

MEMORANDUM**To:** Board of Trustees**From:** Steve Schultz, SVP and General Counsel**Cc:** Mung Chiang, President
Patrick Wolfe, Provost and Executive VP for Academic Affairs and Diversity
Christopher A. Ruhl, Treasurer and Chief Financial Officer
Alysa Christmas Rollock, Vice President for Ethics and Compliance**Re:** Delegation of Further Authority for SEA 202 Compliance; Adoption of Policy Statement on Institutional Neutrality**Date:** June 3, 2024

Purpose. The purpose of this memo is to request approval of the attached Resolution, which delegates certain additional authority and responsibilities for compliance with Senate Enrolled Act 202 and adopts a statement on institutional neutrality consistent with a requirement of such act.

Attachments.

- Resolution, with Statement of Policy on Institutional Neutrality attached as Exhibit A

Background. At your April meeting, you took the first step to delegate certain authority and responsibilities for complying with SEA 202, which was enacted by the Indiana General Assembly in its 2024 legislative session and was subsequently signed into law by Governor Holcomb.

The attached Resolution adds further delegations of authority for more actions required by SEA 202, including the establishment of a committees on each campus that will be responsible for initiatives and programs designed to promote cultural and intellectual diversity.

In addition, the Resolution approves and adopts a Statement of Policy on Institutional Neutrality as required by SEA 202. This statement is based on Purdue's own longstanding practices, but it relies on the substance of the 1967 Kalven Report for its intellectual underpinnings. Because we do not believe these principles can be articulated any better than how the Kalven Committee captured them in 1967, the SEA 202 compliance steering committee's recommendation is to adopt the relevant portions of the Kalven Report as Purdue's own statement, albeit in the important context of Purdue's own longstanding practice. This approach is also consistent with [what the Foundation for Individual Rights and Expression is itself recommending](#) at this time in U.S. higher education.

Request. On behalf of the SEA 202 compliance steering committee, I respectfully request your approval and adoption of the attached Resolution at your June 2024 stated meeting.

**RESOLUTION OF THE BOARD OF TRUSTEES
OF THE TRUSTEES OF PURDUE UNIVERSITY**

- (1) DELEGATING FURTHER AUTHORITY AND RESPONSIBILITIES RELATED TO REQUIREMENTS OF SENATE ENROLLED ACT 202 (2024); AND**
 - (2) ADOPTING A STATEMENT OF POLICY ON INSTITUTIONAL NEUTRALITY**
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WHEREAS, the Board of Trustees (the “Board”) of The Trustees of Purdue University (the “Corporation”) is vested under the laws of the State of Indiana with the power to, among other things, “do all acts necessary and expedient to put and keep Purdue University in operation” (IC 21-27-7-4) and “make all bylaws, rules and regulations required or proper to conduct and manage Purdue University” (IC 21-27-7-5); and

WHEREAS, Indiana law further empowers the Board to delegate the authority that it possesses, recognizing that no manner of delegation is irrevocable (IC 21-38-3-2); and

WHEREAS, over the 155-year history of Purdue University, the Board has from time to time exercised the legal discretion afforded to it to delegate certain authority and responsibilities to administrators and faculty of the University, notably pursuant to:

- the Bylaws of the Corporation, which establish the officers of the Corporation and confer upon the President of the University, subject to the control of the Board, the authority to “direct and be responsible for the conduct of all the affairs of the University except those which by law or [the] Bylaws are made the specific responsibility of the Treasurer or other persons;” and
- a 1964 Board action approving certain “Regulations of the Internal Administration of Purdue University” that included, among other things, a Delegation of Authority and Responsibility to the Faculty of the University (the “Delegation of Faculty Responsibility”), which stipulated that the powers and responsibilities of the faculty are subject to the authority of the Board and are to be exercised in consultation with the President; and

WHEREAS, in its 2024 legislative session the Indiana General Assembly enacted, and the Governor of Indiana has now signed into law, Senate Enrolled Act 202 (“SEA 202”), which among other things codified the concept of tenure at state educational institutions, required such institutions to include programming to promote cultural and intellectual diversity as part of any campus diversity efforts, and required the boards of trustees of such institutions to establish policies and practices designed to promote free inquiry, free expression, and cultural and intellectual diversity on their campuses, including through various tenure, promotion, performance evaluation, employment, contracting, student admissions, student orientation, reporting, and other requirements; and

WHEREAS, as enacted in SEA 202, and consistent with IC 21-38-3-2 referenced above, Section 6 of new Indiana Code chapter IC 21-38-10 recognizes the ability of Board to delegate responsibility to take various actions required by SEA 202; and

WHEREAS, the Board has previously adopted, at its April 5, 2024 stated meeting, a resolution that reaffirmed the University’s institutional commitment to academic freedom and faculty tenure and that delegated certain authority and responsibilities for complying with SEA 202 (the “Prior Resolution”); and

WHEREAS, SEA 202 requires the Board to adopt a policy on institutional neutrality; and

WHEREAS, the Board now desires to further delegate additional authority and responsibilities for complying with SEA 202, to clarify the Delegation of Faculty Responsibility for the first time in 60 years, and to adopt a policy statement on institutional neutrality as required by SEA 202;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board as follows:

1. The Provost and Executive Vice President for Academic Affairs and Diversity (the “Provost”) is hereby delegated authority, in consultation with the President and the regional campus Chancellors, to empanel a diversity committee for each Purdue campus as described in IC 21-27-7-6, as amended by SEA 202 (each, a “Diversity Committee”), based on the following general parameters:
 - a. The Diversity Committee for Purdue West Lafayette shall assume responsibility for overseeing the work of the Equity Task Force established in 2020 as one of the Purdue Next Moves initiatives;
 - b. Each Diversity Committee shall, in addition to meeting other statutory requirements, develop recommendations for (i) programming that substantially promotes both cultural and intellectual diversity, and (ii) ensuring that the mission of the Office of Diversity, Inclusion and Belonging at Purdue West Lafayette (and each comparable office at Purdue Fort Wayne and Purdue Northwest) includes such programming—in each case as provided in IC 21-38-10-1; and
 - c. Each Diversity Committee shall, in connection with its review and recommendation of policies (as required by IC 21-27-7-6), coordinate closely with the Executive Policy Review Group (“EPRG”) established under the auspices of the Vice President for Ethics and Compliance acting pursuant to delegated University policymaking authority from the President under University policy V.B.5.
2. In furtherance of the responsibilities delegated to the Provost herein and in the Prior Resolution, the authority of the Provost as the chief academic officer for the University system, having the responsibilities set forth in policy V.B.5 including responsibility for curricular and faculty affairs on the regional campuses, is hereby reaffirmed and ratified, such that the Provost is empowered to coordinate and align academic affairs activities across all University campuses, with the assistance and full cooperation of regional campus leadership, to include but not be limited to issues pertaining to SEA 202 compliance.
3. The Delegation of Faculty Responsibility, which was once codified in the (now-defunct) University Code as Sections A.4.00 and A.4.05 is hereby reaffirmed, with the following modifications and clarifications:
 - a. Consistent with the notion that all delegated faculty responsibilities are subject to the authority of the Board and are to be exercised in consultation with the President, the responsibility to “advise” on a given matter does not constitute a “right” to advise on such matter, it being understood that the parameters for the timing and duration of such advice are to be determined by the party requesting it;
 - b. The responsibility to establish policies for University and student participation in athletic affairs and other group extra-curricular activities is removed in each case from the list of delegated responsibilities, it being recognized that these activities

have long been governed by other mechanisms established by the NCAA, the Big Ten Conference, and Purdue student life administration; and

- c. The reference to “general educational policies” of the University is intended to refer in the present day to the Academic Regulations maintained by the Office of the Provost.
4. The Statement of Policy on Institutional Neutrality attached hereto as Exhibit A is hereby approved and adopted as the official policy of Purdue University (the “Institutional Neutrality Policy”).
5. The Vice President for Ethics and Compliance and the Provost are hereby delegated authority to promulgate, for ultimate consideration and approval by the EPRG, a policy on public statements that will be designed to provide guidance to academic and administrative units on the issuance of unit-level messages on political or social activities, issues or events in a manner consistent with the Institutional Neutrality Policy.
6. The Secretary of the Corporation is hereby authorized and instructed to record this Resolution in the minutes of this meeting, to be maintained in the official records of the Board and the Corporation.

**Purdue University
Statement of Policy on Institutional Neutrality
June, 2024**

Consistent with its commitment to free and open inquiry in all matters, Purdue University has long adhered to the principle of institutional neutrality, holding to the view—as eloquently expressed in the Kalven Committee’s Report on the University’s Role in Political and Social Action at the University of Chicago in 1967 (the “Kalven Report”)—that:

“[t]he university is the home and sponsor of critics; it is not itself the critic. It is, to go back to a classic phrase, a community of scholars. To perform its mission in society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its community.”

From this key observation followed the Kalven Report’s central conclusion that maintaining institutional neutrality is crucial for a university to remain faithful to its core mission of “the discovery, improvement, and dissemination of knowledge.”

Purdue University fully subscribes to this view. Indeed, Purdue did so even before the issuance of the 1967 Kalven Report. As was stated by Purdue President Frederick Hovde in April 1966, citing a resolution approved by the University Senate earlier that academic year, “[t]he University does not take an official position either on partisan political questions or on partisan matters of public policy.”

This principle was later reaffirmed in presidential memoranda and policy statements of subsequent Purdue administrations until, in June 1990, the Board of Trustees itself endorsed it. Observing that “it is not the official position of the University to be making political statements,” the Board declared that “a basic function of a university is to advocate no political position, while providing a forum for open discussion of all.” Statements by President Mitch Daniels and President Mung Chiang have similarly recognized for more than a decade that, to the extent a government initiative or policy debate touches on a social or political issue being contested in the public arena, the University will refrain from taking an official institutional position on the matter.

In light of its longstanding commitment to this principle, and given the consistency between the Purdue position and that of the Kalven Report, Purdue University formally adopts and embraces the substance of the Kalven Report set forth below as its own statement of policy on institutional neutrality.

Purdue recognizes that there may be occasions when proposed legislation or a regulatory proposal has a direct bearing on the University’s fiscal affairs or on the tools afforded to it to advance its land-grant mission. In such cases, the University may elect to offer comment, at the request of government officials, on specific provisions of the proposal. Moreover, as the Kalven Report recognizes, instances may arise from time to time “in which society, or segments of it,

threaten the very mission of the university and its values of free inquiry. In such a crisis, it becomes the obligation of the university as an institution to oppose such measures and actively to defend its interests and its values.”

Purdue University endorses the Kalven Report’s ultimate conclusion that, aside from these special exceptions, there is “a heavy presumption against the university taking collective action or expressing opinions on the political and social issues of the day, or modifying its corporate activities to foster social or political values, however compelling and appealing they may be.”

Of course, recognizing Purdue University’s commitment to freedom of expression and its role as “the home and sponsor of critics,” individual members of the campus community will always be free to express their views on a particular policy proposal or in a debate over a particular political or social issue, provided that such views or concerns are expressed in a personal capacity and do not purport to be official statements of Purdue University.

Statement of Policy Institutional Neutrality (from the Kalven Report)

A university has a great and unique role to play in fostering the development of social and political values in a society. The role is defined by the distinctive mission of the university and defined too by the distinctive characteristics of the university as a community. It is a role for the long term.

The mission of the university is the discovery, improvement, and dissemination of knowledge. Its domain of inquiry and scrutiny includes all aspects and all values of society. A university faithful to its mission will provide enduring challenges to social values, policies, practices, and institutions. By design and by effect, it is the institution which creates discontent with the existing social arrangements and proposes new ones. In brief, a good university, like Socrates, will be upsetting.

The instrument of dissent and criticism is the individual faculty member or the individual student. The university is the home and sponsor of critics; it is not itself the critic. It is, to go back once again to the classic phrase, a community of scholars. To perform its mission in the society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its own community. It is a community but only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby.

Since the university is a community only for these limited and distinctive purposes, it is a community which cannot take collective action on the issues of the day without endangering the conditions for its existence and effectiveness. There is no mechanism by which it can reach a collective position without inhibiting that full freedom of dissent on which it thrives. It cannot insist that all of its members favor a given view of social policy; if it takes collective action, therefore, it does so at the price of censoring any minority who do not agree with the view adopted. In brief, it is a community which cannot resort to majority vote to reach positions on public issues.

The neutrality of the university as an institution arises then not from a lack of courage nor out of indifference and insensitivity. It arises out of respect for free inquiry and the obligation to cherish a diversity of viewpoints. And this neutrality as an institution has its complement in the fullest freedom for its faculty and students as individuals to participate in political action and social protest. It finds its complement, too, in the obligation of the university to provide a forum for the most searching and candid discussion of public issues.

Moreover, the sources of power of a great university should not be misconceived. Its prestige and influence are based on integrity and intellectual competence; they are not based on the circumstance that it may be wealthy, may have political contacts, and may have influential friends.

From time to time instances will arise in which the society, or segments of it, threaten the very mission of the university and its values of free inquiry. In such a crisis, it becomes the obligation of the university as an institution to oppose such measures and actively to defend its interests and its values. There is another context in which questions as to the appropriate role of the university may possibly arise, situations involving university ownership of property, its receipt of funds, its awarding of honors, its membership in other organizations. Here, of necessity, the university, however it acts, must act as an institution in its corporate capacity. In the exceptional instance, these corporate activities of the university may appear so incompatible with paramount social values as to require careful assessment of the consequences.

These extraordinary instances apart, there emerges, as we see it, a heavy presumption against the university taking collective action or expressing opinions on the political and social issues of the day, or modifying its corporate activities to foster social or political values, however compelling and appealing they may be.

These are admittedly matters of large principle, and the application of principle to an individual case will not be easy.

It must always be appropriate, therefore, for faculty or students or administration to question, through existing channels . . . whether in light of these principles the University in particular circumstances is playing its proper role.

Our basic conviction is that a great university can perform greatly for the betterment of society. It should not, therefore, permit itself to be diverted from its mission into playing the role of a second-rate political force or influence.