



**University of Maine System Testimony on LD 665, *An Act To Enact the Campus Free Expression Act*, Delivered by Samantha Warren, Director of Government & Community Relations
April 22, 2019**

Senator Millett, Representative Kornfield and members of the Joint Standing Committee on Education and Cultural Affairs. My name is Samantha Warren. I am the Director of Government and Community Relations for the University of Maine System, testifying today in the strongest support of the rights to free thought and expression at our public institutions of higher learning, as enshrined in the United States and Maine constitutions, and also in University policy and practice.

Free inquiry is a fundamental purpose of public higher education. From its founding, the University of Maine System has had an unequivocal commitment to protecting and promoting the rights of all members of its campus communities to free speech, which includes free expression and assembly. In fact, it appears the first policy ever enacted by the System's Board of Trustees was one affirming these rights and making clear there should be no restriction upon them (*Section 212: Free Speech, Academic Freedom, and Civility*).

That said, one person's claim to exercise his or her right to free speech may never be used to deny another person's right to free speech, nor can our expectations of civility and mutual respect be used to justify restricting the discussion or expression of ideas or speech that may be disagreeable or even offensive to some members of the University community.

After all, free speech requires tolerance for diversity of opinion and respect for an individual's right to express his or her beliefs, however unpopular they may be. Tolerating and respecting another's views, however, does not mean those views are immune from critical scrutiny. Indeed, it is the University's responsibility to foster an environment where all are free to critically evaluate the ideas presented to them, and to accept critical evaluation of their own ideas.

Consistent with the Constitution and previous Supreme Court rulings related to the First Amendment, the University may of course prohibit speech that violates the law, defames specific individuals, genuinely threatens or harasses others, or violates privacy or confidentiality requirements or interests. The University may also reasonably regulate the time, place, and manner of the exercise of these rights to preserve order for our universities to function as institutions of higher learning. For example, during a large indoor event, the University may provide an alternative but adjacent area where individuals can exercise their rights to free expression without being disruptive to the formal proceedings or blocking safe entry and exit. This does not mean individuals could not freely assemble and speak elsewhere rather it ensures they have direct access to the event and its attendees without jeopardizing programming or public safety.

Maine's public university campuses are places where students can discover and respectfully debate ideas guided by the premise that knowledge and truth are more likely to be advanced if the opportunity exists for the free exchange of opposing opinions. While our charter makes clear the University's Board of Trustees and not the Legislature set and ensure fidelity to campus policy, ultimately LD 665, *An Act To Enact the Campus Free Expression Act* would not necessitate any change in our current policies or practice.

Thank you for the opportunity to testify today. I look forward to answering your questions.

POLICY MANUAL – FREE SPEECH, ACADEMIC FREEDOM, AND CIVILITY

GOVERNANCE AND LEGAL AFFAIRS

Section 212 Free Speech, Academic Freedom, and Civility

Effective: 11/21/67

Last Revised: 1/23/74; 3/27/17

Responsible Office: General Counsel

Policy Statement:

The University of Maine System is an organization of public institutions of higher education committed to excellence in teaching, research, and public service. Together, the students, faculty, and staff form our statewide University community. The quality of life on and about the System's member universities is vitally enhanced by preserving the rights and freedoms described in this policy.

The Board of Trustees of the University of Maine System affirms its commitment to the rights of free speech, free inquiry, and academic freedom. To protect these rights, all members of the University community should act toward each other with civility, mutual respect, integrity, and reason.

Free speech, free inquiry and academic freedom, and civility are interrelated and interdependent rights and values that will be protected together at University of Maine System institutions according to the following policies.

FREE SPEECH

The Board of Trustees is committed to protecting the rights all University community members share to free speech, which includes free expression and assembly, as enshrined in the U.S. and Maine State Constitutions. There shall be no restriction at any System institutions on these fundamental rights, although the University may prohibit speech that violates the law, defames specific individuals, genuinely threatens or harasses others, or violates privacy or confidentiality requirements or interests. The University may also reasonably regulate the time, place, and manner of the exercise of these rights to preserve order for the System's universities to function as institutions of higher learning.

Free speech requires tolerance for diversity of opinion and respect for an individual's right to express his or her beliefs, however unpopular they may be, without social or legal prohibition or fear of sanction. Tolerating and respecting another's views, however, does not mean those views are immune from critical scrutiny. Indeed, it is the university's responsibility to foster an environment where all are free to critically evaluate the ideas presented to them, and to accept critical evaluation of their own ideas.

Finally, although the University System greatly values civility and expects community members to share in the responsibility for maintaining a climate of mutual respect, demands for civility and mutual respect will not be used to justify restricting the discussion or expression of ideas or speech that may be disagreeable or even offensive to some members of the University community. Free speech is not absolute, and one person's claim to exercise his or her right to free speech may not be used to deny another person's right to free speech.

FREE INQUIRY AND ACADEMIC FREEDOM

The Board of Trustees affirms that a fundamental purpose of public higher education is free inquiry—the unfettered and relentless pursuit and dissemination of truth—and that within the academy, free inquiry is indistinguishable from one's freedom to inquire, present, discuss, and evaluate all matters relevant to

the pursuit of truth without constraint, or fear of constraint, in the performance of one's teaching, research, publishing or service obligations.

Academic freedom is the freedom to present and discuss all relevant matters in and beyond the classroom, to explore all avenues of scholarship, research and creative expression, and to speak or write without any censorship, threat, restraint, or discipline by the University with regard to the pursuit of truth in the performance of one's teaching, research, publishing or service obligation.

System faculty and staff have the right to comment as employees on matters related to their professional duties, and the functioning of the University, subject to the need for courteous, professional and dignified interaction between all individuals and the parties' shared expectation that all members of the campus community will work to develop and maintain professional relationships that reflect courtesy and mutual respect, recognizing an employee's responsibility to refrain from interfering with the normal operations of the University and the ability to carry out its mission.

Employees as citizens are entitled to the rights of citizenship in their private roles as citizens, including to comment on matters of public concern outside of their employment. System employees have a responsibility and an obligation to indicate when expressing personal opinions that they are not institutional representatives unless specifically authorized as such.

CIVILITY AND MUTUAL RESPECT

Free speech and expression and academic freedom have an important corollary: the responsibility all University community members share for maintaining an environment in which their actions are guided by mutual respect, integrity, and reason. These responsibilities are expressed in our constitutional freedoms: The U.S. Constitution's right of the people peaceably to assemble, and the Maine State Constitution's right of citizens to freely speak, write and publish, being responsible for the abuse of these liberties. Although members of the University community are free to criticize and contest views expressed by others on campus – indeed, a guiding premise of free inquiry is that truth is more likely to be discovered if the opportunity exists for the free exchange of opposing opinions – no member of the University community may obstruct or otherwise interfere with another's freedom of speech, even if he or she disagrees with, opposes, or even loathes the other's views.

ENFORCEMENT

Each System university's administration is responsible for consistently enforcing this policy according to System-wide policies and standards, and for protecting individual rights through adequate and timely review of alleged violations. This policy shall not be construed or applied to restrict academic freedom within the University, nor to restrict constitutionally protected speech.

References

U.S. Constitution, Amendment 1

Maine State Constitution, Article 1, Section 4

2015-2017 Agreement between UMS and AFUM, Article 2

University of Chicago Report of the Committee on Freedom of Expression