



**Senator Lisa Keim**  
3 State House Station  
Augusta, ME 04333-0003  
(207) 287-1505

*Lisa.Keim@legislature.maine.gov*

**Judiciary Committee**  
**Government Oversight Committee**

Testimony of Senator Lisa Keim before the Joint Standing Committee on  
Education and Cultural Affairs

**LD 1640, “An Act To Enact the Campus Free Speech and Free Press Act”**

May 13, 2021

Senator Daughtry, Representative Brennan and members of the Joint Standing Committee on Education and Cultural Affairs, I am Lisa Keim, and I proudly represent the citizens of Senate District 18, which includes much of Northern Oxford County and two communities in Androscoggin County. Thank you for allowing me to introduce LD 1640, “An Act To Enact the Campus Free Speech and Free Press Act.”

One significant purpose of higher education is to prepare young adults for their respective career paths. But more than that, during this time, young adults develop greater skills in problem solving, independent thinking and form opinions on real world issues affecting them. Engaging in open dialogue about differing opinions helps to shape their perceptions and encourages one to look at issues from all sides. When students and faculty fear punishment for expressing an unpopular viewpoint, this stifles intellectual development and growth.

LD 1640 bill enacts the Campus Free Speech and Free Press Act that establishes the right to use campuses for free speech activities and prohibits the limitation of expression to so-called free speech zones. It also protects student journalists and their student media advisors.

This bill seeks to uphold the counterspeech doctrine which is derived from the theory that audiences, or recipients of the expression, can weigh for themselves the values of competing ideas and, hopefully, follow the better approach. Isn't that also a central principle of education?

The counterspeech doctrine is one of the most important free expression principles in First Amendment jurisprudence. Justice Louis Brandeis established the counterspeech doctrine in his classic opinion in *Whitney v. California* (1927), when he wrote:

“If there be time to expose through discussion, the falsehoods and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”

When drafting this legislation, I worked closely with two groups whose focus is to safeguard freedom of speech, the Maine ACLU and the Foundation for Individual Rights in Education. Through many discussions, we have worked this legislation to its current form.

As the ACLU states on their website, “The First Amendment to the Constitution protects speech no matter how offensive its content. Restrictions on speech by public colleges and universities amount to government censorship, in violation of the Constitution. Such restrictions deprive students of their right to invite speech they wish to hear, debate speech with which they disagree, and protest speech they find bigoted or offensive. An open society depends on liberal education, and the whole enterprise of liberal education is founded on the principle of free speech.”

This bill is lengthy, as it seeks to address issues surrounding campus free speech, such as disruptive behavior, excessive ‘security’ fees imposed for events that might create friction, training for staff and students, and a time limited cause of action.

The infringement of free speech on higher education campuses that can be seen nationally, exemplify what this law is intended to address.

At the [University of Tennessee, in September of 2019, Kimberly Diei was nearly expelled](#) from the university’s graduate pharmacy program for her private social media posts. [Middlebury College, a Vermont liberal arts](#) school with about 2,500 students, made national headlines in 2017 due to protesters who so detested a speaker that they tried to prevent their classmates from hearing him speak. Protests by the Black Lives Matter chapter at the [College of William & Mary successfully shut down a talk by an American Civil Liberties Union](#) representative who was there to discuss the First Amendment. In 2018, the [University of California](#) at Berkeley settled a free speech lawsuit accusing the school of discriminating against speakers with conservative views.

This bill seeks to ensure that Maine’s public institution of higher education remain open to differing views, a place where substantive argumentative debate thrives amidst deliberations of divergent perspectives, and not suppressed because the ideas put forth are thought by some to be offensive, unwise, immoral or wrongheaded.

One main argument against the Campus Free Speech Act, is that it is unnecessary. Thankfully, Maine schools do have solid free speech policies. But free speech is too important not to be explicitly outlined and protected by law, or to be left to an everchanging committee who sets these policies. In these turbulent times, where students and faculty are increasingly afraid to speak out, this law establishes legislative intent and sends a strong message that Maine is a place where ALL the voices of our people are respected, and given equal opportunity to be heard.

If this bill still has issues that need to be resolved, I am eager to work with stakeholders to find a solution. I urge the committee to pass LD 1640 to protect the voice of the minority and preserve the right to express dissenting opinions. Maine needs the minds of our young to be cultured in an environment that challenges their narratives and exposes them to the rigor of opposing argument, thereby allowing them to forge thoughtful and informed perspectives that will lead our state into the future. Thank you for your time today and consideration of this legislation.