

RESOLUTION ON FREEDOM OF EXPRESSION

WHEREAS, freedom of expression “is the matrix, the indispensable condition, of nearly every other form of freedom;”ⁱ and

WHEREAS, the framers of the United States Constitution recognized that free speech is fundamental to maintaining liberty, cultivating an informed citizenry, and ensuring accountable government; and

WHEREAS, we believe the achievements and prosperity of the United States can be largely attributed to the vibrancy and excellence of American higher education; and

WHEREAS, our country’s higher education remains the model of extraordinary scholarship, discovery, and education worldwide, primarily because it was built on the foundation of free expression and academic freedom; and

WHEREAS, the hallmark of higher education is its position as the marketplace of ideas, where community members may freely express all ideas and viewpoints, but also where the merits of those ideas are subject to rigorous scrutiny and must withstand the challenge of open debate and critical examination.

THEREFORE, BE IT RESOLVED, as the governing body for the Utah System of Higher Education, the Utah Board of Higher Education affirms its commitment to free expression on our campuses and adopts the following principles of free expression for all institutions within the Systemⁱⁱ:

- i. The Board unequivocally upholds free and open inquiry and directs institutions to grant their community members broad latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on freedom of expression are appropriate for our institutions to function consistent with constitutional regulation of free speech, the Board fully respects and supports the freedom of all community members within the System “to discuss any problem that presents itself.”*
- ii. Invariably, an institution’s community members have ideas that will often—and in fact should—conflict. Institutions should not shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Indeed, institutions should promote a culture that encourages and celebrates forums in which individuals may express conflicting, controversial, or unpopular viewpoints. For the free exchange of ideas to flourish, however, all community members must commit to respecting opposing viewpoints and expressing contrary ideas with civility. While the Board encourages and expects civility, and although all members of our institutions’ communities share in the fundamental responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect should not justify silencing ideas, however offensive or disagreeable those ideas may be.*
- iii. The freedom to debate and discuss the merits of competing ideas does not mean that individuals may say whatever they wish, wherever they wish. Institutions may restrict expression that violates the law; that defames a specific individual; that constitutes a genuine threat, discrimination, or harassment; that unjustifiably invades legally protected privacy or confidentiality interests; that is directly incompatible with our institutions’ ability to achieve their primary missions; or that undermines the institution’s pedagogical objectivesⁱⁱⁱ. In addition, institutions may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the institution’s ordinary activities. But these are narrow exceptions to the general principle of freedom of expression, and institutions should not use these exceptions in a manner that is inconsistent with our commitment to the completely free and open discussion of ideas.*

- iv. *This commitment to protect and promote free expression does not grant individuals the right to use the free exchange of ideas as justification for interfering with another's right to free expression. Indeed, all members of our institutions' communities must also act in conformity with the principle of free expression. Although individuals are free to criticize and contest the views expressed on our campuses and to criticize and contest speakers who are invited to express their views on our campuses, they may not obstruct or otherwise interfere with the freedom of others to express views they reject. To this end, institutions have a solemn responsibility not only to promote the freedom to debate and scrutinize all ideas but also to protect that freedom when others attempt to restrict it, even when the ideas they are attempting to restrict conflict with widely-held positions within the campus community. To that end, institutions shall orient^{iv} all incoming students on their rights to free expression, their responsibilities in fostering the marketplace of ideas, and the consequences of interfering with the rights of free expression on campus.*

Dated this 18th day of May 2023.

Lisa Michele Church, Chair
Utah Board of Higher Education



Dave R. Woolstenhulme
Commissioner of Higher Education

Endnotes

ⁱ *Palko v. State of Connecticut*, 302 U.S. 319 (1937)

ⁱⁱ This resolution is based primarily on and, in part, incorporates directly the principles of free expression and academic freedom adopted by the University of Chicago in July 2014, commonly referred to as the "[Chicago Statement](#)," which has been adopted by over 80 institutions and systems throughout the country, including Southern Utah University.

ⁱⁱⁱ *Pompeo v. Board of Regents of the University of New Mexico*, 852 F3rd. 973 (10th Cir 2017)

^{iv} Attached is a model [letter of orientation](#) based on a letter provided to all incoming students to the University of Chicago.