



DATE: May 13, 2021  
TO: Committee on Education & Cultural Affairs  
FROM: Samantha Warren, UMS Director of Government & Community Relations  
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RE: **LD 1640, An Act To Enact the Campus Free Speech and Free Press Act**

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Senator Rafferty, Representative Brennan and distinguished 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 (UMS), testifying today to offer the strongest possible support for the rights to free speech, expression and press at our public institutions of higher learning, as enshrined in the United States and Maine Constitutions, and also in System policy and practice.

Free inquiry is a fundamental purpose of public higher education. From its founding and continuing to this day, our System has had an unequivocal, unwavering commitment to protecting and promoting the rights of all university community members – including students, faculty and staff – to free speech, which includes free expression and assembly. In fact, it appears the first policy ever enacted by the UMS 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](#)). Maine's public universities 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 diverse and opposing opinions.

Consistent with LD 1640, our policy makes clear that one person's claim to exercise their 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 UMS community. After all, free speech requires tolerance for diversity of opinion and respect for an individual's right to express their beliefs, however unpopular they may be. Tolerating and respecting one another's views, however, does not mean those views should be 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 learn to accept critical evaluation of their own ideas in an environment of respect and open inquiry.

As the Constitution and previous Supreme Court rulings related to the First Amendment affirm, the university may prohibit speech that violates the law, defames specific individuals, genuinely threatens or harasses others, or violates privacy or confidentiality. We may also reasonably regulate the time, place and manner of the exercise of these rights to preserve order within our universities so that they may continue to serve students, faculty and the community through their function as institutions of higher learning. In support of this, while our universities may ensure speech and assembly activities are not disruptive to our normal operations and do not block or interfere with safe entry and exit including for emergency personnel or vehicles, policy makes clear that our entire university campuses are open for free speech and assembly and there are not to be designated zones within that. Our policies also appropriately establish the purview of police and public safety professionals to determine appropriate security plans and related fees for various assemblies, based on available information and their expertise and that of fellow law enforcement entities. We would be deeply concerned with any limitations on the ability of law enforcement professionals to do their jobs and exercise their best judgement in keeping our campuses, students, faculty, staff and the broader community safe.

I would note that the Foundation for Individual Rights in Education (FIRE), which has historically been critical of some UMS policies including during the public hearing on a similar bill to LD 1640 in the 129<sup>th</sup> Legislature, has recently upgraded its rating of the University of Maine's *Free Speech and Assembly Policy* to a "green light" and noted that the System policy on which that university policy is based is "excellent." We would prefer to maintain these exemplary policies and update them as appropriate and necessary, as we have consistently done historically, through our existing process that includes faculty and student input and, as applicable, approval by UMS Trustees.

Consistent with the commitment to upholding the First Amendment is resolute respect for a free press, which includes the expectation that the university will not exert any editorial control over campus media, regardless of the financial arrangement that supports that outlet's operations. While I have seen campus media coverage that could be characterized as critical of the university and its administrators, I am aware of no case where student journalists, their coverage and their right to cover the university freely and openly has been anything less than supported. Given the Constitution and a wide body of legal precedent protecting free press rights, it seems this section of the bill (§10604) is unnecessary. Similarly, causes of action already exist to examine and remedy any alleged violation of the law in this arena.

Finally, this bill would require the development of specific training materials and modules for employees and students. In our experience, members of our university communities are already apprised of their constitutional rights and of our own relevant policies and regularly exercises these freedoms. It is unclear what would be gained by adding to this already robust infrastructure in support of free speech with the changes proposed in LD 1640; further, LD 1640 would create additional administrative burden that would take resources away from the university's mission and commitment to educate its students in an environment of free speech and open inquiry.

I will close today with the words of Chancellor Malloy, shared with the entire System on Jan. 7, 2021: "In higher education, we foster learning and civic engagement through critical inquiry, the free exchange of ideas, and honest, respectful dialogue among people of diverse backgrounds who may hold different beliefs – not unlike what we hope for from our political leaders in the world's oldest democracy. But there's no guarantee that learning will occur without accepting facts and honoring both truth and respect for those who pursue it... No matter how hard it is to learn how to use our freedoms responsibly – our freedom of speech, our freedom of inquiry, our freedom to debate, or even to disagree – we recommit here today that our universities will be safe environments for that learning to take place. We recommit to our role in strengthening our democracy and society through educating all who live here."

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