

**RECOMMENDED STATEMENT:
UNIVERSITY OF MISSOURI “COMMITMENT TO FREE EXPRESSION”**

Submitted by

Ad Hoc Joint Committee on Protests, Public Spaces, Free Speech, and the Press

March 10, 2016

COMMITMENT TO FREEDOM OF EXPRESSION¹

Freedom of expression is indispensable to a university’s ability to transmit knowledge and is fundamental to the ability of members of a university community to discover, explore, interpret, and question knowledge. As recognized by the Supreme Court of the United States over a half-century ago, “[t]he essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. . . . Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise, our civilization will stagnate and die.”

Because the University of Missouri (“University”) is committed to free and open inquiry in all matters, it is uncompromising in its efforts to provide all members of the University’s academic enterprise the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University,

¹ *References and Notes.* This statement relies heavily upon and quotes extensively from the final *Report of the Committee on Freedom of Expression* at the University of Chicago (“Chicago Statement”). As of March 2016, portions of the Chicago Statement have been adopted verbatim, or nearly so, by Purdue University and Princeton University, and substantial portions have also been adopted by the University of Wisconsin System. The quotation in the first paragraph is from the Supreme Court’s opinion in *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). The University of Missouri’s commitment to free and open inquiry has been expressed on prior occasions, as in, for example, CCR 330.030(A), Right of Free Expression, and CCR 330.020, Civic Responsibility. The quotation in the second paragraph is found in a letter written by former University of Chicago President Robert M. Hutchins, and is quoted in the Chicago Statement. The quotation from Justice Holmes appears in his dissenting opinion in *U.S. v. Schwimmer*, 279 U.S. 644, 654-55 (1929). Representative Supreme Court decisions affirming the principles at the end of the fourth paragraph with regard to time, place, and manner restrictions are *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 292 (1984), *McCullen v. Coakley*, 134 S.Ct. 2518, 2529 (2014), and *Ward v. Rock Against Racism*, 491 U.S. 781, 791-92 (1989), and, with respect to the requirement of nondiscriminatory application and administration, *Brown v. Louisiana*, 383 U.S. 131, 143 (1966). This “Commitment to Freedom of Expression” incorporates the following by reference: CCR 320.010 Equal Employment/Educational Opportunity Policy; CCR 600.020 Sex Discrimination, Sexual Harassment and Sexual Misconduct in Education/Employment Policy.

the University fully respects and supports the freedom of all members of the academy “to discuss any problem that presents itself.”

Of course, 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. The University greatly values civility, and all members of the University community share in the responsibility for maintaining a climate of mutual respect. But concerns about civility and mutual respect can never be used as a justification for closing off the discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community. As Justice Oliver Wendell Holmes wrote, “if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought – not free thought for those who agree with us but freedom for the thought that we hate.”

There are narrow exceptions to the general principle of freedom of expression. The freedom to debate and discuss the merits of competing ideas does not mean that individuals may say whatever they wish, wherever they wish. The University may 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 is otherwise directly incompatible with the functioning of the University. Nor does freedom of expression create a privilege to engage in discrimination involving unwelcome verbal, written, or physical conduct directed at a particular individual or group of individuals on the basis of actual or perceived status, or affiliation within a protected status, and so severe or pervasive that it creates an intimidating or hostile environment that interferes with an individual’s employment, education, academic environment, or participation in the University’s programs or activities. 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 addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not significantly disrupt the University’s ordinary activities. As the Supreme Court has frequently stated, restrictions on expression are valid when they are justified without reference to the content of the regulated speech, are narrowly tailored to serve a significant governmental

interest, and leave open ample alternative channels for communication of the information. They must be applied in a nondiscriminatory manner and administered with equality to all.

Thus, 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. Individual members of the University community, not the University as an institution, should make their own moral judgments about the content of constitutionally protected speech, and should express these judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas 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 to undertake all reasonable measures 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.