Reaffirmation of the Principles of Academic Freedom --
The Faculty Senate of the University of Nevada, Las Vegas

The Faculty Senate of the University of Nevada, Las Vegas (“UNLV”) states the following regarding academic freedom:

(1) The Faculty Senate fully subscribes to the principles of academic freedom and educational inquiry set forth by the American Association of University Professors (“AAUP”).

(2) We recognize and appreciate that the enacted laws of the State of Nevada include enforceable protections of academic freedom.

(3) The UNLV Faculty Senate reaffirms its unfettered, unconstrained devotion to the principles of academic freedom as first and paramount among the goals and duties of institutions of higher education (“the Academy”).

(4)(a) Academic freedom promotes two fundamental goals: (i) free investigation of ideas which also may be denoted as the pursuit of knowledge, and (ii) liberation of the individual and, thereby, liberation of greater Society.

(4)(b) To fulfill the goals stated at (4)(a), the Academy must teach and foster “life of the mind,” meaning the reverence for ideas and the capacity to think conceptually, thoroughly, creatively, rationally, pragmatically and critically. Life of the mind enables individuals to understand ideas both abstractly and as ways to solve practical problems. Unfettered academic freedom is crucial to imparting life of the mind.

(4)(c) We believe that to promote life of the mind, an essential role of the Academy is protecting and fostering for every member to the fullest extent feasible, uninhibited access to knowledge coupled with the free expression of opinions.

(5) So long as consistent with properly established, objective methods, the free investigations of ideas and expression of opinions should be neither suppressed nor restrained.
even if concerning highly controversial or sensitive matters, and even when challenging perceived truth or prevailing orthodoxy.

(6) So long as consistent with properly established, objective methods, academic freedom protects any and all members of the Academy who pursue knowledge regarding any and all appropriate endeavors including but not limited to:

-- classroom instruction;
-- research;
-- formal and informal communication of ideas of any kind in any medium;
-- programs, services and events; and,
-- service within and without the Academy such as faculty governance, business conducted at faculty meetings, work on faculty committees and similar efforts involving the policies and practices of the Academy and its constituent schools, divisions and departments.

(7) All members of the Academy who pursue knowledge consistent with the strictures of academic freedom are entitled to legally and communally enforceable protections from infringement on academic freedom including but not limited to

-- security of employment;
-- security of terms and conditions of employment such as rank, salary and perquisites, course assignments, access to research facilities and research support such as grants, research assistants and travel;
-- maintenance of opportunities for advancement such as tenure and promotions; and,
-- freedom from discipline, punishment, sanctions, ostracism and similar segregation from and within the Academy.
(8) To the extent they infringe on full and complete academic freedom, the UNLV Faculty Senate disapproves of the movements designated in the elucidation below as the Outcomes Movement and the Academic Justice Movement.

In support of the foregoing propositions, we provide the following elucidation.

I. Introduction -- Why We Have Published this Statement

The Faculty Senate of the University of Nevada, Las Vegas (“UNLV”) fully subscribes to the principles of academic freedom and educational inquiry set forth by the American Association of University Professors (“AAUP”).¹ We recognize and appreciate that the enacted laws of the State of Nevada include enforceable protections of academic freedom.² We consider the AAUP’s pronouncements coupled with the NSHE Code fundamental to the proper functioning of undergraduate and graduate educational institutions (“the Academy”).³

We write to reaffirm our resolute belief that absent not simply robust, but complete adherence to the principles of academic freedom, the Academy is unable to perform its educational function, a function crucial to individuals seeking instruction from the Academy and to the Society that, as it must, relies on an educated, productive community.

The Faculty Senate believes now is a particularly apt time to endorse this written reaffirmation because two seemingly widespread movements threaten to compromise, thus jeopardize, academic freedom. We identify them as the Outcomes Movement and the Academic

¹ The AAUP’s foundational document Statement of Principles on Academic Freedom and Tenure, 1940, remains among the most reliable and comprehensive basic expressions of the nature and extent of academic freedom. The AAUP has augmented its 1940 Statement with a series of supplements and reports. See, http://www.aaup.org/our-programs/academic-freedom/resources-academic-freedom.
² See, 2 Nevada System of Higher Education (“NSHE”) Code § 2.1 et seq.
³ While the same principles likely have their counterparts in elementary and high school level education, our expertise lies in higher education. Therefore, in no manner intimating that its precepts are inapplicable in other settings, we limit this statement to academic freedom’s essentiality for the Academy.
Justice Movement. To a meaningful extent, the issues of accountability and fairness attendant to those movements are appropriate concerns that readily may be pursued without infringing academic freedom. However, insofar as their proponents prioritize the two movement’s goals over academic freedom, we believe that priority wrongly weakens the educational system these movements seek to foster.

Specifically, the “Outcomes Movement” measures the merit of higher education *predominately* by the number of graduates employed plus the aggregate productivity those graduates generate. Based on the Movement’s claimed pragmatic bent, proponents frequently claim that the Academy inappropriately emphasizes purportedly impractical, abstract theory over practical, outcomes-oriented pedagogy.4 These critics similarly claim that the Academy encourages esoteric scholarship that neither directly nor substantially promotes economic and social benefits for the communities employing given institutions’ graduates. The Outcomes Movement challenges traditional intellectualism by perceiving higher education as essentially vocational instruction to attain “boots on the ground,” that is, preparing students to perform jobs with minimal appreciation for abstract ideas.5

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4 *E.g.*, Tyler Kingkado, Pat McCrory Lashes Out Against 'Educational Elite' And Liberal Arts College Courses, The Huffington Post (February 2, 2013) (discussing several American politicians’ criticisms of liberal arts education), accessed at: [http://www.huffingtonpost.com/2013/02/03/pat-mccrory-college_n_2600579.html](http://www.huffingtonpost.com/2013/02/03/pat-mccrory-college_n_2600579.html)

Mr. Kingkado’s article noted, for instance, that North Carolina Governor Pat McCrory, “said he doesn't believe state tax dollars should be used to help students at the University of North Carolina-Chapel Hill study for a bachelor's degree in gender studies or to take classes on the Swahili language. … The first term governor said he’d propose legislation to change the higher education funding formula in the state ‘not based on how many butts in seats but how many of those butts can get jobs.’”

This approach implies that curricula emphasizing the ability to think abstractly and critically should be the province of a small cadre of elite schools, not the sensible business of colleges and universities generally. Moreover, we worry that even if its supporters did not devalue teaching abstract ideas, the Outcomes Movement nonetheless would encourage anti-intellectualism. By focusing predominately on data collection, such as job placement and earnings reports, by emphasizing vocational preparation as the prime purpose of higher education and by placing heavy reliance on standardized testing and similar formal measurements, the Outcomes Movement encourages the Academy to embrace “teaching to the test” -- teaching to the data -- to assure continued funding. Taken to its natural extent, the Outcomes Movement could render many, perhaps most, graduates the equivalent of clerks best suited to work for the fortunate graduates of the small number of domestic (and perhaps large number of foreign) educational institutions that value the life of the mind.

In these regards, the Outcomes Movement questions what we believe is the core function of the Academy: imparting “life of the mind,” the ability to think and the appreciation of thinking conceptually which allows individuals to understand ideas both abstractly and as ways to solve practical problems. Certainly, the Academy must prepare students to assume at least the entry-level rigors of their chosen work and such other endeavors as they may pursue. Therefore, the Senate supports appropriate standards demonstrating the Academy’s willingness and ability to prepare students for the practical realities of membership in Society. However, for the

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6 While many educators, politicians and other concerned individuals have criticized extreme varieties of the Outcomes Movement, e.g., Kinkado, supra note 4, we believe such zeal remains highly influential especially in times of economic distress.

7 See e.g., ETS, A Culture of Evidence: an Evidence-Centered Approach to Accountability for Student Learning Outcomes (2008) (noting, inter alia, that particularly for liberal arts instruction, assessing outcomes should respect goals such as cultivating “creativity,” “student engagement with learning,” and, “general education skills, such as the abilities to communicate
reasons detailed at Part II, the supposition that “outcomes” determinations overshadow academic freedom inhibits rather than furthers higher education.

The second movement, which we denote as the “Academic Justice” movement, urges that academic freedom must be subordinated to truth and justice. Accordingly, any argument or inquiry deemed contrary to either truth or justice may be censored and its proponents disciplined, particularly to forestall purportedly unjust outcomes including distressing members of the Academy’s community. 8 Although the present impact of the Academic Justice Movement may be unclear, there remains an ongoing and earnest debate whether the expression of ideas may be limited in favor of purported fairness or justice. 9

The UNLV Faculty Senate believes that whatever their general merits may be, the Outcomes and Academic Justice movements can and have fostered inappropriate incursions into academic freedom, frustrating the purposes of higher learning which harms all Academy members including those these movements seek to aid. Because without full academic freedom the Academy cannot properly educate it members and serve its Society, we oppose any use of the Outcome and Academic Justice movements, or such other theories that impinges on complete academic freedom.

II. The Basic Principles of Academic Freedom

clearly and effectively and to break down and analyze complex information to solve problems.” (Id. at 12), accessed at: https://www.ets.org/Media/Education_Topics/pdf/COEIII_report.pdf
9 E.g., supra footnote 8. Additionally, a review of various college and university civility statements revealed uncertainly whether, in any given instance, the particular institution would endorse academic freedom over civility, evincing that the Academic Justice Movement still presents at least an implied challenge to academic freedom.
Academic freedom promotes optimal fulfillment of two fundamental goals: (1) free investigation of ideas and (2) liberation of the individual and, therefore, the liberation of greater Society. Both goals are integral for the enjoyment of, to borrow the phrasing of this Nation’s founders, “life, liberty and the pursuit of happiness.”\(^\text{10}\) Because we believe pursuing these two goals is the fundamental purpose of the Academy, the Senate cannot endorse limits on academic freedom. We do support, however, terms and conditions ensuring that academic freedom is neither frustrated nor distorted. Such terms and conditions comport with the beneficial aspects of the Academic freedom and Outcomes Movements.

Perhaps most prominently, academic freedom does not permit unprofessional conduct such as asserting indisputably untrue facts or arguing theories without providing apposite bases in support. Consequently, educational disciplines maintain discrete, objective standards of research and analysis to assure both the reliability of outcomes and the intellectual rigor of debate. Members of the Academy cannot claim that academic freedom allows them to defy the properly established, impartial methods of their chosen disciplines.\(^\text{11}\)

Similarly, recognizing that not all constituents of the Academy enjoy equal power, academic freedom does not justify misuse of authority, typically exemplified by coercion overt or subtle.\(^\text{12}\) For example, especially within the classroom, teachers may aggressively challenge their students but may not abuse their teaching authority by demeaning, frightening or otherwise inhibiting students from learning.\(^\text{13}\)

\(^{10}\) The Declaration of Independence, par. 2 (July 4, 1776).

\(^{11}\) *E.g.*, 2 NSHE Code § 2.1.3. Logically then, no person as a matter of academic freedom may impinge on the academic freedom of others. *Cf.*, *id.* at § 2.3.5.

\(^{12}\) In this regard, academic freedom shares the basic concerns regarding dignity and respect stressed by the Academic Justice movement.

\(^{13}\) To offer a prominent example, through the instruction, grading and review process, teachers hold considerable power over students. As experts in their fields, teachers may supplement their
These sensible and essential impartial parameters, of course, are far different from disparaging highly conceptual research and limiting academic inquiry based on even seemingly beneficent partisanism.

\[a. \textit{Free and Full Investigation of Ideas}\]

Classically, academic freedom protects the free and full investigation and debate of ideas, particularly concepts, viewpoints and policies “which may be politically, socially or scientifically controversial.”\(^{14}\) While this aspect sometimes is denoted as the pursuit of “truth,”\(^ {15}\) the better understanding in that truth, such as it may be, is part of a greater quest for ideas -- for knowledge.\(^ {16}\) Nevada law then, aptly recognizes that the larger category “knowledge” is part of the coverage of academic freedom.\(^ {17}\) This essential role of the Academy might be summarized as the accumulation and dissemination of knowledge coupled with the free expression of opinions as part of intellectual inquiry.

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\(^{14}\) 2 NSHE Code at § 2.1.2.

\(^{15}\) \textit{E.g.}, AAUP 1940 Statement, \textit{supra} footnote 1 at ¶ 1.

\(^{16}\) Theorists may differ whether, given a particular context, truth exists, whether all contentions to establish such truth themselves necessarily are true, and, if truth exists, whether it can be proved unconditionally as such. While such debate is part of academic freedom, the definition of academic freedom need not and ought not be constrained. Indeed, were truth the sole quest, there would be no moral objections to mandating belief in and proscribing all inquiry or debate questioning such truth. Therefore, the Senate prefers the concepts of “ideas” or “knowledge” as demarcating academic freedom.

\(^{17}\) “The continued existence of the common good depends upon the free search for truth and knowledge and their free exposition.” 2 NSHE Code § 2.1.1 (emphasis added).
Absent academic freedom, forces within and without the Academy could coerce their preferred orthodoxies as the price of maintaining the status of teacher, administrator or student. 

*But, stifling intellectual inquiry is the antithesis of education, threatening to substitute politics and partisanism for learning.* Consequently, academic freedom’s pursuit of ideas -- of truth and knowledge -- inures to research, publishing in all its forms, in-class instruction and general campus conduct.\(^\text{18}\) So urgent is academic freedom that famously the Academy, and sometimes the State, protects academic freedom with enforceable policies assuring job and status security, prominent among them tenure.\(^\text{19}\)

Understandably and sensibly, the Academy has concluded that along with teaching hands-on skills, researching and imparting abstract concepts is essential to understanding both particular disciplines and discrete topics. Thus, life of the mind is integral to academic freedom’s protection of the free and full investigation of ideas. Such research and instruction

\(^{18}\) *Id.* at §§ 2.3.1-2.3.3. The Senate notes in passing a disturbing trend within the federal courts demarcating certain academic business and debates as internal employment matters not protected by the free speech clause of the U.S. Constitution’s First Amendment. *E.g.*, AAUP, Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos, http://www.aaup.org/report/protecting-independent-faculty-voice-academic-freedom-after-garcetti-v-ceballos. While some purely internal matters might not implicate the academic freedom aspect of free speech, we fear that the courts are prone to remove policy and personnel matters from First Amendment coverage despite their intimate relation to academic freedom. Such jeopardizes academic freedom at government run institutions where the First Amendment is applicable.

We hope the federal courts will limit and reverse this trend. We note as well that private regulation of state and private higher education *via* accrediting institutions assures academic freedom regardless whether identical protections are or are not available under the U.S. Constitution. Moreover, states such as Nevada have codified affirmative academic freedom protections that may well fill any gaps in First Amendment coverage. Lastly, the federal courts recognize that full academic freedom protections may be incorporated as legally enforceable provisions of employment contracts. Insofar as it does not already do so, we urge the NSHE system to so incorporate such express protections.

\(^{19}\) For example, in Nevada tenure at State educational institutions is covered by 2 NSHE Code Chs. 3 and 4.
provides necessary depth and breadth of perception, enabling individuals ultimately to pursue occupations and other projects fully, with the greatest possibility of success and advancement.

In that regard, the study of concepts has two distinct but interrelated benefits particularly with regard to performing work. First, understanding the theoretical bases of a given discipline or project makes practical attainment of that project and success within the given field more likely. Education requires knowing why something is as it is, not simply how to do something with little or no regard for the theories underlying that thing. Persons who know the latter but not the former cannot fully understand their work and, thus, lack complete capacity to perform their work as well as possible.

Second, the very pursuit of abstract principles itself hones individuals’ intellectual capacities even if the given learning is not immediately related to particular work or vocation. For example, electricians who studied Philosophy may be better electricians because Philosophy enhanced their overall intellectual capacities and rational curiosity, making them able to appreciate more quickly and fully the intricacies of their chosen profession. Their desire and capacities to study Philosophy translated into similar desires and capacities to master their vocation.20

Importantly, the freedom to pursue knowledge covers more than discerning new and enhanced ideas. Academic freedom includes both challenging and demanding reaffirmation of accepted propositions, even when doing so is unpopular, uncomfortable and highly

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20 Accordingly, insofar as it fails to appreciate how life of the mind -- the ability to reason abstractly -- is indispensable to the practical application of ideas, the Outcomes Movement not only underestimates academic freedom but also impedes its own goals of maximizing efficiency and productivity. Thus, that Movement’s worthy objectives ought not be the tool to undermine academic freedom by disparaging the capacity to conceptualize.
controversial.\textsuperscript{21} For essentially two reasons, no idea should be considered so sacrosanct that it is beyond debate. First, possibly that which is considered \textit{truth} in fact might not be fully true or true at all. Only continued challenge and investigation can verify what has been determined to be true. Limiting or proscribing such sustained investigation means we cannot be sure that the particular truth is unchallengeable because of its truthfulness rather than due to the political machinations of powerful individuals or groups.\textsuperscript{22}

Second, even if extant investigation properly has discerned something to be true, full study requires more than the Academy’s unsupported assertion of that given truth. Rather, the Academy must present for study and challenge the record purportedly proving that truth. Prohibiting persons from presenting dangerous thoughts, including contesting even seemingly unassailable actuality, does not disprove those dangerous thoughts but rather only evinces that someone or some group can coerce orthodoxy.\textsuperscript{23}

We recognize that sometimes exercising academic freedom, particularly questioning orthodoxy, can cause harm particularly to innocent persons.\textsuperscript{24} Likewise, there is a great and too often underappreciated need to acknowledge dignity and respect, particularly to those who may have limited influence or who may feel innately estranged within the Academy. The Academy might well rally around the harmed person and attempt to show those skeptics the errors of their

\textsuperscript{21} E.g., 2 NSHE Code § 2.1.2.
\textsuperscript{22} It is worth reiterating that challenging orthodoxy does not excuse the investigator from conforming to the neutral, reliable procedures that assure trustworthiness and allow others to verify the investigator’s work. Academic freedom does not permit individuals to make unsupported assertions or to present conclusions derived from unsound methods.
\textsuperscript{23} Therefore, any support by the Academic Justice movement to punish persons for questioning even evident truth is out of place in the Academy.
\textsuperscript{24} For example, we believe, as we think most persons rightly believe, that discrimination based on sex is immoral except in very limited instances. Accordingly, skeptics’ contentions that benign dispositions of gender or sexuality are unnatural or evil understandably cause anguish, disaffection, censure, lost opportunities and other underserved injuries to persons who have done no wrong.

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beliefs. Moreover, as emphasized throughout this statement, if challenges to orthodoxy, or indeed any intellectual assertions, either fail to follow established, objective methods or defy historical or scientific fact, as for instance pure and absolute “Holocaust deniers,” academic freedom likely is not at issue. But otherwise, even if the vast majority lucidly deems skeptics’ claims appalling, such skeptics must not be penalized for to do so would inflict punishment through the imposition of political power.  

b. Liberation of the Individual

Statements on academic freedom tend to accent the pursuit of knowledge. However, the Senate believes that liberation of the individual is no less essential because liberty safeguards respect of human dignity, which is the innate due of every human being. Moreover, liberation of Society depends on the liberty of its populace. Thus, the personal and societal liberty interests vouchsafed by academic freedom are no less worthy of full enforcement than is the associated goal, the pursuit and dissemination of knowledge.

We understand “liberty” to mean pursuing self-chosen goals to attain happiness in a moral fashion, that is, seeking personal fulfillment while respecting the dignity of others. Importantly, we in no manner argue that human dignity is the byproduct of education. Rather, dignity is inherent within each person. Nor does the Senate suggest that individuals who do not

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25 Indeed, Nevada law recognizes:

The Nevada System of Higher Education is committed to the solution of problems and controversies by the method of rational discussion. Acts of physical force or disruptive acts which interfere with Nevada System of Higher Education activities, freedom of movement on the campuses or freedom for students to pursue their studies are the antithesis of academic freedom and responsibility, as are acts which in effect deny freedom of speech, freedom to be heard and freedom to pursue research of their own choosing to members of the faculty or to invited guests of the Nevada System of Higher Education. 2 NSHE Code § 2.1.4.

26 E.g. 2 NSHE Code §§ 2.1.1, 2.1.2. “Institutions of higher education are conducted for the common good and not to further the interest of either the individual member of the faculty or the institution.” Id. at § 2.1.1.
hold academic degrees are either unworthy of respect or incapable of respecting the dignity of others.

We do believe, however, that absent access to higher education greater Society fails to respect the innate dignity of each constituent individual. We so believe because especially in Modernity, appreciating life of the mind coupled with wide-ranging higher education allows individuals the best ability to pursue happiness in a moral and socially productive fashion. To that end, higher education affords the precise and pointed training to attain thorough life of the mind -- the ability to think and the appreciation of thinking conceptually -- that essentially is unavailable through other societal offices. In particular, higher education imparts life of the mind both abstractly and as applied in various courses of study, thereby better enabling individuals to discover who they want to be and how best to achieve their chosen selves.

While to a greater or lesser degree abstract theorizing may be characteristic of discrete endeavors such as work, those societal ventures use life of the mind instrumentally, certainly not predominately to vindicate the liberty of those engaged in the particular vocation. Only formal education, in particular the Academy, embraces as its very purpose imparting life of the mind. Because such instruction is attainable nowhere else, the Academy provides a singular and unmatched opportunity for individuals to liberate themselves -- to realize whom they are and what they want.

As part of their innate dignity, we believe that all individuals are entitled to the personal emancipation derived from what commonly is denoted a liberal arts education. That is, every person has the inherent right to enjoy the freedom -- the liberty -- that comes from the very
ability to think both conceptually and abstractly as well as pragmatically. Such is required for optimal self-fulfillment.27

The Academy violates these principles if it teaches in a vocational fashion, stressing how to do something over the whys of doing something. Students who are not firmly encouraged to appreciate the whys but only the how have incomplete knowledge. They may be able to perform certain work, but lack the capacity to develop by innovating and altering their environments. They may be limited only to repeating what has been done before, thus unable to contribute to the advancement of the given work or project.28 In that regard, as earlier mentioned, such Academy graduates are more like clerks than professionals. This not only disserves the students who rely on the Academy but likewise disserves the greater Society that would have to import the experts for whom its graduates would work. Thus, for the sake of the individual and the sake of Society, the Academy provides graduates who are educated in such life of the mind as given work might demand yet be unwilling to so train its own workers.

III. Conclusion

For the foregoing reasons the UNLV Faculty Senate reaffirms its unfettered, unconstrained devotion to the principles of academic freedom as first and paramount among the goals and duties of the Academy. Insofar as the Outcomes and Academic Justice Movements

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27 Almost needless to say, any society that frustrates individuals’ quest for intellectual fulfillment is oppressive. Conversely, by fostering individuals’ quest for intellectual fulfillment, a society increases not only aggregate happiness but as well overall productivity because a satisfied populace likely will work harder and better than a frustrated one. Therefore, Society benefits when its Academies foster the liberty of its students and educators through promoting life of the mind.

28 As one commentator noted, “The danger of equating higher education with skills training is that students are only taught instrumental knowledge and remain ignorant of the general interests of human beings. They are molded for the marketplace, for doing and getting, rather than taught the art of thought. They become unreflective experts who possess learning without wisdom and habit without philosophy or reflection, as Harold Laski once remarked.” Anderson, supra note 5, http://www.nas.org/articles/three_cheers_for_useless_education
suppress the capacities attendant to life of the mind, they should not be part of the process of the
Academy.

So subscribed this __ day of __, 2015 by an affirmative vote of the UNLV Faculty
Senate.