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## A RESOLUTION ON FREEDOM OF EXPRESSION IN HIGHER EDUCATION

WHEREAS, the general supervision of the state educational institutions of the state of Idaho is vested in the State Board of Education pursuant to Article IX, §2 of the Idaho Constitution and Idaho Code § 33-101; and

WHEREAS, the State Board of Education serves as the Board of Regents of the University of Idaho (Article IX, §10 of the Idaho Constitution; Idaho Code § 33-2802), and the Board of Trustees of Idaho State University (Idaho Code § 33-3003), Boise State University (Idaho Code § 33-4002), and Lewis-Clark State College (Idaho Code § 33-3102); and

WHEREAS, the Board affirms that “in addition to constitutionally protected freedoms of speech, assembly, and religion, students and faculty have the right to engage in free inquiry, intellectual debate, and freedom of scholarship both on and off campus” (Board Policy III.B.); and

WHEREAS, the Board affirms that “students and faculty have the right to express opinions and provide feedback concerning institutional governance and administration without fear of censorship or retaliation” (Board Policy III.B.); and

WHEREAS, the Board affirms that “students have the right to express personal opinions about concepts and theories presented in their courses and to disagree with opinions expressed by faculty and fellow students” (Board Policy III.B.); and

WHEREAS, the Board affirms that “students may not be directed or otherwise compelled to personally affirm, adopt or adhere to any particular political, religious or philosophical tenet or ideology ” (Board Policy III.B.); and

WHEREAS, the Board affirms that faculty, students, and the institutions each enjoy certain tenets of academic freedom but are also bound to equally important tenets of academic responsibility (Board Policy III.B.); and

WHEREAS, the Board affirms the rights and responsibilities of faculty to determine what and how to teach in their courses free from administrative or political influence, but within the bounds of academic freedom and academic responsibility, institutional policies, and relevant state and federal laws; and

WHEREAS, the Board affirms that academic freedom does not protect faculty from student challenges to, or disagreement with, instructional methods and content choices; does not protect faculty or students from penalties for violating the law; does not confer the right to faculty or students to violate institutional policies; does not protect faculty or students from disciplinary action consistent with institutional and Board policies; does not protect faculty or students from sanctions or dismissal for professional misconduct or poor performance; and does not protect faculty or students from investigations into allegations of or discipline for scientific misconduct or other violations of institutional or Board policy (Board Policy III.B); and

WHEREAS, the Board values curricular transparency to ensure students have full self-determination in making academic choices, and affirms that all educational content produced by faculty in the course of their duties as public employees of the state of Idaho are public documents (Board Policy V.M.); and

WHEREAS, the Board desires to set expectations for how institutions will implement the broad principles of free expression and academic responsibility operationally through specific policies, practices, and procedures;

NOW, THEREFORE, BE IT RESOLVED that the Board establishes the following expectations and directives to further its commitment to promoting and preserving free expression within the postsecondary institutions it governs and cultivating a thriving marketplace of ideas:

Institutions shall establish and maintain policies, practices and procedures that will

- Maintain political neutrality. Institutions, as governmental entities, or employees acting in their official capacities as representatives of the institution must refrain from taking public positions on political, social, or unsettled issues that do not directly relate to the institution's mission, role, or pedagogical objectives. This does not mean faculty, staff, or students must remain neutral; indeed, institutions should promote a culture that encourages and celebrates forums in which faculty, students, staff, and community members may express conflicting, controversial, or unpopular viewpoints. A fundamental mission of higher education is to promote the exchange of knowledge and ideas through teaching, research, critical evaluation, civil discourse, and debate. Neutrality as an entity allows the institution to protect this mission by supporting those who engage in open, rigorous debate without disaffecting segments of its faculty, staff, and students whose sincerely held beliefs conflict with others. The institution can thereby fulfill its responsibility to be an impartial steward of the marketplace of ideas in which sincerely held viewpoints are subject to rigorous scrutiny and must withstand the challenge of open debate and critical examination on their own merits, not the institution's endorsement.
- Protect a speaker's right to free expression, including controversial, unpopular, or offensive expression. This includes prohibiting individuals or groups from substantially disrupting others' protected expression. Institutions have a solemn responsibility not only

to promote the freedom to debate and scrutinize all ideas in appropriate forums but also to protect that freedom when others attempt to restrict it.

- Protect the educational, research, service, housing and other legitimate functions of the institution by implementing limited and reasonable restrictions on the time, place, and manner of speech to avoid disruption or materially interfering with the normal operation of the institution.
- Protect the safety of campus and the institution's property by prohibiting conduct that violates fire and safety regulations, impedes the normal flow of pedestrian or vehicular traffic, or violates laws or regulations.
- Protect the safety of those participating in constitutionally protected speech on campus by working with security personnel and campus or local law enforcement to establish procedures and criteria for determining when and how it is appropriate for the institution to intervene in a forum for free expression for the sake of public safety.
- Provide processes for reserving spaces, hosting events, and for addressing disputes that may arise over free expression.
- Provide a process for an institution to address, condemn, or prohibit expression that is not constitutionally protected such as that which causes physical harm, damages property, incites violence or illegal activity, constitutes a genuine threat, discriminates, harasses, or otherwise violates the law or institutional policy.
- Protect and cultivate academic freedom and academic responsibility. Faculty must be free to investigate, research, discuss, publish, and teach within their academic expertise and on topics relevant to course curricula without interference from institutional administrators, elected officials, governing boards, or other entities. Political neutrality should not be interpreted to allow for restrictions on curriculum, research, expression germane to research or curriculum or to otherwise restrain academic exploration within the bounds of traditional academic freedom and academic responsibility.
- Introduce campus communities to diverse viewpoints, including inviting speakers, sponsoring symposiums and lectures, or presenting other opportunities to hear differing perspectives and ideas. To provide these opportunities policies shall be developed that include criteria to avoid making decisions related to speakers or events on the basis of opposition to the viewpoint(s) being expressed or that a viewpoint is controversial, and criteria to avoid prohibiting a speaker's presence or an event on campus because it may generate concerns about security and public safety. These policies and procedures should

include clear, objective, narrow, and content-neutral criteria for determining security costs charged to a speaker, event organizer, or a sponsoring entity.

- Establish a program designed to educate new students, faculty, and staff about the institution's role as the marketplace of ideas; what constitutes protected speech and what does not; when the institution may intervene in free expression activities, such as when they involve direct threats, violence, illegal harassment or discrimination; how to appropriately express viewpoints through events, such as protests, parades, or other events, including an explanation of the institution's time, place and manner restrictions; and the institution's policies prohibiting the disruption of others' rights to free expression, including shouting down speakers or blocking speakers' access to a forum. The scope and medium in which the institution delivers this program may be tailored to the institution's mission and role.

BE IT FURTHER RESOLVED that each institution shall make curricular information about each course available to the public digitally in a manner that shall be defined in Board policy.

BE IT FURTHER RESOLVED that the resolutions contained herein shall be implemented by June 30, 2025.

ADOPTED and APPROVED by the Idaho State Board of Education, December 18, 2024.

  
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Linda Clark, President