



July 30, 2015

Bruce MacLennan
Faculty Senate President-Elect
University of Tennessee at Knoxville
550 Min H. Kao Building
Knoxville, Tennessee 37996

RE: Endorsing the University of Chicago's Report of the Committee on Freedom of Expression

Dear Professor MacLennan,

My name is Will Creeley. I'm the Vice President for Legal and Public Advocacy for the Foundation for Individual Rights in Education (FIRE; thefire.org), a nonpartisan, nonprofit organization dedicated to defending student and faculty rights. I write today to ask for your help in ensuring that the University of Tennessee at Knoxville remains true to academic freedom and free expression, crucially important values that are under threat at campuses nationwide. Please take action to protect student and faculty rights by endorsing a recent policy statement from the Committee on Freedom of Expression at the University of Chicago.

Faculty members regularly face investigation and censorship, in contravention of the First Amendment and institutional promises of free speech. The past academic year alone provides a depressing number of examples. At Northwestern University, Professor Laura Kipnis endured a months-long Title IX investigation simply for publishing an essay in *The Chronicle of Higher Education* in which she discussed a high-profile sexual assault case. At Marquette University, Professor John McAdams faces termination for criticizing a graduate student lecturer's pedagogy. Chicago State University administrators enacted a new "cyberbullying" policy specifically to silence the *CSU Faculty Voice*, a blog maintained by Professors Phillip Beverly and Robert Bionaz that has been critical of university leadership. And at Illinois's Oakton Community College, lecturer Chester Kulis received a cease-and-desist letter from college attorneys who claim his passing email reference to the Haymarket Riot constitutes a "true threat" to the college president.

Students are also routinely subjected to administrative censorship of their expression. As with faculty, examples abound. Iowa State University administrators censored T-shirts created by the university's student chapter of the National Organization for the Reform of Marijuana

Laws by enacting a retroactive rule barring use of the school's name to promote "dangerous, illegal or unhealthy products, actions or behaviors." At the University of Hawaii at Hilo and California's Citrus College, student protests against National Security Agency spying were relegated to tiny and remote "free speech zones." California State Polytechnic University, Pomona prevented a student from handing out animal rights flyers because he hadn't obtained the badge that the university requires students to wear while handing out literature to their peers. (Each of these infractions prompted First Amendment lawsuits coordinated by FIRE.)

These examples—just a few of many—demonstrate in depressing detail how far our colleges and universities have strayed from their invaluable role as true marketplaces of ideas. Worst of all, these aren't isolated instances of rogue administrators censoring speech; rather, they reflect administrators faithfully enforcing institutional policy. FIRE's most recent survey of college and university policies found that more than 55 percent of institutions maintain restrictive speech codes that flatly prohibit protected speech. For students and faculty, the message is clear: Speaking your mind means putting your education or career at risk.

We cannot accept censorship on campus. Free speech and academic freedom are too critical to the health of our democratic society to be lost without a fight—and faculty members must play a crucial role in their defense. To ensure that our institutions of higher learning remain devoted to unfettered inquiry and the search for truth, FIRE is asking faculty to join us in endorsing the policy statement introduced this past January by the University of Chicago's Committee on Freedom of Expression.

The Committee's powerful articulation of the importance of campus free speech precisely identifies the principles that must guide institutions committed to greater understanding through dialogue and debate. The Committee states:

Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community 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, the University of Chicago fully respects and supports the freedom of all members of the University community "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. 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.

A complete copy of the Committee's report is attached.

Other colleges and universities have adopted sections of the report as operative policy since its introduction in January. In April, 60 members of the Princeton University faculty proposed that the institution adopt the central text of the report. Following a faculty vote, the text now appears in Princeton's "Rights, Rules, Responsibilities" policy handbook. In May, Purdue University also made the report's central commitments binding university policy.

I ask that you pledge to help add the University of Tennessee at Knoxville to this list by introducing a motion to adopt the University of Chicago principles at your next faculty meeting.

If colleges and universities nationwide were to follow the excellent example of the University of Chicago, Princeton University, and Purdue University, the now-commonplace censorship of student and faculty expression would face a powerful new challenge. Backed by a strong commitment to freedom of expression and academic freedom, faculty would be free to follow their research interests where they may lead and could challenge themselves, each other, and the public to consider new possibilities. Likewise, students would no longer face punishment for exercising their right to speak out about the issues most important to them. Instead of

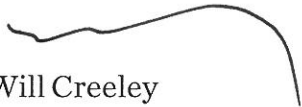
learning that voicing one's opinions invites censorship, students would be taught that spirited debate is a vital necessity for the advancement of knowledge and understanding.

With the leadership of faculty members like yourself, we can finally repudiate censorship on campus in a lasting, meaningful way. But this will happen only with your participation. Free speech and academic freedom will not protect themselves.

If you are willing to work towards the adoption of the University of Chicago principles at the University of Tennessee at Knoxville, please let me know via letter, email (will@thefire.org), or phone (215-717-3473). Of course, if you have any questions about this initiative or FIRE's work on behalf of student and faculty rights, do not hesitate to contact me.

I look forward to hearing from you on this important matter, and I thank you in advance for your consideration of my request.

Sincerely,



Will Creeley
Vice President of Legal and Public Advocacy

Encl.

Report of the Committee on Freedom of Expression

The Committee on Freedom of Expression at the University of Chicago was appointed in July 2014 by President Robert J. Zimmer and Provost Eric D. Isaacs “in light of recent events nationwide that have tested institutional commitments to free and open discourse.” The Committee’s charge was to draft a statement “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.”

The Committee has carefully reviewed the University’s history, examined events at other institutions, and consulted a broad range of individuals both inside and outside the University. This statement reflects the long-standing and distinctive values of the University of Chicago and affirms the importance of maintaining and, indeed, celebrating those values for the future.

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University’s culture. In 1902, in his address marking the University’s decennial, President William Rainey Harper declared that “the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago” and that “this principle can neither now nor at any future time be called in question.”

Thirty years later, a student organization invited William Z. Foster, the Communist Party’s candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that “our students . . . should have freedom to discuss any problem that presents itself.” He insisted that the “cure” for ideas we oppose “lies through open discussion rather than through inhibition.” On a later occasion, Hutchins added that “free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities.”

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated “those virtues which from the beginning and until now have characterized our institution.” Central to the values of the University of Chicago, Levi explained, is a profound commitment to “freedom of inquiry.” This freedom, he proclaimed, “is our inheritance.”

More recently, President Hanna Holborn Gray observed that “education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.”

The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community 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, the University of Chicago fully respects and supports the freedom of all members of the University community “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. 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.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago's long-standing commitment to this principle lies at the very core of our University's greatness. That is our inheritance, and it is our promise to the future.

Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law,
Chair

Marianne Bertrand, Chris P. Dialynas Distinguished Service Professor of
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Mark Siegler, Lindy Bergman Distinguished Service Professor of Medicine and
Surgery

David A. Strauss, Gerald Ratner Distinguished Service Professor of Law

Kenneth W. Warren, Fairfax M. Cone Distinguished Service Professor,
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Amanda Woodward, William S. Gray Professor, Department of Psychology
and the College