

(2) his or her misconduct grossly violated standards of behavior requisite to the maintenance of an educational community. In the event of such conduct, if the conduct is not covered by any specific provision of a University regulation or statement regulating conduct or if the relevant regulation does not provide a sanction adequate to protect the safety of the University community, nothing in this Code shall preclude the President or his or her designee, under the authority of the Board of Trustees as expressed in the University Bylaws, from taking appropriate and lawful action. But such authorization constitutes a procedure parallel to this Code, not an authority to review or revise a decision made under this Code.

Article III. Responsible Speech and Expression

A. Public Speaking Events on Campus

1. Arrangements for Invited Speakers

Any recognized campus organization is free to invite a speaker to address its own membership in a private, closed meeting under ground rules set by the inviting organization. A closed meeting can serve many legitimate purposes, including creation of a more informal atmosphere, maximizing the opportunity of organization members to ask questions, allowing the speaker to talk “off the record,” and ensuring a particular kind of discussion because of advance preparation by the organization’s membership. If a speaker is likely to attract widespread interest among nonmembers, however, the group would often be wise to open the meeting to nonmembers, including those with views contrary to those of the speaker. Nevertheless, the University does not insist that the group do so.

If the group chooses to open the event to the University community, it should seek to arrange adequate space to accommodate the reasonably expected audience. In such a public event, the inviting group may also decide whether there is to be a question-and-answer period and, if so, its length and general format. The speaker or moderator should also be allowed reasonable discretion in requiring questioners to be concise, not to abuse the speaker, and not to monopolize the proceedings or otherwise interfere with their purpose. If a question-and-answer period is held, however, neither the speaker nor the moderator should be allowed in recognizing speakers to discriminate on such grounds as ethnicity, gender, national origin, political persuasion, race, religion, sexual orientation or affectional preference, or other suspect or invidious categories. By the same token, at a public event, the sponsoring organization should not be allowed to bar attendance or give preferred seating on the basis of such suspect or invidious categories.

2. Disruption of Invited Speakers

Freedom of speech, within commonly accepted limits of safety and civility, is a paramount value in a university community. In a university community, as in society as a whole, freedom of speech cannot be absolute. Speech that is libelous, or that incites a crowd

to riot, deserves no protection. Perhaps no one, in real life, has ever falsely shouted “Fire!” in a crowded theater, but surely no one has a right to do so. Within such commonly accepted limits, however, freedom of speech should be the paramount value in a university community. Because it is a special kind of community, whose purpose is the discovery of truth through the practice of free inquiry, a university has an essential dependence on a commitment to the values of unintimidated speech. To curb speech on the grounds that an invited speaker is noxious, that a cause is evil, or that such ideas will offend some listeners is therefore inconsistent with a university’s purpose. One may argue against inviting a speaker on the grounds that the speaker has nothing of importance to say. But once members of the university community extend an invitation, others may not disrupt the speech on the grounds that they find it stupid, immoral, or dangerous.

Those who dislike what an invited speaker is saying also have rights. The rights include distributing leaflets outside the meeting room, picketing peacefully, boycotting the speech, walking out, asking pointed questions, and, within limits set by the moderator, expressing displeasure with evasive answers. Those who oppose a speaker may thus make their views known, so long as they do not thereby interfere with the speaker’s ability to be heard or the right of others to listen. Name-calling and the shouting of obscenities, even when they are not carried so far as to abridge freedom of speech, are nevertheless deplorable in a community devoted to rational persuasion and articulate controversy. Civility is a fragile virtue, but one upon which a university ultimately depends.

The American conception of academic freedom includes the principle that professors may participate in political demonstrations and speak out on controversial issues without jeopardizing their employment. In a campus setting, however, academic freedom carries with it certain responsibilities. Scholars not only should respect the professional demands of their discipline and the pedagogical requirements of the teacher-student relationship, but also should not encourage efforts to abridge the free expression of controversial viewpoints. As citizens, professors may or may not be especially solicitous about freedom of speech; as scholars, they are morally bound to defend it. Professors traduce their calling by any deliberate action demonstrating contempt for freedom of speech.

Civil disobedience is not a ground for exonerating one from penalties for violating conduct regulations regarding free expression, nor should it be a circumstance mitigating the penalty. Although nonviolent civil disobedience can be an honorable way of expressing moral outrage, in a university community where the free flow of ideas is paramount, it is contradictory and misguided to employ it to deny that very right of expression to another.

B. Protests and Demonstrations on Campus

1. Protected Expressive Conduct in General

The University will treat as within the basic protection of a right to free expression such lawful conduct as satisfies the following tests, where lawful means not in violation of state or federal law. The conduct should (a) be intended for expressive purposes, (b) be

reasonably understood as such by the University community, and (c) comply with such reasonable time, place, and manner restrictions as are consistent with the other provisions of this Article and as may be authorized from time to time by the President.

Even in regard to conduct that is intentionally expressive and perceived as such, the University may impose reasonable time, place, and manner restrictions on such conduct to preserve other important values and interests of the University community. An accused charged with such conduct may assert as a defense that he or she has complied with such time, place, and manner restrictions.

All protection and regulation of expressive conduct should be content-neutral. A group's persuasion or point of view should have no bearing on the grant of permission or the conditions regulating that group's expressive conduct.

2. Symbolic Structures

Symbolic structures will be allowed in accordance with an express permit issued by the Vice President for Student and Academic Services or other presidential designee. Such structures must be temporary and must conform to the conditions contained in the permit. In regulating by permit the duration, size, location, and other features of symbolic structures, the administration will be guided by attention to the following, or similar, kinds of University community interests that such structures could infringe upon:

(a) protecting health and safety;

(b) preventing damage and risk of damage to University grounds and property;

(c) preserving unimpeded mobility on pathways and streets, entrance to and departure from buildings, and unimpeded mobility within buildings;

(d) providing for competing uses of campus grounds and property;

(e) avoiding interference with other University activities;

(f) reasonably limiting costs to the University of increased campus police protection, potential University liability, insurance coverage, and cleanup and repair after an event; and

(g) preserving campus aesthetic values.

In addition to such limits, other restrictions on symbolic structures may also be imposed. For example, depending on experience and context, the President may impose any of the following restrictions: requiring portability so that structures do not remain overnight; prohibiting overnight sleeping in structures; and requiring continual daytime physical presence of persons responsible for the expressive activity.

3. Demonstrations Not Involving Structures

Picketing, marches, rallies, and other demonstrations are traditional and legitimate forms of self-expression and dissent on campus. The limiting principle for such activities is that demonstrators must not disrupt other University functions, including, without limitation, regular and special curricular activities, extracurricular activities, academic processions and events, conduct of University business, and employment interviews. The right to free expression here, as in other contexts, requires respect for the rights of others.

Because outdoor picketing, marches, rallies, and other demonstrations generally pose no threat of long-lasting exclusive use of University grounds or property, there appears to be no need for a mandatory permit procedure for such outdoor activities.

As to indoor demonstrations such as sit-ins, owners of private property, and even the administrators of public property, are not required to permit the occupation of buildings by those who are not present to transact the business or pursue the other purposes that the offices in the building are intended to serve. Classrooms, libraries, laboratories, living units, and faculty and administrative offices are dedicated to specific purposes, which the University must be free to pursue without disruption. The law of trespass and the right of free speech are not mutually exclusive and, indeed, have always coexisted in our legal system.

Accordingly, the President may authorize regulations permitting the use of specific portions of University buildings, provided that such regulations shall not permit the disruption of classrooms, libraries, laboratories, living units, or offices and shall ensure the continuing conduct of University business. No such use shall be permitted beyond 5:00 p.m. or the close of normal business hours, whichever is earlier. Nevertheless, as pointed out elsewhere in this Article, University rooms set aside for the purpose of gatherings involving speech and expression should not be licensed in a manner to deny access to groups sponsoring an unpopular point of view.

Deans, directors, or other heads of each college, school, or other academic unit described in Article I, section 7, of the University Bylaws may submit proposals to the President on the promulgation of such regulations for the use of University buildings assigned to the use of such college, school, or unit. No such regulation shall take effect or continue in effect without the approval of the President.

The President may promulgate regulations governing the use of Day Hall or any other University building not otherwise governed by such regulations. As a practical matter, although demonstrations inside virtually any University building would be disruptive, the working space within Day Hall is especially compact. Almost any assemblage of demonstrators inside the building could be disruptive to Day Hall staff and to others, especially students, seeking access to a Day Hall office for normal business purposes.

4. Disruption of Recruiters

As long as a recruiter is on campus in accordance with ordinary University processes, a

demonstration or protest that intentionally disrupts recruitment activity should be and is a violation of University conduct regulations and should not be tolerated.

The right to express one's views should not extend so far as to infringe upon another University community member's right to participate in a recruitment interview or information session with a recruiter who is on campus in accordance with ordinary University processes.

C. Consultation Groups

The President is authorized and encouraged to appoint a standing committee to study and report to the President on significant policy issues concerning the protection of freedom of expression on campus. The committee should study any issue presented to it by the President. It should also receive petitions or inquiries from members of the University community, but should limit its attention to issues that involve important matters of a policy nature. Thus, the committee could study an individual's charge that University officials are not adequately enforcing the policy against disrupting public speakers or that they are imposing unreasonable constraints upon the right to protest or demonstrate peacefully and lawfully on campus. The committee should not function as an adjudicatory body, or receive any complaint about or continue considering any issue arising from a campus incident after a disciplinary proceeding growing out of that incident and involving the same or similar issues has been initiated, until any such disciplinary proceeding has been completed. Any report issued by the committee should go to the President and should be available thereafter to the University community. The report would be advisory only.

The President may consult with the Executive Committee of the University Assembly, or appoint an ad hoc committee to advise the President, concerning appropriate administrative policy in the face of protest and demonstrations.

Article IV. Amendment of Code

A. Title Four

The Regulations for Maintenance of Public Order were adopted by the Board of Trustees and may be amended only by action of the Board of Trustees, upon the recommendation of or after consultation with the University Assembly.

B. Titles One, Two, and Three

All other Titles of this Code may be amended by the University Assembly, subject to the approval of the President.