



*Representing UW-Madison Faculty.
Strengthening Wisconsin.*

PROFS Position on AB 299, Relating to Free Expression in the UW System

PROFS is the Public Representation Organization of the Faculty Senate, which represents the interests of the UW-Madison faculty. PROFS is linked to the shared governance structure at the university. The University Committee, the executive committee of the Faculty Senate, serves as the PROFS Board of Directors.

PROFS opposes AB 299 as introduced. First and foremost, UW-Madison, along with the UW System and other UW colleges and universities, should be given the autonomy to address their own speech issues. Appropriate institutional autonomy is itself an aspect of academic freedom.

From our perspective, AB 299 inaccurately states: "In recent years, institutions have abdicated their responsibility to uphold free speech principles and these failures..." In fact, UW-Madison has recently begun using a Handbook for Civic Discourse on Campus, prepared by Emeritus Professor Donald Downs, a campus free speech expert, to educate freshmen on free speech principles.

And the UW-Madison Faculty Senate, working with Professor Downs and other faculty leaders, has enacted policies that protect speech at the university. For example, in 2010, the senate passed a resolution in support of faculty members' right to criticize or question policies and actions undertaken by their respective institutions.

In addition, in December 2015, the UW Board of Regents adopted a resolution affirming the system's commitment to freedom of expression, freedom of speech, and academic freedom on campuses. The resolution's language was very similar to the University of Chicago policy.

PROFS opposes AB 299 as drafted because this legislation could actually have a chilling effect on speech on campus, despite its aim to protect such speech. This opposing effect would arise by creating ambiguous language – the term "expressive activities" has been construed by the Supreme Court very broadly -- combined with strict sanctions, including required suspensions and expulsions for students who "interfere with the free expression of others."

Finally, PROFS is concerned about the language stating that "each institution shall strive to remain neutral, as an institution, on the public policy controversies of the day." This language is very broad and could keep the institution's leadership from advocating for what the university, college or system needs to survive.

Proposed Amendment to AB 299

PROFS has reviewed LRBA0599/1, an amendment drafted by the bill's author, Rep. Kremer. PROFS is pleased that the amendment would eliminate some of the ambiguous language in the bill and replace it with language suggested by Professor Downs and others.

Given that we are dealing with serious constitutional issues, PROFS needs additional time to fully review the impact of the bill with the amendment. One item that was clearly not changed was the institutional neutrality language. At the very least, the language should be amended to exempt stances that have a direct bearing on the institution.

Regardless of whether we consider the bill as introduced or as amended, PROFS questions why such legislation is needed. PROFS believes that it is important for the university to have autonomy over issues like free expression. UW-Madison and UW System have been working hard to address these issues; it is most appropriate to allow them to continue to do so without legislative intervention.