

# SOUTH DAKOTA BOARD OF REGENTS

## Policy Manual

**SUBJECT:** Commitment to Freedom of Expression

**NUMBER:** 1:32

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### **A. PURPOSE**

To express the Board's commitment to the principles of expression protected by the First Amendment to the U.S. Constitution

### **B. DEFINITIONS**

**1. Intellectual diversity:** Intellectual diversity denotes a learning environment that exposes students to and encourages exploration of a variety of ideological and political perspectives.

### **C. POLICY**

The Board and its institutions have a long history of commitment to the principles of free expression and encourage the timely and rational discussion of topics whereby the ethical and intellectual development of the student body and general welfare of the public may be promoted.

Freedom of expression includes the right to discuss and present scholarly opinions and conclusions on all matters both in and outside the classroom without Board or institutional discipline or restraint. This freedom includes the right to speak and write as a member of the institutional communities governed by the Board or as a private citizen on matters of public concern. The Board and its institutions are committed to these principles and provide all members of their community the latitude to explore ideas and to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the institution, the Board fully respects and supports the freedom of all members of the institutions' community to discuss any problem or issue that presents itself.

The ideas of different members of the institutions' community will often and quite naturally conflict, and some individual's ideas will even conflict with the institutions' values and principles. But it is not the proper role of the Board or the institutions to attempt to shield individuals from viewpoints they find unwelcome, disagreeable, or even deeply offensive. To be clear, the Board greatly values and is responsible for upholding a culture of civility at its institutions. All members of the institutions' community share in the responsibility for maintaining a climate of mutual respect. Such a climate is essential to First Amendment principles of academic freedom and freedom in learning, as both principles rely on the

discursive order and restraint from disruption that civility demands of each of us. Yet, while the manner in which ideas are conveyed may be uncivil and disrespectful, ideas, themselves, are not. In other words, 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 institutions' community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever, whenever, and wherever they wish. The institutions may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the institution, including any limited public or nonpublic forum it creates. In addition, the institution may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the institution. 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 Board's commitment to a free and open discussion of ideas.

It is the Board's fundamental commitment to the principle that viewpoints may not be suppressed because the ideas put forth are thought by some or even by most members of the institutions' community to be offensive, unwise, immoral, or wrong-headed. Controversial speech and robust debate are expected and valued at the institutions. The right to engage in such expression is one of the rights protected by the United States Constitution. Indeed, encouraging intellectual diversity in faculty and fostering the ability of members of the institutions' community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the institutions' educational missions.

As a corollary to the Board's commitment to protect free expression, and as suggested by the above discourse on civility, members of the institutions' community must also act in conformity with the responsibilities of free expression. Although members of the institutions' 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 conduct of the institutions or the freedom of others to express views they reject or even loathe. To this end, the Board and the institutions have a 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.

Accordingly, the Board will adopt and interpret policies consistent with this commitment and institutions will ensure their policies and procedures uphold the commitment contained herein and within the policies adopted by the Board setting forth reasonable time, place, and manner restrictions.

This policy shall not be interpreted in any manner to: (i) mandate new funding by institutions to ensure its enforcement, (ii) limit the authority and responsibility of faculty to maintain pedagogical order in the classroom, or (iii) abridge the rights provided in BOR Policy 1:11.

On or before November 1<sup>st</sup> of each year, each institution shall provide a report to the Executive Director on institutional activities germane to this policy, which shall include: (i) all actions taken by the institution to promote and ensure intellectual diversity and the free exchange of ideas, and (ii) a description of any events or incidents that impeded intellectual diversity and the free exchange of ideas.

**FORMS / APPENDICES:**

None

**SOURCE:**

(RR, 12:02, 1977); BOR March 1993; BOR December 2018; BOR August 2019.