

March 9, 2016

To: Hank Foley, Interim Chancellor
Ben Trachtenberg, Chair, University of Missouri Faculty Council

From: Bob Jerry
Isidor Loeb Professor of Law
Senior Fellow, Center for the Study of Dispute Resolution
Chair, Ad Hoc Joint Committee on Protests, Public Spaces, Free Speech, and the Press

Re: *Interim Report: Transmittal of Recommended Statement on Free Expression*

The Ad Hoc Joint Committee has started its work on the two charges you articulated when this committee was formed: “(1) recommend[ing] how public spaces can be regulated on campus while protecting safety, free inquiry, and free expression and (2) suggest[ing] how the University might resolve future conflicts should they arise concerning the use of public spaces on campus.” See <https://chancellor.missouri.edu/news/ad-hoc-joint-committee-on-protests-public-spaces-free-speech-and-the-press>.

As an interim measure, the Committee recommends that the Chancellor and the Faculty Council reaffirm, on behalf of the University of Missouri, the campus’s commitment to the fundamental principle of free expression. Our final report, when it is submitted to you, will provide our best recommendations on how this principle can be operationalized in the public spaces of our campus consistently with the overarching protections of the Constitution of the United States and the requirements of Missouri statutory law.

As a preliminary matter, we believe now is an appropriate time for the university community to reaffirm the core values that our policies governing the use of public space will preserve and protect. These include the rights to protest, to petition the government, to assemble peaceably, and to freely speak and engage in open inquiry and expression. All of these rights are fundamental to a democratic society and to the role and mission of a public university within that society. At the same time, these rights are not without some conditions; for example, the government is allowed to place narrowly drawn, nondiscriminatory, content-neutral “time, place and manner” restrictions on the exercise of First Amendment rights, and there are other constraints that prevent individuals from saying “whatever they wish, wherever they wish.” Our final report will propose a framework for use of the campus’s public spaces consistently with these principles, but there is, in our judgment, no reason to delay affirming the campus’s commitment to free expression and to providing “all members of the University’s academic enterprise the broadest possible latitude to speak, write, listen, challenge, and learn.”

Our recommended statement is attached. Our report is sent to both of you (as we are charged by and therefore formally report to you), but we recommend it be shared with all entities on campus that have any kind of campus governance responsibility.