

Guideline G1-007C: Guidance on Institutional Speech, Political Advocacy, Free Speech, and Academic Freedom

This guideline provides guidance to the university community on institutional speech, political advocacy, academic freedom, and practicing free speech. This guideline will be updated as needed in response to changes in state law and Utah Board of Higher Education guidance.

Institutional Speech

As directed by the Utah Board of Higher Education, university employees acting on behalf of the university, including leaders acting on behalf of their units, may not take a position on behalf of the university or a university unit on political, social, or cultural controversies, public debates, or flashpoint moments. If those issues directly, significantly, or specifically affect the university's mission, role, or pedagogical objectives (e.g., the functioning of the university; campus safety; commitment to the rule of law, including freedom of expression), the president, a senior vice president, or the president or senior vice president's designee may take a position on behalf of the university.

In addition to remaining neutral on political and social issues, the university, including the colleges, divisions, departments, programs, or other units, is prohibited by state law from taking, expressing, or asserting a position or opinion on certain topics, including anti-racism, bias, critical race theory, implicit bias, intersectionality, or racial privilege. This prohibition applies only to the institutional speech of the university and its units; it does not limit academic freedom—faculty have the right to examine and communicate ideas by any lawful means, both in the classroom and when engaged in scholarly work. Faculty may, as pedagogically appropriate, express their individual views on political or social issues in their teaching, research, and scholarship.

In keeping with institutional neutrality, the university may, among other things:

- provide forums for, and invite speakers to speak on, political or social issues if it does so in a reasonably neutral manner, providing opportunities for listeners to hear opposing speakers or other viewpoints.

- host events or activities based on political or social issues. The university may determine which guest speakers to invite, but it must remain viewpoint neutral.

Institutional neutrality should not be interpreted to limit academic freedom.

Taking a position includes, but is not limited to, issuing a statement, publishing a webpage, or indicating a position in a broadly distributed email, newsletter, or other piece of media or correspondence that is issued on behalf of the university or a university unit.

Political Advocacy and Official University Positions

Political advocacy is an act done with the intent to directly or indirectly influence the passage, defeat, or implementation of a policy at the municipal, state, or federal level of government. For example, political advocacy includes attempting to influence a lawmaker, executive branch agency employee, or voter.

University employees, including faculty and staff, and students may participate in political advocacy but must do so as private citizens on their own time and should not use university resources.

A university employee who participates in political advocacy in their personal capacity must not appear to represent the university, and therefore when engaging in political advocacy:

- An employee should avoid using university resources, including UMail, letterhead, telephones, etc.
- If an employee states their affiliation with the university in correspondence with a lawmaker or an executive branch employee or when addressing a legislative committee, the employee should also indicate that they are writing/speaking on their own behalf and not representing the university.
- A faculty member or other employee may share their qualifications or expertise on a topic but should still expressly indicate that they are representing themselves and not the university.

Only the president, a senior vice president, and individuals specifically authorized by

the president or a senior vice president may engage in political advocacy on behalf of the university or take an official university position on an enacted state or federal law, regulation, or policy. Individual units are considered part of the university, and therefore individual units or any employee acting in their capacity as an employee may not engage in political advocacy or take a position on a policy on behalf of the university or the unit.

During the Utah legislative session in particular, legislators sometimes ask university employees to provide information, answer questions, or testify before a committee. In these cases, unless the employee has permission from the president or a senior vice president to speak on behalf of the university, the employee is speaking on their own behalf and should follow the guidance above to ensure that they do not appear to represent the university.

A staff member should consult with their supervisor and a faculty member should consult with their department chair before testifying before a legislative committee during the employee's scheduled work hours. In general, if a legislator asks for information from an employee or asks the employee to testify before the Legislature about something related to their work at the university, the employee should contact the University Office of Government Relations. The Office of Government Relations is available to support employees in their interactions with the Legislature.

The following are hypothetical examples of faculty and staff political advocacy on behalf of the university and in their personal capacity:

- A faculty member in a health sciences college wants to discourage the Legislature from passing a bill related to licensure for health professions and chooses to attend a legislative committee meeting about the bill to share this position. Even though this bill is about the faculty member's area of expertise, the faculty member is speaking in a personal capacity and should make an appropriate disclaimer (for example, I am Jesse Smith, faculty member in the University of Utah College of Nursing, but I am speaking on my own behalf as an expert in the field and not on behalf of the university). The faculty member should also notify their department chair if the committee meeting is during

their scheduled work hours.

- The university president has decided that the university has an official position supporting a specific bill and has designated an employee with subject-matter knowledge on the topic of that bill to testify before a legislative committee about why the university supports the bill. This is political advocacy on behalf of the institution, and the employee may indicate that the position is the University of Utah's position (for example, I am Jordan Kim, chair of the Department of X at the University of Utah, and the university supports this bill).
- A staff member who works in the College of Education is a parent of a child who attends a charter school and is asked by a legislator to testify in a committee meeting to support a bill related to charter schools and to send emails to the committee members supporting the bill. This is political advocacy in the employee's personal capacity that is unrelated to their employment at the university. The staff member should not use university resources for this communication and may not engage in this communication during their scheduled work hours. If the committee meeting is during the staff member's scheduled work hours, the staff member should work with their supervisor to take leave as appropriate. If the staff member identifies themselves as an employee of the College of Education or the University of Utah, they should make clear that they are speaking in their individual capacity and not on behalf of the university.
- A legislator asks a university faculty member with expertise in a particular subject to answer questions by email about that topic. The legislator also asks the faculty member to testify before a legislative committee. For example, a legislator asks a researcher from the Huntsman Mental Health Institute about social media and teens. The faculty member is sharing their expertise in their personal capacity, unless designated by the president or a senior vice president to provide the expertise on behalf of the university. A faculty member should notify their department chair if the committee meeting is during their

scheduled work hours. If the faculty member wants to speak or provide information on behalf of the university, the faculty member should contact the Office of Government Relations. The Office of Government Relations is also available to provide help with any questions related to providing information to the Legislature.

- The Center for Medicare & Medicaid Services issues a notice of proposed rulemaking and the senior vice president for health sciences designates employees within University of Utah Health Sciences to provide comments on the proposed rule on behalf of the university. These employees may use university resources to draft and submit the comments and may work on the comments during work hours.

Freedom of Expression

The university's free expression policy (Policy 1-007) recognizes the constitutional right of all members of the university community to freedom of speech and assembly without prior restraint or censorship. This guidance does not preclude university employees from speaking on matters of public concern, lobbying, or supporting candidates, issues, and campaigns provided they do so as private citizens and not as representatives of the university.

Academic Freedom

The university recognizes and maintains academic freedom of faculty members in the pursuit and dissemination of knowledge. Policy 6-316: Code of Faculty Rights and Responsibilities notes that faculty members have the right to examine and communicate ideas by any lawful means, even should such activities generate hostility or pressures against the faculty member or the university. Faculty members may promote or speak about their research areas as subject matter experts in their field, including sharing with media, such as interviews with reporters, participating in podcasts, writing op-eds, or participation in the policy-making process, such as sharing expertise with policy-makers or testifying at a legislative committee hearing – again, as long as they do so in their personal capacity and not as representatives of the university.