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13.10 Freedom of Speech and Expression / First Amendment

Purpose:

The purpose of the University of Northern Iowa Freedom of Speech and Expression/First Amendment policy is to provide principles relating to the First Amendment and the freedom of speech and expression, including non-commercial activities that are conducted on the university campus and at other covered activities of the university.

Policy Statement:

In General

As a university and part of the State of Iowa, the University of Northern Iowa – including its students, faculty and staff members, administrators, and volunteers – have a responsibility to ensure freedom of speech and expression is lawfully supported and protected. Providing a forum for free speech or expression of ideas is a cherished and time-honored feature of university life. Persons must be able to express their ideas in a lawful manner without suppressing the right of freedom of expression of others.

Freedom of speech and expression are required by, and legally supported and explained in the U.S. and State of Iowa constitutions, federal and State law, federal and state court decisions, and Board of Regents, State of Iowa (BOR) and university policies. For example, these sources provide (in part) –

- *Congress shall make no law...abridging the freedom of speech, or of the press* [First Amendment to the U.S. Constitution]
- *Every person may speak, write, and publish (their) sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or the press.* [Article I, Bill of Rights, Section 7 of the Iowa Constitution]
- *(Each BOR) institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.* [Code of Iowa section 261H.2(1), and similarly, BOR policy manual section 4.2(B)(i)]

The university's mission statement declares, *"Within a challenging and supportive environment, the University of Northern Iowa engages students in high-quality and high-impact learning experiences and emphasizes excellence in teaching and scholarship."* Protection and promotion of freedom of expression is crucial in implementing the UNI mission statement. In addition, freedom of expression is an important aspect of each goal that supports the university's mission and strategic plan, i.e., the unifying goal of "student success", and the supporting goals of "diversity and inclusion", "campus vitality", and "community engagement".

As articulated further in the Code of Iowa section 261H.2 –

(1) (T)he primary function of an institution of higher education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. (The policy statement of the BOR) shall provide that, to fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.

(2)(a) (I)t is not the proper role of an institution of higher education to shield individuals from speech protected by the first amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

(2)(b) (I)t is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the first amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of first amendment rights.

(3) *(S)tudents and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the first amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established first amendment principles.*

(4) *(T)he outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.*

For purposes of this policy and Code of Iowa Chapter 261H, the term “outdoor areas of campus” is defined as, *the generally accessible outside areas of campus where students, administrators, faculty, and staff at (UNI) are commonly allowed, such as grassy areas, walkways, or other similar common areas and does not include areas outside health care facilities including both stand-alone facilities and mixed-use facilities that are embedded within another facility (e.g., the UNI Student Health Center, relevant areas of the Richard O. Jacobson Human Performance Center, the Roy Eblen Speech and Hearing Clinic, and UNI Psychological Assessment Clinic), ...a facility or outdoor area used by the institution’s athletics program or teams, or other outdoor areas where access is restricted to a majority of the campus community....* (section 261H.1(4))

Additional First Amendment-related Considerations

While freedom of speech and expression provide a significant and fundamental right to persons, it is not without certain limitations. For example, reasonable and content neutral time, place, and manner rules may be implemented with regard to activities involving freedom of expression. At UNI, student learning and growth is a primary focus; therefore, disruption or any attempt to disrupt university activities, such as classes, scholarship/research/creative activity, events, performances, similar activities or support, or university business or administration, is prohibited. In addition, the following activities or speech are generally prohibited:

- impeding pedestrian, vehicle, or other traffic;
- threatening or endangering the health or safety of any individual, harassing conduct, or presenting a safety or security hazard;
- entering unauthorized areas of campus or refusing to leave university buildings as requested by university administration or police;
- forcing or attempting to force persons to do something they are not legally obligated to do;
- invasion of privacy or confidentiality, or defamation of an individual;
- attaching or affixing materials on or to university property in violation of university policy; and
- other criminal or illegal acts.

Student Organizations

The Code of Iowa section 261H.3(3) also provides—

A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization’s requirement that the leaders of the student organization agree to and support the student organization’s beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization’s mission.

Further, Code of Iowa section 261H.7(1) may restrict the Northern Iowa Student Government (NISG)’s “access to and authority over” funds, contingent on compliance with the First Amendment and Code of Iowa Chapter 261H. Under section 261H.7(2), if NISG is found to have either—(1) “knowingly and intentionally violated the first amendment rights of a member of the campus community”, or (2) “an action or decision” of NISG violated section 261H.7, then the university is directed to “suspend the student government organization’s authority to manage and disburse student fees for a period of one year.”

Syllabus Statements

As an institution, the university will have a First Amendment-related syllabus statement provided in each syllabus or within the university's Learning Management System for applicable courses. The syllabus statement will reflect support for the First Amendment, to "foster a learning environment where open inquiry and the vigorous debate of a diversity of ideas are encouraged", and support students with regard to classroom conduct consistent with the First Amendment. The syllabus statement will be reviewed at the beginning of each course, e.g., by providing the syllabus or making the syllabus available to students of the course. ([BOR Free Speech Committee recommendations, 2/24/2021, pp. 4-5 of BOR minutes \[https://www.iowaregents.edu/media/cms/0421_ITEM_2a_February_24_Minutes_B22FB73FDBBA9.pdf\]](#)) For example, see the "Free Speech Syllabus Statement" at [https://provost.uni.edu/syllabus-statements](#) [[https://provost.uni.edu/syllabus-statements](#)].

Education/Training

The university will provide First Amendment-related educational opportunities or training to members of the university community, i.e., UNI faculty, staff, and students, on at least an annual basis. The educational/training programs and material will assist university community members with a better understanding of the concepts relating to free expression under the federal, state, and UNI requirements.

Procedures:

Non-compliance – Reporting and Process

An individual alleging a violation of the First Amendment under this policy is encouraged to discuss the allegation with the head of the department or unit in which the alleged violation occurred (this may include the academic dean, if applicable) to pursue an informal resolution of the issue. If the department/unit head is the person alleged to be in violation or if the department/unit is not known by the individual alleging a violation, the individual should contact the appropriate office listed below.

In the event an informal resolution is not reached, is not appropriate, or is not pursued, the person alleging the violation should contact the appropriate office listed below to initiate a formal complaint.^[1]^[#_ftn1]

- The Office of the Dean of Students if the alleged violation relates to the misconduct of a student or student organization, and/or the [UNI Student Conduct Code \(UNI policy 3.02 \[https://policies.uni.edu/302\]\)](#); or
- The Office of the Executive Vice President and Provost if the individual who is allegedly violating this policy is a faculty member and/or academic administrator; or
- Human Resource Services in all other cases (e.g., staff members, university volunteers, third party vendors and contractors, and visitors).

The following outlines the general process for initiation and investigation of a formal report or complaint:

1. The complainant completes a reporting form ([https://cm.maxient.com/reportingform.php?UnivofNorthernIowa&layout_id=10](#) [[https://cm.maxient.com/reportingform.php?UnivofNorthernIowa&layout_id=10](#)]) and/or visits with the appropriate office personnel listed above, and provides sufficient detail of the facts and circumstances, including dates of acts believed to violate this policy and names of relevant persons, to enable an investigation into the alleged violation. Reports or complaints not filed in a timely manner or without sufficient information regarding the situation may be difficult to investigate because of the potential loss or lack of evidence, witnesses, etc.
2. If the alleged violation relates to the misconduct of a student or student organization, then the [Student Conduct Code \[https://policies.uni.edu/302\]](#) process will be followed.
3. In situations not involving the alleged misconduct of a student or student organization, receipt of the reporting form will be acknowledged in writing by the appropriate office receiving the report. The office will make a preliminary assessment of the report to determine whether it includes information or allegations that, if true, could reflect a violation of the First Amendment. That office will obtain additional information if deemed necessary to determine whether the report will be investigated. If the office determines the information or allegations contained in the report would not be a violation, the report will not be processed further at UNI. The person who initiated the report will be notified if the report will be investigated or will not be processed further at UNI.

4. If the report will be investigated, the appropriate office will notify the person who initiated the report, the person alleged to have violated the policy and that person's department head/director, dean (if applicable), and division head.
5. An investigator will be appointed by the head (or designee) of the appropriate office as listed above.
6. The person investigating the report will typically meet with the person who initiated the report, the person or persons named in the report, and other persons who may have knowledge relevant to the investigation.
7. A finding will be made by the head (or designee) of the appropriate office based on the investigation and forwarded to the appropriate division head.

In the event there is a finding of a violation in relation to this policy applicable to a student or student organization, the Dean of Students or designee will determine appropriate disciplinary sanctions pursuant to the Student Conduct Code. If the finding of the violation applies to an undergraduate or graduate student in relation to their UNI student employment or graduate assistantship, as applicable, then the Dean of Students Office will also provide relevant information to the employing department or unit (in the case of a UNI student employee) or the division head (in the case of a UNI graduate assistant), for the application of any appropriate employment-related discipline. In all other cases and for graduate assistants when the finding relates to their graduate assistantship, in the event there is a finding of a violation under this policy, the division head of the person found to have violated the policy will determine appropriate disciplinary sanctions, in consultation with the Director of Human Resource Services for staff members, the Associate Provost for Faculty Affairs for faculty, or the Dean of the Graduate College for graduate assistants in relation to their graduate assistantship work.

Appeals of the UNI decision by either party may be made to the Board of Regents, State of Iowa, pursuant to their policies. See Board Policy Manual, section 1.7 (<https://www.iowaregents.edu/plans-and-policies/board-policy-manual/17-appeals-to-the-board>).

The Board of Regents, State of Iowa (BOR) also provides that an individual alleging a violation of the BOR policy may file a complaint with the BOR Executive Director. See Board Policy Manual section 4.2 and specifically, section 4.2 (J.) (<https://www.iowaregents.edu/plans-and-policies/board-policy-manual/42-freedom-of-expression>).

See also / related policies and resources:

UNI Free Speech web page (https://freespeech.uni.edu/?_ga=2.64453551.1290010647.1624851859-534399104.1598542573) (https://freespeech.uni.edu/?_ga=2.64453551.1290010647.1624851859-534399104.1598542573)

UNI policy 3.02 *Student Conduct Code* (<https://policies.uni.edu/302>) (<https://policies.uni.edu/302>)

UNI policy 3.03 *Personal Conduct Rules* (<https://policies.uni.edu/303>) (<https://policies.uni.edu/303>) and Iowa Administrative Code section 681-9.1 (262) *Uniform rules of personal conduct (BOR)* (<https://www.legis.iowa.gov/docs/iac/agency/681.pdf>) (<https://www.legis.iowa.gov/docs/iac/agency/681.pdf>)

UNI policy 3.10 *Registration of Student Organizations* (<https://policies.uni.edu/310>) (<https://policies.uni.edu/310>)

UNI policy 6.10 *Academic Freedom, Shared Governance, and Academic Responsibility* (<https://policies.uni.edu/610>) (<https://policies.uni.edu/610>) and BOR Policy Manual section 3.9 *Academic Freedom* (<https://www.iowaregents.edu/plans-and-policies/board-policy-manual/39-academic-freedom>) (<https://www.iowaregents.edu/plans-and-policies/board-policy-manual/39-academic-freedom>)

UNI policy 8.05 *Posting of Non-Commercial Signs and Displays* (<https://policies.uni.edu/805>) (<https://policies.uni.edu/805>)

UNI policy 10.09 *Federal and State Lobbying and Political Activity* (<https://policies.uni.edu/1009>) (<https://policies.uni.edu/1009>)

UNI policy 13.02 *Discrimination, Harassment, and Sexual Misconduct* (<https://policies.uni.edu/sites/default/files/13.02.pdf>) (<https://policies.uni.edu/sites/default/files/13.02.pdf>)

UNI policy 13.08 *Speakers and Programs On Campus* (<https://policies.uni.edu/1308>) (<https://policies.uni.edu/1308>)

Code of Iowa Chapter 261H *Speech and Expression—Public Institutions of Higher Education* (<https://www.legis.iowa.gov/docs/code/261H.pdf>) (<https://www.legis.iowa.gov/docs/code/261H.pdf>)

BOR Policy Manual section 4.2 *Freedom of Expression* (<https://www.iowaregents.edu/plans-and-policies/board-policy-manual/42-freedom-of-expression> [<https://www.iowaregents.edu/plans-and-policies/board-policy-manual/42-freedom-of-expression>])

Office of University Counsel, approved August 2021

University Council, approved November 15, 2021

President and President's Cabinet, approved November 29, 2021

[*Last reviewed and/or updated 11/2021, 9/1990*]

[1] ^[#_ftnref1] If a matter involves a possible violation of a discrimination or harassment policy, such as UNI policy 13.01 (*Affirmative Action*), 13.02 (*Discrimination, Harassment, and Sexual Misconduct*), 13.03 (*Equal Opportunity & Non-Discrimination Statement*), or 13.15 (*Accommodations of Disabilities*), then the person should contact the UNI Office of Compliance and Equity Management.