

## Response to Faculty Resolution on Free Speech (from Dr. Virginia Hardy, Vice Chancellor for Student Affairs)

Thank you to the Faculty Senate for being proactive in your approach to this issue. In review of Resolution #19-98, it is apparent that it raises issues related to possible conflicts with both the ECU Free Speech Policy and the applicable Free Expression policies of the UNC System, under which the University is obligated to operate.

It is well established that ECU seeks to support the principles of free speech and expression, including encouraging freedom of expression that is “free from internal or external restraints that would unreasonably restrict [their] academic endeavors.” The North Carolina General Assembly includes “discussion and debate” as part of the University’s primary function and in order to fulfill this function, the University has a commitment to encourage the fullest degree of intellectual freedom and free expression. Moreover, the UNC System’s policy on free speech includes the following language, specifically related to the University’s role in expressive activities, stating: “it is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.”

While outside organizations and their programs may be shocking, upsetting, and triggering, among other things, the University’s policy for free speech should be neutral and consistent from one activity or organization to another, and operated without content-based applications. Singling out individual expressive activities or organizations may be viewed as targeting, retaliatory, or punitive, and the University should remain neutral in compliance with First Amendment principles and legal obligations.

Additionally, while members of the campus community may desire more information about expressive activities, it is important to note that ECU has no affirmative legal obligation to inform, warn, or otherwise notify members of the university community when certain organizations are coming to campus. In fact, there are legitimate safety and operational concerns that such notification has the potential to be more disruptive to campus safety and operations than be beneficial. Further, a University mandate related to advanced notification of speech by all non-spontaneous, non-member groups could create a chilling effect on certain types of speech.

The University’s assigned Free Speech Deputy, Dr. Erik Kneubuehl, Associate Vice Chancellor in the Division of Student Affairs, has already begun the creation of a website that would provide timely information available to university community about confirmed reservations in the various free speech locations identified across both of ECU’s campuses. This information will be provided as a courtesy to allow interested campus community members to gain information about any upcoming activities specifically reserved in a free speech location(s). This site would also provide access to applicable policies and procedures, as well as contact information for departments and individuals tasked with supporting freedom of expression activities on campus. The University will receive input from various constituents and members of the university community as the site is developed, including any notification process.

In addition to the expressive activity information, the Resolution expressed concerns about the invasive nature of recording made of community members by individuals or organizations during campus events. The Resolution sought advance notification about the possibility of recordings by organizations or

individuals participating in expressive activities. As a fundamental starting point, ECU is a public institution and there is no guarantee of privacy in public areas on campus. While the University may attempt to make reasonably calculated efforts, when possible, to notify members in the university community when it has knowledge that events will be recorded or otherwise monitored, it is not against the law for an individual to use a recording device in areas to which the public has access and/or where there is no reasonable expectation of privacy. In fact, recording devices are often used without notice. As technology currently serves as a driving force for disseminating information, it is often a reality that any person could be recorded in public spaces at any time – with or without notice. Nonetheless, the entire ECU community should be educated and encouraged to immediately report any concerns about their safety or the safety of others to ECU police department.

Finally, the Resolution seems to include an assumption that the University has comprised a committee that exercises approval over event requests, seeking the addition of a faculty representative. Contrary to this presumption, there is no free speech committee within the Central Reservations Office (CRO) or other offices housed on campus. The CRO independently handles reservations and event logistics and will work and consult with campus partners such as facilities, campus police, and student affairs to ensure that campus events are safe, accessible, and organized for the entire campus community and its guests.

In sum, ECU and the UNC System have a duty to promote, encourage, and support the freedom of expression throughout our university communities, both in and outside of the classroom. The University has a duty to do so without targeting specific content, individuals or organizations, even in instances engage of speech that is highly offensive and may be triggering to some members of the campus community. Speech and expressive activities do not have to be planned nor presented in a formal matter in order to be part of a respectful exchange. ECU promotes the idea that all speech can be productive whether spontaneous or non-spontaneous, and regardless of whether the speaker is a member of the university community. ECU will continue to uphold its commitment to providing support through numerous resources which are available to students, staff, and faculty through the Division of Student Affairs, Human Resources, Office of Equity and Diversity, and others.