

On October 31st, 2024, the Cornell Committee on Expressive Activity (CCEA) distributed a draft expressive activity policy to the Cornell community including a memo outlining the Committee's key values and explanations for policy choices. Weighing the proposed policy and memo, the Graduate and Professional Student Assembly (GPSA) voted on December 2nd to advance a comprehensive list of recommendations in response to the CCEA's proposed policy centered around supporting the rights of students to participate in free expression. Today, the GPSA acknowledges the final recommendation submitted by the CCEA as of December 18th, 2024, and addresses several items unanswered by the current recommendation.

The Graduate and Professional Student assembly recognizes the difficulty of the charge assigned to the CCEA and once again reaffirms appreciation for the challenging work and contentious subject matter undertaken by the Committee in the drafting of its final recommendations. Our participation in Cornell's shared governance is to advance a policy on behalf of the Graduate and Professional student community which rises above the status of university policy to the level of sacred communal norms. Reiterating the December 2nd recommendations, a fair and effective Expressive Activity Policy is one which secures buy-in from students with a fair split of protections for those participating in free speech and guidelines for exercising those rights as opposed to a list of heavy-handed punitive measures and unclear boundaries. This document serves as a continuation of our collective pursuit for the former solution.

We further write to acknowledge significant changes to the policy that echo substantial points adopted by the GPSA in its December 2nd recommendations. These include a major reworking of the masking policy which restricts request of unmasking to "lawful demands" in place of arbitrary requests made by the University personnel (§5.12); the full removal of the recommendation which avoided the University's obligation to prevent hate speech (formerly §9.6); and the removal of the "Spontaneous protest" policy which gave the appearance of limiting all spontaneous protest to Ho Plaza. Each of these amendments better support a campus culture where students and community members are able to participate in free expression without fear of excess punishment.

We write with dismay, however, with regard to several critical points let unattended in the CCEA's final policy proposal including the foundations of disruptive activity, the extent of special settings, the implications of content neutrality for non-expressive disruptive activity, the university's responsibilities relating to hate speech, and a sustainable definition for disruptive activity. For each of these categories the GPSA expresses disappointment that neither the final policy proposal nor the explanatory memo reached the level of consideration or detail appropriate for addressing the Assembly's recommendations.

Outlined below are several key areas for which we implore further consideration by the Interim President and his Cabinet before the finalization of the University's policy pursuant to expressive activity.

Disruptive Activity

Per the December 18th policy draft, disruption is defined 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.” (§7) Defining ‘disrupt’ with ‘inhibit’ is overly broad and fails to isolate the specific types of behavior the policy is intended to target. In identifying the importance of expressive activity and public protest to Cornell’s core values and mission, the CCEA contends the threshold for curtailing disruptive expressive activity should be no more restrictive than for counterpart non-expressive activities. (§1, point 3) For community members frequently interfacing with university bureaucracy, transit delays, widespread campus construction and renovation, high population densities, and other regular interruptions as a part of normal daily life, a mutual understanding of the distinction between *disruption* and *inconvenience* is absolutely necessary.

In particular, the CCEA’s policy seems to altogether ignore the autonomy of those who are inconvenienced by an expressive activity with options ranging from relocating to a new study space to selecting a different route to class. Should “disruptive” expressive activity for which there exist easy work-arounds be treated the same as “disruptive” activity for which there are no such options? The current definition provides no such answers.

Failing to assert the level to which an activity must rise to be determined disruptive grants individual University agents the on-hand power to determine what activities qualify as infractions allowing for a potentially varied and disparate application of policy. This is wholly inconsistent with the CCEA’s recommendation that “application of rules or regulations that restrict freedom of expression should be construed and applied as narrowly as possible” (§1, point 3). A concrete and universally available definition of “disruption” must be adopted.

Special Settings

As the final CCEA recommendations stand, virtually all of Cornell’s campus is designated “special”. Nearly every building on campus either contains or is within audible/visual proximity of offices, research spaces, dining halls, living spaces, and/or settings providing community services. The GPSA contends the designation of special settings as recommended amounts to a near-total prohibition of protest on campus.

The GPSA reiterates its recommendation for including a more thorough definition of disruption which qualifies permissible from restricted activity as opposed to blanket restrictions of expressive activity in campus spaces.

Content Neutrality

Recognizing that the current policy proposal does not require that expressive activity be neutral in viewpoint, the proposed policy's application of content neutrality still appears to run antithetical to the stated posture of expressive activities over non-expressive activities.

For example, the Committee simultaneously maintains both 1) "policies governing non-expressive activities also generally apply to expressive activities that pose the same or comparable benefits or risks" and 2) "provisions ... [which] pertain to all activities do not belong in an expressive activities policy". These provisions taken together indicate that activities assessed as "expressive" are doubly damned—subject to both general policy and the more confining expressive activity policy.

It is **not** content neutral to determine the level of penalty deserved for an activity on the basis of its expressive value nor is it content neutral to expect any university officer to be making regular determinations on what extent an activity is expressive such that the recommended policy be applied.

Furthermore, the stated commitment to content neutrality misses an opportunity to grant clemency to students engaging in activities championing humanitarian causes over minimally expressive acts of overt disruption. Under the current reading of the policy, students inadvertently interrupting a lecture by protesting the loss of human life would be disciplined similarly to a student who brought a loud typewriter to lecture.

The GPSA recommends removing content neutrality in all forms from the adopted policy and replacing it with language which emphasizes fairness and clemency.

Masking

The Assembly firmly reasserts the recommendation to remove this section to prevent the promotion of gross social inequity in the Cornell community. People may wear a mask or facial covering for many reasons, including religious and health, and the request to unmask, even briefly, is asking them to violate themselves in public to be observed.

This section gives CU authorities the undue power to more openly discriminate against individuals and grants permission to violate their beliefs. The Assembly fears that this section emboldens opportunities for 'stop-and-frisk', including Cornell community members who wear masks or facial coverings. The Assembly holds that Cornell's foundations in diversity and inclusion and interest in promoting a community of belonging should not permit policy that offer opportunities for discrimination so openly within its own institution.

Hate Speech

While the Assembly can appreciate Cornell's commitment to not silencing voices in the minority, we firmly reassert that no policy can absolve Cornell of its responsibility to its students. The policy currently absolves the university of the responsibility it has toward protecting its community from hate speech, which may make certain community members feel unsafe, harming our academic community and the interest the university has in maintaining an open culture. If Cornell has declared a stance of non-interference in speech that damages the integrity of the institution, whether stated directly or implied in policy language, the University risks inadvertently emboldening further hate speech thereby posing potential threats to the safety of the student body and allowing for the degradation of campus discourse.

The Assembly reaffirms the University's responsibility to curtail hate speech both for the safety of its students and the pursuance of its core educational mission.

Integrity of Policy Drafting and Review Process

While the GPSA expresses gratitude for the CCEA's thorough consideration of the subject matter surrounding free expression, the Assembly is gravely disappointed with the overall limited extent to which serious critical feedback was channeled into the CCEA's response. The GPSA expresses dismay for the example set for shared governance at Cornell by the limited extent to which serious policy points raised—approved by a full Assembly—were apparently ignored or dismissed. Similarly, errant and ostentatious referrals to great civil rights leaders within a document that outlines policies antithetical to the reality of their struggles only furthers the perception that the invocation of democratic and restorative justice principles, including the collection of community feedback, was largely performative.

The poor choice of the CCEA to call on principles of Dr. King, Gandhi, and Thoreau as justification to impose restrictions on expressive activity only makes glaringly apparent the CCEA's ignorance of their legacy. We take particular issue with the statement that civil rights leaders “violat[ed] rules and accept[ed] the consequences to make their point”. Our concern with this portrayal extends further than semantics; we believe it is illustrative of inadequate consideration given to the harms incurred by those “rules”, which reveals ignorance of the transformative legacy of civil disobedience and a resultant inability to apply those principles in drafting the report and policy itself. In the case of Dr. King, the “rules” in question imposed segregation of Black Americans from White ones and sanctioned state violence on the basis of race. The “rules” Gandhi refused to obey were imposed under the British Raj to render Indians powerless, and Thoreau's disobedience was a direct refusal to fund the horrific institution of slavery in the United States. In all cases, these men “violated rules” that actually constituted oppressive laws and regimes that we can recognize as such thanks to their actions.

CCEA claims that King, Gandhi, and Thoreau “accepted the consequences to make their point”, when in reality they endured punishments designed and imposed with the intention to oppress opposition to inherently unjust and immoral laws. It is only through their perseverance in spite

of this suppression of their expressive activity that many have gained liberation from violent institutional oppression through freedoms and rights enshrined by law.

An honest and informed invocation of these leaders would include an acknowledgement that Cornell's policies and rules may not be perfect and may even in fact do harm to our community, and that civil disobedience and protest are tools by which those affected by an unjust policy or morally opposed to its scope, substance, or consequence can engage with the institutional powers that impose them. It is for these reasons that we recommend treating those who engage in disruption or civil disobedience as a form of expressive activity on moral grounds with a presumption of good faith. Further, these actions are only necessary when that power exhibits hostility toward those who are affected by their policies through a lack of meaningful democratic engagement.

Using the fact that civil rights leaders endured oppressive punishments to suggest that discipline is passively levied as a natural consequence of “violating rules” is directly neglectful of Cornell’s stated intention in revising this policy. In fact, as a modern institution that seeks to embody principles of democracy and restorative justice, especially one “committed to supporting those who question and challenge what they perceive as unjust uses of power”, Cornell has a duty to learn from the injustices of the past and to mitigate future harms accordingly. This duty is not reflected in the final CCEA EAP Report.

It is stated in the CCEA Report Policy that, “As an institution dedicated to learning, Cornell is committed to supporting those who question and challenge what they perceive as unjust uses of power.” In passing [GPSA R4 \(2024-2025\): Recommendations Regarding the CCEA Expressive Activity Policy Draft](#) GPSA has, through democratic means, attempted to bring forth broad community concerns regarding the ways in which the EAP has potential to empower unjust uses of power. The CCEA’s memo aiming to justify the contents of the report and explain the dismissal of these concerns was insufficient. We are requesting the promised support and recognition of our efforts to challenge the document which we perceive as enabling potentially unjust uses of power.