

ARIZONA BOARD OF REGENTS
Minutes of the Free Expression Committee
August 17, 2018

A meeting of the Free Expression Committee was held on August 17, 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)
 Eric Yordy (via phone)
 Kimberly Ott (via phone)
 Robert “Bob” Sommerfeld (via phone)

Absent: Erin Grisham, Michelle Parker, Dylan Graham, Natalynn Masters, Kathy Adams Riester, David Schmidtz and Toni Massaro

Also present were Regent Taylor Robson (via phone), Regent Lauren L’Ecuyer, Nancy Tribbensee (via phone), Jennifer Pollock, Julie Newberg, and Suzanne Templin from the board office. In the audience Rachel Leingang.

Chair Arnold called the meeting to order at 9:02 a.m.

Review of Open Meeting Law (Item 1)

Jennifer Pollock, briefed the committee on Open Meeting Law as it pertains to the committee. It is the policy of the state of Arizona that meetings of public bodies hold their meetings openly and that notices and agendas be posted for their public meetings that contain sufficient information for the public to know what is going to be discussed or decided. The Free Expression committee is a committee of the board and the board is a public body, therefore the Free Expression committee is considered a public body.

Committee meetings are public meetings, so the public is permitted to attend and listen to the committee’s deliberations and proceedings. Meeting notices must be posted and agendas made available 24 hours before the meeting. The agendas need to list the items that are going to be discussed or considered and the committee may only discuss, consider or take action on the matters listed on the agenda or related to those agenda items. Minutes are taken of the meetings. There are provisions for executive sessions, which are not open to the public. Executive session may be held only in accordance with the statutory provisions for the executive session. Executive session can occur, most likely for this committee for legal advice, but can also occur for discussion or consideration of personnel matters, litigation, contract negotiations, settlement discussion with the public body attorneys, salary negotiations, negotiations on international or intrastate agreements or discussion pertaining to real estate matters.

A meeting is a gathering, in person or through technological devices, of a quorum of the members of a public body where the public body discusses, propose or takes legal action. It can include a telephonic meeting, an in person meeting, through video conference, but it can also include electronic communication.

An exchange of electronic communications amongst a quorum of members of a public body that involves discussion, deliberation or taking of legal action by the public body regarding a matter that foreseeable is likely to come before the public body is considered a meeting that needs to be posted and agendized. One way electronic communication, by one members of a public body that proposes legal action is also considered a public meeting. Be cautious when engaging in electronic communication. Committee members may receive electronic communication from staff containing meeting materials and information and may communicate with staff electronically. Committee members should not copy the committee on their correspondence to staff. Communications regarding committee business through electronic means can be considered public records that are subject to disclosure.

Chair Arnold advised the committee, the statute changed this year, and we are required to record in our minutes how each member of the committee voted. Mr. Arnold recommended the committee hold a general vote and any descending or abstentions, the members identify themselves for the minutes.

Discussion and Action Regarding Statutory Report (Item 2)

Chair Arnold expressed his thanks for all the participation and comments on the report and expressed gratitude to Nancy Tribbensee who drove the process for the report.

Nancy Tribbensee, thanked the committee for their quick turnaround. The report itself demonstrates the continued commitment of the board and the universities to free expression. It identifies some areas that the universities and the board will be looking at over the upcoming year both to continue to educate our communities about the importance of free expression and the nuances of competing legal obligations of the universities. The report includes a description of the policies, practices and resources to make sure that we continue to protect these very important constitutional rights, recognize our other legal obligations and most importantly recognize the importance our fundamental educational mission. With the committee's permission, the board office would like to continue to make non-substantive changes (i.e., typos, resources) as we prepare the report for submission.

Regent Taylor Robson asked for clarification on the Foundation for Individuals to a Right for Education "FIRE" ranking, how a university obtains a green light ranking and if UA and NAU are working towards a "green light" FIRE ranking.

Nancy Tribbensee responded that policies from the universities and the board are reviewed and the universities receive an overall rating or ranking from F.I.R.E. based on F.I.R.E.'s evaluation of those policies.

José Cárdenas concurred, the F.I.R.E. website explains the criteria and explains the ranking each university receives.

Nancy Tribbensee shared that Jon Dudas from UA and Michelle Parker from NAU are reviewing the F.I.R.E. rating issues.

Regent Taylor Robson asked for clarification on the reference to an ASU Gold Card that provides information to students about free speech on campus and resources available in ASU's summary.

Jose Cardenas responded that he would forward information to Regent Taylor Robson.

Regent Taylor Robson asked for clarification on Exhibit D, Allocation of Student Activity Fees by University, for ASU and NAU's notation state that "information about specific allocations of funds towards the support and/or facilitation of free expression is not available."

Joann Vogel from ASU responded that the structure is being setup to record for the upcoming year to track these expenditures. With the limited time to submit the report, it was not feasible to review every expenditure for the past year.

Regent Taylor Robson asked if the line could be modified to note "due to time constraints imposed by the legislation this information was not available for this report but that is the intent of the university to provide this information in subsequent report."

Nancy Tribbensee will incorporate this change in the report.

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 9:21 a.m.

Submitted by:

Suzanne Templin
Committee Secretary