

Lincoln, Nebraska
January 25, 2018

The Board of Regents of the University of Nebraska met on January 25, 2018, at 8:32a.m. in the board room at Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska, in a publicly convened session, the same being open to the public and having been preceded by advance publicized notice, a copy of which is attached to the minutes of this meeting as Attachment 1 and Attachment 2 (pages 9-12).

In compliance with the provisions of Neb. Rev. Stat. § 84-1411, printed notice of this meeting was sent to each member of the Board and was posted in the first floor lobby of Varner Hall. In addition, copies of such notice were sent to the Lincoln Journal Star, Omaha World Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, and the Lincoln office of the Associated Press as follows: January 16, 2018, a notice containing Amendments to Section 4.10 of the Bylaws of the Board of Regents was sent to the above groups and posted in the first floor lobby of Varner Hall; January 19, 2018, a notice of this meeting was sent to the above groups and posted in the first floor lobby of Varner Hall.

Regents present:

Timothy Clare
Hal Daub
Howard Hawks
Paul Kenney
Bob Phares
Jim Pillen
Robert Schafer, Vice Chairman
Bob Whitehouse, Chairman
Austin Partridge, University of Nebraska at Kearney
Joe Zach, University of Nebraska-Lincoln
Carissa Lueck, University of Nebraska Medical Center
Carlo Eby, University of Nebraska at Omaha

University officials present:

Hank M. Bounds, President
Susan M. Fritz, Executive Vice President and Provost
Carmen K. Maurer, Corporation Secretary
Jeffrey P. Gold, Chancellor, University of Nebraska Medical Center and
University of Nebraska at Omaha
Ronnie D. Green, Chancellor, University of Nebraska-Lincoln
Douglas A. Kristensen, Chancellor, University of Nebraska at Kearney
Christopher J. Kabourek, Interim Vice President for Business and Finance | CFO
Joel D. Pedersen, Vice President and General Counsel
Wendy D. Hind, Vice President for University Affairs
Michael J. Boehm, Vice President of Agriculture and Natural Resources

I. CALL TO ORDER

II. ROLL CALL

The Board convened at 8:32 a.m. in the boardroom of Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska. Attendance is indicated above.

Speaker of the Legislature, State Senator Jim Scheer, appeared before the Board of Regents to bring greetings from the Unicameral and provide a brief commentary on the current legislative session.

President Bounds introduced and welcomed Wendy Hind, Vice President for University Affairs, and Christopher Kabourek, Interim Vice President for Business and Finance and Chief Financial Officer.

Regent Whitehouse thanked David Lechner, former Vice President for Business and Finance and Chief Financial Officer. It was announced over the holiday break that David has accepted the position of Senior Vice President for Business and Financial Strategy at the University of South Florida system. While David was absent and has already left, the Chair requested that the minutes reflect the Board's gratitude to David for his 18 years of service and the many contributions he made to the university's successes. A letter of thanks will be sent to David.

III. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS

Motion Moved by Hawks and seconded by Kenney to approve the minutes and ratify the actions of the regularly scheduled meeting on December 5, 2017.

Action Student Opinion: Voting Aye: Lueck, Partridge, Zach, and Eby. Voting Aye: Daub, Hawks, Kenney, Phares, Pillen, Schafer, Whitehouse, and Clare. Motion carried.

Chairman Whitehouse announced the location of the Open Meetings Act in the board room.

IV. KUDOS

Regent Clare presented a KUDOS award to Tricia Danburg, Assistant Director of Alumni Engagement for the University of Nebraska Alumni Association.

Regent Eby presented a KUDOS award to Marisa Wolfe, Program Coordinator and Advisor for the 'Success Academy' at the University of Nebraska at Omaha.

Regent Zach presented a KUDOS award to Rita Laire, Administrative and Faculty Coordinator in the Department of Medicine at the University of Nebraska Medical Center.

Regent Daub presented a KUDOS award to Jared Burkholder, NU GEO Project Coordinator at the University of Nebraska-Lincoln.

V. SUCCESSION OF CHAIR; ELECTION OF VICE CHAIR

Regent Whitehouse thanked his colleagues for their support during his 2017 term as Chair, which included both challenges and celebrations. Highlights included: installation of

Ronnie Green as Chancellor at UNL; naming Jeff Gold Interim Chancellor at UNO; budget cuts of nearly \$49 million; a re-examination of Free Speech on campuses; nearly 11,000 diplomas awarded; the grand openings of the Fred and Pamela Buffett Cancer Center at UNMC and the Hawks College of Business at UNL; a new Athletic Director and Head Football Coach at the Husker Athletic Department, and a national championship volleyball team for the Huskers, as well. Regent Whitehouse asked the board to give Chairman Schafer the energy, tolerance, perspectives, patience, and attention to detail that they gave him.

Regent Schafer succeeded to Chair of the Board as defined in Section 1.2 of the *Standing Rules of the Board of Regents*.

Motion Moved by Phares and seconded by Hawks to nominate Regent Clare for the position of Vice Chairman of the Board. There being no further nominations, Chairman Schafer declared the nominations closed and called for a roll-call vote.

Action Student Opinion: Voting Aye: Partridge, Zach, Eby, and Lueck. Voting Aye: Hawks, Kenney, Phares, Pillen, Schafer, Whitehouse, and Daub. Abstain: Clare. Motion carried.

VI. RESOLUTIONS

None

VII. HEARINGS

Amendment to *Bylaws of the Board of Regents* Section 4.10 Total Period of Service Prior to a "Continuous Appointment"

VIII. PUBLIC COMMENT

Mr. Terry Jessen spoke on the topic of the budget. [See the documents file for a copy of the handout distributed by Mr. Jessen]

Ms. Danielle Conrad spoke on the topic of the free speech policy. [See the documents file for a copy of the handout distributed by Ms. Conrad]

IX. PRESIDENT'S COMMENTS

President Bounds made a brief presentation on budget challenges to be faced for this and future years.

X. UNIVERSITY CONSENT AGENDA

Motion Moved by Hawks and seconded by Phares to approve items X-A-1 and X-B-1

A. ACADEMIC AFFAIRS

X-A-1 President's Personnel Recommendations

B. BUSINESS AFFAIRS

University of Nebraska

- X-B-1 Accept the audited financial statements of the University of Nebraska and related entities
Action Student Opinion: Voting Aye: Zach, Eby, Lueck, and Partridge. Voting Aye: Kenney, Phares, Pillen, Schafer, Whitehouse, Clare, Daub, and Hawks. Motion carried.

XI. ADMINISTRATIVE AGENDA

A. ACADEMIC AFFAIRS

- Motion Moved by Whitehouse and seconded by Clare to approve item XI-A-1
XI-A-1 Approve Amendment to *Bylaws of the Board of Regents* Section 4.10 Total Period of Service Prior to a “Continuous Appointment”
See Attachment 3 to the minutes for the full text of amendments to *Board of Regents Bylaw 4.10 Total Period of Service Prior to a “Continuous Appointment* (page 13).
Action Student Opinion: Voting Aye: Eby, Lueck, Partridge, and Zach. Voting Aye: Phares, Pillen, Schafer, Whitehouse, Clare, Daub, Hawks, and Kenney. Motion carried.
Motion Moved by Lueck and seconded by Phares to approve item XI-A-2
XI-A-2 Approval is requested to create a Bachelor of Arts and a Bachelor of Science in Women’s, Gender and Ethnic Studies in the Women’s and Gender Studies Program and the Ethnic Studies Program in the College of Natural and Social Sciences at the University of Nebraska at Kearney
Action Student Opinion: Voting Aye: Partridge, Zach, Eby, and Lueck. Voting Aye: Schafer, Whitehouse, Clare, Daub, Hawks, Kenney, Phares, and Pillen. Motion carried.
XI-A-3 Action on item XI-A-3 was deferred until after the opportunity for a closed session.

B. BUSINESS AFFAIRS

- Motion Moved by Pillen and seconded by Phares to approve item XI-B-1

University of Nebraska

- XI-B-1 Approve entering into a 3-year agreement to participate in the Big Ten Academic Alliance OmniSOC
There was discussion
Action Student Opinion: Voting Aye: Eby, Lueck, Partridge, and Zach. Voting Aye: Clare, Daub, Hawks, Kenney, Phares, Pillen, Schafer, and Whitehouse. Motion carried.

- Motion Moved by Daub and seconded by Phares to approve item XI-B-2
- XI-B-2 Approve refinancing of the UNMC Eye Institute bonds by The University of Nebraska Facilities Corporation in accordance with the requirements of Section 147(f) of the Internal Revenue Code and as set forth in the notices of public hearing published in the *Lincoln Journal Star* and *The Daily Record* regarding such subject
- There was discussion
- Action Student Opinion: Voting Aye: Lueck, Partridge, Zach, and Eby. Voting Aye: Daub, Hawks, Kenney, Phares, Pillen, Schafer, Whitehouse, and Clare. Motion carried.
- Motion Moved by Hawks and seconded by Daub to approve item XI-B-3
- University of Nebraska-Lincoln
- XI-B-3 Approve naming the Love Library Board Room the “Joan R. Giesecke Board Room” at the University of Nebraska-Lincoln
- Action Student Opinion: Voting Aye: Partridge, Zach, Eby, and Lueck. Voting Aye: Hawks, Kenney, Phares, Pillen, Schafer, Whitehouse, Clare, and Daub. Motion carried.
- Motion Moved by Kenney and seconded by Phares to approve items XI-B-4 and XI-B-5
- XI-B-4 Approval to establish a quasi-endowment for a bequest from the Cather Family Trust for the “Myers B. and Martha H. Cather Scholarship for Arts and Literature”
- XI-B-5 Approval to establish a quasi-endowment from the Virginia Long Maples Revocable Trust to establish the “Jerome J. Wright Student Fund”
- Action Student Opinion: Voting Aye: Zach, Eby, Lueck, and Partridge. Voting Aye: Kenney, Phares, Pillen, Schafer, Whitehouse, Clare, Daub, and Hawks. Motion carried.
- Motion Moved by Kenney and seconded by Clare to approve item XI-B-6
- University of Nebraska Medical Center
- XI-B-6 Approve budget of up to \$2,900,000 to purchase iWall systems for campus sites across Nebraska that will be connected to Dr. Edwin Davis and Dorothy Balbach Davis Global Center for Advanced Interprofessional Learning
- There was discussion
- Action Student Opinion: Voting Aye: Eby, Lueck, Partridge, and Zach. Voting Aye: Phares, Pillen, Schafer, Whitehouse, Clare, Daub, Hawks, and Kenney. Motion carried.

C. EXECUTIVE COMMITTEE

- Motion Moved by Daub and seconded by Zach to approve item XI-C-1

XI-C-1 Adopt the Policy to be designated as *Board of Regents Policy* RP-6.4.10, Commitment to Free Expression; Guide for Facilities Use; and Education; and related report.

See Attachment 4 to the minutes for the full text of *Board of Regents Policy* RP-6.4.10 (pages 14-17).

There was discussion. Regent Daub distributed a handout. See the documents file for a copy of the handout.

Action Student Opinion: Voting Aye: Lueck, Partridge, Zach, and Eby. Voting Aye: Pillen, Schafer, Whitehouse, Clare, Daub, Hawks, Kenney, and Phares. Motion carried.

Motion Moved by Pillen and seconded by Hawks to adopt the following statement, related to the policy on Free Expression:

The Board of Regents honors the First Amendment of the U.S. Constitution and has long dedicated itself to the free exchange of ideas, reaffirmed by the adoption of Regents Policy 6.4.10, "Commitment to Free Expression; Guide for Facilities Use; and Education." Article VII, Section 10 of the Nebraska State Constitution vests the general government of the University of Nebraska in the elected Board of Regents. In *Board of Regents v. Exon*, the Nebraska Supreme Court made clear "the purpose of the constitutional provision was to... establish the Board of Regents as an independent body charged with the power and responsibility to manage and operate the University as free from political influence and control as possible." Policy development, especially that which furthers both freedom of expression and the University's mission of teaching, research, and public service, is a responsibility of the Board of Regents that cannot be delegated. Accordingly, the Board opposes LB 718 and any Legislation which usurps the power or duties of the Board.

There was discussion

Friendly Amendment Regent Daub offered a friendly amendment to remove "LB 718 and" from the final sentence. The friendly amendment was accepted by Pillen and Hawks, resulting in a motion and second to adopt the following:

The Board of Regents honors the First Amendment of the U.S. Constitution and has long dedicated itself to the free exchange of ideas, reaffirmed by the adoption of Regents Policy 6.4.10, "Commitment to Free Expression; Guide for Facilities Use; and Education." Article VII, Section 10 of the Nebraska State Constitution vests the general government of the University of Nebraska in the elected Board of Regents. In *Board of Regents v. Exon*, the Nebraska Supreme Court made clear "the purpose of the constitutional provision was to... establish the Board of Regents as an independent body charged with the power and responsibility to manage and operate the University as free from political influence and control as possible." Policy development, especially that which furthers both freedom of expression and the University's mission of teaching, research, and public service, is a responsibility of the Board of Regents that cannot be delegated. Accordingly, the Board opposes any Legislation which usurps the power or duties of the Board.

Action Student Opinion: Voting Aye: Partridge, Zach, Eby, and Lueck. Voting Aye: Schafer, Whitehouse, Clare, Daub, Hawks, Kenney, Phares, and Pillen. Motion carried.

D. FOR INFORMATION ONLY

- XI-D-1 University of Nebraska Strategic Planning Framework
- XI-D-2 University of Nebraska Strategic Framework Accountability Measures
- XI-D-3 Calendar of establishing and reporting accountability measures
- XI-D-4 University of Nebraska Strategic Dashboard Indicators
- XI-D-5 Board of Regents agenda items related to the University of Nebraska Strategic Framework

E. REPORTS

- XI-E-1 Quarterly Personnel Reports for the period July through September 2017
- XI-E-2 Strategic Framework Metrics: Need-Based and Merit-Based Financial Aid, Graduation Rates, Faculty Diversity
- XI-E-3 Fall 2017 Annual Tenure Density Report
- XI-E-4 Report of Bids and Contracts
- XI-E-5 Quarterly Report of Gifts, Grants, Contracts and Bequests
- XI-E-6 Report on Debt Refinancing
- XI-E-7 Intermediate Design Report–UNO Biomechanics

Chairman Schafer accepted the reports on behalf of the Board.

XII. ADDITIONAL BUSINESS

Motion Moved by Phares and seconded by Zach that the Board go into closed session as authorized by Neb. Rev. Stat. § 84-1410 for the protection of the public interest, and to prevent needless injury to the reputation of persons who have not requested a public hearing, for the purpose of holding a discussion limited to the following subject:

- Personnel matters involving members of the university staff;
- Honorary Degrees; and
- Litigation strategy.

Chairman Schafer declared that the closed session would be strictly limited to a discussion of:

- Personnel matters involving members of the university staff;

- Honorary Degrees; and
- Litigation strategy.

- Action Student Opinion: Voting Aye: Zach, Eby, Lueck, and Partridge. Voting Aye: Whitehouse, Clare, Daub, Hawks, Kenney, Phares, Pillen, and Schafer. Motion carried.
- The Board went into closed session at 10:38 a.m. The Board reconvened the open meeting at 11:57 a.m.
- Motion Moved by Phares and seconded by Clare to approve item XI-A-3
- XI-A-3 Approve the award of Honorary Degrees and Awards
- Action Student Opinion: Voting Aye: Zach, Eby, Lueck, and Partridge. Voting Aye: Whitehouse Clare, Daub, Hawks, Kenney, Phares, Pillen, and Schafer. Motion carried.

ADJOURNMENT

There being no further business, the meeting was adjourned by Chairman Schafer at 11:59 a.m.

Respectfully submitted,

Carmen K. Maurer
Corporation Secretary

Robert M. Schafer
Chairman of the Board



ATTACHMENT 1

NOTICE OF MEETING

Notice is hereby given that the Board of Regents of the University of Nebraska will meet in a publicly convened session on Thursday, January 25, 2018, at 8:30 a.m. in the board room of Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska.

In accordance with Board of Regents Bylaw 1.11, Amendments to the Bylaws, notice is hereby given that at the above-described meeting, amendment to Section 4.10 of the Bylaws of the Board of Regents shall be proposed as indicated in the attached agenda item.

An agenda of subjects not related to the proposed Bylaws amendment will be subsequently posted in accordance the law, the Bylaws and rules which govern the Board of Regents. When so posted, the full agenda for the meeting will be available for inspection in the office of the Corporation Secretary of the Board of Regents, Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska, or at <http://nebraska.edu/board/agendas-and-minutes.html>

A copy of this notice will be delivered to the Lincoln Journal Star, the Omaha World-Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, the Lincoln office of the Associated Press, members of the Board of Regents, and the President's Council of the University of Nebraska.

Dated: January 16, 2018

Carmen K. Maurer
Corporation Secretary
Board of Regents
University of Nebraska

TO: The Board of Regents Addendum X-A-1
Academic Affairs

MEETING DATE: January 25, 2018

SUBJECT: Amendment to the *Bylaws of the Board of Regents*: amend Section 4.10 Total Period of Service Prior to a “Continuous Appointment”

RECOMMENDED ACTION: Approve Amendment to Section 4.10 Total Period of Service Prior to a “Continuous Appointment” of the *Bylaws of the Board of Regents*

PREVIOUS ACTION: December 5, 2017 – This item was presented to the Board of Regents for information only.

February 28, 1998 – This section was last amended in 1998. See 62 BRUN 14 (28 February 1998).

EXPLANATION: It is proposed that Section 4.10 of the *Bylaws of the Board of Regents* be amended by deleting the word “faculty” before Appointment for a Specific Term; deletion of language that would allow a written agreement of initial appointment to an Appointment for a Specific Term to acquire a Continuous Appointment after more than seven years is also proposed. Language regarding written agreements for initial appointments to an Appointment for a Specific Term with faculty with three or more years of previous tenure-related full-time service with the rank of instructor or higher at another accredited institution of higher education is proposed to be added. Because an Appointment for a Specific Term may only be awarded to a faculty member, use of the word “faculty” in the Section as currently written is unnecessary. Deletion of the “contrary agreement” clause at the end of the first sentence makes it clear that the seven year rule for service on an Appointment for a Specific Term prior to acquisition of a Continuous Appointment is absolute except for adjustments that the President may authorize in the case of interruptions in full-time service at the University due to leaves of absence due to maternity, disability or family and medical leave. See Executive Memorandum No. 18, “Policy on Interruption of the Tenure-Track Clock in Cases of Maternity, Disability or Family/Medical Leave,” (February 18, 1999).

It is proposed that the *Bylaws of the Board of Regents* be amended as follows:

4.10 Total Period of Service Prior to a "Continuous Appointment."
The total period of fulltime service on an ~~faculty~~ Appointment for a Specific Term prior to acquisition of a Continuous Appointment shall not exceed seven years, including all previous tenure-related full-time service with the rank of instructor or higher in all accredited institutions of higher education, ~~unless a contrary agreement is specified in writing at the time the appointee is initially appointed by the University to an Appointment for a Specific Term.~~ For faculty members with three or

more years of previous tenure-related full-time service with the rank of instructor or higher at accredited institutions of higher education, ~~such a~~ written agreement to an initial appointment for an Appointment for a Specific Term will not normally extend the period of service on an ~~faculty~~ Appointment for a Specific Term at the University beyond four years before a Continuous Appointment is acquired, and in no case shall such agreement extend the period of service on an ~~faculty~~ Appointment for a Specific Term at the University beyond seven years before a Continuous Appointment is acquired. The President may provide for an adjustment of a faculty member's appointment where full-time service by the faculty member is interrupted by leave of absence due to maternity, disability or family and medical leave. Unless a contrary agreement is reached at the time the leave of absence is granted, time spent on an academic leave of absence shall be included in the period of service. A Continuous Appointment may be granted earlier, but not later, than the time limits specified in this Section. A person who is eligible under Section 4.4.3 but not granted a Continuous Appointment in accordance with the time limits in this Section shall be given a Notice of Termination, but such notice shall comply with Section 4.4.2.

SPONSOR: Susan M. Fritz, Ph.D.
Executive Vice President and Provost

RECOMMENDED: Joel D. Pedersen
Vice President and General Counsel

DATE: December 21, 2017



ATTACHMENT 2

NOTICE OF MEETING

Notice is hereby given that the Board of Regents of the University of Nebraska will meet in a publicly convened session on Thursday, January 25, 2018, at 8:30 a.m. in the board room of Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska.

An agenda of subjects to be considered at said meeting, kept on a continually current basis, is available for inspection in the office of the Corporation Secretary of the Board of Regents, Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska, or at <https://nebraska.edu/regents/agendas-and-minutes>.

A copy of this notice will be delivered to the Lincoln Journal Star, the Omaha World-Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, the Lincoln office of the Associated Press, members of the Board of Regents, and the President's Council of the University of Nebraska.

Dated: January 18, 2018

Carmen K. Maurer
Corporation Secretary
Board of Regents
University of Nebraska

ATTACHMENT 3

Amendments to the *Bylaws of the Board of Regents of the University of Nebraska, Section 4.10*

4.10 Total Period of Service Prior to a "Continuous Appointment."

The total period of fulltime service on an ~~an faculty~~ Appointment for a Specific Term prior to acquisition of a Continuous Appointment shall not exceed seven years, including all previous tenure-related full-time service with the rank of instructor or higher in all accredited institutions of higher education, ~~unless a contrary agreement is specified in writing at the time the appointee is initially appointed by the University to an Appointment for a Specific Term.~~ For faculty members with three or more years of previous tenure-related full-time service with the rank of instructor or higher at accredited institutions of higher education, ~~such a written~~ agreement to an initial appointment for an Appointment for a Specific Term will not normally extend the period of service on an ~~an faculty~~ Appointment for a Specific Term at the University beyond four years before a Continuous Appointment is acquired, and in no case shall such agreement extend the period of service on an ~~an faculty~~ Appointment for a Specific Term at the University beyond seven years before a Continuous Appointment is acquired. The President may provide for an adjustment of a faculty member's appointment where full-time service by the faculty member is interrupted by leave of absence due to maternity, disability or family and medical leave. Unless a contrary agreement is reached at the time the leave of absence is granted, time spent on an academic leave of absence shall be included in the period of service. A Continuous Appointment may be granted earlier, but not later, than the time limits specified in this Section. A person who is eligible under Section 4.4.3 but not granted a Continuous Appointment in accordance with the time limits in this Section shall be given a Notice of Termination, but such notice shall comply with Section 4.4.2.

ATTACHMENT 4

Adoption of *Board of Regents of the University of Nebraska Policy* RP-6.4.10, Commitment to Free Expression; Guide for Facilities Use; and Education

Board of Regents of the University of Nebraska Policy
Commitment to Free Expression; Guide for Facilities Use; and Education
(January 12, 2018)

Introduction

The University of Nebraska honors the First Amendment of the U.S. Constitution and has long dedicated itself to the free exchange of ideas.

The purpose of this policy is to articulate, clarify and underscore that long-standing commitment in a manner that furthers both freedom of expression and the University's mission of teaching, research and public service. The first section of this policy sets forth the University's and the Board of Regents' commitment to the tenets of Free Expression; the second section provides a framework for campuses to provide what are referred to as "facilities use plans" or programs applicable to particular spaces and resources on their campuses, consistent with that commitment, the law, and the University's mission; and the final section is a mandate for education with respect to the rights surrounding the First Amendment.

Commitment to Free Expression

"Freedom of speech" and "freedom of expression" refer to one's Constitutional right to articulate and express ideas and opinions, through any means, i.e. speaking, writing, or artistic expression, without fear of government retaliation, censorship, or other sanction. The University of Nebraska is a public institution of higher education, which holds dear this right, a right that is indispensable to its ability to transmit knowledge and fundamental to the University community's pursuit to discover, explore, interpret, and question knowledge and opinions. The University greatly values the creation and maintenance of an inclusive climate in which all members of its community are welcomed and are encouraged to participate in the free expression of ideas. Inasmuch as the search for new truths often comes forth only after bringing together differing opinions, the University aims to foster and uphold the capacity of the University community to engage in discourse and deliberation in an effective, responsible and respectful manner. This is critical to the University's mission.

As a corollary to the University's commitment to protect and promote free expression, members of the University community are expected and required to act in conformity with the underlying principles of free expression. Although members of the University community are free to comment on, criticize and contest views that others express, they must do so at a time and place, and in a manner that does not prevent, impede, or obstruct the freedom of others to also exercise their rights to express themselves. With this policy, the University is not only promoting a lively and fearless freedom of debate and deliberation, but also protecting that freedom when others attempt to restrict it. It is a careful, deliberative and nuanced balance of interests that the University must strike in order to protect this important right.

The First Amendment provides no guarantee of civility. However, as a community of educators and learners, the University places a high value on civil discourse and respect for one another. The University has an obligation to protect the dignity and security of all members of its community from those who would

seek to use speech primarily to deprive others of their freedom to learn, their freedom to contribute and their freedom to participate fully in the University's mission. Therefore, the University encourages all within its community--its Board, administration, faculty and staff, students, alumni, and all who act as its ambassadors--to serve as models reflecting behavior consistent with the tenets of civil discourse. Civility defines Nebraska and our University of Nebraska community.

As important as are the rights to debate and discuss competing ideas, the First Amendment does not protect all expression. The University will not facilitate expression in violation of the law or that poses an unreasonable threat to the safety of the University community or to the University's ability to fulfill its mission of teaching, research, and public service. Certain kinds of expression (among others), such as: speech that incites violence, fighting words, speech that defames or defrauds, speech that constitutes a genuine threat, or unlawfully discriminates, or speech that unlawfully invades privacy, is not protected speech. Acts or conduct, which threaten the safety of persons or property are not protected by the Constitution or the University.

Individuals, once provided the requisite due process, found in violation of the provisions contained herein shall be subject to review and potential discipline in accordance with the Bylaws and Policies of the Board of Regents of the University of Nebraska, corresponding to such individuals' relationship to the University community (e.g. student, faculty and staff).¹

Finally, while the principles of Academic Freedom are unique ideals possessed by the teaching profession, separate from an individual's First Amendment Rights, the University of Nebraska is clear in its commitment and faithful to the preservation of Academic Freedom. This policy is not intended to interfere with or encumber those principles. For example, according to the *American Association of University Professors 1940 Statement on Academic Freedom and Tenure*, teachers are entitled to freely discuss topics in the classroom, but they should be careful not to introduce controversial matters, which have no relation to the subject being taught.

Guide for Facilities Use Plans

University resources, for example, its land and buildings, its library collections, its computer networks, are to be applied first and foremost to its mission of teaching, research and public service, and therefore, such University properties are primarily dedicated to this mission, which encompasses all academic activities, student life, intercollegiate athletics, and the administrative functions that support this mission. These properties are not generally open and available to the public—they are provided to and by the University, in order that it might carry out its educational charge. The First Amendment does not mandate that the University grant the public unfettered access to its facilities. The University may elect to open certain spaces to the public without limitations, to open other spaces with limitations on use, and to maintain the non-public status of other spaces.

¹ For example, students in violation of this, or any, University policy are subject to the processes and sanctions set out in their respective campus's Student Code of Conduct; students in certain colleges are subject to separate codes of honor; all faculty and non-faculty employees are bound by their employment relationship to comply with all Board of Regents Bylaws and Policies, including this policy. Failure to comply with bylaws and policies subjects non-faculty employees to disciplinary action under the authority of the campuses' Human Resources Departments, while faculty violating bylaws and policies are governed by the review processes established pursuant to Bylaws Chapter IV. Rights and Responsibilities of the Professional Staff. Board of Regents Bylaw 4.1 on Academic Responsibility is of particular relevance.

An individual may not materially disrupt activities conducted within the context of the University's mission. The University may reasonably regulate the time, place, and manner of expression, in accordance with the law, in order to ensure that the ordinary activities of the University are not disrupted. Such regulations must be narrowly tailored to serve significant, viewpoint-neutral interests, and cannot substantially burden more speech than necessary to protect the University's interest.

Spaces such as classrooms, where teaching takes place; or labs where research is conducted; or offices where administrative business is carried out, are not freely open to the public. There are, however, spaces within our campuses that may be opened to both members of the University community and the public for a variety of purposes, including speech and expression. Therefore, under the direction of the Chancellors, each of the campuses are to implement facilities use plans, programs and strategies on their respective campuses, along with rules and processes grounded in law and University policies, to designate which properties, facilities, and/or other university resources, in whole or in part, are categorized under law as:

- “Designated Public Forums”—These are places the campus designates as open for expressive applications to all or part of the campus community, or the community at large. This might be a mall, a plaza or the sidewalks. Reasonable time, place and manner restrictions may be implemented in a viewpoint or content-neutral application.
- “Limited Public Forums”—These are places (such as a concert hall), events (such as a student panel discussion on Literature of the Plains), or other avenues for expression (such as an electronic bulletin board), which can be designated for use by a particular group and limited to particular topics or types of speech, as long as the limitations are reasonable and viewpoint-neutral.
- “Non-Public Forums” are all places and resources not otherwise categorized as Designated Public Forums and Limited Public Forums.

In none of these instances may campuses implement rules or processes which differentiate use of properties or resources, or disciplinary outcomes, based upon the viewpoint of the user.

It is not possible in this brief guide to provide specific direction with respect to the appropriateness of any regulation within any particular campus's facilities or spaces. Each campus has unique space characteristics, distinctive mission-related needs, and therefore, proposed uses of designated forums will differ on a case-by-case basis, and further, the University expects that the plans will evolve over time to meet the needs of its mission and its community. However, in order to ensure legal and policy compliance, prior to implementation, the campus shall secure the advice and approval of the Office of the General Counsel with respect to the strategies, rules and processes contained in its facilities use plans and programs.

As part of such facilities use program implementation, each campus shall conspicuously post on its website, and in other places that provide for effective communication, a map of the facilities and spaces on their main campuses, showing the nature of the forums present on campus, along with information or directions with respect to restrictions and processes applicable to any given location. To the greatest extent possible, there shall be a single, easy-to-locate, user-friendly resource designated at each campus, for persons wishing to access information about the availability, rules and processes applicable to any given space at that campus.

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Last, yet of great importance, regular opportunities for the University community to educate itself about the First Amendment and this policy, as well as the existence and implementation of campus facilities use programs, are imperative. The understanding of one's constitutional rights, and the expectations surrounding those rights, is vital to the free exchange of ideas, information, opinions and discovery. Failure to understand and learn the underpinnings and legal interpretation of the First Amendment lends itself to incivility and miscommunication. Because this exchange is so very critical to the University's mission, it is incumbent upon the University to engage in a deliberate program of education for the University community, and beyond, with respect to the First Amendment of the U.S. Constitution and the University's support of it.

Adoption of this policy will prompt a review of University policies and practices throughout the University. To the extent that such other policies and practices conflict with this policy, this policy shall take precedence, and such other policies and practices shall be interpreted in a manner to resolve the conflict in favor of this policy.

This document was composed following a review of the good works of many of the University's institutional colleagues and related professional organizations, along with some ideas and approaches wholly original to the University of Nebraska. The University of Nebraska wishes to recognize the efforts made by many others, which preceded the adoption of this policy, including the University of Chicago, the University of Missouri, Kansas State University, the Association of Governing Boards of Universities and Colleges, the National Association of College and University Attorneys, and the Foundation for Individual Rights in Education (FIRE), among others. Thank you.