

Wayne State University Law School
Standard 208 policies

Free speech

The law school encourages and supports the free expression of ideas by all members of the law school community – faculty, students, and staff. The law school will not restrict the ability of community members to communicate ideas on the basis of viewpoint-- however controversial, unpopular, or divisive the expressed views may be -- or because they involve robust debate, demonstrations, or protest.

Any law school student organization may invite a guest speaker to the law school. Organizers of all such events must request a room reservation for the date and time of the event. Room reservation requests will be considered in light of space availability and any conflicts with existing programs, events, and classes. The law school may impose appropriate non-content-based rules governing event reservations and will publish those rules on its website. It will not refuse a reservation requested by a law school student organization on the ground that a speaker's ideas may be offensive or objectionable to some members of the University community. Event sponsors may advertise events by posting flyers in accordance with the law's school's posting policy, which is non-viewpoint-based and available on the law school's website.

It may happen, from time to time, that some members of the law school community believe that the views of an invited speaker should be criticized or condemned for purveying a socially harmful message. That speakers are within their free expression rights does not imply that they are immune from moral judgment. Those who disagree with the decision to invite an outside speaker are free to manifest disrespect for the speaker's speech – e.g., by picketing peacefully outside the facility; by attending the event with signs or garb indicating objection; by orchestrating a collective walk-out from the event or a collective turning of backs on the speaker – in ways that do not impede fellow members of the community from participating in the event.

Nothing in this policy, however, protects conduct that substantially disrupts the normal functioning of law school classes, meetings, library services, interviews, ceremonies, or public events and substantially interferes with the speech those events contemplate. Students engaging in conduct that violates Wayne State University's Student Code of Conduct may be subject to sanctions subject to the process provided in the Code. No student should face discipline on the basis of pretextual assertions of disruption or discipline that is disproportionate to the level of disruption generated.

Nothing in this policy should be understood to derogate from the academic freedom of a teacher to conduct class discussion in a way that maintains a conducive learning environment for all members of the class.

Nothing in this policy protects defamatory statements about specific individuals, harassment of specific individuals, genuine threats, or speech unjustifiably invading substantial privacy or confidentiality interests.

The law faculty shall elect, on a yearly basis, a committee known as the "Free Speech and Academic Freedom Committee," with an even number of faculty members plus a student member

selected by SBG. The committee shall elect a chair from among its members. Any members of the law school community who believe that the law school has infringed their rights under this policy or under the academic freedom policy, or that such a violation is impending, may bring that complaint to the Free Speech and Academic Freedom Committee. The committee may conduct factual investigation to the extent it deems necessary. If it finds a violation, it will issue a report to the Dean and faculty explaining its reasoning and incorporating non-binding recommendations to the Dean to guide decision-making going forward.

Academic freedom

Academic freedom is central to the idea of the university. “[U]niversities exist for the sake of [free] inquiry, [and] without it they cease to be universities.”¹ The Supreme Court has put it this way: Faculty “must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding.” It is “the business of the university” to provide the “[f]reedom to reason and freedom for disputation on the basis of observation and experiment.”² A university must see its role as one of enhancing opportunities for members of its community to engage with ideas, rather than one of dampening debate for the sake of comity and quietude.

The University may not impose sanctions on faculty members, in connection with their speech or otherwise, except as provided by University statutes and the relevant collective bargaining agreements, and subject to the procedures they provide. This policy specifies additional protections for speech by faculty members relating to any matter of political, social, or other concern to the community. The University may not sanction the faculty member for that speech except as noted below. That is so without regard to whether the faculty member is conducting research, publishing scholarship, engaging in law school governance, participating in law-related public service activities, exercising teaching responsibilities (including the selection of course materials and course content), representing clients in clinical programs or engaging in other legal representation, curating library collections, or providing information services. It extends as well to faculty members’ communication with the public, whether via public speaking, engagement with the press, or social media.

Exceptions to this academic-freedom protection may arise only in the following situations, which should be read so as to be consistent with the AAUP 1940 Statement of Principles on Academic Freedom and Tenure:

[1] A faculty member engages in speech amounting to intimidation, harassment, or gratuitous disparagement that is sufficiently severe or pervasive as to create a hostile educational environment.

[2] A faculty member’s speech incorporates defamatory statements about specific individuals or genuine threats, or unjustifiably invades substantial privacy or confidentiality interests.

[3] A faculty member’s speech falls below minimum acceptable levels of professional competence and ethical behavior.

¹ Terence Karran, *Academic Freedom: In Justification of a Universal Ideal*, 34 *STUD. HIGHER ED.* 263 (2009) (quoting Robert Hutchins, then president of the University of Chicago).

² *Sweezy v New Hampshire*, 354 U.S. 234, 250 (1957) (plurality opinion); *id.* at 262-63 (Frankfurter, J., concurring).

[4] A faculty member's speech substantially interferes with the faculty member's ability to perform job duties or is otherwise directly incompatible with the functioning of the University. That members of the academic community or others disagree with or are offended by a faculty member's expression of views cannot alone be grounds for imposing sanctions on the faculty member.

No person shall be subject to discipline based on the person's speech if the basis for the discipline is pretextual or the level of discipline is disproportionate to the harm created.

This policy applies to all full and part-time faculty, as well as to all others teaching in law school courses. If a full-time or part-time faculty member (other than the Dean or the Associate Deans) or a Wayne State University Libraries librarian believes that the law school has infringed their academic freedom, that person may file an informal complaint or formal grievance in accordance with the provisions of the Wayne Academic Union Collective Bargaining Agreement or the Union of Part-Time Faculty Collective Bargaining Agreement. Those agreements provide for notice, hearing, and appeal rights. They incorporate by reference the academic freedom principles found in Board of Governors Statute 2.42.01, which were in turn drawn from the AAUP 1940 Statement of Principles on Academic Freedom and Tenure. If other persons teaching in law school courses believe that the law school has infringed their academic freedom, they may bring that complaint to the law school's Free Speech and Academic Freedom Committee.

These policies were adopted on and effective as of March 4, 2025.