

5. PROTECTING FREEDOM OF SPEECH, THOUGHT, AND EXPRESSION AT INSTITUTIONS OF HIGHER EDUCATION

1 **WHEREAS**, the First Amendment to the Constitution of the United States guarantees
2 that “Congress shall make no law . . . abridging the freedom of speech”; and

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4 **WHEREAS**, in *Healy v. James*, 408 U.S. 169 (1972), the Supreme Court of the United
5 States held that the First Amendment to the Constitution of the United States applies
6 in full force on the campuses of public colleges and universities; and

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8 **WHEREAS**, in *Widmar v. Vincent*, 454 U.S. 263 (1981), the Supreme Court of the United
9 States observed that “the campus of a public university, at least for its students,
10 possesses many of the characteristics of a public forum”; and

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12 **WHEREAS**, lower Federal courts have also held that the open, outdoor areas of the
13 campuses of public colleges and universities are public forums; and

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15 **WHEREAS**, section 112(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1011a(a)(2))
16 contains a sense of Congress noting that “an institution of higher education should
17 facilitate the free and open exchange of ideas”, “students should not be intimidated,
18 harassed, discouraged from speaking out, or discriminated against”, “students should
19 be treated equally and fairly”, and “nothing in this paragraph shall be construed to
20 modify, change, or infringe upon any constitutionally protected religious liberty,
21 freedom, expression, or association”; and

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23 **WHEREAS**, despite the clarity of the applicable legal precedent and the vital
24 importance of protecting public colleges in the United States as true “marketplaces of
25 ideas”, the Foundation for Individual Rights in Education has found that approximately
26 1 in 10 of the top colleges and universities in the United States quarantine student
27 expression to so-called “free speech zones”, and a survey of 466 schools found that
28 almost 30 percent maintain severely restrictive speech codes that clearly and
29 substantially prohibit constitutionally protected speech; and

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31 **WHEREAS**, according to the American Civil Liberties Union (ACLU), “Speech codes
32 adopted by government-financed state colleges and universities amount to

33 government censorship, in violation of the Constitution. And the ACLU believes that all
34 campuses should adhere to First Amendment principles because academic freedom is
35 a bedrock of education in a free society.”; and

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37 **WHEREAS**, the University of Chicago, as part of its commitment “to free and open
38 inquiry in all matters”, in 2015 issued a statement in which “it guarantees all members
39 of the University community the broadest possible latitude to speak, write, listen,
40 challenge, and learn”, and 78 university administrations and faculty bodies (including
41 the University of Wisconsin System, when in October, 2017 the Board of Regents
42 adopted Regent Policy Document 4-21) have endorsed a version of the “Chicago
43 Statement”; and

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45 **WHEREAS**, the States of Virginia, Missouri, Arizona, Kentucky, Colorado, Utah, North
46 Carolina, Tennessee, Florida, Georgia, Louisiana, South Dakota, and Iowa (and perhaps
47 others) have passed legislation prohibiting public colleges and universities from
48 quarantining expressive activities on the open outdoor areas of campuses to
49 misleadingly labeled free speech zones; and

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51 **WHEREAS**, free speech zones have been used to restrict political speech from all parts
52 of the political spectrum and have thus inhibited the free exchange of ideas at
53 campuses across the country; and

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55 **WHEREAS**, restrictions on the free exchange of ideas and opinions on Wisconsin
56 college campuses diminish the ability of students to develop critical thinking skills that
57 are the primary goals of higher education, thus devaluing the quality of education
58 underwritten by Wisconsin taxpayers and tuition payers; now, therefore, be it

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60 **RESOLVED**, That the Republican Party of Wisconsin’s Eighth Congressional District, in
61 Caucus assembled —

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63 1. Recognizes that free speech zones and restrictive speech codes are inherently at
64 odds with the freedom of speech guaranteed by the First Amendment to the
65 Constitution of the United States; and

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67 2. Recognizes that institutions of higher education should facilitate and recommit
68 themselves to protecting the free and open exchange of ideas; and

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70 3. Recognizes that freedom of expression and freedom of speech are sacred ideals
71 of the United States that must be vigorously safeguarded in a world increasingly hostile
72 to our Republic; and

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74 4. Encourages the Wisconsin State legislature to adopt legislation similar to that in
75 other States, prohibiting Wisconsin public colleges and universities from quarantining
76 expressive activities on the open outdoor areas of campuses to misleadingly labeled
77 free speech zones; and

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79 5. Encourages Tommy Thompson, Interim President of the University of Wisconsin
80 (UW) System, to enforce the action items already specified in Regent Policy Document
81 4-21 (Commitment to Academic Freedom and Freedom of Expression), and to promote
82 policies that foster spirited debate, academic freedom, intellectual curiosity, and
83 viewpoint diversity on the campuses of the UW System; and

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85 6. Recognizes that many of the restrictions of free speech on UW System campuses
86 result directly from a lack of intellectual and/or viewpoint diversity among faculty and
87 administrators, and therefore encourages Tommy Thompson to appoint a commission
88 to inquire into that lack and its impact on the quality of education at UW System
89 institutions; and

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91 7. Encourages Josh Kaul, Wisconsin Attorney General, to defend and protect the
92 First Amendment on Wisconsin colleges and Universities.