TO: The University Senate
FROM: Senate Equity & Diversity Committee
SUBJECT: Recommendations for Interpreting the Board of Trustees’ Statement on Freedom of Expression
DISPOSITION: University Senate Vote
REFERENCES: Board of Trustees Resolution on the “Chicago Principles”

Whereas, the University Senate strongly affirms the importance of the Freedom of Expression to the mission and functioning of institutions of higher education in general and to Purdue University specifically.

Whereas, free speech frequently has more negative implications on already marginalized populations than on majority populations.

Whereas, it is imperative that freedom of speech be exercised by individuals in power to condemn hateful speech and acts.

And whereas, the Senate Equity and Diversity Committee completed a review of the Board of Trustees Statement of Freedom and all other relevant university policies (see review below).

Be it resolved that the University Senate adopts the recommendations listed below in the Equity and Diversity Committee's review of the Board of Trustees Statement of Freedom.

Review of the Purdue Commitment to Freedom of Expression Policy Statement
University Senate—Equity and Diversity Committee

We understood our task to be reviewing the new Commitment to Freedom of Expression Statement adopted as official policy by the Board of Trustees as of 5/15/15 in order to consider the:

- Process of approval
- Issues of clarity of content
- Possible conflicts with existing policies (e.g., Anti-Harassment)
- Recommendations moving forward
As a committee, we clearly confirm the importance of the Freedom of Expression to the mission and functioning of institutions of higher education in general and to Purdue University specifically. We are however troubled that free speech frequently has more negative implications on already marginalized populations than on majority populations. Given this reality, it is imperative that freedom of speech be exercised by individuals in power to condemn hateful speech and acts.

**Process of Approval**

During the Spring of 2015, the PSG and the PGSG approved parallel resolutions to modify five existing Purdue policies (see attached copy of the full Board of Trustees resolution including Exhibits B1-B5) in order to enhance freedom of expression on campus. These resolutions were then brought to the BOT. The Board of Trustees not only approved the requested changes but also chose to approve a broader Commitment to Freedom of Expression Policy Statement.

It is our understanding that at no point were the original resolutions or a draft of the Commitment to Freedom of Expression Policy Statement shared with members of the University Senate or with the campus at large. It seems ironic that the process of review and approval of the Commitment to Freedom of Expression Policy statement was not consistent with the content in terms of soliciting involvement of the broader university committee.

**Clarity**

In careful review of the resolution to adopt the Commitment to Freedom of Expression policy statement and the text of the policy statement, it is important to note the following points:

- The Commitment to Freedom of Expression policy statement pertains only to members of the University Community and to invited speakers
- The Commitment to Freedom of Expression policy statement does not apply to uninvited speakers who choose to offer perspectives to members of the university community
- When the Commitment to Freedom of Expression policy statement was adopted there were five other campus policies that were modified (see attached copy of the full resolution including Exhibits B1-B5). The substance of each changes appears to be:
  - Exhibit B1—pertains to modified language in university regulations governing student conduct, disciplinary proceedings, and appeals.
    - “Conduct Subject to Disciplinary Sanctions. The following actions constitute conduct for which students may be subject to informal action or disciplinary sanctions”: Disorderly conduct or expression, lewd, indecent, or obscene conduct or expression on University property or in connection with a University Activity.
    - Change eliminated “expression” in the prior statement.
  - Exhibit B2—pertains to modified language in university regulations in the bill of student rights
Change involved:

- a) addition of language related to the freedom of inquiry, thought, and expression,
- b) deletion of “hostile”, demeaning, or intimidating”, and
- c) addition of language that narrows the verbal or physical actions (i.e., “targeted conduct that is so severe, pervasive, and objectively offensive”) that may be considered as detracting from the educational experience of others.

- Exhibit B3—pertains to modified language of guidelines for speech and expression on campus.
  - Change involved a complete revision of this policy from one that described the areas wherein freedom of expression could be exercised to an emphasis on how spaces have been specifically designated to facilitate “robust debate and the free exchange of ideas.” In addition, the last paragraph highlights that the policy is not intended to limit the right of student expression in other areas of campus and lists actions related to student expression (e.g., obstructing building entrances, walkways, and rights-of-way, obstructing vehicular or pedestrian traffic, interfering with classes, meeting, events or ceremonies) that will be considered disruptive to the functioning of the University.
  - This policy appears to protect Freedom of Expression for all individuals who elect to speak on campus—invited or uninvited.

- Exhibit B4—pertains to modified language of the university residence guidelines for bulletin boards.
  - Change involved significant revision of this policy including:
    - a) deletion of requirement for approval of all notices and posters and addition that the Office of University Residences has the right to reject any posting that is inconsistent with University policies and state, local, and federal laws.
    - b) deletion of the statement “signs or displays containing profane, lewd, or indecent expression will be removed.”
    - c) addition of statement “promoting the use of alcohol and/or illegal substances is prohibited.”

- Exhibit B5—pertains to modified language of the violent behavior policy.
  - Change involved significant revision of the definition of “threat.” Most specifically, language was deleted and added that resulted in a narrowing of what would be considered a threat.
    - a) deletion of “an expression of intent to cause physical or mental harm or damage to property. A threat may be direct, indirect, conditional or veiled. Any threat is presumed to constitute a statement of intent.”
    - b) addition “a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals
or to cause damage to another person’s property, or other conduct which threatens or endangers the health and safety of another person or another person’s property.”

Connection with Existing Policies

We reviewed the following policies:

With regard to the Anti-Harassment Policy:

- Harassment is defined as (taken directly from Purdue policy):
  - Conduct towards another person or identifiable group of persons that has the purpose or effect of:
    - Creating an intimidating or hostile educational environment, work environment or environment for participation in a University activity;
    - Unreasonably interfering with a person's educational environment, work environment or environment for participation in a University activity; or
    - Unreasonably affecting a person's educational or work opportunities or participation in a University activity.
  - Use of the term Harassment includes all forms of harassment, including Stalking, Racial Harassment, and Sexual Harassment.

- It appears then that in order to be harassment, verbal conduct would need to be intended to create or result in the creation of an intimidating or hostile environment that affects individuals’ opportunities or participation. According to Purdue policy, harassment has a clear focus on the effects of verbal conduct.
  - Who is it that assesses these effects?
  - When do verbal statements go beyond free expression and become harassment?

- Academic Freedom and Freedom of Speech section (taken directly from Purdue’s Anti-harassment Policy):

  Freedom of thought and expression are the lifeblood of our academic community and require an atmosphere of mutual respect among diverse persons, groups and ideas. The maintenance of mutually respectful behavior is a precondition for the vigorous exchange of ideas, and it is the policy of the University to promote such behavior in all forms of expression and conduct. The University reaffirms its commitment to freedom of speech as guaranteed by the First Amendment to the United States Constitution. Accordingly, any form of speech or conduct that is protected by the First Amendment is not subject to this policy. The University reaffirms its commitment to academic
freedom, which is essential to its educational mission and is critical to diversity and intellectual life.

- Is the emphasis on mutual respect, indicated here, as clearly stated in the new Freedom of Expression Statement?
- Can students be expelled for drawing racist symbols? For using derogatory terms?
- Is it true that Freedom of Speech, as guaranteed by the First Amendment, only protects individuals from being arrested?

With regard to Nondiscrimination Policy Statement:

- When does free speech become discrimination?

Recommendations

- Establish an injunctive norm (i.e., perceptions of which behaviors are typically approved or disapproved) regarding the condemnation of hateful, racist, sexist, and discriminatory acts on campus. Such a norm would assist faculty, staff, and students in determining what is acceptable and unacceptable social behavior and communicate the morals of the Purdue community.
  - Freedom of Expression protects the University officials’ condemnation of acts that derogate individuals or groups.
  - Administrators, especially those highest up including the president and the provost, need to issue clear, strong, and direct statements condemning hateful, racist, sexist, and discriminatory acts that derogate individuals and groups.
  - The University needs to respond when hateful language arises via social media outlets and offer clear, strong, and direct statements condemning hateful, racist, sexist, and discriminatory acts that derogate individuals and groups.
- Develop required educational modules/courses for first-semester, first-year students to educate them on the importance of the Freedom of Expression in higher education and the Purdue Commitment to Freedom of Expression policy statement. This module needs to be integrated into Boiler Gold Rush and include personal appearance by the president who sets forth the injunctive norms.
  - Training needs to emphasize skill building regarding perspective-taking and the critical importance of civility and mutual respect. Most particularly, students need to gain an understanding that they and each of their peers come to campus with distinct backgrounds, cultures, and experiences.
  - Training needs to empower all students to use their ability to express their perspectives and beliefs, as many students come to campus with no experience expressing their ideas. In fact, many come from backgrounds where the expression of their perspectives and beliefs have been directly and indirectly hindered and suppressed.
• Train faculty, staff, and paraprofessionals (e.g., residence assistants) regarding when verbal conduct goes beyond Freedom of Expression and becomes harassment or discrimination. Training needs to be integrated into faculty training through online modules.
  o Training needs to educate faculty regarding how to effectively teach students about these distinctions and also regarding best practices in negotiating situations of harassment when they arise in the classroom setting
  o Training also needs to include educating faculty on how to foster an inclusive classroom where all perspectives and beliefs can be expressed and heard.
• Include direct links to Anti-Harassment Policy and Nondiscrimination Policy Statement to the left of the Statement of Freedom of Expression webpage.
• Delete the newly added statement to Exhibit B4: University Residence Guidelines for Bulletin Boards that indicates “promoting the use of alcohol and/or illegal substances is prohibited.” This statement limits freedom of speech.
• Revert back to the prior language for Exhibit B5: Policy on Violent Behavior:
  o “an expression of intent to cause physical or mental harm or damage to property. A threat may be direct, indirect, conditional or veiled. Any threat is presumed to constitute a statement of intent.”
• Add (in CAPS) the following language to the Violations of Policy and Sanctions section of the Anti-harassment Policy:
  o “PENALTY for conduct that constitutes Harassment as defined by policy are subject to enhancement when such conduct is motivated by bias based on a person’s legal protected status as defined by THE MOST INCLUSIVE of federal law, state law, or PURDUE POLICY (e.g., race, gender, SEXUAL ORIENTATION, color, age, national origin or ancestry, genetic information or disability.”