

**FREE EXPRESSION COMMITTEE MEETING
ARIZONA BOARD OF REGENTS
2020 N. CENTRAL AVE. SUITE 230
PHOENIX, AZ 85004
Tuesday, December 11, 2018
9:00 – 10:00 a.m.**

Committee Members:

John Arnold, Chair
Derrick Anderson, ASU
Michael Bergstrom, ASU
José Cárdenas, ASU
Stefanie Lindquist, ASU
Joanne Vogel, ASU

Dylan Graham, NAU
Erin Grisham, NAU
Kimberly Ott, NAU
Michelle Parker, NAU
Eric Yordy, NAU

Toni Massaro, UA
Natalynn Masters, UA
Kathy Adams Riester, UA
David Schmidtz, UA
Robert “Bob” Sommerfeld, UA

- 9:00 a.m. CALL TO ORDER, GREETINGS, AND ANNOUNCEMENTS FROM THE COMMITTEE CHAIR**
- 9:05 a.m. 1. Approval of Minutes**
The board office asks the committee to review and approve the minutes of the August 7, 2018 and August 17, 2018, Free Expression Committee meetings.
- 9:10 a.m. 2. Review of Open Meeting Law**
The committee will review Open Meeting Law.
- 9:15 a.m. 3. Review Statutory Charge to the Free Expression Committee to Submit an Annual Report (See Attached)**
- 9:30 a.m. 4. Review of 2017-2018 Statutory Report**
- 2017-18 Statutory Report
 - Appreciate the input from the universities and committee members
 - Have we received any feedback?
 - Same format for next year?
- 9:45 a.m. 5. Preparation of 2018-2019 Statutory Report**

- In the spring, we will begin to prepare the 2018 report (for approval by the board in August and to submit to the legislature by September 1, 2019).
- Identify a point of contact at each university to collect and coordinate input from committee members and others for the report.

9:55 a.m. 6. Comments or questions

10:00 a.m. ADJOURN

PLEASE NOTE: This agenda may be amended at any time prior to 24 hours before the committee meeting. Estimated starting times for the agenda items are indicated; however, discussions may commence, or action may be taken, before or after the suggested times. Any item on the agenda may be considered at any time out of order at the discretion of the committee chair. The committee may discuss, consider, or take action regarding any item on the agenda. During the meeting, the committee may convene in executive session pursuant to A.R.S. § 38-431.03(A)(3) for legal advice regarding any item on the agenda.

ARIZONA BOARD OF REGENTS
Minutes of the Free Expression Committee
August 7, 2018

A meeting of the Free Expression Committee was held on August 7, 2018 at the board office in Phoenix, Arizona.

Present: John Arnold
 Derrick Anderson (via phone)
 Stefanie Lindquist (via phone)
 Joanne Vogel (via phone)
 Erin Grisham (via phone)
 Michelle Parker
 Eric Yordy (via phone)
 Kimberly Ott (via phone)
 Natalynn Masters (via phone)
 Kathy Adams Riestler (via phone)
 David Schmitz (via phone)
 Robert "Bob" Sommerfeld (via phone)

Absent: José Cárdenas, Michael Bergstrom and Dylan Graham.

Also present were Regent Taylor Robson (via phone), Nancy Tribbensee, Jennifer Pollock, Julie Newberg, Lia Foy, Monica Simental, Kate Linder and Suzanne Templin from the board office; and Cynthia Jewitt (via phone) and Christine Wilkinson (via phone) from Arizona State University. In the audience Rachel Leingang and Casey Kuhn.

John Arnold called the meeting to order at 2:02 p.m.

Review of Statutory Authorization for the Committee: A.R.S. § 15-1867 (Item 1)

Nancy Tribbensee presented the statute that requires the Board of Regents to establish a committee on Free Expression. The statute includes requirements for the content and distribution of a report on free expression.

Discussion and Action Regarding Statutory Report (Item 2)

Nancy Tribbensee stated that the statutory report was originally scheduled for action to review and approve at this meeting, but because the committee has not had an opportunity to view the report, the committee will use this meeting to discuss the responsibilities of the committee and the universities under this new legislation and items on the report. Approval will be moved to a future meeting.

Nancy stated that legislation went into effect on August 3, 2018. The first report is due to the governor, legislature and the secretary of state by September 1, 2018. Nancy has been working with the senior associates to the presidents and university legal counsel to develop the draft report for the committee to review.

The report will help to demonstrate how the AZ public universities address speech issues on campuses. The report will document for the members of the committee, the campuses, the legislature and the regents what the universities have been doing to protect and promote free speech.

As educational institutions it is a core part of our mission to explain that it is not the role of the universities to shield students or the broader community from protected speech. We do have a role in explaining what it means for speech, including offensive speech, to be protected. As part of our educational mission, the universities work with constituents to explain why offensive speech may be protected and may discuss strategies for responses that are consistent with constitutional protections.

Broadly the statutory requirements for the annual report are to address any barriers to, or disruptions of free expression on campus. The universities are strong advocates for free expression, they take this very seriously and welcome the opportunity to demonstrate their commitment to free speech through this committee and the report that will be provided to the legislature.

The proposed report will explain that the universities do not tolerate barriers to, or disruptions of free expressions. There are reasonable time, place and manner restrictions in place because we are public educational institutions. Speech that disrupts the educational mission may be subject to restriction by the universities. Each university has established procedures for scheduling expressive activities on campus and for speech that arises extemporaneously that does not violate safety, restrict public access, or is so loud that it disrupts classes. When a university receives an allegations that someone is disrupting protected speech, the circumstances are reviewed to make sure that protected speech is allowed to continue and flourish on campus. The report will provide information from each university about its policies and procedures.

The universities strive to promote diversity of thought and not to decide what views people should take on campus. There is no single administrative position on issues that faculty, staff and students are required to promote. There is a great effort to address speech, even offensive speech, with opportunities for more speech to encourage the safe expression of divergent viewpoints. Each university engages in a tremendous amount of educational programming with incoming students, to make sure students understand their rights and responsibilities.

Nancy thanked the individuals that have provided information to draft the proposed report. The level of commitment to training people who work with students and educating students is outstanding. The universities have materials in orientation programs for new students to campus who may not be familiar with this diverse of an environment. The statute focuses on student expression because of a number of nationally examples in which controversial speakers have come to campuses resulting in student protests and increased security costs. None of these examples have been from Arizona universities. Speech is not just an important student issue it is of great importance to employees that work on campus and

faculty who cherish academic freedom. Universities' commitments to speech and protections for speech go beyond the statutory requirements.

The statute also requires the universities to provide an allocation of student activities fees that are used to support and facilitate "the expression and activities of students or student organizations". There are not very many (if any) student fees that are directly allocated to speech and because the statute has just gone into effect, these records have not been previously maintained.

The report will be distributed to the Governor, Speaker of the House of Representatives, the President of the Arizona Senate and the Arizona Secretary of State. Arizona Board of Regents is also required to post the report on our website. ABOR's communication team has created a website dedicated to the work of the Free Expression's Committee, where the report will be posted, along with the ongoing work of the committee, resources for anyone that is interested in free expression, such as the University of Chicago statement, the Kalven report, the state constitution, first amendment and the bill passed establishing the Free Expression's committee. Nancy asked that any recommendations on materials to be posted on the website be sent to her. The goal is to be thorough, transparent and comply with the statute and to begin the year by describing the tremendous amount of work that the universities are already doing.

Chair Arnold thanked Nancy and opened the floor for discussions and questions.

David Schmitz asked about the dimensions of diversity that the committee will be concerned about i.e.: that women don't get intimidated in a classroom setting; people with non-mainstreamed political views are not intimidated? Intimidation is only a subset of the categories that the committee should worry about. When talking about diversity, is the discussion in any direction that can be imagined? What is the context? Is it other colleges not in Arizona where visiting speakers have not been allowed to speak? Is this the type of headline news situation to be worried about? Or is the committee to talk about things that are way more subtle or more ambiguous than that? What if someone says, "I hear what you're saying about diversity of thought, but I actually think there are some forms of diverse thought that are beyond the pale and we should make sure people like that don't get to talk or at least don't feel comfortable when they do talk." There are philosophical puzzles, like when someone says that they think there is speech that shouldn't be protected. Do we say you have a right to your point of view? Do we say we have a duty to be officially neutral? Do we have to give the impression that we think the truth is somewhere in the middle? Or do we just say freedom of speech, you are wrong to want to limit it and then someone says you are limiting freedom of speech. Will these be something that the committee will get to? Is it part of the committee's purview?

Nancy Tribbensee commented that these are questions the committee may discuss over the next year. The question back is, if these conversations can't happen at a university where can they happen? Some are difficult conversations, not everyone may agree on perspectives on those issues. There are some people for whom some speech is so

intolerable and so offensive that it is very hard to protect, but we are having the conversation not only in the context of First Amendment jurisprudence, but also other laws that are out there that protect individuals from speech that is so directed at an individual that it is no longer subject to protection. These type of philosophical questions are important ones, the universities wrestle with these more nuanced questions about particularly offensive speech. The legislature is encouraging the universities to always remain neutral and not have an official position. It is a challenge for universities that are very conscious of the effect of words on members of their communities, so I believe this is an ongoing conversation and an important one.

The report is anticipated to be distributed to the committee by August 8 or August 9. Nancy reminded the committee that they are subject to the open meeting law. The report will be sent in a way that members can respond to her only and not to other members of the committee. Nancy cautioned that we cannot have a quorum of the committee emailing about committee business.

Chair Arnold asked that the committee send comments or questions to Nancy Tribbensee. Nancy is the key staff contact for this committee.

Next Steps – Meetings and Potential Topics for Next Year (Item 3)

Chair Arnold asked for a review of the open meeting laws as they relate to the Free Expressions Committee be discussed at the next meeting.

Chair Arnold recommended that committee meetings be held quarterly to prepare and review for next year's report.

Bob Sommerfeld asked to include on the agenda a review of any sort of freedom of expression events that have occurred in that quarter that can be looked at and discussed for possible after action and possible future actions to be taken.

Kathy Riestler asked for a discussion item to identify what type of events to track for future reporting, and a standardized format.

Chair Arnold stated that ABOR staff will be contacting the committee to schedule a meeting for next week, and to schedule a mid-fall meeting. Send any suggestions for future meetings to Nancy Tribbensee. The webpage designated for the Free Expression Committee will be housed on the Arizona Board of Regents website. The committee materials, announcements and other materials will be uploaded to the website. All suggestions are welcome for additions to the website.

ADJOURNMENT

Chair Arnold made the motion, seconded by Michelle Parker to adjourn. The meeting adjourned 2:30 p.m.

Submitted by:

Suzanne Templin
Committee Secretary

DRAFT

This page intentionally left blank

ARIZONA BOARD OF REGENTS
Minutes of the Free Expression Committee
August 17, 2018

A meeting of the Free Expression Committee was held on August 17, 2018 at the board office in Phoenix, Arizona.

Present: John Arnold
 José Cárdenas (via phone)
 Derrick Anderson (via phone)
 Michael Bergstrom (via phone)
 Stefanie Lindquist (via phone)
 Joanne Vogel (via phone)
 Eric Yordy (via phone)
 Kimberly Ott (via phone)
 Robert “Bob” Sommerfeld (via phone)

Absent: Erin Grisham, Michelle Parker, Dylan Graham, Natalynn Masters, Kathy Adams Riester, David Schmitz and Toni Massaro

Also present were Regent Taylor Robson (via phone), Regent Lauren L’Ecuyer, Nancy Tribbensee (via phone), Jennifer Pollock, Julie Newberg, and Suzanne Templin from the board office. In the audience Rachel Leingang.

Chair Arnold called the meeting to order at 9:02 a.m.

Review of Open Meeting Law (Item 1)

Jennifer Pollock, briefed the committee on Open Meeting Law as it pertains to the committee. It is the policy of the state of Arizona that meetings of public bodies hold their meetings openly and that notices and agendas be posted for their public meetings that contain sufficient information for the public to know what is going to be discussed or decided. The Free Expression committee is a committee of the board and the board is a public body, therefore the Free Expression committee is considered a public body.

Committee meetings are public meetings, so the public is permitted to attend and listen to the committee’s deliberations and proceedings. Meeting notices must be posted and agendas made available 24 hours before the meeting. The agendas need to list the items that are going to be discussed or considered and the committee may only discuss, consider or take action on the matters listed on the agenda or related to those agenda items. Minutes are taken of the meetings. There are provisions for executive sessions, which are not open to the public. Executive session may be held only in accordance with the statutory provisions for the executive session. Executive session can occur, most likely for this committee for legal advice, but can also occur for discussion or consideration of personnel matters, litigation, contract negotiations, settlement discussion with the public body attorneys, salary negotiations, negotiations on international or intrastate agreements or discussion pertaining to real estate matters.

A meeting is a gathering, in person or through technological devices, of a quorum of the members of a public body where the public body discusses, propose or takes legal action. It can include a telephonic meeting, an in person meeting, through video conference, but it can also include electronic communication.

An exchange of electronic communications amongst a quorum of members of a public body that involves discussion, deliberation or taking of legal action by the public body regarding a matter that foreseeable is likely to come before the public body is considered a meeting that needs to be posted and agendized. One way electronic communication, by one members of a public body that proposes legal action is also considered a public meeting. Be cautious when engaging in electronic communication. Committee members may receive electronic communication from staff containing meeting materials and information and may communicate with staff electronically. Committee members should not copy the committee on their correspondence to staff. Communications regarding committee business through electronic means can be considered public records that are subject to disclosure.

Chair Arnold advised the committee, the statute changed this year, and we are required to record in our minutes how each member of the committee voted. Mr. Arnold recommended the committee hold a general vote and any descending or abstentions, the members identify themselves for the minutes.

Discussion and Action Regarding Statutory Report (Item 2)

Chair Arnold expressed his thanks for all the participation and comments on the report and expressed gratitude to Nancy Tribbensee who drove the process for the report.

Nancy Tribbensee, thanked the committee for their quick turnaround. The report itself demonstrates the continued commitment of the board and the universities to free expression. It identifies some areas that the universities and the board will be looking at over the upcoming year both to continue to educate our communities about the importance of free expression and the nuances of competing legal obligations of the universities. The report includes a description of the policies, practices and resources to make sure that we continue to protect these very important constitutional rights, recognize our other legal obligations and most importantly recognize the importance our fundamental educational mission. With the committee's permission, the board office would like to continue to make non-substantive changes (i.e., typos, resources) as we prepare the report for submission.

Regent Taylor Robson asked for clarification on the Foundation for Individuals to a Right for Education "FIRE" ranking, how a university obtains a green light ranking and if UA and NAU are working towards a "green light" FIRE ranking.

Nancy Tribbensee responded that policies from the universities and the board are reviewed and the universities receive an overall rating or ranking from F.I.R.E. based on F.I.R.E.'s evaluation of those policies.

José Cárdenas concurred, the F.I.R.E. website explains the criteria and explains the ranking each university receives.

Nancy Tribbensee shared that Jon Dudas from UA and Michelle Parker from NAU are reviewing the F.I.R.E. rating issues.

Regent Taylor Robson asked for clarification on the reference to an ASU Gold Card that provides information to students about free speech on campus and resources available in ASU's summary.

Jose Cardenas responded that he would forward information to Regent Taylor Robson.

Regent Taylor Robson asked for clarification on Exhibit D, Allocation of Student Activity Fees by University, for ASU and NAU's notation state that "information about specific allocations of funds towards the support and/or facilitation of free expression is not available."

Joann Vogel from ASU responded that the structure is being setup to record for the upcoming year to track these expenditures. With the limited time to submit the report, it was not feasible to review every expenditure for the past year.

Regent Taylor Robson asked if the line could be modified to note "due to time constraints imposed by the legislation this information was not available for this report but that is the intent of the university to provide this information in subsequent report."

Nancy Tribbensee will incorporate this change in the report.

A motion was made by John Arnold, seconded by José Cárdenas to approve forwarding the Statutory Report to the full board for approval with the changes suggested by Regent Taylor Robson. John Arnold, José Cárdenas, Derrick Anderson, Michael Bergstrom, Stefanie Lindquist, Joanne Vogel, Eric Yordy, Kimberly Ott, Bob Sommerfeld voted "Aye", none opposed, none abstained. The motion carried.

ADJOURNMENT

Chair Arnold adjourned the meeting at 9:21 a.m.

Submitted by:

Suzanne Templin
Committee Secretary

This page intentionally left blank

15-1867. Arizona board of regents; committee on free expression; annual report; committee termination

A. The Arizona board of regents shall establish a committee on free expression consisting of at least fifteen members.

B. The committee on free expression shall submit an annual report on or before September 1 to the governor, the speaker of the house of representatives and the president of the senate. The Arizona board of regents shall post a copy of the annual report on its website and shall submit a copy of the annual report to the secretary of state. The annual report shall include:

1. A description of any barriers to or disruptions of free expression within the universities in this state.
2. A description of the administrative handling and discipline relating to barriers to or disruptions of free expression within the universities in this state.
3. A description of substantial difficulties, controversies or successes in maintaining a posture of administrative and institutional neutrality.
4. Any assessments, criticisms, commendations or recommendations that the committee decides to include in the annual report.
5. An accounting of how student activity fees were allocated in the prior year. For the purposes of this paragraph, "student activity fees" means any fee that is charged to students by a university in this state and that is used to support and facilitate the expression and activities of students or student organizations.

C. The committee established pursuant to this section ends on July 1, 2026 pursuant to section 41-3103.

This page intentionally left blank

ARIZONA BOARD OF REGENTS COMMITTEE ON FREE EXPRESSION ANNUAL REPORT

September 1, 2018

The Arizona Board of Regents has established a Committee on Free Expression, which submits this report as required by A.R.S. §15-1867. The membership of the committee as of September 1, 2018, is provided in Exhibit A.

THE ARIZONA BOARD OF REGENTS AND ARIZONA’S PUBLIC UNIVERSITIES PROMOTE AND PROTECT FREE EXPRESSION

As reflected in the board’s policy on free expression and long-standing board and university policies and practice, the board and the universities strive to ensure the fullest degree of intellectual freedom and free expression. The universities do not shield individuals from speech protected by the First Amendment, including ideas and opinions that may be unwelcome, disagreeable or deeply offensive. The board policy on free expression is provided in Exhibit B.

Students, staff and faculty members may discuss any topic, as the First Amendment allows and within the limits of reasonable content- and viewpoint-neutral restrictions on time, place and manner of expression that are consistent with applicable law. A list of current board and university policies and resources that promote free speech is provided in Exhibit C.

THE BOARD AND THE UNIVERSITIES DO NOT TOLERATE BARRIERS TO OR DISRUPTIONS OF PROTECTED SPEECH

The board and the universities do not tolerate barriers to or disruptions of protected speech. Each university facilitates spontaneous expression on campus and each university has procedures to reserve space on campus for planned speech activities. All expressive activities are subject to reasonable time, place, and manner restrictions as permitted by law.

Not all speech is protected speech. Expressive activities are subject to other applicable laws, including laws that address discrimination, harassment, safety, defamation, threats, privacy and confidentiality. Actions that unlawfully disrupt the function of the board or university are also prohibited.

Examples of each university’s commitment to protecting free expression are provided below.

ARIZONA STATE UNIVERSITY

ASU is committed to free speech, subject to reasonable restrictions designed to promote free speech while serving the university’s educational function. This is consistent with the board’s recognition that university “... grounds and

properties are devoted to and maintained for the sovereign function of providing higher education to the people and are not places of unrestricted public access.” (ABOR 7-201)

As early as January, 2011, the Foundation for Individual Rights in Education (“FIRE”) gave ASU its coveted “green light” rating. At the time, FIRE pointed out that “ASU, with a total enrollment of more than 60,000 students, is the largest university to have a ‘green light’ rating. Earlier this year in a letter to President Crow asking ASU to sign onto a policy based on the University of Chicago Statement, FIRE stated: “FIRE sincerely appreciates that ASU is currently one of only 38 institutions in the entire country to earn our highest “green light” rating for campus free speech. We commend the fact that ASU has ensured that its policies and regulations fully protect the freedom of expression of its students and faculty.”

ASU has adopted the core principles of the University of Chicago statement, which affirm the role of academic freedom and freedom of expression on college campuses and are consistent with ASU’s existing policies.

ASU community members and visitors may reserve space both indoors and outside in accordance with university policy ([SSM 802-01](#) and [SSM 801-02](#)) and may engage in expressive activities within public and designated public fora while: 1) facilitating the free flow of pedestrian traffic and access for all fire, police and emergency services; 2) preserving the health and safety of its community members; and 3) protecting the mission of the university, which includes activities related to studying, teaching, research, service, and university administration.

NORTHERN ARIZONA UNIVERSITY

This past year, President Rita Cheng sent a statement to all faculty, staff, and students ensuring them that NAU is a place of free thought, free speech and freedom of expression and that NAU upholds these values through its policies and expects its practices to reflect those values.

NAU’s “Statement Regarding Planned Events” fully supports the right to freedom of expression as protected by the First Amendment. The Statement provides that Northern Arizona University supports the expression of protected speech. The creation and maintenance of productive environments within which this expression and exchange of ideas may take place is an important mission for the university. While the issues and topics may be controversial, it is the expectation of the university that members of the university community (students, faculty, staff, and guests) will respect the right of others to freely express their opinions, beliefs and views. The university recognizes the importance of and the right to freedom of speech, including the right to assemble, to march, and to engage in other expressive activities. Related to its role of creating and maintaining a conducive atmosphere for the free expression of views, the university recognizes the importance of organizing events so that they may be carried out in a positive and safe way. These guidelines exist to ensure that the free exchange of ideas within public and designated public fora may occur, while simultaneously preserving public health, safety, welfare, the normal business uses of the campus, and the rights of all members of the NAU community to legitimately use and enjoy the campus. The statement also provides detailed procedures related to the organization of individual and group events.

UNIVERSITY OF ARIZONA

The UA is committed to protecting the free speech rights of students, faculty, staff, and invited guests. The purpose of the university’s “Policy and Regulations Governing the Use of the Campus” is to respect the campus community’s rights to free speech and expressive activity within public and designated public fora.

The policy also provides for preserving public health, safety, and welfare; the normal business uses of the campus; and the rights of others to legitimately use and enjoy the campus. It provides that: “The campus grounds and properties of the University of Arizona ... are devoted to and maintained for the sovereign function of providing higher education to the people and are not places of unrestricted public access.”

As permitted by law, the university may regulate the time, place, and manner of free speech and expressive activities in order to prevent unreasonable interference with or disruption of its educational, research, outreach, and business functions, and normal or scheduled uses of university property by the campus community, as well as to protect public health, safety and welfare. Commercial activity ... is prohibited on campus except as authorized by the Business Practices Guidelines Policy, guidelines on “Sponsored Commercial Activity on University Property.”

THE BOARD AND THE UNIVERSITIES PROMPTLY ADDRESS ALL ALLEGATIONS OF BARRIERS TO OR DISRUPTIONS OF PROTECTED SPEECH

Each university has a process for responding to allegations of barriers to or disruptions of protected speech. As appropriate, the response may address the conduct immediately and the response may include a process to determine if additional review or sanctions are appropriate under board or university policy. Campus police may be involved if allegations include criminal conduct or if safety concerns are raised.

Below are examples from each university.

ASU

ASU received no reports of barriers to or disruptions of expression during the past year. Individuals and groups who frequent ASU for free speech purposes all have been allowed to use public spaces or present in reserved spaces when proper reservations have been made according to campus policies.

ASU has had instances when a group or a free speech visitor wanted to occupy a reserved space on campus. In those instances, the ASU Situational Response Team (SRT) asked the visitors to adhere to campus policy by relocating to other space on campus that does not require a reservation. Each of these situations was handled without incident or disruption of expression.

The ASU Situational Response Team is an inter-disciplinary and collaborative group of staff who come together to monitor and maintain the integrity and safety of the academic environment. Members of this team work together to educate students and respond to organized protests, demonstrations, free-speech visitors and other events that could become disruptive to the ASU campus community. The team has 15 members from different departments and is led by the Dean of Students Office.

- In academic year 2018, the SRT responded to 26 requests to address physical visitors, demonstrations and events on the Tempe campus.
- In academic year 2018, the SRT responded to seven requests to assess and address the existence of inflammatory flyers and materials on the Tempe campus.

The SRT also consulted with students and others on free speech and its significance on campus. Students who needed ongoing support were referred to other departments, such as counseling or student advocacy.

In academic year 2018, the ASU Dean of Students Office created the Gold Card, which provides information to students about free speech on campus and resources available to them should they have questions or concerns. These were handed out at various welcome events and campus events throughout the year as well as on campus by SRT members while they were engaging with students.

An ASU student was held responsible for violating the ASU Discrimination policy due to speech that this person expressed in a private forum. The student asked to have the case reviewed. The senior associate dean and director of student rights and responsibilities in the Dean of Students Office conducted additional investigation. Ultimately, the case was dismissed as it was determined that the student did not violate the policy.

The universities all believe that education is the best approach to minimizing barriers to or disruptions of protected speech. One example of ASU's educational programming to foster learning and discussion regarding free expression during the past year was an eight-part lecture series: "Free Speech and Intellectual Diversity in Higher Education and American Society," co-sponsored by ASU's School of Civil and Economic Thought and Leadership (SCETL), Walter Cronkite School of Journalism and Mass Communication, and the Sandra Day O'Connor College of Law.

NAU

NAU received no reports of barriers to or disruptions of expression in the previous year. Individuals and groups who frequent NAU for free speech purposes have all been allowed to use public spaces or present in reserved spaces when they have followed the procedures related to the organization of individual and group events or they held a spontaneous event in a place and manner of expression that are consistent with First Amendment rights.

The Speech Expression Action Knowledge (SpEAK) team is an interdisciplinary team that responds to free expression concerns and facilitates educational opportunities to students, staff and faculty regarding free expression. The team has 28 members and is led by the Dean of Student's Office. The SpEAK team has a standardized response to notifications of planned and unplanned events in order to provide reasonable resources to address the safety of the speaker and others in attendance as well as provide education regarding the university's primary function as an institution that supports the transmission and dissemination of knowledge.

While NAU did not experience any reports of barriers to or disruptions of expression in the previous year, NAU received and responded to the following reports, each of which involved protected speech:

- They responded to three reports related to visitors walking through campus sharing their religious beliefs. SpEAK team members were present to answer questions from students and address safety concerns.
- An online petition was created to have a deceased student's name read at graduation. It generated the interest of students who signed it, but there weren't any known campus disruptions.
- The Young Americans for Liberty (YAL) hosted their Free Speech Ball on the walkway by the NAU Babbitt Academic Annex. The Future Teachers Club joined in the national walk out on behalf of the victims of the Florida school shootings. Amnesty International Student Organization hosted a "Spring into Action: Arms Control Info. Rally" in the amphitheater outside the University Union. SpEAK team members attended these events and were available to assist with questions.

In addition to supporting spontaneous and planned speech events, the Dean of Students and the Office of Student Life provided consultation to faculty, staff and students who contacted the office to encourage, educate and support free expression on campus.

NAU offers several educational programs on campus related to free expression, including a "First Amendment: Free Expression on Campus" guide to provide information to students and student organizations planning events about their First Amendment rights and the applicable restrictions on time, place and manner of expression. NAU

Residence Life facilitates training to professional and student staff regarding First Amendment rights and provides guidance to address free expression concerns or barriers/disruptions to free expression that may occur in the residence halls. During this past academic year, the Office of General Counsel offered a 4-hour educational opportunity to faculty who were interested in information about the First Amendment and freedom of expression. NAU also provides a website with information for community members regarding protected speech and a description of the time, place and manner restrictions that may exist on free expression.

UA

While UA did not experience any barriers to or disruptions of expressive speech in the 2017-2018 academic year, it also uses education to respond to community concerns about speech, as demonstrated in the following examples.

UA receives numerous complaints regarding the ideology, messaging, language, and tactics of itinerant preachers who visit the UA mall. Inquiries and complaints come from faculty, students, staff, parents, and visitors who believe that the university should not allow this behavior on campus. The Dean of Students Office monitors the activity on the mall and meets with community members to provide support and education regarding freedom of expression at a public institution and to provide information on ways that individuals may express their voice, counter the speech, or disengage from the situation.

The lecture by Jonathan Anomaly of the Philosophy, Politics, Economics and Law (PPEL) program, advertised through the UA's Freedom Center, was initially planned for September 2017 but postponed until January 2018 because of scheduling conflicts within the PPEL program. Protestors who organized for the September event ended up having an extended discussion with another faculty member from the Freedom Center, and the January event was attended by the UA Vice President for Communications and the Associate Dean of Students, who were there to ensure that the lecture was allowed to go forward. A robust discussion followed the lecture.

The UA's Dean of Students Office provides support for speech-related issues, including assisting with the coordination of events, fielding complaints, and monitoring for safety issues, in partnership with UA Police Department. The UA also provides educational materials and information regarding the First Amendment and information on reporting concerns.

This past year, UA also provided the following educational programs across campus:

- All UA community directors, resident assistants and desk assistants in student housing received training on the First Amendment and bias-related incidents (approximately 300 staff).
- The Dean of Students Office has a website dedicated to information and education on the First Amendment called #speakyourpeace. The website includes resources, a calendar of events and ways to report concerns about speech.
- The Dean of Students Office and ASUA hosted a "#speakyourpeace" week during Oct. 16–20, 2017, which included students voluntarily signing a pledge to #speakyourpeace, First Amendment Monitor Training, a student activist panel hosted by ASUA entitled, "Making Your Voice Heard," and a banned book display in the main UA BookStore all week.
- First Amendment Monitor Training was held twice in the fall semester. There are 48 trained First Amendment monitors.
- The Dean of Students Office held the third annual Constitutional Issues in Higher Education Symposium on June 21, 2018. The theme was Abiding Freedoms. The symposium was free to UA students, faculty and staff and non-UA participants paid \$30 to attend. There were approximately 175 attendees.

THE BOARD AND THE UNIVERSITIES PROMOTE DIVERSITY OF THOUGHT AND ADMINISTRATIVE AND INSTITUTIONAL NEUTRALITY

At its August 23, 2018 meeting, the board adopted a free expression policy in compliance with A.R.S. § 15-1866. A copy of the policy is attached as Exhibit B.

As described in this report, the board and the universities remain committed to promoting and protecting diversity of thought and free expression. From time to time, however, the board and the universities hear concerns from members of campus and the broader community who may not appreciate the broad constitutional protections afforded to speech – even to speech that many in the community may find deeply offensive. The universities are committed to protecting expression permitted under applicable law. They are also committed as part of their educational missions to providing information about protected speech to those who may seek to have the board or universities interfere with or suppress free expression. When protected but offensive speech occurs on campus, universities may use that as an opportunity to educate the broader community as to the nature of constitutional protections as well as to identify opportunities for the safe expression of divergent viewpoints – countering the offensive speech with more speech.

Consistent with maintaining institutional neutrality, state law imposes restrictions on the use of university resources for political activity. A.R.S. § 15-1633. Board policy reflects the law, providing that a person acting on behalf of a university may not use university personnel, equipment, materials, buildings or other resources for the purpose of influencing the outcome on an election or advocating in support of or in opposition to pending or proposed legislation which limits the use of university resources or employees to influence elections. Both the law and board policy recognize that: “employees may participate in political activity outside their employment but shall not allow their interest in a particular party candidate, or political issue to affect the objectivity of their teaching or the performance of their regular university duties.” ABOR Policy 6-905.

COMMITTEE RECOMMENDATIONS AND PLANS FOR THE UPCOMING YEAR

The Committee on Free Expression will continue to meet over the next year to review free expression on our university campuses and to consider additional ways to support and promote protected speech at Arizona’s public universities. Each university includes information about free expression in its freshman orientation materials. Each university has programming planned throughout the year to address the importance of free expression. What follows are examples and not a comprehensive list.

ABOR

The Regents Cup is a tri-university team debate competition designed to highlight and encourage civil discourse and discussion regarding the important topics that dominate the American political landscape. The first Regents Cup is expected to take place during the 2019-20 academic year. The Regents Cup is an opportunity for Arizona’s public universities to showcase their commitment to diversity of thought and civil discourse.

ASU

ASU will be hosting a new lecture series and conference, “Polarization and Civil Disagreement: Confronting America’s Civic Crisis.”

For 2018-19, ASU has conducted training on free speech for the residential life community director and community advisor staff. The university will be including the topic of free speech in all floor meetings during move-in weekend and students will be provided with the Gold Card as a resource. Digital materials have been created for the television monitors and will be displayed in the ASU student unions, Sun Devil Fitness centers and residence hall facilities.

NAU

NAU plans to provide a two-day educational opportunity for faculty regarding free expression. The Associated Students of NAU (ASNAU) is in the early stages of planning a day dedicated to civil discourse and diversity of thought. The event will focus on speakers and events that expose students to diverse political, ideological and other perspectives.

The SpEAK team will continue to meet and review free expression to consider additional strategies to help promote free expression.

The orientation program will include education to new students about protected speech.

UA

In addition to the training for student housing staff and the web resources described above, UA has the following activities planned:

- It will hold First Amendment Monitor Training workshops in the fall. Associate Vice President, Campus Life and Dean of Students Kendal Washington White will send an email in September to all students recommending that they view a video on the First Amendment as part of education for students.
- College of Social and Behavioral Sciences will host a Panel on Free Speech on Campus with Noam Chomsky, Sept. 5, 2018.
- The Dean of Students Office is celebrating [Constitution Day](#) on Monday, Sept. 17, with a campaign to distribute 1,000 pocket Constitutions, test student knowledge of the Constitution, promote voter registration and education, and a social media campaign.
- The UA College of Law will host its annual Constitutional Day program, under the umbrella of the William H. Rehnquist Center on Constitutional Structures of Government. A distinguished panel of judges and scholars will discuss important cases from the last term of the U.S. Supreme Court, including First Amendment cases. The program is free and open to the public.

ALLOCATION OF STUDENT ACTIVITY FEES

Exhibit D provides the allocation of student activity fees, if any, that are used to support and facilitate the expression and activities of students or student organizations as required by A.R.S. §15-1867 (B)(5).

DISTRIBUTION OF THIS REPORT

As required by A.R.S. §15-1867, this report will be posted on the Arizona Board of Regents website and will be submitted to:

- The Governor
- The Speaker of the Arizona House of Representatives
- The President of the Arizona Senate
- The Arizona Secretary of State

EXHIBIT A

MEMBERS OF THE COMMITTEE ON FREE EXPRESSION AS OF SEPTEMBER 1, 2018

Committee Chair: John Arnold, Executive Director, Arizona Board of Regents

ASU REPRESENTATIVES:

- Stefani Lindquist, Deputy Provost and Vice President for Academic Affairs
- Derrick Anderson, School of Public Policy and Design and Advisor to the President
- Joanne Vogel, Deputy Vice President and Dean of Students at the Tempe campus
- Michael Bergstrom, Student
- José Cárdenas Senior Vice President and General Counsel

NAU REPRESENTATIVES:

- Kimberley Ott, Assistant to the President for Executive Communications & Media Relations
- Eric Yordy, Interim Executive Director, School of Hotel & Restaurant Management, and Assoc. Professor, Business Law, W.A. Franke College of Business
- Erin Grisham, Associate Vice President for Student Affairs
- Dylan Graham, NAU Student Body President
- Michelle Parker, General Counsel

UA REPRESENTATIVES:

- Natalynn Masters, ASUA Student Body President
- Toni Massaro, College of Law
- Kathy Adams Riester, Dean of Students Office
- David Schmidtz, Social & Behavioral Sciences, Political Economy and Moral Science
- Bob Sommerfeld, UA Police Department

EXHIBIT B

ABOR FREE EXPRESSION POLICY (TO BE SUBMITTED FOR BOARD APPROVAL 8-23-18)

1-124 Free Expression

- A.** The primary function of Arizona’s public universities is to promote the discovery, improvement, transmission and dissemination of knowledge through research, teaching, discussion and debate. The universities must strive to ensure the fullest degree of intellectual freedom and free expression. It is not the proper role of a university to shield individuals from speech protected by the First Amendment, including ideas and opinions that may be unwelcome, disagreeable or deeply offensive.
- B.** Students, staff and faculty members may discuss any topic, as the First Amendment allows and within the limits of reasonable content- and viewpoint- neutral restrictions on time, place and manner of expression that are consistent with applicable law and that are necessary to achieve an important institutional interest if these restrictions are clear, are published and provide ample alternative means of expression. The board’s policy on political activity by employees or others acting on behalf of a university is set forth in Board Policy 6-905.
- C.** Students, staff and faculty members may assemble and engage in spontaneous expressive activities if those activities are not unlawful and do not materially and substantially disrupt the functioning of the university.
- D.** A student who is subject to the jurisdiction of a university and who engages in individual conduct that materially and substantially infringes on the rights of other persons to engage in or listen to expressive activity, as defined in A.R.S. § 15-1861, is subject to disciplinary sanctions under the Student Code of Conduct and other applicable university and board policies. This does not preclude students from engaging in counter speech, as First Amendment principles may permit.
- E.** Universities may restrict expressive activity that is not protected by the First Amendment.
- F.** The board will establish a committee on free expression composed of representatives from the universities and the board office, which will submit an annual report as required by A.R.S. §15-1867.

EXHIBIT C

ABOR POLICIES AND RESOURCES

- 1-124 (Free Expression) <https://public.azregents.edu/Policy%20Manual/1-124-Free%20Expression.pdf>
- 1-119 (B)(4) (Nondiscrimination and Anti-harassment) <https://public.azregents.edu/Policy%20Manual/1-119-Nondiscrimination%20and%20Anti-Harassment.pdf>
- 5-301(B)(1) (Code of Conduct) <https://public.azregents.edu/Policy%20Manual/5-301-Code%20of%20Conduct%20-%20Jurisdiction,%20Philosophy,%20Purpose%20and%20Limitations.pdf>
- 5-303(11) (Prohibited Conduct) <https://public.azregents.edu/Policy%20Manual/5-303-Prohibited%20Conduct.pdf>
- 5-308 (A)(1) and (B)(1) (Student Code of Conduct) <https://public.azregents.edu/Policy%20Manual/5-308-Student%20Code%20of%20Conduct.pdf>
- 6-202 (Academic Freedom) <https://public.azregents.edu/Policy%20Manual/6-202-Academic%20Freedom.pdf>
- 6-905 (Political Activity) <https://public.azregents.edu/Policy%20Manual/6-905-Political%20Activity.pdf>

ASU POLICIES AND RESOURCES

- ACD 201 (Academic Freedom)
- ACD 201-01 (Faculty Responsibilities)
- ACD 204-01 (Code of Ethics)
- ACD 204-02 (Standards of Professional Conduct for Faculty Members and Academic Professionals)
- ACD 205-01 (Political Activity)
- Policy Statement Supporting Diversity and Free Speech <https://inclusion.asu.edu/ci/policies-procedures>
- <https://scetl.asu.edu/news-events/signature-events/free-speech-series>
- <https://scetl.asu.edu/news-events/events>
- [Adoption of the Principles of the Chicago Statement](#)
 - <https://provost.asu.edu/>
 - <https://provost.asu.edu/adoption-chicago-statement-freedom-expression>

NAU POLICIES AND RESOURCES

- Safe Working and Learning Environment Policy
- NAU HR Policy 5.10 regarding Political Activity: <http://hr.nau.edu/apps/policy-manual/10256>

- NAU HR Policy 5.14 Use of University Property <http://hr.nau.edu/apps/policy-manual/10258>
- NAU Faculty Handbook 1.7.1 (Role of the Faculty)
- NAU Faculty Handbook 4.1 (Code of Ethics and Conduct)
- NAU Conditions of Faculty Service
- NAU Student Handbook <https://nau.edu/student-life/student-handbook/>
- First Amendment Guidance for Students and Student Organizations <https://nau.edu/student-life/wp-content/uploads/sites/46/First-Amendment-FAQ-8-2018.pdf>
- NAU Statement Regarding Planned Events <https://nau.edu/student-life/statement-regarding-planned-events/>
- NAU Club & Organization Event Approval Process <https://nau.edu/student-life/approval-process/>
- Information distribution policy : <https://nau.edu/student-life/university-policies-rules-regulations/>

UA POLICIES AND RESOURCES

- [Policy and Regulations Governing the Use of Campus, SA-200: http://policy.arizona.edu/ethics-and-conduct/policy-and-regulations-governing-use-campus](http://policy.arizona.edu/ethics-and-conduct/policy-and-regulations-governing-use-campus)
- [Political Activity: UHAP 2.10: http://policy.arizona.edu/employmenthuman-resources/political-activity-uhap](http://policy.arizona.edu/employmenthuman-resources/political-activity-uhap)
- [Non-discrimination and anti-harassment policy, HR-200E: http://policy.arizona.edu/human-resources/nondiscrimination-and-anti-harassment-policy](http://policy.arizona.edu/human-resources/nondiscrimination-and-anti-harassment-policy)
- [Religious Accommodation Policy, HR-202: http://policy.arizona.edu/human-resources/religious-accommodation-policy](http://policy.arizona.edu/human-resources/religious-accommodation-policy)
- Academic Freedom
 - Statement on academic freedom from the Committee on Academic Freedom and Tenure, approved by Faculty Senate 9/14/09: https://facultygovernance.arizona.edu/sites/default/files/def-academic_freedom_with_senate_edit_9-14-09_final.pdf
 - From UHAP Definitions: "Professional and intellectual freedom means the right and responsibility to exercise judgment within the standards of the employee's profession. Professional and intellectual freedom is defined as "academic freedom" for employees involved in teaching or research." (<http://policy.arizona.edu/uhap-definitions>)
- Faculty Responsibilities: UHAP 3.1, Duties and Responsibilities of Faculty: <http://policy.arizona.edu/employmenthuman-resources/duties-and-appointments-faculty#revision>
- Standards of Professional Conduct for Faculty Members and Academic Professionals
- Statement on Professional Conduct, UHAP 7.01: <http://policy.arizona.edu/employmenthuman-resources/statement-professional-conduct>
 - Proposed revision: <http://policy.arizona.edu/faculty-affairs-and-academics/proposed-revision-uhap-statement-professional-conduct>
- <http://www.wildcat.arizona.edu/article/2018/01/n-freedom-center-follow-up>

EXHIBIT D

ALLOCATION OF STUDENT ACTIVITY FEES BY UNIVERSITY

A.R.S. § 15-1867 B. 5. REQUIRES THAT THE REPORT OF THE FREE EXPRESSION COMMITTEE INCLUDE AN ACCOUNTING OF HOW STUDENT ACTIVITY FEES WERE ALLOCATED IN THE PRIOR YEAR. FOR THE PURPOSES OF THIS [REQUIREMENT], "STUDENT ACTIVITY FEES" MEANS ANY FEE THAT IS CHARGED TO STUDENTS BY A UNIVERSITY ... AND THAT IS USED TO SUPPORT AND FACILITATE THE EXPRESSION AND ACTIVITIES OF STUDENTS OR STUDENT ORGANIZATIONS.

ASU

- Associated Students of ASU (ASASU) is responsible for allocating the student program fee. Registered student organizations can apply to ASASU for events, travel and similar expense funding. ASASU also utilizes the student program fee to support a variety of other services offered to students. During the 2017-2018 academic year, ASASU expensed \$4,768,263 from the student program fee to enhance the student experience of more than 1,100 registered student organizations or individual students. Due to the short timeframe for submission of this initial report, detailed information about the specific allocation of funds towards the support and/or facilitation of free expression is not available for this report, but ASU intends to provide this information in the report in future years.

NAU

- Registered student organizations and individual students can apply to ASNAU for financial support to host events, travel to conferences or competitions, etc. During the 2017-2018 academic year, ASNAU paid out \$262,019.18 to nearly 200 registered student organizations and individual students. Information about the specific allocation of funds towards the support and/or facilitation of free expression is not available.
- The Student Activities Council (STAC) receives a portion of the student activity fee. Registered student organizations and campus departments can apply to STAC for financial support for events that are open to all students and take place on the Flagstaff Mountain campus. During the 2017-2018 academic year, STAC paid out \$98,991.52 for events hosted by registered student organizations. Due to the short timeframe for submission of this initial report, detailed information about the specific allocation of funds towards the support and/or facilitation of free expression is not available for this report, but NAU intends to provide this information in the report in future years.

UA

- Due to the short timeframe for submission of this initial report, detailed information about the specific allocation of funds towards the support and/or facilitation of free expression is not available for this report, but UA intends to provide this information in the report in future years.