

## **AN EXECUTIVE SUMMARY OF THE UNIVERSITY OF DENVER STATEMENT OF POLICY AND PRINCIPLES ON FREEDOM OF EXPRESSION**

The University of Denver has dedicated itself to supporting the most fundamental goals of higher education, including establishing a community that promotes a culture of robust debate and open dialogue about a wide range of issues across a number of different campus venues. The University's statement of Vision, Values, Mission, and Goals identifies "excellence, innovation, engagement, integrity and inclusiveness" as our key values and community, learning, and scholarship as its core goals. Properly understood, a commitment to freedom of expression supports all of these values and goals; indeed, none of them can truly be practiced without it.

To claim that freedom of expression is crucial to our values and goals is not, however, to ignore the fact that a commitment to speech can create considerable tension within those same values and goals. As recent events across the country and on our own campus have shown, a commitment to freedom of expression and a commitment to the value of inclusiveness do not always or easily align. The University therefore recognizes that, in a society confronting social, racial, gender, religious, economic, and other inequalities, where historically some voices and some communities have been marginalized, excluded, or silenced, a commitment to free speech must, at the same time, include a strong commitment to inclusiveness.

It is inevitable that, in a community as richly diverse as DU, robust protection of the freedom of expression may be in tension with other important community values. Thus, the Faculty Senate is appointing a University Committee for the Promotion of Free Expression. The committee is to be comprised of faculty, staff, administrators, and students from across campus, tasked with (a) proactively creating forums for meaningful, responsible engagement of diverse and opposing viewpoints among all campus constituencies, particularly concerning the types of issues that are likely to lead to tensions on campus, (b) addressing such conflicts as they arise in ways that aim to resolve them in a manner that increases dialogue, respects speakers of diverse viewpoints, and seeks to heal and build community, and (c) when requested, assisting the University in examining issues of freedom of expression.

### **Some Basic Principles of Freedom of Expression**

- The First Amendment forbids the government from "abridging the freedom of speech." Private universities are not the government; however, an essential function of higher education is the promotion of open and robust discourse about the most difficult issues of our times.
- Because there is an impulse by the majority to want to suppress minority viewpoints, the restriction of speech because of the speaker's viewpoint is presumptively disfavored.
- While the University may express its own views when others engage in speech that is not representative of the University's values, it may not punish or censor those who take an opposing position based solely on their viewpoint.
- The fact that speech may sometimes be offensive or even emotionally hurtful is not sufficient, alone, to justify interfering with the speaker's right to engage in such expression. The best remedy for "bad"

speech is more speech. Communities are better served by providing opportunities for responsible engagement than by silencing some members of the community.

- All members of the University community shall be free to contest views expressed by other members or by invited speakers, limited by the principles set forth above. This includes views expressed by administrators, members of the Board of Trustees, and the Faculty Senate. Students, faculty, and staff shall have the right to express their views on all issues, including the right to dissent from the opinions and/or judgments of colleagues, administrators, and trustees, without overt or covert reprisals. Given their special role in institutional governance, faculty members should be free from coercion. Likewise, University community members must not interfere with the freedom of others to express views that such members disagree with, however passionately. Senators, administrators, and the Board of Trustees have a special responsibility to ensure that free debate can occur across the campus, to set an outstanding example of tolerance, to physically protect speakers from those who attempt to silence them, and to immediately condemn serious breaches of civility when they occur.

### **The Responsibility of the University and its Community Members to Foster an Open Learning Environment**

In dedicating itself to maintaining a community of open dialogue and inquiry, the University of Denver has a responsibility to provide opportunities for its community members to learn how to address controversial, offensive, or provocative speech. Furthermore, the University may and should protect community members from physically harmful conduct, harassment, true threats, intimidation, incitement of others to imminent lawless conduct, or assault (words that place a reasonable person in imminent fear of immediate harm). These categories of conduct and speech have long been recognized to be outside First Amendment protection and need not be tolerated by the University. It is also permissible to place reasonable restrictions on the time, place, and manner of speech while not regulating its content.

The University of Denver Code of Conduct and Student Honor Code also permit the University to prohibit harassment or actionable invasions of another community member's privacy. The University is also free to regulate behavior that constitutes unlawful discrimination, violence, and violations of equal opportunity. In addition, federal laws such as Title VI, which "protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance," justifiably permit the regulation of "conduct . . . considered sufficiently serious to deny or limit a student's ability to participate in or benefit from" education programs.

In addition, the right to speak in a university setting comes with great responsibilities to the community and its members. At times, therefore, it may be within the realm of responsibilities for an individual community member to exercise discretion about precisely how and where to exercise the precious freedom of speech to best promote the good of the University. The University still cannot in any way punish or sanction any community member who fails to exercise such discretion unless that expression falls within one of the categories of unprotected expression previously mentioned.