

November 18th, 2024

The Graduate and Professional Student Assembly is writing to provide its response on the CCEA draft 'EXPRESSIVE ACTIVITY AT CORNELL' which was circulated to the larger Cornell student community on October 30th, 2024.

The GPSA would like to first and foremost recognize the breadth and difficulty inherent of the charge assigned to the CCEA and voice appreciation for an overall thoughtful consideration of community norms and formalities surrounding expressive activity at Cornell. We the Assembly wholeheartedly agree that expressive activities are an indispensable component of Cornell's academic community, that must be protected as energetically as any other indispensable component of a Cornell education.

In keeping with this core value, one which we believe is shared by a consensus of the CCEA, we express disappointed and regret in the lack of value alignment, protection, empowerment, and guidelines provided for the expressive rights of graduate students and Cornellians more broadly under the proposed Expressive Activity Policy.

Our thorough review broadly concludes that the policy as drafted on October 30th, 2024:

- Is **antithetical to the spirit and history** of peaceful student protest at Cornell, in the United States, and around the world.
- **Does not adequately provide protections** for students who are partaking in expressive action on campus.
- **Overapplies restrictions to expressive activity** in a manner inconsistent with its duly recognized importance.
- Establishes **asymmetric standards** for university administration and other members of the Cornell community.

On behalf of over 10,000 Cornell graduate students, our fervent aim is to realize a policy that extends beyond mere written doctrine, but becomes a widely valued and internalized set of community norms. While the Graduate and Professional Student Assembly views that the current draft does not meet this standard, we provide detailed critiques and suggestions that, when taken in full consideration, provides a path toward a tenable community standard. The Assembly's response is divided between a brief statement of key principles most valued to the graduate community, highlighting departures from the current policy, followed by line-by-line suggestions in Appendix I.

A Statement of Principles on Expressive Activity from the Graduate Students

Ignoring the spirit and history of protest

Throughout history, change –both institutional and political– has been effectuated by persistent inquiry and call for action by those impacted and passionately inspired by policies unfair and unjust. These stories play recurrent throughout our history, not just around the world or in the United States, but at Cornell as well. Cornell students have long leveraged protest and civil disobedience to fight against racism ([The Takeover of Willard Straight Hall \(1969\)](#)), police violence ([Day Hall Takeover \(1993\)](#)), and environment destruction ([The Redbud Wood Protests \(2005\)](#)). As each of these fights are ongoing, protection of expressive activity and civil disobedience in particular is at least as necessary today as it has ever been.

Furthermore, in the spirit of peaceful protests that advocating for humanitarian action, we believe that a policy which provides its students the benefit of the doubt, and promotes amnesty and clemency for its student body demonstrates good faith and an environment conducive to individual and community expression. Cornell community members recognize the passion and earnestness of their peers in their varied calls to actions –even amid sometimes fervent disagreement. Any policy governing expressive activity should observe the same assumption explicitly.

Providing inadequate protection

A self-consistent expressive activity policy must recognize both in principle and substance that Cornell *“protects freedom of inquiry and expression as fully as possible, bounded only by the imperative to protect its essential operations and the belonging of all Cornellians.”* This must include tangible protections for students engaging in protest and other expressive acts on campus.

- The policy offers insufficient protections for students engaging in expressive policy, providing only nondescript suggestions that the policy be narrowly applied without recommending substantive limitations to administrative authority over expressive events.
- No restrictions appear on the qualification of “disruption”, leaving large swaths of activities vulnerable to violations under the proposed policy.
- The carveout of classroom activity from expressive activities – even if existing beyond the charge of the CCEA – appears to separate students from faculty in a manner divergent from stated values.

Overapplication of restrictions to expressive activity

The policy draft largely inoculates campus from inconvenience if and only if the perceived disruption stems from expressive activity. The designation of “special settings” – where expressive activity is severely curtailed or forbidden – effects a near campus-wide ban on spontaneous protest. Nearly all building and facilities on Cornell’s campus contain at least one of the seven identified settings. This is not a tenable solution to limiting protest on campus.

To voice disagreement, to draw attention, and to bring momentum to a call to action: a policy which renders these aims futile or impossible is one that must eventually defeat itself. It is in the best interests of all community members that whatever policy is adopted is 1) well-understood and 2) reasonable enough to be widely accepted. Limiting protest to so few locations foreshadows a policy that will be broken time and again in a constant effort to preserve the impact, message, and tradition of expressive activity.

On behalf of the neighbors of Ho Plaza and Day Hall, it must be recognized that the designation of these locations exclusively as permissible for spontaneous protest runs squarely against values in fairness and equity. There can be no one location where any message is best heard and Cornell should expect the reality that expressive activity will appear wherever and whenever community members are motivated by a call to action.

Restrictions to expressive activity extending beyond limitations already imposed by existing legal doctrine are not clearly distinguished. Intertwining Cornell-specific restrictions with those rooted in law only blurs the message of the University in its stance toward expressive activity and fails in the critical task of fostering universal understanding around university policy.

Asymmetric standards between university administration and other members of the Cornell community

The policy appears written to apply to different groups of community members differently. This greatly compromises the credibility of the policy and raises alarm for the way a policy lacking sufficient administrative guardrails and/or student protections might be applied in the future.

- The policy absolves the university from protecting its community members from hate speech while grossly emboldening Cornell to take measures against expressive activity.
- Recurrent verbiage assigns rules that ‘should/must’ be followed by students while applying less restrictive alternatives when discussing the role and responsibilities of faculty and administration. This demonstrates a clear prioritization of the support of non-student community members over students.

- The policy inconsistently applies “content neutrality” and fails to make critical distinctions between disruptive activity for humanitarian work and other cases of expressive activity.

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APPENDIX 1: Draft Final Expressive Activity Policy Line Recommendations

Page 17, Paragraph 3:

Line 2

“It is not the role of a university to shield members from ideas simply because they are seen as wrongheaded, disagreeable, immoral, or even deeply offensive”

This statement is highly concerning without immediate clarification. The qualifier “immoral and deeply offensive” is subjective and cannot be used as a guiding principle in a neutral manner. In addition, we recommend the committee acknowledge it is not the role of the University to give preference to or diminish perspectives in their statements, writings, or characterizations of expressive activity on campus.

GPSA Recommendation:

- Addition of: “Nor is it the role of a university to editorialize reports on expressive activities that are communicated to the whole campus due to its cross-campus relevance.
- Removal of: “immoral, or deeply offensive”

Page 17, Paragraph 4:

Line 2

“Cornell’s commitment to “... any person ... any study” itself may mean that the expression of some must be regulated to protect the ability of others to speak and be heard, and otherwise participate in the university’s core functions.”

We emphasize that “free expression” has been effectively established as core to the university’s mission in the preceding paragraphs (Paragraph 2 “free speech is essential to academic freedom”). It is not clear the meaning of this statement.

Line 4

“The university may restrict speech that constitutes genuine harassment or a true threat, that defames a specific individual, that unjustifiably invades privacy or compromises confidentiality, that is integral to violence or the destruction of property, that violates the law, or that occurs in a time, place, or manner that seriously threatens physical safety or that seriously or persistently disables essential operations necessary for the teaching, research, patient care, or residential campus missions of the university”

We recommend the committee remove this section entirely or defer to legally enforceable and recognized standards for “true threat”, “seriously or persistent [disablement]”, and “destruction of property”, according to established federal, state, and local regulation.

GPSA Recommendation:

- Addition: “The university may restrict speech that... disables essential operations necessary for patient care, and any speech that breaks local, state, or federal laws and regulations.”
- Removal of “true threat”, “seriously or persistent [disablement]”, and “destruction of property” that have existing legal definitions and enforcement mechanisms.

Line 11

“However, these are narrow exceptions to freedom of expression, they should be enforced in consultation with community feedback, and they should be implemented in conformity with rule-of-law values, and strict viewpoint neutrality.”

We emphasize to the Committee the importance of “narrowness” to exceptions to freedom of expression. However, we implore that “values, and strict viewpoint neutrality” be struck. Content neutrality is true when rules, whether federal, state, Cornell, or otherwise are applied and enforced independent of the expressive content of the particular activity. It would be duplicative to reaffirm content neutrality only for expressive activity and not for “non-expressive” activities.

GPSA Recommendation:

- Addition of: An example of community feedback and how this feedback would not be construed in a way that is contrary to neutral enforcement.
- Removal of: “values, and strict viewpoint neutrality”

Page 17, Paragraph 5:

Line 4

“A corollary is that each Cornellian must act in conformity with the principle of freedom of expression, and that each Cornellian must share in the responsibility to ensure the equal belonging of every other member of the community.”

We recommend the Committee minimize the hierarchical context of this statement by reemphasizing the inclusion of university officers and administrators in its definition of “Cornellians”.

GPSA

Recommendation

- Addition of: “‘Cornellians’ includes students, staff, faculty, university officers, and administrators”

Page 17, Paragraph 7:

Line 1

“**Content neutrality.** This policy will be administered in a content-neutral manner and without regard to the message or viewpoint being expressed.”

Please see recommendation to paragraph 4, line 11.

Line 8

“**Classroom setting not applicable.** This policy pertains to outside-the-classroom activities.”

While Classroom activities may exist beyond the charge of the Committee, we recommend the formulation/clarification of a policy that applies to learning inside and outside of the classroom. The arbitrary delineation between classrooms and other places of intense learning (offices, laboratories, etc.) severely discredits the intentions of any expressive activity policy.

GPSA Recommendation:

- Addition of: “Concerns about bias, prejudice, abuse of authority, etc. are instead addressed through Cornell policy 6.4 and 4.6”

Page 17, Paragraph 8:

Line 1

“Cornell expressive activity organizers are responsible for ensuring their activities comply with this policy and other university policies. Organizers should address the following considerations: protecting the health and physical safety of all members of the Cornell community; preventing damage to university grounds and property; preserving unimpeded mobility on pathways, streets, and within buildings, including entrance to and departure from buildings; and avoiding superseding other scheduled university activities.”

This section is duplicative of existing, widely accepted standards of behavior associated with being a student at Cornell, and local law. Again, this policy should not be shifting adjudication of the law into a Cornell office. Nor should it be shifting adjudication of other University policies into one superseding office.

GPSA recommendation:

- Removal of: the whole section

Page 18, Paragraph 2:

Line 2

“They regulate a range of activities—such as making loud sounds and excluding others from shared space—that sometimes happen to be expressive.”

We strongly recommend the committee establish a threshold for the aforementioned types of activities to fall within this policy's purview minding that this standard must be content neutral and may not apply differentially to expressive (protest, conference) and non-expressive (construction) activity.

GPSA Recommendation:

- Addition of: "Disruption due to incorrect information in the 25Live scheduling system are not to be counted against expressive activity organizers"

Page 18, Paragraph 3:

Line 1

"Cornell's prohibitions on harmful activities apply to expressive activities. These include acts of violence; destruction of property; trespassing; individual or group harassment or intimidation; bringing weapons onto campus or wielding various implements as weapons; blocking building entrances, corridors, stairways, or doorways; impeding access to or from university property or campus roads; displacing other activities; violating occupancy limits, fire codes, or otherwise endangering the physical safety of others."

With the exception of "displacing other activities" we observe that each of these activities are already addressed by state and local law. We strongly recommend that these lines be struck as we do not believe that Cornell's interpretation of the law should supersede that of a recognized legal proceeding. We recommend the Committee refrain from conflating a not inherently violent act such as "displacing other activities" with actual breaches of the law. Again, this policy should not be shifting adjudication of the law into a Cornell office.

GPSA Recommendation:

- Removal of: all activities covered by local law, mainly "acts of violence; destruction of property; trespassing; bringing weapons onto campus; blocking building entrances, corridors, stairways, or doorways; impeding access to or from roads; violating occupancy limits, fire codes, or otherwise endangering the physical safety of others"

Page 18, Paragraph 4:

Line 1

"Use of university space and scheduling. The existing indoor and outdoor scheduling systems used for other activities should also be used for expressive activity. If a space requires scheduling for a non-expressive activity, then it will also require scheduling for an expressive activity (indoor and outdoor). Advance scheduling is recommended to help ensure space is scheduled for only one activity at a time and to determine if there are health or safety needs that should be addressed through pre-event planning. It is outside the purview of the events team to review or make judgment on the content of scheduling requests"

Refer content neutrality statement

Page 18, Paragraph 6:

Line 8

"It is also prohibited after 9pm in the proximity of residence halls and in the proximity of performance venues during performance hours."

We recommend removing 'performance venues during performance' as one of the restricted areas as these venues often hold debates and controversial speakers. Performance venues are inherently sites of expressive activity, and placing restrictions on these venues leads to the prioritization of one kind of expressive activity over an other.

GPSA Recommendation:

- Removal of: "the proximity of"
- Addition of: "[residence halls and] inside of performance venues"

Page 19, Paragraph 7:

Line 1

"Masking. Wearing masks or face coverings is not prohibited on Cornell's campuses. University personnel may ask an individual to present a campus ID and/or briefly unmask to establish a campus affiliation. If a person is unwilling to be identified either by showing ID or removing a face-covering, the university may assume that they are a non-affiliate."

We recommend removing this section. Taking action for refusing to unmask (which can be due to religious or health reasons) points to a lack of protection and gross social inequity. Furthermore, this policy inclusion will lead to actions like stop and frisk and racial profiling. The implications of being considered a 'non-affiliate' is vague, especially considering the given definition of "Cornell community member".

GPSA Recommendation:

- Removal of: "and/or briefly unmask"
- Removal of: "If a person is unwilling to be identified either by showing ID or removing a face-covering, the university may assume that they are a non-affiliate."
- Addition of: Recommend that university safety personnel act to prevent actions of criminal intent that jeopardizes campus safety and may request IDs in those circumstances.

Page 20, Paragraph 1:

Line 4

"These special settings include:

- Patient care and clinic settings
- Living spaces
- Libraries

- Laboratories and offices

- Dining halls "

The committee strongly recommends removing living spaces, libraries, laboratories and offices, and dining halls from special settings. While the committee appreciates the conservation of 'university actions', it needs to be acknowledged that Cornell is inherently a small and densely populated campus. Any activity conducted on campus is within "visible or audible" distance of the 'special settings' listed above. By deeming almost every building on campus as a 'special setting', Cornell is demonstrating a clear censure of effectively all unscheduled expressive activity.

The committee would also like to point out that the Cornell campus is seemingly in a perpetual state of construction, creating sounds and actions that are disruptive (including within the purview of the designated 'special settings'). The committee accepts the need for this level of construction and maintenance, but also recognizes the hypocrisy of limiting 'disruptive actions' when considered "expressive activity" but not to multi-year construction and landscaping projects that have delayed laboratory access and academic progress, forced students to move homes, etc.

GPSA Recommendation:

- Removal of: "living spaces, libraries, laboratories and offices, dining halls"

Page 20, Paragraph 3:

Please see above recommendation.

Page 20, Paragraph 4:

Please see above recommendation.

Page 20, Paragraph 5:

Please see above recommendation.

Page 20, Paragraph 6:

Please see above recommendation.

Page 20, Paragraph 7:

Please see above recommendation.

The inclusion of offices and dining facilities appears less intended to safeguard essential operations and more to inoculate Cornell's campus from inconvenience. Were bus delays, pervasive construction, or large campus events like Slope Day considered expressive activity, they

too would be sharply restricted under the current policy draft. If Cornell indeed values free expression, it must accept the reality that no student can be entitled to an education free from inconvenience or disruption. Any attempt to evade the inevitability of a perceived disruption only serves to weaken the EAP's legitimacy, not only as a code of conduct, but as a set of community norms in which we all share part.

Page 21, Paragraph 1:

Please see above recommendation.

Page 21, Paragraph 2:

Please see above recommendation.

Page 8, Paragraph 3:

Line 1

Across our Cornell campuses, there are certain settings where we recommend expressive activity that is **significantly visible or audible to non-participants** (i.e., excluding personal conversations) should be either prohibited completely, limited, or given special consideration.

What do you mean by “significantly visible or audible”? This is an extremely broad definition, which would, among other things, prohibit marching across the Arts Quad because the library looks out over the Arts Quad. Is there a set definition that does not prohibit expressive activity from a vast majority of public spaces on campus. Please provide this definition and who determines that definition.