


# FREE EXPRESSION ANNUAL REPORT

FISCAL YEAR 2024



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The Arizona Board of Regents and university leadership strive to protect intellectual freedom and free expression at Arizona's public universities. Students, staff and faculty members may discuss any topic, as guaranteed by the First Amendment, and within the limits of reasonable content and viewpoint-neutral restrictions on time, place and manner of expression consistent with applicable law.

The board has established a Committee on Free Expression, which submits this report as required by A.R.S. §15-1867. The membership of the Free Expression Committee is in Exhibit A.

A comprehensive list of current board and university policies that protect and promote free speech is provided in Exhibit B. The ABOR Policy on Free Expression is included as Exhibit C.

#### ABOUT THE ARIZONA BOARD OF REGENTS

The Arizona Board of Regents is committed to ensuring access for qualified residents of



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## THE BOARD AND THE UNIVERSITIES DO NOT TOLERATE BARRIERS TO OR DISRUPTIONS OF PROTECTED SPEECH

Protecting free speech and intellectual freedom is a bedrock principle at Arizona's public universities. Perhaps no other ideal is as important to producing a quality public university education. However, implementing free speech protocols in a community made up of tens of thousands of individual students, faculty and community members can sometimes produce strong and varied emotions as well as difficult social interactions. Over the last year, Arizona's public universities experienced a number of on-campus conflicts where community members presented opposing views. Arizona's universities encouraged the free expression of all viewpoints, within established time, place and manner restrictions. Expressing opposing viewpoints in a legally permissible manner is not a disruption of or barrier to protected speech as described in A.R.S. §15-1867.

All three of Arizona's public universities maintain the highest green light rating from the Foundation for Individual Rights and Expression ([FIRE](#)), recognizing the commitment of the board and the universities to free speech. Arizona's green light schools are setting a standard for free expression that colleges across the country should aspire to follow, [said Laura Beltz](#), FIRE policy reform senior program officer. Furthermore, all three universities have adopted the [Chicago Statement](#), the free speech policy statement produced by the Committee on Freedom of Expression at the University of Chicago.

Each university has policies and procedures to encourage and protect all lawful speech. All expressive activities are subject to reasonable time, place and manner restrictions as permitted by law. Expressive activities are subject to applicable law, including laws that address discrimination, harassment, safety, defamation, threats, privacy and confidentiality. The board and universities do not permit actions that unlawfully disrupt the functions of the institutions. As required by statute, board policy provides:

A student who is subject to the jurisdiction of a university and who engages in individual conduct that materially and substantially infringes on the rights of other persons to engage in or listen to expressive activity, as defined in A.R.S. § 15-1861, is subject to disciplinary sanctions under the Student Code of Conduct and other applicable university and board policies. This does not preclude students from engaging in counter speech as First Amendment principles may permit.

Although a more complete list of applicable policies is provided in Exhibit B, here are some examples of how the board and university policies promote lawful free expression within any of Arizona's public universities without barriers.

### ARIZONA STATE UNIVERSITY

ASU has a longstanding commitment to free speech consistent with the university's educational function. [ASU](#) has adopted the core principles of the University of Chicago's Report of the



and invited guests, while preserving public health, safety and welfare, the normal business uses of the campus, and the rights of others to legitimately use and enjoy the campus. The university may regulate the time, place and manner of free speech and expressive activities to prevent unreasonable interference with or disruption of its educational, research, outreach and business functions, and normal or scheduled uses itt.reservprand

In addition, ASU is defending a lawsuit brought by several students who were arrested after refusing to vacate an encampment that violated ASU's prohibition on camping on campus. ASU's policy prohibiting camping on campus is a longstanding, content- and viewpoint-neutral policy that leaves ample alternatives for speech, as reflected in the numerous protests relating to the same topic (the Israel-Hamas conflict) that have taken place without incident on the ASU campus throughout the 2023-24 academic year, both before and after the attempted encampment.

The arrests in question took place on April 26-27, 2024. When a group of individuals arrived on campus on the morning of April 26 with the stated intent of establishing an encampment of indefinite duration in a location adjacent to a classroom building and available by reservation only, ASU staff communicated the policy to them while reiterating other options for their expressive activities, including alternative locations and permissible hours. ASU staff remained on-site throughout the day to support safe participation by protesters and counter protesters and to continue to communicate the requirements of university policy. Multiple requests to remove the encampment and leave by 11 p.m., including amplified warnings given from multiple locations, were ignored. Around 11:30 p.m., police began steps to disperse the encampment and facilities staff removed tents and other materials from the location. Over the next three hours, the site was slowly cleared of protestors and materials. Throughout this time, individuals present continued to have the opportunity to leave and avoid arrest, which many did. Only those individuals who refused to leave were arrested; most of the arrestees were neither students nor employees of the university.

## NAU

To respond to potential barriers to or disruptions of protected speech, NAU's Speech Expression Action Knowledge (SpEAK) Team—which includes 20 trained volunteers—and the Campus Inclusion Team (CIT) actively work together to ensure that all expressions of speech on campus, whether planned or spontaneous, are supported. This includes facilitating the free expression of on-campus speakers, events and protests, as well as the free expression of those who might be attending such events to observe and/or express a differing perspective. If members of the university community express concerns about speech or the activity of others, these teams listen to concerns, connect individuals who have experienced the free speech of others negatively with supportive resources (including counseling), and as appropriate, educate individuals regarding the importance of First Amendment rights.

During the past academic year, NAU's SpEAK Team observed and/or provided support for a number of events as discussed further in Exhibit E.

## U OF A

In mid-November 2023, two College of Education professors teaching a class on cultural pluralism for young children engaged in a classroom discussion about the Israel-Hamas conflict. Several audio clips of the discussion were shared on social media with allegations that the discussion was biased and antisemitic. Based on an initial review of information, the two professors were placed on administrative leave with pay while an investigation of the incident by the college and university took place. In late November 2023, multiple sit-ins at the College of Education took place that included U of A students and community members requesting the two professors

be reinstated, and raising issues and concerns regarding freedom of expression among other issues. At the conclusion of the investigation (early December 2023), the College of Education reinstated the two professors and committed to holding a series of Educational Dialogues led by faculty with pedagogical expertise in responsibly teaching potentially contentious topics while maintaining high academic standards and ensuring accuracy.

Late in the spring semester, two demonstrations took place on the Tucson campus. During the first protest on April 29, 2024, individuals gathered on the U of A Mall without prior authorization and erected structures, in violation of the well-established campus use policy, which applies to any group seeking to use university grounds and properties. U of A administrators engaged in dialogue with protest organizers and agreed to allow them to peacefully remain until 10:30 p.m. that evening. After multiple warnings to disperse and urging caution against violation of [campus use policies](#) in the future, the protest disbanded without incident.

The next day, protesters gathered in the Olive Grove area of campus adjacent to the Main Gate





## THE BOARD AND THE UNIVERSITIES PROMOTE DIVERSITY OF THOUGHT AND ADMINISTRATIVE AND INSTITUTIONAL NEUTRALITY

The board and the universities are committed to maintaining administrative and institutional neutrality regarding speech and to allowing all protected speech, even speech that some may

ASU took home the coveted Regents' Cup trophy during the fifth annual event in April 2024. This was ASU's third team win.

First place winners earn a \$15,000 one-time scholarship to finance their education, second place \$12,000 and third place \$5,000. Each remaining student competitor was awarded a \$500 one-time scholarship. Students spend several months preparing for the event and earn course credit at their university.

Regents' Cup advisor Regent Larry E. Penley noted, "while our universities may have a spirit of competition, the event is a shining example of how we are unified in our commitment to free speech. These students have shown us that free speech is about fostering an environment where diverse perspectives can flourish, where dialogue can thrive and where progress can be achieved through the civil exchange of ideas."

Students competed in multiple rounds of persuasive storytelling and Oxford-style debate during the Regents' Cup hosted by ASU. This year the competition's theme was centered around democracy, justice and the rule of law. [Judges](#) for the event represented a wide range of professions – elected officials, business and community leaders, journalists and educators. Subjects debated by students during the event included the pros and cons of mandatory retirement ages for federal judges, eliminating the jury system and replacing the electoral college system. The storytelling competition focused on justice in everyday life.

Arizona's public universities are exemplars in free speech and are recognized by the Foundation for Individual Rights and Expression (FIRE) with [the highest free speech rating](#). In addition to this competition, ABOR's general education policy includes requirements for students to learn critical thinking skills, how America's founding documents impact the present and the impact of key Supreme Court cases.

## ASU

To foster administrative and institutional neutrality about speech and to allow all protected speech, ASU regularly communicates its values regarding campus speech. Materials used during new student orientation now include a series of videos on campus free speech prepared by FIRE as well as an additional video prepared by ASU featuring student speakers. These videos have a permanent home on a Free Speech at ASU website that is available year-round for reference, and additional materials about freedom of expression and campus access continue to be added to that resource and elsewhere in ASU's public communications.

As in prior years, ASU's faculty and its more than 1,000 student organizations host numerous events encouraging public discourse on a wide variety of topics and from multiple perspectives in both in-person and virtual settings. These events regularly include speakers focusing directly on the issue of freedom of expression in contemporary society. In November 2023, Erwin Chemerinsky, dean of the University of California Berkeley School of Law and a noted First Amendment scholar gave [a lecture](#) on free expression on college campuses as part of the University Design Institute's Frank Rhodes Lecture series. Also in November, ASU Barrett Honors College student Sami Al-Asady [was selected](#) as one of six Campus Scholars by FIRE and



more than 150 attendees, including two members of the Board of Regents, President Robert C. Robbins and other senior leaders.

The U of A Center for the Philosophy of Freedom and National Review Institute hosted a debate [ESG Now and in the Future: Is There Common Ground](#). Former White House press secretaries Ari Fleischer and Robert Gibbs moderated the debate featuring Andrew Behar, CEO of the shareholder advocacy and engagement non-profit As You Sow; Kevin Hassett, 29th chairman of the President's Council of Economic Advisers; Sandra E. Taylor, former senior vice president of corporate responsibility at Starbucks; and Kimberly Yee, state treasurer of Arizona.



## ALLOCATION OF STUDENT ACTIVITY FEES

Exhibit D provides the allocation of student activity fees, if any, that are used to support and facilitate the expression and activities of students or student organizations as required by A.R.S. §15-1867 (B)(5).



## DISTRIBUTION OF THIS REPORT

As required by A.R.S. §15-1867, this report will be posted on the ABOR website and submitted to:

The governor  
The speaker of the Arizona House of Representatives  
The president of the Arizona Senate  
The Arizona Secretary of State

## EXHIBIT A

MEMBERS OF THE COMMITTEE ON FREE EXPRESSION AS OF SEPTEMBER 1, 2024

### COMMITTEE CHAIR:

Chad Sampson, Executive Director, Arizona Board of Regents

### ASU REPRESENTATIVES:

Lisa Loo, Senior Vice President and General Counsel

Patrick Kenney, Executive Vice Provost

Anne Jones, Vice Provost for Undergraduate Education; Professor, School of Molecular Sciences,  
College of Liberal Arts and Sciences

Joanne Vogel, Vice President of Student Services

Andrew Kalthoff, Student Representative

\*\*Kim Demarchi, Vice President for Legal Affairs and Deputy General Counsel

### NAU REPRESENTATIVES:

Margot Saltonstall, Vice President of Student Affairs

Kimberly Ott, Associate Vice President, Communications

Marco Cabrera Geserick, Assistant Professor of Humanities,

Karli Vandermeersch, ASNAU Student Body President

\*Michelle Parker, Vice President of Legal Affairs and General Counsel

### U of A REPRESENTATIVES:

Tessa Dysart, Assistant Director of Legal Writing & Clinical Professor of Law

Art Lee, Vice President and Deputy General Counsel

## EXHIBIT B

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## EXHIBIT B CONTINUED

### U of A Policies and Statements

[Policy and Regulations Governing the Use of Campus, SA-200](#)

[Political Activity Policy, HR-104](#)

[Non-discrimination and Anti-harassment Policy, HR-200E](#)

[Religious Accommodation Policy, HR-202](#)

#### Academic Freedom

[Statement on academic freedom from the Committee on Academic Freedom and Tenure, approved by Faculty Senate 9/14/09](#)

From [University Handbook for Appointed Personnel Definitions](#): Professional and intellectual freedom means the right and responsibility to exercise judgment within the standards of the employee's profession. Professional and intellectual freedom is defined as academic freedom for employees involved in teaching or research.

[Faculty Responsibilities, UHAP 3.1, Duties and Responsibilities of Faculty](#)

[Statement on Professional Conduct, UHAP 7.01.01](#)

[Adoption of Chicago Statement of Freedom of Expression](#)



## EXHIBIT C

### ABOR FREE EXPRESSION POLICY

#### 1-124 Free Expression

- A. The primary function of Arizona's public universities is to promote the discovery, improvement, transmission and dissemination of knowledge through research, teaching, discussion and debate. The universities must strive to ensure the fullest degree of intellectual freedom and free expression. It is not the proper role of a university to shield individuals from speech protected by the First Amendment, including ideas and opinions that may be unwelcome, disagreeable or deeply offensive.
- B. Students, staff and faculty members may discuss any topic, as the First Amendment allows and within the limits of reasonable content- and viewpoint-neutral restrictions on time, place and manner of expression that are consistent with applicable law and that are necessary to achieve a compelling institutional interest if these restrictions are clear, are published and provide ample alternative means of expression. The board's policy on political activity by employees or others acting on behalf of a university is set forth in Board Policy 6-905.
- C. Students, staff and faculty members may assemble and engage in spontaneous expressive activities if those activities are not unlawful and do not materially and substantially disrupt the functioning of the university.
- D. A student who is subject to the jurisdiction of a university and who engages in individual conduct that materially and substantially infringes on the rights of other persons to engage in or listen to expressive activity, as defined in A.R.S. § 15-1861, is subject to disciplinary sanctions under the Student Code of Conduct and other applicable university and board policies. This does not preclude students from engaging in counter speech as First Amendment principles may permit.
- E. Universities may restrict expressive activity that is not protected by the First Amendment.
- F. The board will establish a Committee on Free Expression composed of representatives from the universities and the board office, which will submit an annual report as required by A.R.S. §15-1867.

## EXHIBIT D

### ALLOCATION OF STUDENT ACTIVITY FEES BY UNIVERSITY

#### ASU

The Associated Students of Arizona State University is responsible for oversight of the student programming fee that annually provides funding to more than 950 student organizations. This includes funding for the Programming and Activities Board, sport club organizations, cultural coalitions, college councils and registered organizations that seek funding. Students and student organizations can also seek funding for traveling to professional and academic conferences. The Undergraduate Student Government (USG) spent approximately \$3,043,110.33 on appropriations for more than 455 undergraduate clubs and organizations (including general clubs, sport clubs, cultural coalitions, college councils and Programming and Activities Board) in fiscal year 2023-2024. USG also spent approximately \$120,743.93 on 324 individuals who traveled to academic and professional conferences. The Graduate Student Government (GSG) spent approximately \$71,802.88 on appropriations for more than 127 graduate clubs and organizations requests. The GSG also spent approximately \$329,418.27 on 207 individuals who traveled to academic and professional conferences. Undergraduates pay \$35 per semester and graduate students pay \$35 per semester for the student programming fee. The remainder of the student programming fee budget supported events such as concerts, community gatherings, professional artists and speakers, rental fees and supplies.

#### NAU

Every NAU Flagstaff Mountain Campus undergraduate student pays the Associated Students of Northern Arizona University (ASNAU) 23 fee each semester. During academic year 2023-2024, ASNAU distributed approximately \$400,000 to directly contribute to a variety of services and programs that benefit NAU's students, including providing support to more than 350 campus student organizations and clubs, individual students, and campus-wide programming and events, including facilitating outside speakers, and providing forums for discussion and debate that enable students to express their perspectives. The ASNAU 23 Fee was further distributed to support endeavors such as the Lumberjack Concert Series, Homecoming Carnival, a range of community events, reimbursements to student clubs and organizations for travel and operations, support of students' basic needs, and awards to recognize NAU students for exemplary service and achievements. The fee is further utilized to increase access to the university library by supporting extended hours for its operations and to fund NAU students in their pursuits to study abroad. Additionally, the ASNAU Advocacy Committee met regularly to discuss any issues of importance to students. This committee's focus is to help NAU students more effectively make their voices heard and share their opinions throughout campus, thereby amplifying the voices and diverse opinions of all NAU undergraduate students.

## U of A

The Associated Students of U of A (ASUA) operate the Wildcat Events Board (WEB), a student run group that programs campus-wide social and educational events that are open and accessible to all U of A students. The WEB is funded by a \$5 per-semester fee per student and is refundable for any student who requests one. The WEB fee generated \$312,118.44 in fiscal year 2024.

The WEB aims to bring about a greater spirit of unity and cooperation amongst all students and to encourage development of leadership abilities and skills through participation in event programming. The WEB plans and executes a variety of campus-wide events, including concerts, special activities and programs celebrating the arts, different cultures and entertainment. At the time of this report, the WEB has not received any requests for funding specifically for events

## EXHIBIT E

September 19, 2023 – The SpEAK Team provided support for an on-campus event sponsored by the NAU Student Chapter of Turning Point USA featuring national speaker Charlie Kirk. The event, *Prove Me Wrong*, called for the speaker to challenge attendees with provocative statements. There was also a counter demonstration of predominately NAU students. Out of the 375-400 participants, approximately 150 were pro Turning Point while the rest were part of the counter demonstration. Over the course of 6 hours from 10 a.m. to 4 p.m., members of the SpEAK Team worked in shifts, with a total of 12 members volunteering. The event was successful in allowing individuals to express a range of ideas and perspectives in an open environment.

October 9, 2023 – The SpEAK Team provided support for a rally and march commemorating Indigenous People's Day. Approximately 50 individuals participated in the event and assembled in the pedway adjacent to the entrance to the University Union and then peacefully marched from campus to Flagstaff City Hall. Over the course of the two-hour event from 4 to 6 p.m., five SpEAK Team members volunteered to accompany the participants on the march and answer questions about free speech. No barriers to freedom of expression occurred.

October 12, 2023 – A total of 11 SpEAK Team members volunteered to ensure open and peaceful dialogue at an event sponsored by the Students for Life NAU, featuring national guest speaker Kristan Hawkins. The event was called *I'm Coming For Your Abortion Access*. Over the course of the four-hour event, approximately 75 individuals were in attendance. A small group of counter protestors attended, and all engaged in open and frank dialogue.

October 14, 2023 – An Abortion Rights rally and march took place, beginning on campus and marching to the southside community's Murdoch Center. Approximately 50 individuals participated in this two-hour event, with four SpEAK Team members volunteering. The event was sponsored by the Flagstaff Abortion Alliance, the Arizona Students' Association, Planned Parenthood Generation Action of Northern Arizona University and the NAU Young Democrats. mbled



April 30, 2024 Pro-Palestinian supporters formed an encampment on the NAU campus. NAU leadership and SpEAK team members maintained open communication with protestors throughout the day, including informing them of reasonable time, place and manner restrictions related to any attempts at a permanent, 24-hour encampment. These restrictions were communicated to all members of the university community via email and took on particular importance due to NAU's high-density residential campus and imminent final exams. Multiple requests to deconstruct the encampment and leave the area by 10 p.m. were ignored. Around 10:30 p.m., police took steps to disperse the encampment, making 24 arrests in the process. Tents and other material were removed from the location. In the following days, several smaller protests took place, including a vigil, a counter protest by individuals supporting Israel and small groups of students gathering in the original encampment area. For all events, SpEAK team members were present on a rotating basis.

