry that display such messages or symbols.

5       (e) One or more students may organize religious, political or  
6 ideological clubs or organizations. Such clubs or organizations may meet  
7 before, during or after the school day to the same extent and with the same  
8 access to school facilities as other clubs or organizations authorized by the  
9 school. No school shall discriminate against a student club or organization  
10 because of:

11       (1) The religious, political or ideological viewpoints expressed by the  
12 students, club or organization; or

13       (2) any requirement that the leaders or members of such club or  
14 organization affirm and adhere to the sincerely held beliefs of the club or  
15 organization, comply with the standards of conduct of the club or  
16 organization or further the mission or purpose of the club or organization,  
17 as determined by the student club or organization.

18       (f) Nothing in this section shall be construed as preventing a school  
19 from prohibiting, limiting or restricting:

20       (1) Expression that is not protected by the first amendment of the  
21 Constitution of the United States, including, but not limited to, threats,  
22 obscenity and expression intended to provoke and produce imminent  
23 lawless actions;

24       (2) expression that is unwelcome and so severe, pervasive and  
25 subjectively and objectively offensive that a student is effectively denied  
26 equal access to educational opportunities or benefits provided by the  
27 school; or

28       (3) conduct that intentionally, materially and substantially disrupts the  
29 operations of the school or expressive activity of another individual if the  
30 activity is occurring in a space reserved for such activity under the  
31 exclusive use or control of a particular student, club, organization or group  
32 of students.

33       (g) (1) Any student or student club or organization that is harmed by  
34 a violation of this act or whose rights under this act are violated shall have  
35 a private cause of action against the school for declaratory and injunctive  
36 relief, monetary damages, reasonable attorney fees and any other  
37 appropriate relief. If a court finds that a violation of this act has occurred,  
38 the court may award damages in an amount of at least \$5,000 for each  
39 violation.

40       (2) Any student or student club or organization aggrieved by a  
41 violation of this act may assert such violation as a defense or counterclaim  
42 in any disciplinary action or civil or administrative proceedings brought  
43 against such student or student club or organization.

1       (3) No action under this subsection shall be brought more than two  
2 years after the day that the violation occurred. Each day that the violation  
3 persists or each day that a policy in violation of this section remains in  
4 effect shall constitute a new day that the cause of action has occurred.

5       (4) Nothing in this section shall be construed to limit any other  
6 remedies available to any student or student club or organization under  
7 law.

8       (h) No school shall be immune from liability in a civil action arising  
9 from any violation of this section.

10      (i) The provisions of this section are severable. If any portion of this  
11 section is declared unconstitutional or invalid, or the application of any  
12 portion of this section to any person or circumstance is held  
13 unconstitutional or invalid, the invalidity shall not affect other portions of  
14 this section that can be given effect without the invalid portion or  
15 application, and the applicability of such other portions of the act to any  
16 person or circumstance shall remain valid and enforceable.

17      Sec. 2. This act shall take effect and be in force from and after its  
18 publication in the statute book.