

**COMMITTEE ON FREE EXPRESSION  
ARIZONA BOARD OF REGENTS  
2020 N. CENTRAL AVE. SUITE 230  
PHOENIX, AZ 85004**

**Monday, July 22, 2019  
11:30 a.m. – 12:30 p.m.**

**Committee Members:**

John Arnold, Chair  
Derrick Anderson, ASU  
José Cárdenas, ASU  
Stefanie Lindquist, ASU  
Joanne Vogel, ASU

Erin Grisham, NAU  
Ronni Marks, NAU  
Kimberly Ott, NAU  
Michelle Parker, NAU  
Eric Yordy, NAU

Sydney Hess, UA  
Toni Massaro, UA  
David Schmidtz, UA  
Robert “Bob” Sommerfeld, UA  
Kendal Washington White, UA

**11:30 a.m. CALL TO ORDER, GREETINGS, AND ANNOUNCEMENTS FROM THE COMMITTEE CHAIR**

**11:35 a.m. 1. Approval of Minutes**  
The board office asks the committee to review and approve the minutes of the December 11, 2018 Free Expression Committee meeting.

**11:40 a.m. 2. Review of Open Meeting Law**  
The committee will review Open Meeting Law.

**11:45 a.m. 3. Review Statutory Charge to the Free Expression Committee to Submit an Annual Report**

**12:00 p.m. 4. Review of and Possible Action to Approve and Forward the Report of the Free Expression Committee**  
The Free Expression Committee will review, discuss and may vote to approve and forward a proposed [statutory report](#) to the full board for its approval.

**12:30 p.m. ADJOURN**

PLEASE NOTE: This agenda may be amended at any time prior to 24 hours before the committee meeting. Estimated starting times for the agenda items are indicated; however, discussions may commence, or action may be taken, before or after the suggested times. Any item on the agenda may be considered at any time out of order at the discretion of the committee chair. The committee may discuss, consider, or take action regarding any item on the agenda. During the meeting, the committee may convene in executive session pursuant to A.R.S. § 38-431.03(A)(3) for legal advice regarding any item on the agenda.

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**DRAFT**  
**ARIZONA BOARD OF REGENTS**  
Minutes of the Free Expression Committee  
December 11, 2018

A meeting of the Free Expression Committee was held on December 11, 2018 at the board office in Phoenix, Arizona.

Present:        John Arnold  
                  José Cárdenas (via phone)  
                  Derrick Anderson (via phone)  
                  Michael Bergstrom (via phone)  
                  Stefanie Lindquist (via phone)  
                  Joanne Vogel (via phone)  
                  Christine Wilkinson (via phone)  
                  Erin Grisham (via phone)  
                  Michelle Parker (via phone)  
                  Dylan Graham (via phone)  
                  Eric Yordy (via phone)  
                  Kimberly Ott (via phone)  
                  Kathy Adams Riester (via phone)  
                  Robert “Bob” Sommerfeld (via phone)

Absent:         Natalynn Masters, David Schmitz and Toni Massaro

Also present Nancy Tribbensee, Jennifer Pollock, Sarah Harper, Suzanne Templin, and Monica Simental from the board office. In the audience Christy Farley (NAU), Kody Kelleher (UA) and Darby Jennings (UA).

Chair Arnold called the meeting to order at 9:04 a.m.

**Approval of Minutes (Item 1)**

Upon motion by Chair Arnold and seconded by Bob Sommerfeld, the committee approved the minutes of the August 7, 2018 and August 17, 2018 Free Expression Committee Meeting with José Cárdenas, Derrick Anderson, Michael Bergstrom, Stefanie Lindquist, Joanne Vogel, Christine Wilkinson, Erin Grisham, Michelle Parker, Dylan Graham, Eric Yordy, Kimberly Ott, Kathy Adams Riester, Bob Sommerfeld voting in favor. None opposed and none abstained.

**Review of Open Meeting Law (Item 2)**

Jennifer Pollock, reminded the committee on Open Meeting Law as it pertains to the committee. This committee is a public body that is subject to the Open Meeting Law so that means that members of the public are welcome to attend and listen to the committee’s deliberations and discussions. These are public meetings. Our agendas and notices are

posted and any discussion or action taken is subject to the items that are specifically listed on the agenda. We also provide the recording of minutes.

To refresh everyone's recollection a meeting is a gathering in-person or through technological devices of a quorum of members of a public body where you purpose, discuss or take legal action regarding any item that is sufficiently within the committees charge or that may foreseeable come before the committee. That means that you could meet telephonically, through video conference, through email, so we want to caution not to engage in email communication with a quorum of members of the committee where you are discussing or taking action regarding any items that may foreseeable come before the committee also want to caution that one-way communication to a quorum of the committee where legal action is proposed can be a violation of the Open Meeting Law if the discussion is not properly posted so we want to call your attention to that and caution you about email communication.

One final reminder, any email communication or records that you keep for purposes of the committee are public records subject to disclosure pursuant public records request under our public records law.

If you have any questions regarding the Open Meeting Law or the Public Records Law or any other items, please don't hesitate to contact Nancy Tribbensee or myself and we would happy to address those for you.

Chair Arnold asked the committee if they had any questions about Open Meeting Law and the potential penalties that come with Open Meeting Law violations. Please be very cautious as you deal with emails and reply-all. Once you reply-all you're having a meeting. Reply-all exchanges would be an Open Meeting Law violation. We don't anticipate a lot of materials going out for this committee but as we develop the report, feedback can be provided to staff but not the rest of the committee.

### **Review Statutory Charge to the Free Expression Committee to Submit an Annual Report (Item 3)**

Nancy Tribbensee discussed the statutory charge to the committee. Each university engages in many different activities with regard to free expression on campuses. The charge of this committee is very limited by statute. It is to prepare an annual report to the legislature and several others on what is happening on campuses. The statute provides for specific things that need to be included in the report. We need to include a description of any barriers to or disruptions of free speech on campus, administrative handling and discipline relating to those barriers, and any substantial difficulties, controversies or successes in maintaining institutional neutrality.

### **Review of 2017-2018 Statutory Report (Item 4)**

As you review these materials, we would be very interested in your thoughts about the organization of the report. Our next report will need to include an accounting of how student activity fees were allocated in the prior year.

Nancy Tribbensee asked the members of the committee, the Senior Associates joining the call and Chair Arnold if there had been any feedback at all from the report. Chair Arnold mentioned that we had not received any legislative feedback, generally the Regents were pleased with the report and found the report useful. Chair Arnold asked the representatives of the legislative teams present if they had any feedback. Kody Kelleher from UA informed the committee he had not heard anything either. Nancy Tribbensee commented on the feedback she received from members of the committee and the Regents were impressed with how much was going on and how much we were able to pull together in a month's notice.

Chair Arnold added that in some ways our audience for this report is the legislature. The legislature is the statutory audience but there are third party groups in the state and in the country that are very interested in this topic. There are efforts to pass a similar law in other states and our report being the first of its kind may become a template for other states as they report on this particular activity.

Nancy Tribbensee added that even within our state, the community colleges' reports were due December 1. We provided a copy of our report that they were able to use in preparing their report so even within the state we have the same kind of approach.

Kody Kelleher from UA added that a lot of people at the legislature were focused on the election at that time and now that we have a lot of new lawmakers, I agree with the Chair that these issues are still on the minds of the people of this state and nationally and once they start settling in they might look at the report.

Kathy Adams Riester from UA asked if there are more guidelines on reporting format. She mentioned she read the three different institutions reports and commented on how all three universities reported the same way but in different formats.

Nancy Tribbensee responded that now that we have a sense of what the format is will help decide what information is included and how it could be organized. She asked each university to designate a contact person to coordinate. She thanked the members of the committee for their work on the report. It was due right at the beginning of the semester which was the busiest time of year for everybody on the committee. Our office will work directly with the university contacts person.

Executive Arnold supported the approach and asked Nancy Tribbensee to take the lead to identify the contacts at each university. Executive Arnold asked if there were any other questions or comments.

Christine Wilkinson indicated that José Cárdenas would be the ASU contact.

Michelle Parker from NAU said she would be the NAU representative.

Chair Arnold commented that UA would identify their contact at a later time. He thanked the committee very much for their time.

Chair Arnold commented that another meeting would be around the spring as we start the development of this year's report and start collecting feedback from the committee. However, if there is any topic or issue that comes up and if any committee member feels we need to meet, you can contact our office and express that need. Are any other questions or comments?

A motion was made by Executive Arnold to adjourn and seconded by Kathy Adams Riester from the UA.

**Preparation of 2018-2019 Statutory Report (Item 5)  
Item 4 and Item 5 were discussed together.**

A motion was made by John Arnold, seconded by José Cárdenas, to approve forwarding the Statutory Report to the full board for approval with the changes suggested by Regent Taylor Robson. John Arnold, José Cárdenas, Derrick Anderson, Michael Bergstrom, Stefanie Lindquist, Joanne Vogel, Eric Yordy, Kimberly Ott, Bob Sommerfeld voted "Aye", none opposed, none abstained. The motion carried.

**ADJOURNMENT**

Chair Arnold adjourned the meeting at 9:25 a.m.

Submitted by:

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Monica Simental  
Committee Secretary

# STATE STATUTE

A.R.S. §15-1867. Arizona board of regents; committee on free expression; annual report; committee termination

A. The Arizona Board of Regents shall establish a committee on free expression consisting of at least fifteen members.

B. The committee on free expression shall submit an annual report on or before September 1 to the governor, the speaker of the house of representatives and the president of the senate. The Arizona Board of Regents shall post a copy of the annual report on its website and shall submit a copy of the annual report to the secretary of state. The annual report shall include:

1. A description of any barriers to or disruptions of free expression within the universities in this state.

2. A description of the administrative handling and discipline relating to barriers to or disruptions of free expression within the universities in this state.

3. A description of substantial difficulties, controversies or successes in maintaining a posture of administrative and institutional neutrality.

4. Any assessments, criticisms, commendations or recommendations that the committee decides to include in the annual report.

5. An accounting of how student activity fees were allocated in the prior year. For the purposes of this paragraph, "student activity fees" means any fee that is charged to students by a university in this state and that is used to support and facilitate the expression and activities of students or student organizations.

C. The committee established pursuant to this section ends on July 1, 2026 pursuant to section 41-3103.

Effective date: August 3, 2018

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## EXECUTIVE SUMMARY

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**Item Name:**      **Review of and Possible Action to Approve and Forward the Report of the Free Expression Committee**

Action Item

**Requested Action:** The Free Expression Committee will review, discuss and may vote to approve and forward a proposed [statutory report](#) to the full board for its approval.

### Background and Discussion

- The Free Expression Committee will review a draft report to confirm that it complies with the requirements of A.R.S. §15-1867 and that it demonstrates the commitment of the board and the universities to protecting and promoting free expression.
- Following committee review and approval, the committee chair will submit the report to the Arizona Board of Regents for its approval.
- The board is anticipated to consider approval of the report at its August 22, 2019 meeting.
- By September 1, 2019, the committee chair will submit the approved report to the governor, the speaker of the house of representatives, the president of the senate, the secretary of state and the ABOR office will post the final report on the ABOR website.

**Contact Information:**

Nancy Tribbensee, ABOR

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