

System-wide Policy: BT0021 - Policy Affirming Principles of Free Speech for Students and Faculty	
Version: 1	Effective Date: 11/03/2017

BOARD OF TRUSTEES
POLICY AFFIRMING PRINCIPLES OF FREE SPEECH
FOR STUDENTS AND FACULTY

SECTION 1. PURPOSE

This purpose of this policy is to affirm certain principles of free speech for students and faculty at The University of Tennessee in accordance with the First Amendment to the United States Constitution, Article I, Section 19 of the Tennessee Constitution, and the Campus Free Speech Protection Act.

SECTION 2. DEFINITIONS

- A. "Constitutional time, place and manner restrictions" means restrictions on the time, place, and manner of free speech that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution that are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy a significant University interest, and leave open ample alternative channels for the communication of the information or message to its intended audience.
- B. "Faculty" or "Faculty Member" means any person, whether or not the person is compensated by the University, and regardless of political affiliation, who is tasked with providing scholarship, academic research or teaching. For the purposes of this policy, "faculty" includes tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors and those in comparable positions, however titled. For the purposes of this policy, "faculty" does not include persons whose primary responsibilities are administrative or managerial.
- C. "Free Speech" means speech, expression, or assemblies protected by the First Amendment of the United States Constitution or Article I, Section 19 of the Tennessee Constitution, verbal or written, including but not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, carrying signs, displays, or circulating petitions. "Free speech" does not include the promotion, sale, or distribution of any product or service.
- D. "Student" means:

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1. An individual currently enrolled in a course of study at the University; and
2. An organization that is comprised entirely of individuals currently enrolled in a course of study at the University and is registered with the University pursuant to University rules.

SECTION 3. POLICY

The Board of Trustees of The University of Tennessee affirms the following principles of free speech with respect to University students and University faculty:

- A. Students have a fundamental constitutional right to free speech.
- B. The University must be committed to giving students the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to Section 4.
- C. The University must be committed to maintaining a campus as a marketplace of ideas for all students and all faculty in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the University's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrongheaded.
- D. It is for the University's individual students and faculty to make judgments about ideas for themselves, and to act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose.
- E. It is not the proper role of the University to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
- F. Although the University greatly values civility and mutual respect, concerns about civility and mutual respect must not be used by the University as a justification for closing off the discussion of ideas, however offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrongheaded those ideas may be to some students or faculty.

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- G. Although all students and all faculty are free to state their own views about and contest the views expressed on University property, and to state their own views about and contest speakers who are invited to express their views on University property, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject or even loathe. To this end, the University must promote a lively and fearless freedom of debate and deliberation and protect that freedom.

- H. The University must be committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all students and all faculty, who shall always remain free to inquire, to study and to evaluate, and to gain new understanding.

- I. The primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.

- J. Although faculty are free in the classroom to discuss subjects within areas of their competence, faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence or training and in which, therefore, faculty's views cannot claim the authority accorded statements they make about subjects within areas of their competence; provided, that no faculty will face adverse employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction.

- K. The University must maintain the generally accessible, open, outdoor areas of its campus as traditional public forums for free speech by students (i.e., limited public forums because the University has intentionally opened those areas for the limited purpose of free expression activities by a certain group, students).

NOTE: As stated in Chapter 1720-01-12 of the Rules of The University of Tennessee, University property is not a traditional public forum or a designated public forum for non-affiliated persons (persons or entities who are not University units, students, student organizations, employees, or volunteers) and thus is not

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open for use by non-affiliated persons, either by tradition or by University policy, for free expression activities, except as otherwise expressly provided in Chapter 1720-01-12.

- L. The University must not restrict students' free speech only to particular areas of a campus, sometimes known as "free speech zones."
- M. The University must not deny student activity fee funding to a student organization based on the viewpoints that the student organization advocates.
- N. The University must not establish permitting requirements that prohibit spontaneous outdoor assemblies or outdoor distribution of literature, although the University may maintain policies that grant members of the University community the right to reserve certain outdoor spaces in advance.
- O. The University must not charge students security fees based on the content of their speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to speech.
- P. The University must allow all students and all faculty to invite guest speakers to campus to engage in free speech regardless of the views of guest speakers.
- Q. The University must not disinvite a speaker invited by a student, student organization, or faculty member because the speaker's anticipated speech may be considered offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed by students, faculty, administrators, government officials, or members of the public.

SECTION 4. EXCEPTIONS

Nothing in this policy shall be construed as prohibiting the University from imposing measures that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution such as:

- A. Constitutional time, place, and manner restrictions;
- B. Reasonable and viewpoint-neutral restrictions in nonpublic forums;

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- C. Restricting the use of University property to protect the free speech rights of students and faculty and preserve the use of the property for the advancement of the University's mission;
- D. Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the United States Constitution or Article 1, Section 19 of the Tennessee Constitution; or
- E. Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by faculty.

SECTION 5. CAMPUS AND INSTITUTE POLICIES

University campuses and institutes must adopt policies on the use of University property that are consistent with this policy.

SECTION 6. ANNUAL PUBLICATION OF THIS POLICY

Campuses and institutes must make this policy available to students and faculty annually through one or more of the following methods:

- A. Published annually in the campus/institute student handbook and faculty handbook, whether paper or electronic;
- B. Made available to students and faculty by way of a prominent notice on the internet site for the campus/institute other than through the electronic publication of the policy in the student handbook and faculty handbook;
- C. Sent annually to students and employees to their University-provided email address; or
- D. Addressed by the campus/institute in orientation programs for new students and new faculty.