



**COMMITTEE ON FREE EXPRESSION
ARIZONA BOARD OF REGENTS**

THIS IS A VIRTUAL MEETING

**Thursday, August 5, 2021
12:00 p.m. – 1:00 p.m.**

Members of the public may attend the public portion of the virtual meeting by viewing the livestream of the meeting.

To view the livestream of the meeting please follow the instructions below.

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<https://www.youtube.com/user/abornews>

- Click the top video for the livestream of the meeting.

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For technical assistance, click the link here [ABOR Tech Support](#) or email Tom.Merriam@azregents.edu and John.Murnane@asu.edu.

Committee Members:

| | | |
|-----------------------|-------------------------|-----------------------------------|
| John Arnold, Chair | Kimberly Ott, NAU | Toni Massaro, UArizona |
| Derrick Anderson, ASU | Michelle Parker, NAU | David Schmidtz, UArizona |
| José Cárdenas, ASU | Margot Saltonstall, NAU | Robert "Bob" Sommerfeld, UArizona |
| Patrick Kenney, ASU | Eric Yordy, NAU | Kendal Washington White, UArizona |
| Joanne Vogel, ASU | Maylee Acosta, NAU | Noah Daniel Vega, UArizona |
| Giselle Retena, ASU | | |

12:00 p.m. CALL TO ORDER, GREETINGS, AND ANNOUNCEMENTS FROM THE COMMITTEE CHAIR

12:05 p.m. 1. Approval of Minutes

The board office asks the committee to review and approve the minutes from the July 20, 2020 Committee on Free Expression meeting.

12:10 p.m. 2. Review of Open Meeting Law

The board office will provide the committee with an overview of the Open Meeting Law.

12:20 p.m. 3. Review the Statutory Charge to the Committee on Free Expression to Submit an Annual Report

The board office asks the committee to review the statutory charge to the Committee on Free Expression to submit an annual report.

12:30 p.m. 4. Review of and Possible Action to Approve and Forward the Statutory Annual Report on Free Expression for FY 2021

The board office asks the committee to review, discuss and take possible action to approve the proposed statutory Report on Free Expression and forward the proposed statutory report to the Board or Regents for its approval.

1:00 p.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.

DRAFT
ARIZONA BOARD OF REGENTS
Minutes of the Committee on Free Expression
July 20, 2020

The Arizona Board of Regents Committee on Free Expression held a virtual meeting on Monday, July 20, 2020.

Committee Members present via video: John Arnold (Chair); from Arizona State University: Derrick Anderson, José Cárdenas, Courtnee King, Stefanie Lindquist, Joanne Vogel; from Northern Arizona University: Joe Carter, Erin Grisham, Kimberly Ott, Michelle Parker, Eric Yordy; from the University of Arizona: Toni Massaro, David Schmidtz, Bob Sommerfeld, Kendal Washington White.

Members Absent: From the University of Arizona: Sydney Hess.

Also present via video were: from the ABOR office: Jennifer Pollock, Samantha Blevins, Nancy Tribbensee, Monica Simental, Suzanne Templin; from Arizona State University: Tara Singleton; from the University of Arizona: Kody Kelleher (joined at 3:09 p.m.); Closed Captioner: Nicole Flaherty.

Chair John Arnold called the meeting to order at 3:00 p.m.

APPROVAL OF MINUTES (ITEM 1)

Upon motion by Chair Arnold and second by Toni Massaro, the committee approved the minutes of the July 22, 2019 Committee on Free Expression meeting with John Arnold, Derrick Anderson, José Cárdenas, Courtnee King, Stefanie Lindquist, Joanne Vogel, Joe Carter, Erin Grisham, Kimberly Ott, Michelle Parker, Eric Yordy, Toni Massaro, David Schmidtz, Bob Sommerfeld and Kendal Washington White voting in favor. None opposed and none abstained.

REVIEW OF OPEN MEETING LAW (ITEM 2)

Jennifer Pollock provided an overview of Open Meeting Law and reminded the committee that as the Committee on Free Expression, which is a statutorily required committee of the Arizona Board of Regents, which is a public body, the committee is also a public body subject to the Open Meeting Law. This means that the committee meetings are public and the public is permitted to attend and listen to the committee's discussions and deliberations.

We post all notices and agendas at least 24 hours before the meeting to inform the public. The agendas must list the specific matters that are going to be discussed, deliberated or decided. The committee may only discuss, consider or take action regarding those matters on the agenda or those items that are related to the matters on

the agenda. And any legal action must be taken in a public session. We provide for the taking of written minutes or recording of the meeting.

A meeting is a gathering in person or through technological devices, such as Zoom, have a quorum of members of the public body at which you discuss, propose or take legal action. Including any deliberations by a quorum with respect to that action. A meeting can also include one-way communication, including electronic communication by one member of the public body (committee) that sent is to a quorum of the public body (committee) that proposes legal action.

It can also include an exchange of email communications amongst a quorum of the members of the public body (committee), where there's discussion consideration or legal action taken regarding any matter that is foreseeably likely to come before the committee. We advise to avoid any inadvertent issues with the open meeting law in regards to email communications from staff, with meeting materials and information, do not hit reply all to committee members or forward to quorum of the committee. do not email the committee on matters that may foreseeably come before the board. Also remember that email communications regarding committee business are public records and should be maintained as public records that would be subject to disclosure, pursuant to public records request.

Ms. Pollock asked the committee if they had any questions.

In response to Bob Sommerfeld's question regarding responding to an e-mail from a former university employee. Ms. Pollock stated that we would advise you to have that communication with your point of contact from your university to determine if it needs to be reviewed for inclusion in the report or placed on the agenda for discussion by the full committee. Ms. Blevins added that this particular communication was shared with your university point of contact, Kody Kelleher for review for inclusion in the report.

REVIEW STATUTORY CHARGE TO THE FREE EXPRESSION COMMITTEE TO SUBMIT AN ANNUAL REPORT (ITEM 3)

Samantha Blevins provided an overview of the A.R.S §15-1867 statutory charge to the committee, which states

- The Arizona Board of Regents shall establish a Committee on Free Expression consisting of at least fifteen members.
- 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:
 - A description of any barriers to or disruptions of free expression within the universities in this state.

- A description of the administrative handling and discipline relating to barriers to or disruptions of free expression within the universities in this state.
- A description of substantial difficulties, controversies or successes in maintaining a posture of administrative and institutional neutrality.
- Any assessments, criticisms, commendations or recommendations that the committee decides to include in the annual report.
- 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.

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

Ms. Blevins asked if the committee had any questions regarding the statutory charge, and there were no questions.

REVIEW OF AND POSSIBLE ACTION TO APPROVE AND FORWARD THE REPORT OF THE FREE EXPRESSION COMMITTEE (ITEM 5)

Chair Arnold thanked Ms. Blevins and staff from each of the universities, who contributed to the report. Chair Arnold asked if there were any comments or further discussion from the committee members.

Upon motion by Chair Arnold and second by David Schmidtz, the committee approved forwarding the proposed draft report to the full board for approval at the August 20, 2020 meeting. Chair John Arnold, Derrick Anderson, José Cárdenas, Courtnee King, Stefanie Lindquist, Joanne Vogel, Joe Carter, Erin Grisham, Kimberly Ott, Michelle Parker, Eric Yordy, Toni Massaro, David Schmidtz, Bob Sommerfeld and Kendal Washington White voted in favor. None opposed and none abstained.

ADJOURNMENT

The meeting adjourned at 3:14 p.m.

Submitted by:

Sue Sosa
Committee Secretary

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EXECUTIVE SUMMARY

Item Name: Review of Open Meeting Law

Action Item

Requested Action: The board office will provide the committee with an overview of the Open Meeting Law.

Discussion

There are no written materials provided at this time for this item.

Contact Information:

Samantha Blevins, ABOR

samantha.blevins@azregents.edu

602-229-2535

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EXECUTIVE SUMMARY

Item Name: Review the Statutory Charge to the Committee on Free Expression to Submit an Annual Report

Action Item

Requested Action: The board office asks the committee to review the statutory charge to the Committee on Free Expression to submit an annual report, as described in this executive summary.

Statutory/Policy Requirements

A.R.S. §15-1867

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.

Contact Information:

Samantha Blevins, ABOR

samantha.blevins@azregents.edu

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EXECUTIVE SUMMARY

Item Name: Review of and Possible Action to Approve and Forward the Statutory Annual Report on Free Expression for FY 2021

Action Item

Requested Action: The board office asks the committee to review, discuss and take possible action to approve the proposed statutory Report on Free Expression and forward the proposed statutory report to the Board or Regents for its approval, as described in this executive summary.

Background and Discussion

- The Committee on Free Expression will review a draft report to confirm that it complies with the requirements of A.R.S. §15-1867 and that it demonstrates the commitment of the board and the universities to protecting and promoting free expression.
- Following committee review and approval, the committee chair will submit the report to the Arizona Board of Regents for its approval.
- The board is anticipated to consider approval of the report at its August 26, 2021 meeting.
- By September 1, 2021, the committee chair will submit the approved report to the governor, the speaker of the house of representatives, the president of the senate, the secretary of state and the ABOR office will post the final report on the ABOR website.

Contact Information:

Samantha Blevins, ABOR

samantha.blevins@azregents.edu

602-229-2535

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DRAFT

ARIZONA BOARD OF REGENTS'

COMMITTEE ON FREE EXPRESSION

ANNUAL REPORT

September 1, 2021

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

The board and the universities protect and ensure intellectual freedom and free expression at our institutions. Students, staff and faculty members may discuss any topic, as guaranteed by the First Amendment and within the limits of reasonable content and viewpoint-neutral restrictions on time, place and manner of expression consistent with applicable law.

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 Free Expression Committee is provided in Exhibit A.

The universities and the board have historically protected free expression. A comprehensive list of current board and university policies that protect and promote free speech is provided in Exhibit B. The ABOR Policy on Free Expression is included as Exhibit C.

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

There were no barriers to or disruptions of lawful free expression within any of Arizona's public universities, as described in A.R.S. §15-1867.

Instead, all three of Arizona's public universities maintain the highest green light rating from the Foundation for Individual Rights in Education ([FIRE](#)), recognizing the commitment of the board and the universities to free speech. "Arizona's green light schools are setting a standard for free expression that colleges across the country should aspire to follow," said FIRE's Laura Beltz, policy reform senior program officer.

Each university has policies and procedures to encourage and protect all lawful speech. All expressive activities are subject to reasonable time, place and manner restrictions as permitted by law. Expressive activities are subject to applicable law, including laws that address discrimination, harassment, safety, defamation, threats, privacy and confidentiality. The board and universities do not permit actions that unlawfully disrupt the functions of the institutions. As required by statute, board policy provides:

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.

Although a more complete list of applicable policies is provided in Exhibit B, here are some examples of how the Board and University policies promote lawful free expression within any of Arizona's public universities without barriers.

ASU

ASU is committed to free speech, subject to reasonable restrictions designed to promote free speech while serving the university's educational function. ASU has adopted the core principles of the University of Chicago Statement affirming the role of academic freedom and freedom of expression on college campuses.

As such, ASU community members and visitors may reserve space both indoors and outside according to university policy (SSM 802-01 and SSM 801-02) and may use other areas where reservations are not necessary. The university respects the ASU community's rights to engage in expressive activities within public and designated public 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.

ASU staff are available to actively assist in facilitating and supporting speech activities on campus, including arranging and managing space to permit speakers, listeners, and protestors to engage in speech without disrupting university activities. During the pandemic, when in-person gatherings were limited by public health orders and considerations, ASU staff worked with student organizations to increase their awareness and utilization of available tools to continue expressive activity in a virtual setting, such as bringing invited speakers via Zoom.

NAU

Northern Arizona University similarly honors its commitment to the freedoms of speech and expression guaranteed by the First Amendment of the Constitution and the Arizona Board of Regents' Policy regarding Free Expression. As public universities are considered to be the quintessential "marketplace of ideas," NAU recognizes that lawful freedom of expression is integral to the purpose and process of the University, whose primary mission is education. Many speakers use NAU's campus, even though in the "marketplace of ideas," not all ideas will resonate with every listener, and some ideas may even seem distasteful or offensive, NAU encourages both listeners and speakers to exercise this important freedom with respect, civility, and responsibility.

The principles of free speech – subject to reasonable restrictions, which promote free speech yet simultaneously ensure that NAU can achieve its fundamental goal of educating our students – are reflected in NAU's policies and practices. NAU's campus has many public and designated public spaces

throughout campus which are available for NAU community members or visitors to reserve and use, according to the constitutional principles of free speech, as well as established university practices. (See <https://in.nau.edu/campusevents/>.) Additionally, NAU staff facilitate and support speech activities on campus, including arranging and managing space to permit speakers, listeners, and protestors to engage in free speech and expression. NAU respects that members of our community have the right to engage in free speech without disrupting campus, jeopardizing the health, safety, and welfare of our community, or interfering with NAU's mission of educating our students. And, while NAU may appropriately regulate the time, place, or manner of free speech activities, in order to avoid such threats to campus operations, NAU does not impose discipline for constitutionally protected speech solely because that speech is controversial or objectionable to others.

UARIZONA

UArizona policy also reflects individual rights to free speech and expressive activity within public and designated public forums, while 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. The UArizona's "Campus Use Policy - Interim," provides:

The campus grounds and properties of the University of Arizona (the "university") are devoted to and maintained for the sovereign function of providing higher education to the people and are not places of unrestricted public access.

The university is committed to protecting the free speech rights of students, faculty, staff and invited guests. The purpose of this policy is to respect the campus community's rights to free speech and expressive activity within public and designated public forums, while 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.

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 PROMOTE PROTECTED SPEECH AND PROMPTLY ADDRESS ALL ALLEGATIONS OF BARRIERS TO OR DISRUPTIONS OF PROTECTED SPEECH

Committed to the First Amendment, each university has an administrative process for responding to allegations of barriers to or disruptions of protected speech that complies with applicable law. All three universities provide active support for free speech activities on campus, including managing campus events to support meaningful opportunities for protest and to listen to invited speakers. The universities also engage in dialogue with, and providing support for, students and community who feel negatively

impacted by the speech of others. However, consistent with the provisions of ABOR's policy on free expression and the ABOR Student Code of Conduct, the universities do not impose discipline for constitutionally protected speech solely because that speech is controversial or objectionable to others. As appropriate, the response may address the conduct immediately and may include additional review or sanctions under board or university policy. Campus police may be involved if allegations include criminal conduct or implicate safety concerns. The following reflect the universities handling of allegations of barriers to or disruptions of free expression.

ASU

ASU addresses any reported allegations of barriers to or disruptions of protected speech. ASU reported one allegation involving a student run radio station and a dispute between the station's student board and student employees on the one hand and the station manager, also a student, on the other. That disruption led the station manager to file suit alleging free speech violations. All of her claims against ASU, ABOR and Cronkite were promptly dismissed. One remaining claim against an individual survived the motion to dismiss, but the plaintiff, who had filed a notice of claim for \$500,000, later dropped all of her claims against all parties in exchange for a reimbursement of approximately \$7,000 in fees for unused services. ASU reported another allegation involving a prospective administrator whose offer of employment was rescinded based on allegations of misconduct not disclosed during the hiring process, who has alleged the decision was actually in retaliation for protected speech on social media. The university is defending this allegation in court. In addition, ASU reported that a previously disclosed matter involving the speech of student government candidates had resulted in the filing of litigation, which was dismissed by the federal district court and is now on appeal.

NAU

To respond to allegations of barriers to or disruptions of protected speech, NAU's Speech Expression Action Knowledge (SpEAK) Team and Campus Inclusion Team (CIT) actively together work to ensure that all planned, reported, and spontaneous representations of speech on campus are supported, including on-campus speakers, events, and protests. These Teams are committed to fostering freedom of expression within the campus community. (See <https://in.nau.edu/campus-inclusion-team/freedom-of-expression/>). Furthermore, if members of the campus community express concerns about the speech activity of others, these Teams listen to concerns, connect individuals who have experienced the free speech of others negatively with supportive resources (including counseling), and as appropriate provide explanations of the importance of First Amendment rights.

During the past year, there were fewer expressions of free speech on campus due to the effects of the pandemic. Nonetheless, the SpEAK Team provided resources and support to the organizers of various peaceful protests held on campus, including two regarding COVID guidelines. Also, the CIT Team provided resources to one student who expressed concerns that a faculty member was expressing their political bias in the classroom, to another group of students whose peer had posted on social media that they took part in the events of January 6th at the Capitol, and finally to a student who expressed concerns regarding a classmate who used the chat function in zoom to make assertions regarding the 2020 Presidential election. Importantly, while NAU's response to such incidents includes providing resources, and educating members of the campus community regarding the importance of free speech, NAU may also appropriately address student conduct concerns in accordance with Board or NAU policy, particularly when an incident

raises safety or criminal issues. However, NAU does not impose discipline upon an individual engaging in protected free speech activities.

UARIZONA

UArizona did not receive reports or allegations of barriers to or disruptions of protected speech during the past year. The COVID-19 global pandemic restricted on campus activities for much of the 2020-2021 academic year, including large group gatherings, which often serve as a primary avenue for freedom of expression events and activities. However, the university still experienced several marches, demonstrations and protests concerning a variety of topics and issues, without receiving any allegations of barriers to or disruptions of protected speech. The university continues to uphold and promote protected speech and promptly address all allegations of barriers to or disruptions of protected speech.

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

The board and the universities are committed to maintaining a posture of administrative and institutional neutrality about speech and to allowing all protected speech, even speech that some may find offensive. From time to time, 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 all lawful expression. The universities 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 this 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.

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 C. State statute and board policy also address political speech. Board and university policies recognize the limitations imposed by A.R.S. § 15-1633, which limits the use of university resources or employees to influence elections.

ABOR

To highlight its support of free speech, civil discourse and commitment to administrative and institutional neutrality to all protected speech, ABOR and Arizona's public universities held the Regents' Cup debate competition on April 24, 2021. The Regents' Cup is a tri-university debate event designed to engage students in rigorous debate and public speaking anchored by respect and civil discourse.

Thirty-eight students from ASU, NAU and UArizona competed during the day-long virtual event hosted by ASU and showcasing the universities' commitment to freedom of expression. Subjects debated included if legislation should be passed to disallow social media companies from banning users based on political viewpoints, if there are legitimate reasons to ban political clubs on campus if they support

political candidates that use inciting speech, and if there are certain texts with offensive language or messages that should be banned from being used in a curriculum.

Winning students received scholarships to further their educational goals. The Regents' Cup is an opportunity for Arizona's public universities to demonstrate their commitment to diversity of thought, civil discourse and the intrinsic rights of all students to liberty and freedom of speech. The third Regents' Cup is scheduled to take place in spring 2022.

ASU

To foster administrative and institutional neutrality about speech and to allow all protected speech, ASU regularly communicates its values regarding campus speech, and has recently expanded the materials used during new student orientation to include a series of videos on campus free speech videos prepared by the Foundation for Individual Rights in Education ("FIRE") as well as an additional video prepared by ASU featuring student speakers. These videos have a permanent home on a new "Free Speech at ASU" website that is available year-round for reference. <https://eoss.asu.edu/resources/free-speech>.

Despite the challenges of the pandemic, and aided by the availability of virtual participation options, ASU's faculty and student organizations have continued to host numerous events encouraging public discourse on a wide variety of topics and from numerous perspectives.

NAU

As a public institution, NAU recognizes that lawful freedom of expression is integral to the purpose of the university, whose primary goal is education. To further reinforce NAU's commitment to the First Amendment, NAU's student handbook affirms the value of free speech and how integral it is to NAU's campus. NAU's Resident Assistants and other Residence Life staff participate in annual training, which includes acting out scenarios related to first amendment rights that might create conflict in shared living spaces, and learning how to appropriately handle such issues. NAU provides training regarding the importance of the First Amendment and free expression on campus to all student organizations who plan to host events on campus. And, as part of its orientations for both students and parents NAU shares that:

- NAU is a public institution committed to free, robust and uninhibited sharing of ideas among all members of the university's community;
- Freedom of speech is protected by the U.S. Constitution and may only be limited for reasonable time, place, and manner issues;
- Speakers visit NAU's campus to share their ideas, and members of the campus community are individually free to determine whether to engage with or listen to speakers, or walk away;
- Free speech is protected and permitted on NAU's campus, even if a listener doesn't agree with the person or group speaking. And, NAU's protection of free speech does not mean that the institution approves of or endorses a speaker's message; and
- Freedom of speech allows everyone to expand their thinking.

UARIZONA

The UArizona's mission is one of service, and fundamental to its success is ensuring that all students and faculty practice and promote principles of freedom of expression and inquiry, and this ensures the administrative and institutional neutrality to speech protected by the First Amendment. During the past year, UArizona continued its commitment to the promotion of diversity of thought and administrative and institutional neutrality. The university continued to conduct reviews of administrative and institutional processes as well as legislation that may impact freedom of expression to determine if there are any potential concerns and address them. UArizona also continued to support activities and efforts that encourage free expression at the university such as the board's Regents' Cup. In addition, the university continues to include the preservation of freedom of expression as part of campus reentry planning for the next academic year in light of the COVID-19 pandemic.

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 ABOR website and 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, 2021

COMMITTEE CHAIR

John Arnold, Executive Director, Arizona Board of Regents

ASU REPRESENTATIVES

Derrick Anderson, Associate Professor, School of Public Affairs, *replacement pending*
José Cárdenas, Senior Vice President and General Counsel
Patrick Kenney, Dean of the College of Liberal Arts and Sciences
Joanne Vogel, Vice President of Student Services
Giselle Retana, Student Representative
***Kim Demarchi**, Senior Associate General Counsel

NAU REPRESENTATIVES

Margot Saltonstall, Interim Vice President for Student Affairs
Kimberly Ott, Associate Vice President, Communications
Eric Yordy, Professor of Business Law, The W.A. Franke College of Business
Maylee Acosta, ASNAU Student Body President
***Michelle Parker**, Vice President for Legal Affairs and General Counsel

UA REPRESENTATIVES

Toni Massaro, Professor, College of Law
David Schmidtz, Director, UA Center for the Philosophy of Freedom
Robert "Bob" Sommerfeld, Assistant Chief of Police, UA Police Department
Kendal Washington White, Vice Provost for Campus Life and Dean of Students
Noah Daniel Vega, ASUA Student Body President
***Kody Kelleher**, Senior Advisor, Government / Community Relations

- *Point of contact

EXHIBIT B

- ABOR Policies
 - 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 Statements
 - 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)
 - Adoption of Chicago Statement of Freedom of Speech <https://provost.asu.edu/adoption-chicago-statement-freedom-expression>
 - Policy Statement Supporting Diversity and Free Speech <https://inclusion.asu.edu/cci/policies-procedures>
 - Free Speech at ASU <https://eoss.asu.edu/resources/free-speech>
- NAU Policies and Statements
 - 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/>
 - 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/>
- First Amendment: Free Expression on Campus Handout
- UA Policies and Statements
 - Policy and Regulations Governing the Use of Campus, SA-200: <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>
 - Non-discrimination and anti-harassment policy, HR-200E: <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>
 - 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 University Handbook for Appointed Personnel 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>
 - 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>

EXHIBIT C

ABOR FREE EXPRESSION POLICY

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 a compelling 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 D

ALLOCATION OF STUDENT ACTIVITY FEES BY UNIVERSITY

ASU:

The Associated Students of Arizona State University is responsible for oversight of the student programming fee that provides funding to more than 975 student organizations annually. This includes funding for the Programming and Activities Board, Sport Club Organizations, Cultural Coalitions, College Councils and registered organizations who seek funding. Students and student organizations can also seek funding for traveling to professional and academic conferences. The Undergraduate Student Government and Graduate Student Government spent approximately \$711,083 on appropriations for more than 528 clubs and organizations (including general clubs, sport clubs, cultural coalitions, college councils and programming and activities board) in the academic Year 2020-2021. The Undergraduate Student Government also spent approximately \$25,115 on 107 individuals who used funding towards academic and professional development. The Graduate and Professional Student Association also spent approximately \$20,000 on 85 individuals who used funding towards academic and professional development. Undergraduates pay \$30/semester and Graduate students pay \$35/semester for the student programming fee. The remainder of the student programming fee budget supported the Safety Escort Service, Bike Co-op, large events such as the Infernofest concert, community gatherings, professional artists and speakers, rental fees, and supplies.

NAU:

NAU WILL SUPPLEMENT PRIOR TO AUGUST 2021 SPECIAL BOARD MEETING.

UA:

The Associated Students of the University of Arizona (ASUA) operate the Wildcat Events Board (WEB), a student-run group that programs campus-wide social and educational events that are open and accessible to all UArizona students. The Wildcat Events Board is funded by a \$10 fee per student and is refundable for any student who requests one. WEB aims to bring about a greater spirit of unity and cooperation amongst all students and to encourage development of leadership abilities and skills through participation in event programming. This year, the WEB budget supported hosting online events for remote student participation, programming for COVID-19 isolation housing, small-scale in person concerts and community gatherings, and monthly subscription boxes that were sent to students to participate in interactive programming. At this time, WEB has not received any requests for funding specifically for events related to freedom of expression.