



THE UNIVERSITY OF NORTH CAROLINA SYSTEM

GUIDANCE REGARDING IMPLEMENTATION OF EQUALITY POLICY

Division of Legal Affairs

June 28, 2024

On May 23, 2024, the Board of Governors repealed and replaced [Section 300.8.5](#) of the UNC Policy Manual to reaffirm the University’s commitment to nondiscrimination, equality of opportunity, institutional neutrality, academic freedom, and student success (the “Policy”). Implementing the Policy will require changes in practices across the University—some of which developed and grew as constituent institutions implemented the original version of Section 300.8.5.

The Policy incorporates a multi-month implementation period. While the Board of Governors will ultimately assess how the Policy’s plain language is implemented, this Guidance should assist chancellors and campuses as they prepare the certifications and reports due by September 1, 2024.

The reaffirmed commitment to principled neutrality will require fair-minded vigilance. Campuses must consider whether an action or practice equates to the institution endorsing a position or opining on a matter of contemporary political debate or social action; a “view of social policy”; or “political controversies of the day”; or furthering any of the concepts listed in [G.S. §126-14.6\(c\)\(1\)–\(13\)](#). If so, the action or practice should be discontinued or modified to comply with the Policy.

The terms used in Section VII of the Policy are drawn from other UNC Policy and the General Statutes. They describe issues of public import over which reasonable people can disagree. By the same token, the Policy’s text contains express language to ensure that the Policy’s implementation does not unintentionally stray into areas of free expression, academic freedom, and student-led activities. All these commitments must be read together.

The operative language of the Policy, taken together, directs campus administrations to abstain from the political and social fray. This is the driving principle of institutional neutrality—that each institution will be the forum in which others may fully debate but will not itself be a participant in that debate. By committing to neutrality, the University’s weighty voice avoids chilling speech and allows constructive discourse to thrive. Institutional neutrality is in fact principled neutrality operating in service to academic freedom and the University’s core mission.

While it cannot answer every hypothetical, this Guidance discusses the following key topics:

1. **FOCUS ON STUDENT SUCCESS.** The Policy commits to student success and the diversity of individual students. Student success is quantified using metrics identified in the [University of North Carolina Strategic Plan](#), and each campus’s focus should drive towards meeting or exceeding those standards for the campus and individual students alike. One key to student success is connecting with students as individuals. Fostering communities that each student may choose to join makes an unfamiliar—and perhaps intimidating—environment more conducive to success. University-fostered groups—even those associated with immutable characteristics—are not prohibited generally by the Policy so long as the programs are nondiscriminatory and do not stray into political or social advocacy or commentary. Just as the Policy does not prohibit a support group established for students who are parents, or rural or urban students, or out-of-state students, or students who are veterans, or students who are first-time college attendees in their family, so, too, the Policy does not bar student success initiatives tailored to the experience of students based in part on their race, sex, nationality, or any

other identifying characteristics.¹ The Policy focuses on the content of programming and not the characteristics of the students receiving that support. Every initiative—however tailored—should be geared towards, and judged by, the objective student success metrics in the [Strategic Plan](#).

2. AVOIDING CONTENT ENDORSEMENT. Campuses have identified the challenge of distinguishing between acceptable student success efforts and content endorsement. A campus's nondiscriminatory effort to support students based in part on their identity is permissible so long as its efforts do not include statements or endorsements of ideology, politics, or social commentary. For example, while a student veterans initiative on campus is permissible, the initiative would stray if its programming included endorsement by university employees of a view for or against American foreign policy.

3. THE POLICY DOES NOT PROHIBIT CENTERS. UNC Policy addresses centers being operated on each of our campuses, and those policies remain in effect. See UNC Policy §§ [400.5\[R\]](#); [400.7](#). Generally, centers are university sub-entities that perform a particular service or function on the campus, including supporting students, academic pursuits, employees, or the wider community. Centers can take many forms, and the Policy does not prohibit centers categorically.

4. SOME CENTERS WILL NEED TO RESTRUCTURE THEIR CONTENT. Centers founded or operated at administrative direction, e.g., as part of a campus's division of student affairs, will need to review and assess their postings, writings, program content, and other messaging to ensure that they comply with the guidance set out in Section 2 regarding neutrality. On the other hand, because the Policy clearly reaffirms the University's commitment to academic freedom, a center that is a means by which one or more faculty members conduct, publish, and disseminate their academic work qualifies as an extension of the faculty's pursuit of teaching, research, and service. In that context, just as an individual faculty member may speak, write, research, and teach however he or she sees fit according to the dictates of his or her academic field, so, too, a group of faculty choosing to organize themselves as a center may do the same thing collectively. This analysis applies equally to academic centers that employ support personnel so long as those centers serve a scholarly function and are both formed and continuously directed by faculty members.

5. CURRICULUM. The Policy's reaffirmation of academic freedom powerfully delineates between the administrative and academic functions of the University. The former adheres to content neutrality and in so doing leaves broader space for the academy to teach, research, and serve free from the weight of administrative orthodoxy. *The Code* itself distinguishes between the role of the faculty and the role of the administration by expressly noting that faculty members, while free to speak, must not speak on behalf of the institution itself. See *The Code*, [Chapter VI, Section 601\(1\)](#) (stating that faculty members "should not represent themselves, without authorization, as spokespersons" for the University). The Policy, too, honors the distinction by not prohibiting a university degree program from including a faculty-directed, content-based course requirement. Courses are proposed, developed, and approved by the academy, and the chief academic officer and faculty members would have endorsed the germaneness of such coursework to the applicable academic pursuit. Similarly, curriculum in an individual course could include presentations by the professor or other university personnel that might otherwise be viewed as prohibited content—the distinction being that content offered within a course has been chosen by the professor as germane.

¹ The effect and reach of the United States Supreme Court's decision in [Students for Fair Admissions](#) continues to engender debate across the country. This office provided its own [guidance](#) on the case. At bottom, [Fair Admissions](#) stands for the proposition that scarce university benefits—in that case, a seat as an admitted student—cannot be allocated to some, and consequently denied to others, based on the race of the applicant. In reaffirming the University's commitment to nondiscrimination in the pursuit of student success, the Policy complies with [Fair Admissions](#). This Guidance follows suit by making clear that nondiscrimination in the pursuit of student success means a tailored initiative to some students must still be open to all students.

6. **CONTENT-SPECIFIC EMPLOYING DIVISIONS AND EMPLOYEE POSITIONS.** One of the most visible changes to expect on campuses is the elimination of content-specific missions, duties, and titles of employing divisions and employee positions. The Policy prevents university administrators from endorsing any one viewpoint when doing so violates the laws and UNC Policies it cites, including the Policy itself. This prohibition reaches positions across the political, policy, and social spectrum, including, without limitation, diversity, equity, and inclusion offices and officers. Application of the prohibition will require assessing each position and the responsibilities it entails. As missions, duties, practices, and titles necessarily change, two key points should be remembered: first, title changes alone are insufficient. The actual work of the University must return to advancing the academic success of students with different backgrounds not different political causes—job titles and responsibilities should follow suit. Secondly, content-specific employing divisions and employee positions prohibited by the Policy do not include positions existing to ensure compliance with federal laws prohibiting discrimination in the workplace and educational opportunities. To the extent nondiscrimination positions, titles, and job descriptions change to comply with the Policy, those changes should be described in the report required by the Policy.

7. **PUBLIC RESOLUTIONS AND MEDIA STATEMENTS IN NAME OF THE UNIVERSITY.** North Carolina law requires institutional neutrality, and the Policy reaffirms that commitment. This requirement means that campuses should, as a rule, refrain from issuing public statements on an external matter of public concern. Campuses should manage the requirement of neutrality and the pressure to speak as follows: first, campuses should reject the premise that making a public statement is the only way to support a particular group of students. Second, if a campus chooses to speak in support of its students, the statements should focus on just that—the affected students—without delving into political, policy, or social advocacy. Third, the more frequently campuses refrain from speaking in the name of the University or one of its sub entities, the easier the practice will become.

8. **RESEARCH.** Research is a critical component of university operations and is expressly referenced within the academic freedom reaffirmed by Section V of the Policy. According to one well-known source, “research” means a systematic investigation or inquiry aimed at contributing to knowledge of a theory, topic, etc., by careful consideration, observation, or study of a subject.² Thus, inherent in research are both a question and an answer to be tested or sought. Neither of those equates to advocacy for a particular conclusion. Questions have arisen as to how university employees applying for grant funding may permissibly respond to grant application requests for affirmations regarding the applicant campus’s commitment to nondiscrimination or some other aspirational standard of behavior. The Policy does not prevent grant applicants from citing the Policy to demonstrate that a university entity is committed to any of the principles reaffirmed by its terms. Nor does the Policy prevent a grant applicant from personally affirming his or her own beliefs in support of an application. In a hypothetical instance where a grant application requires grant applicants to commit the institution to take action that the Policy prohibits, University grant applicants should ensure research funders understand the neutrality limits established by the Policy.

9. **SERVICE.** Public service is a key component of the mission of the University of North Carolina enshrined at [G.S. §116-1\(b\)](#). Forms of service can range from membership on committees or task forces to supporting communities across North Carolina. Administratively-directed service by faculty members—or, indeed, any employee—must not include content endorsement or advocacy. For example, no longer may campuses appoint employees to represent policy or social viewpoints on hiring committees. Nor should members of such committees receive prohibited content-based training as part

² *Oxford English Dictionary*, s.v. “[research \(n.1\), sense 4](#),” July 2023.

of their service. Generally, the more administratively directed a given act of service by university employees is, the higher the expectation of neutrality must be.

10. **CONTRACTING.** Collectively, the University of North Carolina contracts for millions of dollars in goods and services each year. These range from ordinary vendor contracts with office product suppliers to campus-wide contracts for information technology hardware and software. The University itself also contracts to provide services, including research, to others. These relationships between the University and third parties are governed by the terms of their bargain; provided, however, no university entity may agree to contractual terms requiring the university entity to do what is prohibited by the Policy. Nor may the University engage a contractor or vendor to do on behalf of the University what the Policy prohibits. This prohibition extends to all agreements to which the University is a party—including, without limitation, contracts with vendors providing training at the request of the University and associated entity agreements between the University and non-profit entities associated pursuant to [G.S. §116-30.20](#) and UNC Policy [600.2.5.2\[R\]](#). In the latter example, a campus could not outsource to an associated entity the practices prohibited by the Policy.

On the other hand, as with research grant applications discussed above, the Policy does not prevent the inclusion of representations as to any of the principles reaffirmed in the Policy. Because university contract negotiations are regularly undertaken subject to North Carolina law as to provisions declared by law to be against public policy in North Carolina, university contract negotiators should be readily familiar with navigating how the Policy bears on terms and conditions proposed by third party contractors. Finally in the realm of contracts, the Policy does not prohibit the University from complying with state and federal requirements for encouraging the utilization of historically underutilized businesses.

11. **STUDENT AND FACULTY GROUPS & OUTSIDE SPEAKERS.** The Policy does not apply to activities undertaken by student groups using either university space or university resources so long as the student groups comply with the campus's generally applicable rules for facilities and resources. Because faculty or staff sponsorship is often a prerequisite for a student group's formal recognition by the institution, the exception for student groups includes the ability of any university employee to choose to sponsor or otherwise facilitate a student group so long as university employees have the choice to sponsor any student group they like and any such sponsoring employee's facilitation does not stray into control of content presented to the student group. Nor does the Policy impair the existing practice of campuses providing nondiscriminatory, nominal support to voluntary, self-governing groups of faculty or staff so long as it remains clear that those entities are not speaking on behalf of the University.

Finally, the Policy does not prohibit a university administration itself from continuing to organize and fund speaking events at the campus for the enrichment of the student body. All seventeen campuses regularly report on such content-neutral and content-diverse efforts as part of their annual Free Expression Survey responses. Campuses should continue to provide well-rounded content that seeks to inform students by bringing in diverse viewpoints from all corners of the debate.

12. **FORM OF CERTIFICATION & REPORT.** The Division of Legal Affairs will be circulating soon a template for campuses to use to certify and report their compliance with the Policy on or before September 1, 2024.

13. **ADDITIONAL GUIDANCE PROVIDED AS NECESSARY.** This Guidance is no substitute for the implementation tasks required of chancellors and their campuses. Nor is it a replacement for one-on-one discussions with individual campuses that need support. Nonetheless, the Division of Legal Affairs will provide additional guidance as necessary.