

Memo from the Cornell Committee on Expressive Activity Responding to Cornell Community Feedback, December 18, 2024

To the Cornell community,

Thank you to everyone who provided feedback to our committee following the release of our expressive activity draft report and draft policy on October 30 through the end of our open comment period on December 9, 2024. While the volume of feedback was too extensive for us to respond individually to every comment, we have summarized our responses to the most common comments, criticisms, and suggestions below.

Classroom settings. Concerns were raised about the exclusion of classrooms from the policy and significant disruptive sound in areas near classrooms. We added language to the report explaining that our policy does not pertain to speech and expression within classrooms and other instructional settings (e.g., studios), which remain the purview of individual faculty members, and noting that significant disruptive sound, including amplified sound in proximity to classrooms at a level that prevents or severely disrupts an instructor's ability to teach, should not be permitted.

Composition of our committee. Concern was expressed about the process for selecting students, staff, and faculty to serve on the CCEA and whether the committee could conduct its work independently given the selection process. While we cannot speak to considerations by then-President Martha Pollack in requesting us to serve on the committee, we will note that some members were selected based on shared governance membership, and we can confirm that our work was conducted independently without oversight or involvement by university leadership. We also note that both the preliminary and final versions of our report and proposed policy were informed by substantial input from a wide range of university constituents.

Principle 3. Concern was raised related to a perceived inconsistency in principle 3 of the committee's report that expressive activity not be singled out for special treatment, while noting elsewhere ways that expressive activities are distinctive. We recognize this inconsistency in the language of the report and have made revisions to reconcile it. We highlight three points. First, because free expression is central to the university's mission and a [university core value](#), in the committee's view, application of any rules or regulations that restrict freedom of expression should be construed and applied as narrowly as possible and closely tailored to the harms they are designed to prevent. Second, the committee's recommendation of a free expression website can help with wayfinding to ensure that Cornellians can locate the relevant policies for expressive activity events they are planning (e.g., fire code policies for candlelight vigils). Third, while in theory, expressive activities should be treated like other activities on campus that pose the same or comparable risks, our committee identified some campus policies that pose challenges to initiating expressive activities on campus. For example, the [University Events Team scheduling website](#) requires registration for events at least two weeks in advance for smaller events and four weeks in advance for larger events. This extensive lead time is not well suited to certain types of campus events, including some expressive activities. Given this limitation, our proposed policy recommends but does not require pre-scheduling, the same approach as has been used in the Interim Expressive Activity Policy. The committee is supportive of discussions underway at the university to develop a rapid response scheduling option to accommodate more spontaneous activities, including expressive activities.

Scheduling and spontaneous protest. Comments reflected confusion related to whether our committee was recommending or requiring pre-scheduling for expressive activity events. Additional concerns were raised that spontaneous protest zones would limit outdoor spaces for expressive activity. In the revised report and policy, we eliminated the spontaneous protest zone recommendation and clarified our recommendation that pre-event scheduling is recommended but not required. As noted above, we also clarified our recommendations to develop a rapid scheduling option and to integrate consistent and

regular scheduler training across the University Event Team and the Academic Events Team based on helpful conversations with those teams.

Candlelight vigils. There was some confusion about our recommendations related to candlelight vigils. We now clarify our recommendation that outdoor expressive activities involving open flame should follow the [fire safety code policies](#), including completion of a candle use permit form. We understand that filling out this form is straightforward and would not require the extended lead time associated with the regular scheduling process. Following Cornell fire code policy, the use of candles and other open flame decorative devices is prohibited within all Cornell University buildings and tents. LED candles are recommended as an alternative in those spaces.

Libraries and the marching band. The committee's preliminary report recommended that the Cornell University Library be maintained as a place for quiet reading and study, and that loud, disruptive activities be prohibited. We noted that it would depart from the principle of content neutrality (and be inequitable) to allow spontaneous disruption by the marching band but not allow comparable disruptions by persons engaged in other spontaneous expressive activities. Numerous comments clarified that the marching band library performance is no longer spontaneous (as it was historically) but is now scheduled in advance with library personnel and that the performance is relatively brief in duration. If the Cornell University Library develops and implements an equitable process for all recognized groups (including but not limited to the band) to pre-schedule disruptive activities of short duration, our committee would no longer have any concerns about content-based favoritism or inequitable treatment of groups in the libraries. We continue to recommend that spontaneous disruption in the Cornell libraries should not be permitted by any groups, however.

Concern about narrow application of harassment to protected groups. Multiple comments flagged the concern that our report implied that the prohibition on harassment would only apply to harassment based on characteristics identified by federal law. In the revised report and proposed policy, we clarify that Cornell would extend protection from harassment beyond what federal law requires to cover individual or group harassment directed at Cornell community members on any basis.

Requiring versus recommending names on posters and signs. There was disagreement in comments about whether the policy should recommend or require individual or group names on posters and signs. Many respondents thought community members should own their speech, while others thought anonymous speech was permissible and were worried about doxxing. Members of our committee also had differing views on this issue. Balancing various considerations, we opted to retain the 'recommended but not required' language that was included in the preliminary proposed policy.

Warnings. There was confusion about the language we included in the draft report related to warnings in the context of expressive activity, and there were differing views about the need for warnings. Numerous commenters argued that an expectation of a warning when a policy violation was occurring was not realistic and certain violations were obvious (e.g., property damage, shutting down a campus event, ongoing heckling aimed at silencing a speaker). Others argued that warnings were helpful in circumstances where Cornell community members might not be aware that a campus policy was being violated (e.g., an outdoor demonstration that severely disrupted or prevented an instructor's ability to teach). If feasible, use of an oral or written warning may provide useful clarity in certain circumstances when an individual committing a violation can be identified (e.g., an oral announcement that continued activity is a violation of university policy and will be subject to disciplinary measures), while community members are presumed to be on notice that engagement in violations such as property damage, property destruction, threats, and violence will come with consequences. As a disciplinary measure for lower-tier violations, the use of an initial warning rather than a full disciplinary process may be a useful option. It is our understanding that this option is already available within disciplinary processes for students, staff, and faculty at Cornell. We have revised the report to make these points clear.

Considering hardships to suspended community members. Some respondents disagreed that hardships should be considered as a factor to consider when deciding whether to impose a temporary suspension. Others argued that the hardship example we used—a change in a student’s visa status such that they would be compelled to return to a place where they are at risk of persecution—was too narrow and that any change in visa status should be considered. Finding some merit in each of these competing critiques, we made no change in this recommendation.

Masking. Concerns were raised in comments about the lack of clarity related to personnel who could ask a community member to remove a mask for identification. In the revised policy, we recommend that wearing masks or face coverings be permitted on Cornell’s campuses, subject to lawful demands by authorized university personnel to briefly unmask to verify a person’s identity.

Hate Speech. We received substantial criticism that our mention of hate speech in Section 9 on additional recommendations did not sufficiently address concerns about Title VI violations that certain offensive speech might raise. We acknowledge this concern and have deleted this paragraph in our final report.

Harassing conduct and Title VI. Numerous respondents suggested that we include a definition of what harassing conduct is and when it creates a hostile environment under Title VI in the definitions (Section 4) in the report, and we have accordingly added this to the final report. We note that this is not our definition, but the one provided by the applicable legal precedents and Department of Education policy.

Definition of Cornell community members. Various respondents asked for a clearer definition of who is a Cornell community member and who can engage in expressive activity on Cornell’s campus. In the revision, we clarify that Cornell community members include all students, staff, and faculty. Alumni, parents, prospective students, visitors, formally affiliated entities, and other third parties are not Cornell community members, and Cornell’s expressive activity policy would not apply to non-Cornell community members on Cornell property.

Professionalism expectations when providing clinical care. Numerous respondents were concerned that the draft report did not clearly articulate the professionalism expectations of community members providing clinical care. We added language to note these professionalism expectations and to highlight the importance of balancing expressive activity with the clinical expectation to provide unbiased, selfless service to patients.

Temporary suspension recommendations. While many respondents thought the committee’s recommendations related to temporary suspensions under the Student Code of Conduct were useful, others thought this section was overly long, outside the committee’s charge, and/or indicated that we were recommending that the temporary suspensions process never be used. We clarify in the revised report that our intent was not to suggest that these processes never be used, but rather to suggest some guardrails for their use.

Laboratory spaces too narrow. Multiple researchers at Cornell noted that our designation of “laboratory spaces and office spaces” as special settings where expressive activity should be prohibited was too narrow. These comments suggested that a broader definition of research spaces would avoid prioritizing one type of sensitive research context over others. We revised this language to extend to research spaces.

Heckler’s veto. In the proposed policy, we include language recommending that a “heckler’s veto” aimed at silencing the speech of others should be prohibited. In our draft language, we referenced “prolonged interruptions” of speakers and events, and there was concern expressed about the use of the word “prolonged.” Our intent was to indicate that a single, brief interruption of a speaker or event was not sufficient to constitute a time, place, and manner rule violation because it would not silence the speaker.

In contrast, ongoing interruption by one or more audience members would constitute an attempt to silence and is therefore prohibited under the proposed policy.

Dining Halls. The preliminary proposed policy allows expressive activity of limited duration and frequency (so that it does not displace other activities or disrupt university operations) in dining halls. Multiple comments suggested that expressive activity be entirely prohibited in dining hall settings on the grounds that eating is a "sacred act" among certain faiths and that these are settings where students should have respite to enjoy a meal. We also received feedback suggesting that dining halls are a prime space for expressive activity and that our proposed policy was therefore too restrictive on this point. Our committee considered these competing objections and opted to keep the language in the proposed policy unchanged.

Disruption. Multiple comments raised concerns that our definition of disruption lacked specificity, noting, for example, a difference between having to walk past protestors to get to class and being unable to get to class. In the preliminary proposed policy, we define disruption as occurring when members of the Cornell community are inhibited in their ability to teach, conduct research, study, provide health care or other critical university services, or access or make use of university facilities, or when the administrative or operational functions of the university are impeded. We did not change this definition in the revision. A related concern was that expressive activity is by its nature intentionally disruptive. While that can certainly be true, a community member who chooses to violate time, place, and manner rules on the strength of their beliefs may nonetheless be subject to disciplinary processes for violating campus policy. Indeed, the tradition of civil disobedience—from Thoreau to Gandhi to Dr. King and beyond—includes numerous instances of persons violating rules and accepting the consequences to make their point.

Significant disruptive sounds including amplified sound. There were contradicting concerns about our recommendation related to significant disruptive sound including amplified sound. Many comments reflected a view that our recommendations were overly narrow, and many others viewed them as overly broad. The interim expressive activity policy limited amplified sound on the Ithaca campus to Ho Plaza and in front of Day Hall only between 12:00 p.m. and 1:00 p.m. without prior approval and forbade it at any other time or location without prior written approval.

Our committee sought to broaden the times on campus when community members might engage in expressive activity using amplified sound without displacing critical university activities, including classroom learning. Numerous peer universities allow amplified sound between 5:00 p.m. and 9:00 p.m. because relatively few classes are held, and the risk of disrupting classroom activity is lower. Our committee discussed these tradeoffs at length. On balance, we decided to recommend adding 5:00 p.m. to 9:00 p.m. together with an expectation that expressive activity organizers avoid locations where evening classes are held. Other concerns related to the challenges of managing significant disruptive sounds including amplified sound at Weill Cornell Medicine and Cornell Tech, given the more tightly packed urban environment. In response, we note that the Weill Cornell Medicine and Cornell Tech campuses should suggest additional locations where significant disruptive sound should be prohibited with an explanation of a strong rationale.

Content neutrality. Numerous comments suggested that our definition of content neutrality was convoluted and hard to understand. Others expressed concern that we were expecting expressive activity itself to be content neutral (which was certainly not our intent). A third group expressed the view that content neutrality does not exist. We have revised our definition of content-neutral administration of time, place, and manner rules to improve its coherence and make clear that content neutrality applies to the enforcement of time, place, and manner rules, not to the expressive activity itself. As to the third concern, our committee views content-neutral enforcement of campus rules as both a commonplace framework

that has been in place throughout the United States for decades and an essential aspiration for fair policy administration.

Institutional voice. Various comments indicated that institutional restraint was a better goal than institutional neutrality because Cornell should not be neutral on matters central to its mission. We have slightly revised our recommendation to study the question of institutional voice, noting this point.