



Policy Title: GE2035 - Affirming Principles of Free Speech for University Students and Faculty (INTERIM)

Subject Area: General

Responsible Official(s): Dean of Students

Responsible Office(s): Office of the Provost

Policy Statement

The University of Memphis ("University") is committed to the freedom of speech and expression for the University community as set forth in the First Amendment of the United States Constitution and Article 1, Section 19, of the Tennessee Constitution.

Definitions

Constitutional time, place and manner restrictions - Restrictions on the time, place, and manner of free speech that do not violate the First Amendment of the United States Constitution or Article 1, Section 19 of the Tennessee Constitution that are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy a significant institutional interest, and leave open ample alternative channels for the communication of the information or message to its intended audience.

Faculty or Faculty Member - Any person, whether or not 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.

Student - An individual currently enrolled in a course of study at the University; and

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An organization that is comprised of individuals currently enrolled in a course of study at the University and is registered with the University.

Free Speech - Speech, expression, or assemblies protected by the First Amendment of the United States Constitution or Article 1, 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.

Policy

University's General Commitment

The University is committed to maintaining its campus as a marketplace of ideas for all students and 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 community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.

Students have a fundamental constitutional right to free speech and the University is committed to giving students the broadest latitude to speak, write, listen, challenge, learn, and discuss any issues, subject to limitations set forth in this policy, state, or federal law.

Students and faculty should make judgments about ideas for themselves, and act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose.

While the University greatly values civility and mutual respect, concerns about civility and mutual respect will never 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 wrong-headed. The University recognizes that it is not its role 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.



Although all students and faculty are free to state their own views about and contest the views expressed on campus, and to state their own views and contest speakers who are invited to express their views on the University's campus, 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 will promote a lively and fearless freedom of debate and deliberation and protect that freedom.

The University has adopted the principles outlined in the Chicago Statement on Freedom of Expression developed by the Committee on Freedom of Expression at the University of Chicago in 2015.

"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."

In addition, the University supports the principles of the Kalven Report (1967) concerning the University's role in political and social action.

"The instrument of dissent and criticism is the individual faculty member or the individual student. The university is the home and sponsor of critics; it is not itself the critic. It is, to go back once again to the classic phrase, a community of scholars. To perform its mission in the society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its own community. It is a community but only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby."

"Since the university is a community only for these limited and distinctive purposes, it is a community which cannot take collective action on the issues of the day without endangering the conditions for its existence and effectiveness. There is no mechanism by which it can reach a collective position without inhibiting that full freedom of dissent on which it thrives. It cannot insist that all of its members favor a given view of social policy;



if it takes collective action, therefore, it does so at the price of censoring any minority who do not agree with the view adopted. In brief, it is a community which cannot resort to majority vote to reach positions on public issues."

Faculty Responsibilities

Faculty play an integral role in the University's exercise of the principles of free speech. 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.

Although faculty are free to discuss subjects within areas of their competence in the classroom, they must be cautious in expressing personal views in the classroom and must 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 the statements they make about subjects within areas of their competence. 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.

What the University Will Do

In recognition of its commitment to the principles of free speech, the University will:

- Provide an atmosphere that is conducive to speculation, experimentation, and creation by all students and faculty, who shall always remain free to inquire, study, evaluate, and gain new understanding.
- Maintain the generally accessible, open, outdoor areas of its campus as traditional public forums for free speech by students and will not restrict students' free speech only to particular areas of the campus.
- Allow all students and faculty to invite guest speakers to campus to engage in free speech regardless of the views of guest speakers.

What the University Will Not Do

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In recognition of its commitment to the principles of free speech, the University will not:

- Establish permitting requirements that prohibit spontaneous outdoor assemblies or outdoor distribution of literature, although the University reserves the right by policy to allow members of the University community to reserve certain outdoor spaces in advance;
- Restrict students' free speech only to particular areas of the campus, sometimes known as "free speech zone";
- Deny student activity fee funding to a student organization based on the viewpoints that the student organization advocates;
- 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. However, nothing in this Policy requires the University to fund costs associated with student speech or expression; or the anticipated reaction or opposition of listeners to speech. The University will not require a student group to pay fees that are not charged to other student groups.
- Disinvite a speaker invited by a student organization or faculty member, or require a student organization or faculty member to disinvite a speaker, in response to threatened protests or opposition from students or faculty or because of the viewpoints expressed or espoused by the speaker; or
- Prohibit a student organization or faculty member from inviting a speaker to campus or restrict a student organization or faculty member in its choice of invited speakers.

Policy Limitations

Nothing in this Policy shall be construed as prohibiting the University from imposing measures that do not violate the First Amendment of the United States Constitution or Article 1, Section 19 of the Tennessee Constitution, including, but not limited to:

- Constitutional time, place and manner restrictions;
- Reasonable and viewpoint-neutral restrictions in nonpublic forums;
- Restricting the use of the University's property to protect the speech and rights of students and faculty and preserve the use of the property for the advancement of the institution's mission;

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- Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment of the United States Constitution or Article 1, Section 19 of the Tennessee Constitution; or
- Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by faculty.
- Nothing in this Policy shall be construed to grant students the right to disrupt previously scheduled or reserved activities occurring in a traditional public forum.

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