



April 27, 2022

Dr. Alfred Rankins Jr.  
Commissioner of Higher Education  
Board of Trustees of State Institutions of Higher Learning  
3825 Ridgewood Road  
Jackson, Mississippi 39211

*Sent via U.S. Mail and Electronic Mail (commissioner@ihl.state.ms.us)*

Dear Dr. Rankins:

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

PEN America, founded in 1922, is a nonpartisan, nonprofit organization that stands at the intersection of literature and human rights to protect open expression in the United States and worldwide.

We write to express our shared concern about the Institutions of Higher Learning (IHL) Board of Trustees' recent changes to its tenure award process for faculty at the eight Mississippi public universities it oversees.<sup>1</sup> Going forward, IHL will no longer approve tenure at these institutions; instead, the respective presidents of each university will award tenure. While this change is not by itself cause for alarm, among the new criteria that presidents "shall take into consideration" are amorphous standards that seriously imperil faculty members' expressive freedoms, such as "[e]ffectiveness ... and integrity in communications" and "collegiality."<sup>2</sup>

These kinds of collegiality requirements have long been criticized by the American Association of University Professors (AAUP) as a pernicious threat to academic freedom. We urge the IHL Board of Trustees to eliminate these provisions from the Board Policies in accordance with widely accepted university standards.

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<sup>1</sup> *Board Book*, MISSISSIPPI BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING, (Apr. 21, 2022), <http://www.mississippi.edu/board/downloads/boardbooks/2204.pdf>; Molly Minta, *College presidents now have final say on tenure after IHL quietly revises policy*, MISSISSIPPI TODAY (Apr. 21, 2022), <https://mississippitoday.org/2022/04/21/tenure-ihl-revises-policy>.

<sup>2</sup> *Board Book* at 402.03, *supra* note 1.

The AAUP's report "On Collegiality as a Criterion for Faculty Evaluation" explains the danger of maintaining a requirement of this type for faculty evaluation, as they are too adaptable to stifling dissent and chilling speech:

[C]ollegiality may be confused with the expectation that a faculty member display "enthusiasm" or "dedication," evince "a constructive attitude" that will "foster harmony" or display an excessive deference to administrative or faculty decisions where these may require reasoned discussion. Such expectations are flatly contrary to elementary principles of academic freedom, which protect a faculty member's right to dissent from the judgements of colleagues and administrators.<sup>3</sup>

The AAUP additionally cautions that an "absence of collegiality ought never, by itself, to constitute a basis for nonreappointment, denial of tenure, or dismissal for cause."<sup>4</sup>

Despite these dangers, IHL's change in evaluation criteria elevates this definition-less concept as a metric by which a university president might claim to objectively assess a faculty member's fitness for tenure. Instead, this is a subjective requirement ripe for abuse and which, therefore, significantly threatens academic freedom. These threats are not speculative. Faculty have been terminated, disciplined, or denied tenure under collegiality-type requirements simply for expressing unpopular viewpoints or criticizing their administrations.<sup>5</sup>

Similarly, the new requirement for "effectiveness and integrity in communications" reflects a dangerous misreading of the AAUP's Statement of Principles on Academic Freedom and Tenure. The IHL policy cites a passage in the AAUP statement that urges faculty to recognize the "special obligations" required by their "position in the community" and to speak accurately and with restraint.<sup>6</sup>

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<sup>3</sup> See American Association of University Professors, *On Collegiality as a Criterion for Faculty Evaluation* (2016), available at <https://www.aaup.org/file/AAUP%20Collegiality%20report.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> See e.g. Alex Morey, *Salaita's 'Why I Was Fired' Puts Civility in the Spotlight*, FIRE (Oct. 8, 2015), available at <https://www.thefire.org/salaitas-why-i-was-fired-article-puts-civility-in-the-spotlight>; Colleen Flaherty, *Requiring Civility*, INSIDE HIGHER ED, (Sept. 12, 2013) available at <https://www.insidehighered.com/news/2013/09/12/oregon-professors-object-contract-language-divorcing-academic-freedom-free-speech>; Ari Cohn, *Marquette's Consistent Inconsistency on Academic Freedom, Tenure, and Civility*, FIRE (Mar. 4, 2015) available at <https://www.thefire.org/marquettes-consistent-inconsistency-academic-freedom-tenure-civility>; Erica Goldberg, *Outspoken Professor Faces Dismissal from Idaho State University*, FIRE (Oct.29, 2009) available at <https://www.thefire.org/outspoken-professor-faces-dismissal-from-idaho-state-university>.

<sup>6</sup> See AM. ASSOC. OF UNIV. PROFESSORS, 1940 Statement of Principles on Academic Freedom and Tenure, available at <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure> (last visited Apr. 27, 2022).

But by applying this passage as a standard for university presidents to enforce during the tenure process, the policy violates the AAUP's 1964 "Committee A Statement on Extramural Utterances," which states, in relevant part:

The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position.<sup>7</sup>

The Committee A Statement further holds that faculty evaluations should consider extramural speech only in cases of "weighty evidence of unfitness" that might require termination, and that decisions regarding termination in such cases should only follow a hearing "conducted by an appropriate-preferably elected-faculty committee."<sup>8</sup> Empowering university presidents to include extramural faculty speech as part of a tenure decision when it does not rise to the level of "weighty evidence of unfitness" is a clear violation of the AAUP's principles of academic freedom.

The Board's changes not only misapply AAUP principles, they also raise substantial concerns under the First Amendment, which binds the IHL.<sup>9</sup> Construing the First Amendment in the university context, the Supreme Court has explained that "the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of 'conventions of decency.'"<sup>10</sup> Collegiality policies and extramural speech restrictions such as those at issue here are virtually certain to become a tool for sanitizing campuses of viewpoints with which university presidents disagree. And others in the campus community may seek to leverage them to bring undue pressure on these leaders to deny tenure to faculty with controversial viewpoints. This result is untenable for Mississippi's public universities.

FIRE and PEN America thus call on the IHL Board of Trustees to remove these censorious provisions and ensure that faculty will not face collegiality requirements or extramural speech restrictions when evaluated for tenure by university presidents.

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<sup>7</sup> Committee A Statement on Extramural Utterances (1964), *available at* <https://handbook.unm.edu/section-b/appendices/appendix-vii-committee-a-statement-on-extramural-utterances>.

<sup>8</sup> *Id.*

<sup>9</sup> *Healy v. James*, 408 U.S. 169, 180 (1972) ("[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, 'the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.'") (internal citation omitted).

<sup>10</sup> *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667 (1973).

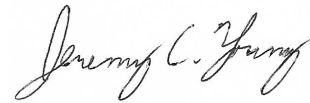
We request a substantive response to our letter by close of business on Wednesday, May 11, 2022. We also encourage you to review the Chicago Statement and the PEN America Principles on Campus Free Speech, both of which provide strong protections for academic freedom for faculty as a matter of course. We have enclosed a copy of each with this letter.

Sincerely,



Alex Morey

Director, Individual Rights Defense Program, Foundation for Individual Rights in Education



Jeremy C. Young

Senior Manager, Free Expression and Education, PEN America

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PEN America

# PRINCIPLES ON CAMPUS FREE SPEECH

PEN America’s Principles on Campus Free Speech were originally developed as part of our landmark 2016 report, *And Campus for All*. We add to these principles here to reflect changing dynamics and new challenges on U.S. campuses.

## OVERVIEW

- While free speech is alive and well on campus, it is not free from threats, and must be vigilantly guarded if its continued strength is to be assured.
- Current campus controversies merit attention and there have been a significant number of troubling instances of speech curtailed amid what seems to be an increasingly tense campus environment. But these controversies in many cases represent campus communities sorting out differences in values, however heatedly. They represent an area of serious concern but not a wholesale “crisis” for free speech on campus.
- At times, protests and forms of expression are treated as if they are incursions on free speech when in fact they are manifestations of free speech.
- Many of today’s campus controversies that implicate free speech and the First Amendment are fueled by legitimate concerns about racism, discrimination, inclusion, and inequality. The failure at times to recognize these factors may impair efforts to defuse conflict and safeguard free speech.
- Free expression should be recognized as a principle that will overwhelmingly serve not to exclude or marginalize minority voices, but rather to amplify them. Free

speech protections have been essential to the movements to counter racism, redress inequalities and advance social justices.

- By acknowledging and addressing legitimate concerns regarding racism and bigotry in the context of free speech debates, universities can help ensure that the defense of freedom of expression is not misconstrued as a cause that is at odds with movements for social justice.

## THE CAMPUS CLIMATE

- Administrators must look hard at how physical barriers, historical traditions, inequalities, prejudices, and power dynamics can weigh against openness, and take concrete steps to alleviate those burdens.
- Campus discourse should be predicated on the presumption of respect for differences, including differences of view that cause disagreement.
- Respect entails an obligation to listen to understand what words may cause offense to others and why, and to conscientiously consider avoiding such words when no offense is intended.
- The duty of care involved in understanding different perspectives and learning to anticipate where offense might be caused is heightened for administrators and faculty when they are

carrying out institutional duties.

- Violence, threats, and harassment are never appropriate. However, vociferous, adamant, and even contentious argument and protest have their place.
- College should be acknowledged as a time for students to engage with new ideas and participate in robust debates, which can involve testing boundaries and experimenting with forms of speech and activism. As such, consequences for errors of judgment should be commensurate, and geared toward the possibility of learning and future improvement.
- An environment where too many offenses are considered impermissible or even punishable becomes sterile, constraining, and inimical to creativity.
- So-called “free speech zones,” wherein schools limit activities such as pamphleteering or spontaneous demonstrations to contained areas on campus, may violate the First Amendment and contravene principles of free speech.
- Schools should refrain from establishing policies or imposing facially neutral rules that either intend or have the effect of discriminating against speakers based upon the content of their speech.
- Administrators should ensure equitable space and opportunities

for diverse political perspectives and thought.

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## HATEFUL SPEECH

- Hateful speech that is intended to menace, intimidate or discriminate against an individual based upon a personal characteristic or membership in a group can impair equal access to the full benefits of a college education and the ability of all students to participate in campus discourse.
- In an environment of rising incidences of hateful speech and hate crimes nationally, the potency of individual instances of hateful speech on campus can be heightened, increasing the psychological harm that such speech can cause and underscoring the importance of effective institutional responses.
- That some individuals may experience offense or insult or negative feelings such as anger, resentment, frustration, or discouragement in response to others' speech is not sufficient grounds to limit that speech, because by its nature speech frequently does give rise to such feelings.
- Conflating the expression of controversial or even offensive viewpoints with hateful speech can result in the suppression of open discourse and trigger a backlash from groups whose expression is deterred or punished despite not being intentionally hateful.
- Administrators have an imperative to be responsive to threats, hateful intimidation, and students' encounters with overt racism and other forms of discrimination. This responsiveness is imperative to nurturing an environment where

all feel empowered to participate in the free exchange of ideas and opinions.

- Effective responses to hateful speech include counter-messaging, condemnations, direct support to targeted individuals and groups, dialogue, and education. In the case of hate crimes, harassment and any other conduct that violates the law, aggressive disciplinary response is warranted.

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## CAMPUS SPEAKERS

- Campuses, both public and private, should keep their platforms accessible to a wide variety of academic and popular opinions, while fostering a culture where speech and reasoned debate are seen as the best tools for confronting mistaken, wrongheaded or hateful ideas.
- A decentralized approach to campus speakers, where student groups, academic departments, classroom teachers and others are free to invite whom they wish to campus without having to receive prior administrative approval can help foster exposure to the widest breadth of ideas, although student groups will usually benefit from consultation with a faculty adviser.
- When an invited speaker is likely to be controversial, those issuing the invitation should consider whether outreach to other stakeholders, facilitating counter-speech or other measures are appropriate to ensure that the speech is aired without negative repercussions.
- Once a body has decided to extend an invitation to a campus speaker, the decision by

administrators' to override that choice and rescind the invitation should be made only in the rarest of circumstances.

- Except in the most extreme cases, concerns over threats of violence or the potential outbreak of violence should not be grounds for withdrawing an invitation or canceling a controversial speech or event.
- That a campus event may meet with protests should not be considered a reason to suspend it.
- Wherever possible, campuses should not allow security costs to be grounds for withdrawing a speaking invitation, recognizing that such costs are unavoidably linked to the anticipated reaction to the content of speech and are thus viewpoint specific.
- If security costs for campus events are born by inviting organizations or speakers themselves, they must be apportioned based on content and viewpoint neutral policies.
- When a speaking invitation sparks protests, those who object and wish to protest should have an opportunity to make themselves heard.
- Protesters should not be permitted to shutdown, shout-down or obstruct speech, preventing others from hearing the speaker.
- Some speakers invited to campus fall into the category of professional provocateurs, whose primary aim is to shock, offend, and build their own notoriety when they are silenced or censored. While there is no obligation to invite such speakers, when invitations are made through proper, authorized



campus channels such speakers should be permitted to speak.

- When a university provides a platform to a figure who contradicts its values, leaders should strenuously and unequivocally affirm their values, explaining their position in considerable detail, while still permitting the speaker to speak.

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### CALLS TO PUNISH SPEECH

- Institutions should be careful to avoid any form of discipline or punishment solely for legally protected speech.
- While demands for punishment themselves constitute protected speech, calls to punish speakers for their speech have a chilling effect and are usually inimical to an open environment for ideas.
- As forums and guardians of open debate, campuses must resist pressure from external actors and campus constituencies to curtail and punish speech. Campus leaders should engage legitimate complaints through dialogue, counter-speech and support while defending the rights of speakers to voice their opinions without fear of official reprimand or discipline.
- Administrators and campus leaders must be consistent in coming to prompt, full-throated defense of a faculty member's right to exercise academic freedom without fear of dismissal, retaliation, or loss of position even when the speech in question is controversial.
- When campus constituents are targeted by doxxing, online harassment or other unofficial reprisals for speech, they should enjoy the support of campus

administrators in safeguarding themselves from such reprisals, including through the pursuit of disciplinary action against those responsible.

- Universities should not shy away from commenting on or denouncing the content of a faculty member's speech when it contravenes a university's stated values. It does not constitute retaliation or chilling for a university president or leader merely to criticize, without seeking punishment, the content of a faculty member's speech in such cases. Such counter-speech can be an effective reassurance to various university constituencies when hateful speech arises from faculty. Doing so, however, should never preclude the campus from doing everything in its power to shield faculty from threats to their safety or position as a result of such speech.

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### FACULTY SPEECH AND EXPRESSION

- With the rise of social media and new methods of recording and distributing information, faculty members should not expect privacy when it comes to their public online speech and expression and should recognize that anything they say may be construed to reflect upon their ability to carry out their institutional responsibilities.
- When considering a response to faculty speech, universities should take into account whether a faculty member had a reasonable expectation of privacy in expressing his or her views.
- Academic freedom is a core tenet of the academy and faculty should be encouraged to push the bounds of knowledge without fear of retaliation for

exploring ideas that might offend.

- Extramural speech by faculty members is considered protected by most definitions of academic freedom. Administrators should resist pressures to engage in disciplinary actions in response to such speech except in instances where the content of the speech calls into question whether a faculty member can adequately execute their duties.
- Where faculty members serve in an institutional capacity that may be negatively affected by the content of speech that raises questions about their ability to fulfill duties fairly and with equal respect for all students, universities should strive to ensure that any reallocation of duties is not punitive do not spill over to impair the faculty member's academic career.

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### MICROAGGRESSIONS AND THE LANGUAGE OF HARM

- The increasing diversity of college populations requires a wider conscientiousness of how words are understood by different groups of listeners.
- The task of fostering a more inclusive environment—and calling out language that undercuts it—cannot be left only, or even primarily, to students who are members of marginalized groups.
- University administrators should encourage all students to be sensitive to the ways that their words can unintentionally hurt others and should show sensitivity in their own communications.
- The onus to consider the impact of words, images and messages on diverse groups of students is heightened for administrators

and faculty in that their professional duties encompass the creation and maintenance of an open and equal learning environment.

- University policies regulating everyday speech or attempting to define insults for the entire community are intrusive and risk prohibiting or even simply disfavoring permissible speech.

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### TRIGGER WARNINGS

- If professors wish to offer students a preview of troubling content to come in a syllabus, the university should not prevent them from doing so.
- Universities cannot and should not position themselves institutionally to ensure that every possibly upsetting encounter with course material is averted.
- Universities should therefore leave the question of trigger warnings or any other sort of alerts about course material up to individual faculty members.

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### SAFE SPACES

- It is the obligation of the university to foster an environment in which violent, harassing, and reckless conduct does not occur and respect is encouraged.
- It is neither possible nor desirable for the campus to offer protection from all ideas and speech that may cause a measure of damage.
- Campuses should acknowledge and respond to the impact of hateful speech and hate crimes in terms of creating an environment of safety and belonging on campus, taking affirmative steps

to make sure that affected students are supported and that the campus culture fosters mutual respect for individual differences.

- It is reasonable to designate some spaces “safe” for particular groups on a campus but these must always be entered into voluntarily by those wishing to associate with the group. It is unreasonable to impose such constraints on public or communal areas of a campus as a way to exclude certain words or ideas.
- Campuses should enable and even support the creation and protection of spaces established by students—such as clubs, organizations, or even small gathering areas based on common themes and lifestyles.
- The campus as a whole and segments thereof that are intended for all—such as dorms, residential colleges, classrooms, and cafeterias—must be kept physically safe but intellectually and ideologically open.

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### SPEECH AND SEXUAL HARASSMENT

- There is no contradiction between advocating for more stringent measures to address sexual harassment and assault on campus and insisting on measures to protect free speech and academic freedom.
- Universities should reiterate the centrality of academic freedom when they address issues of harassment.

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### EDUCATION AND DIALOGUE

- There is both a need and an opportunity for expanded

education and mobilization on issues of free speech on campus.

- All groups supportive of free speech should redouble their efforts to ensure that campus free speech is a cause that engages students from across the political spectrum.
- Institutions and funders with an interest in supporting free speech should invest in the next generation by underwriting grants for work to build awareness and appreciation for free speech on campus.
- Whether it is on racial, gender, ethnic or ideological grounds, those who may feel marginalized in campus discourse should be supported by the universities in finding avenues for full participation in campus life.
- Campuses should take full advantage of the diversity of their student bodies to ensure opportunities for dialogue are maintained for students who have different views from one another. Principles of free speech should be adhered to as central to such endeavors.

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### CAMPUS SPEECH LEGISLATION

- State and federal bodies invested in defending speech on campus should take care to avoid overreach, especially in the form of guiding campuses’ responses to various free speech incidents. This includes ensuring campuses are free to affirm and articulate the values of open discourse, academic freedom, diversity and inclusion, and other principles integral to the institutional role of the university in society.
- Legislation seeking to address





College students in dialogue. PEN America event at NYU in November 2018, co-sponsored with the Penn Project for Civic Engagement and NYU Steinhardt

free speech on campus should avoid the use of overbroad and vague definitions that have the potential curtail free speech or otherwise render legitimate topics of academic deliberation effectively off-limits.

- Legislation should not dictate disciplinary requirements or penalties, and should leave decisions

about discipline to the discretion of school administrators who have a full understanding of the context in which events have occurred.

- Legislation should preserve the ability of public colleges to prevent discrimination based on race, ethnicity, religion, or other protected class by publicly

funded student organizations.

- Legislative efforts to address campus free speech should include or be accompanied by the appropriation of funds for orientation and ongoing education on the importance of free expression.



## **Fast Facts: The Chicago Statement on Freedom of Expression**

### **What is the Chicago Statement?**

- The “Chicago Statement” refers to the free speech policy statement produced by the Committee on Freedom of Expression at the University of Chicago. In July of 2014, University of Chicago President (now Chancellor) Robert J. Zimmer tasked a university committee led by law professor Geoffrey Stone with “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.”

### **Why should a school adopt the Chicago Statement?**

- The Chicago Statement is an institutional commitment that protects the free expression rights of students and faculty when teaching, researching, protesting, and learning — and which signals to the public that it is not the university’s role to act as “speech police” when controversy comes to campus. When students and faculty see the leaders of their schools publicly pledge to protect free expression, they feel more secure in speaking their minds. It also sets an important expectation for students that they must come to campus ready to participate in the free exchange of ideas.

### **Who has adopted the Chicago Statement?**

- Faculty bodies, administrations, and institutional governing boards have officially endorsed the Chicago Statement at more than 80 institutions, including Princeton University, Columbia University, the University of North Carolina at Chapel Hill, and Boston University.

### **The Chicago Statement:**

- Is appropriate for and can be adapted to any college—not just the University of Chicago.
- Guarantees, in no uncertain terms, “all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn.” The only exceptions to this broad commitment are for narrowly defined categories of unlawful expression such as defamation and harassment.
- Confirms that civility or other concerns about manners cannot be used to silence important conversation, eloquently stating that “[a]lthough the University greatly values civility...concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.”
- Declares that “it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.”
- Urges the university community to act on speech they find controversial “not by seeking to suppress. . . but by openly and vigorously contesting the ideas that they oppose.”
- Asserts that it is the University’s responsibility to promote and protect free debate and discourse, stating that, “Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe.”

**Text of the Chicago Statement:**

<https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

**Substantive provisions:**

1. “Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community ‘to discuss any problem that presents itself.’”
2. “[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.”
3. “Concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.”
4. “The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University.”
5. “[T]he University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University.”
6. “[T]hese are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.”
7. “[D]ebate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed.”
8. “It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose.”
9. “[M]embers of the University community must also act in conformity with the principle of free expression.”
10. “Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe.”
11. “[T]he University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.”

## Report of the Committee on Freedom of Expression

*The Committee on Freedom of Expression at the University of Chicago was appointed in July 2014 by President Robert J. Zimmer and Provost Eric D. Isaacs “in light of recent events nationwide that have tested institutional commitments to free and open discourse.” The Committee’s charge was to draft a statement “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.”*

*The Committee has carefully reviewed the University’s history, examined events at other institutions, and consulted a broad range of individuals both inside and outside the University. This statement reflects the long-standing and distinctive values of the University of Chicago and affirms the importance of maintaining and, indeed, celebrating those values for the future.*

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University’s culture. In 1902, in his address marking the University’s decennial, President William Rainey Harper declared that “the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago” and that “this principle can neither now nor at any future time be called in question.”

Thirty years later, a student organization invited William Z. Foster, the Communist Party’s candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that “our students . . . should have freedom to discuss any problem that presents itself.” He insisted that the “cure” for ideas we oppose “lies through open discussion rather than through inhibition.” On a later occasion, Hutchins added that “free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities.”

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated “those virtues which from the beginning and until now have characterized our institution.” Central to the values of the University of Chicago, Levi explained, is a profound commitment to “freedom of inquiry.” This freedom, he proclaimed, “is our inheritance.”

More recently, President Hanna Holborn Gray observed that “education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.”

The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.

In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.

As a corollary to the University’s commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest

speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago's long-standing commitment to this principle lies at the very core of our University's greatness. That is our inheritance, and it is our promise to the future.

Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law,  
*Chair*

Marianne Bertrand, Chris P. Dialynas Distinguished Service Professor of  
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