

Wisconsin Institute for Law & Liberty: Suggests improvements to UW free speech policy

Posted on Tuesday, Aug 20, 2019

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The News: Attorneys from the Wisconsin Institute for Law & Liberty (WILL) [submitted public comment](#) Monday to the University of Wisconsin System Board of Regents, applauding their new campus free speech policies, but suggesting particular modifications to safeguard the First Amendment rights of all. The UW Board of Regents is currently in the process of codifying elements of their campus free speech policy, first introduced in 2017 in response to campus disruptions like the one that occurred at a [Ben Shapiro](#) speech at UW-Madison.

WILL's Comment: WILL attorneys Rick Esenberg, Luke Berg, and Anthony LoCoco are generally supportive of the campus free speech policy crafted by the UW Board of Regents but ask the Board to consider modifications that will provide clarity for students and faculty, preserve discretion, and safeguard the First Amendment. In particular, WILL suggests amending three elements of the Board's proposed rulemaking:

- WILL opposes mandatory sanctions against students for violating the campus free speech policy. The rulemaking outlined by the Board of Regents proposes to require suspending a student after two violations and expulsion after the third. WILL's comment says, "The difficulty of balancing the right of legitimate — and nondisruptive — protest with protecting the right of speakers to be free from physical disruption suggests a greater degree of discretion in the

selection and imposition of sanctions.”

- To safeguard First Amendment rights, WILL is asking the Board to add “clear and narrow” definitions of what conduct can be sanctioned. WILL’s comment says, “Efforts to protect speech ought not to provide opportunities to suppress constitutionally protected speech offered in response.”
- Finally, WILL suggests incorporating specific language clarifying, in particular, that “Criticism — or the expression of an opinion that some find unwelcome, disagreeable, or even deeply offensive — does not constitute interference with the expressive rights of those who disagree with that criticism or opinion.”

The Quote: WILL President Rick Esenberg said, “We are pleased to see the UW Board of Regents addressing the real and growing threat to free speech on campus. But any policy must tread carefully and balance the First Amendment rights of all speakers and all points of view. With these modifications, the UW Board of Regents can better accomplish that goal.”