

Resolution

Recognizing Commitment to Institutional Neutrality and Freedom of Speech and Expression

WHEREAS, The Board of Trustees of The University of Alabama (hereinafter “the Board”), through the University of Alabama System and its component divisions (The University of Alabama, The University of Alabama at Birmingham (“UAB”), The University of Alabama in Huntsville, and the UAB Health System and, collectively, the “System”), is responsible for providing the State of Alabama comprehensive undergraduate, graduate and professional programs, worldclass healthcare, and other instructional, research, and service programs; and

WHEREAS, in the exercise of the Board’s constitutional authority and discretion to manage and control the System, and consistent with its mission and responsibility, the Board seeks to reaffirm its commitment to institutional neutrality and the First Amendment right of free speech and expression, as set forth herein;

NOW, THEREFORE, BE IT RESOLVED that the Board is committed to free and open inquiry. Except as limitations on that freedom are appropriate to the functioning of the System as permitted by the First Amendment to the Constitution of the United States, the Board respects and supports the freedom of all members of the System community “to discuss any problem that presents itself.”

The ideas of different members of a campus community will often and quite naturally conflict. Exposing members of the System community to diversity of thought is a quintessential function of the System. Therefore, it is not the proper role of an institution to shield or attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although great value is placed on civility, and while all members of the System community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used to justify closing off the otherwise lawful discussion of ideas, however offensive or disagreeable those ideas may be to some.

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 Board may, for example, restrict expression that violates the law, falsely defames a specific individual, constitutes a genuine threat or harassment, unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise incompatible with the functioning of the System. Likewise, the Board has a significant interest in protecting the educational experience of all of its students, ensuring health, safety, and order, regulating competing uses of its facilities and grounds, and protecting the safety, security and wellbeing of all members of the campus community with the right to use its facilities and grounds to engage in protected speech, among other significant interests. As a result, the Board may reasonably regulate the time, place, and manner of expression in a viewpoint-neutral manner to ensure that these interests are protected and that expression does not disrupt the ordinary activities of the System. These are 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 commitment to a free and open discussion of ideas.

In short, the Board'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 System community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the System community, not for the Board, to make those judgments for themselves and to act on those judgments not by seeking to suppress speech, but by openly debating the ideas that they oppose. Indeed, fostering the ability of members of the System community to engage in such debate and deliberation in an effective and responsible manner on their campuses is an essential part of the Board's mission.

As a corollary to this commitment to protect and promote free expression, members of the System community must also act in conformity with the principle of free expression. Although members of the System community are free to criticize and intellectually challenge views that are expressed and to appropriately debate speakers who are invited to express their views, they may not obstruct or otherwise significantly interfere with the freedom of others to express views they reject or even loathe. To this end, the Board 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.

Finally, to safeguard the freedom of speech and expression for members of the System community, the System itself must remain neutral on political and social issues unless the issue directly affects any aspect of the System's core operations. Taking institutional positions on an issue or making statements about it risks alienating members of the System community and destroying the intellectually independent environment upon which the System thrives. It is for the Board to decide what issues directly affect aspects of the System's core operations, so members of the System community exercising their First Amendment rights should make clear they do not speak on behalf of the System, its component divisions, or any administrative unit within the System.

BE IT FURTHER RESOLVED that the Board of Trustees of The University of Alabama will continue to exercise its broad power, granted by the Constitution of Alabama, to manage and control the institution's activities, affairs, operations, business, and property. *See Ala. Const. Art. XIV, §264, as amended by Amendment 399. See also Ala. Code §16-47-34; Opinion of the Justices*, 417 So.2d. 946, at 947 (Ala. 1982); Opinion of the Alabama Attorney General 2019-029 (March 20, 2019).