

Statement on Academic Freedom

Preamble:

Today, the university's core values are under profound strain not witnessed in many decades. Threats to academic freedom are intensifying and multiplying. Scholars engaged in politically related speech increasingly worry about targeting by both external organizations and the government, with repercussions ranging from job loss to privacy infringements to personal safety. Public institutions in particular are experiencing intrusive political oversight, whether aimed at controlling the content of specific programs and course offerings, or economic and budgetary cuts, or the elimination or reduction of tenure. Academic research on sensitive topics, whether connected to the Middle East or climate change, faces politically motivated government defunding. Muslim student groups, and others representing vulnerable populations, fear surveillance and harassment, as do faculty who teach politically charged material. DACA and undocumented immigrant students and staff face the danger of removal and deportation. New immigration bans and visa requirements raise the specter of American universities becoming isolated from international scholars and the global academic community.

Given these growing challenges, we assert the centrality of academic freedom to the basic integrity of the university as an institution created to serve the public interest in education, scholarship, and an uninhibited exchange of ideas. Academic freedom is therefore not merely a limited professional right of faculty, but rather a core principle on which the university is founded. It requires that the university protect the entire university community's rights to critical and intellectual engagement, free and independent of external state, corporate, and other influences. A commitment to academic freedom therefore defends the university as a key site of public debate and dissent, dedicated to open and unrestricted reflection on political and social conditions both within and beyond its institutional purview.

Mindful of these emerging threats as well as longstanding university commitments, we call on Cornell to reaffirm the following basic principles:

1. To reaffirm the University Faculty's 1960 "Principles of Academic Freedom and Responsibility" (included in Exhibit A, from the Cornell Faculty Handbook). These Principles define academic freedom broadly as extending to teaching inside and outside the classroom; research and scholarship; intramural speech related to university policies and practices; and extramural speech, including speech on issues of political, social, and economic interest. Academic freedom protects all faculty (part-time and full-time, tenure-track, tenured, and non-tenure-track) and teaching assistants.

2. To reaffirm the statement in the Cornell Campus Code of Conduct (Art. III. A. 2) (excerpted in Exhibit A), which protects the ability of faculty members to express unpopular or unorthodox views, analysis, and opinions. It is incumbent on the University administration and Board of Trustees to resist and reject pressures or demands from individuals, groups, and organizations (whether internal or external to Cornell) to censor or censure faculty for their speech.
3. To reaffirm that the protections regarding free speech contained in the Cornell Campus Code extend to students, faculty and staff (Art. I. A and Art. III. A. 2), including non-academic and non-teaching staff and administrators within the Cornell University community.
4. To reaffirm that processes of faculty hiring, tenure, review, promotion, and retention will not be influenced by the candidates' political viewpoints or actions – and that the same holds true for assessment and grading of students. The University must affirm that candidates will not be disadvantaged in the tenure and promotion or retention process due to their political views, activism, race, gender, class, religion, sexual orientation, or gender identity.

In addition, we call on Cornell to endorse and formally commit to defend the following values, goals, and principles, which are more explicitly articulated here than in either the Cornell Campus Code or Cornell Faculty Handbook.

1. To commit to publicize and circulate to all members of the University community statements of these rights and principles tied to academic freedom. In a climate of political oversight by both state actors and private organizations, fear and uncertainty are understandably escalating among faculty, students, and staff. The University should provide easy access to Cornell's official policies protecting academic freedom and free speech, which would inform and reassure the larger University community about the existence, scope and rationales underlying these principles and policies.
2. To commit to publicize a series of guidelines pertaining not only to academic freedom but also to academic responsibility in a climate of growing political monitoring and intimidation. For instance, Cornell should make explicit policies that prohibit and penalize the unauthorized recording or taping of classes. At the same time, Cornell should approve and make available resources designed to encourage faculty, students, and staff to fully and freely exercise their academic freedom as well as to advise and counsel faculty, students, and staff about the broad parameters of academic freedom and protected speech, given the current environment of silencing and fear.
3. To commit that Cornell will refrain from monitoring student organizations or political groups and their faculty advisors, and that it will actively prevent any

non-University or external organizations from engaging in the surveillance of such groups.

4. To commit to foster and cultivate (financially and otherwise) existing Cornell programs and departments that concentrate on the study of and knowledge about minoritized or disadvantaged nationalities, religions, or populations and groups, particularly those that are the target of discrimination by government or private organizations. Proposed Congressional bills, for example, seek to dramatically expand which groups get designated as foreign terrorist organizations (FTOs) and in the process potentially criminalize Muslim civic association, with real consequences for academic research on Muslim political and charity organizations. Likewise, recent executive orders and legislative actions seek to dismantle rights and protections for the LGBTQ community. Cornell should publicly express its refusal to allow such laws to dampen or otherwise inhibit its support for programs such as the Near Eastern Studies Department, Feminist, Gender, and Sexuality Studies, or the Latino Studies Program, among others.
5. To commit the legal resources and expertise of the University Counsel's office to support and defend faculty in the event that external entities or organizations intrude upon or otherwise violate Cornell's academic freedom and free speech protections. 2017 has witnessed diverse phenomena including the emergence of "watchlists" that target and seek to harass or invade the privacy of public intellectuals and faculty; reports of border searches that single out both vulnerable populations and scholars involved in politically sensitive areas of research and expertise; and other forms of intimidation, public and private. Faculty whose scholarship and teaching pertains to controversial, unorthodox, or politically vulnerable viewpoints and subject matters therefore are forced to assume increased risk of surveillance, interference, and intimidation, and reports of such threats are on the rise (see Exhibit C). Such realities threaten not only to emotionally or professionally tax targeted faculty but also to impose economic burdens and costs. The Cornell administration should commit both to provide legal support in such occurrences and to otherwise indemnify faculty against any such burdens incurred due to their professional responsibilities or obligations.
6. To commit to work with faculty, student and staff organizations, including governance bodies (including the Faculty Senate, Student Assembly, University Assembly, Graduate and Professional Student Association) to revise Cornell's current guidelines and policies to ensure broad protection of academic freedom. The administration and governance bodies should examine statements from the American Association of University Professors, including the AAUP 1940 Statement of Principles on Academic Freedom and Tenure (Exhibit B), and evaluate their relevance to the Cornell University community, seeking to incorporate protections and safeguards currently lacking in Cornell policy. Current political realities require that Cornell adopt robust policies that broadly protect academic freedom and extend procedural protections to ensure its full

implementation, since the public mission and goals of a University depend on the careful and diligent protection of such freedoms.

We attach as Exhibits the Cornell University's 1960 Principles of Academic Freedom and Responsibility; relevant provisions from Cornell Campus Code of Conduct (Exhibit A); excerpts from the AAUP 1940 Statement of Principles on Academic Freedom and Tenure and other relevant AAUP documents (Exhibit B); and a compendium of recent news articles and media coverage that substantiate and illustrate the types of threats and intimidation faced by scholars exercising their academic freedom that have motivated this statement of principles and appeal (Exhibit C).

EXHIBIT A

The following statement on academic freedom and responsibility was adopted by the University Faculty on May 11, 1960:

Principles of Academic Freedom and Responsibility

Academic Freedom for the Faculty of Cornell University means:

Freedom: of expression in the classroom on matters relevant to the subject and the purpose of the course and of choice of methods in classroom teaching; from direction and restraint in scholarship, research, and creative expression and in the discussion and publication of the results thereof; to speak and write as a citizen without institutional censorship or discipline;

and

Responsibility: to perform faithfully the duties of the position; to observe the special obligations of a member of a learned profession and an officer of an educational institution to seek and respect the truth; to make it clear that utterances made on one's own responsibility are not those of an institutional spokesman.

Academic freedom is valued very highly at Cornell, and the University Faculty defends it tenaciously; nevertheless, the same University Faculty is disinclined to see the concept abused. Academic freedom does not imply immunity from prosecution for illegal acts of wrongdoing, nor does it provide license for faculty members to do whatever they choose.

Many departments, particularly in the contract units, have commitments to provide services to the people of New York State or to perform studies in areas judged important to the general welfare. Other departments have commitments to maintain broad research programs in certain areas. All departments have obligations to provide advising and balanced programs of instruction for students. Performing the duties of one's position faithfully entails bearing a suitable share in these departmental responsibilities. The initial expectations held of faculty members are usually made clear in the letter of appointment. As time goes on, the faculty member consults with the department chairperson about shifts that may be needed or desired in these duties. It is understood that normally the determination of the precise assignments should not be entirely unilateral but rather by agreement. In case such agreement cannot be reached, the chairperson has the responsibility to exercise his or her authority and decide the matter. If the decision is perceived as unfair, the faculty member can resort to the college-level academic grievance procedures described in this section.

The principles of academic freedom assure wide discretion to the faculty member in determining the thrust of research and scholarship, provided the work continues to fulfill departmental obligation. The presumption is always of self-direction and freedom accompanied by responsibility.

(Cornell Faculty Handbook, pp.77-78)

The Cornell Campus Code of Conduct (Art. III. A. 2) recognizes that the scope of academic freedom must extend protections to faculty speech on controversial political issues:

“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.”

Further, as a code that applies to all members of the community, the Cornell Campus Code’s protections of free speech extend to students, faculty and staff. Indeed, the Code describes the university’s “interests, with respect to the governing of community conduct,” as including: “the opportunity of all members of the University community to attain their educational objectives; the generation and maintenance of an intellectual and educational atmosphere throughout the University community; and the protection of the health, safety, welfare, property, and human rights of all members of the University community.” (Art. I. A) The Code recognizes that “freedom of speech should be the paramount value in a university community.” (Art. III. A. 2)

EXHIBIT B

Excerpts from the AAUP 1940 Statement of Principles on Academic Freedom and Tenure:

“The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.”

“Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.”

“Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.”

Excerpts from AAUP Committee A Statement on Extramural Utterances (1964):

“The controlling principle is that a faculty member’s expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member’s unfitness to serve. Extramural utterances rarely bear upon the faculty member’s fitness for continuing service. Moreover, a final decision should take into account the faculty member’s entire record as a teacher and scholar. In the absence of weighty evidence of unfitness, the administration should not prefer charges; and if it is not clearly proved in the hearing that the faculty member is unfit to continue, the faculty committee should make a finding in favor of the faculty member concerned.”

“Committee A asserts that it will view with particular gravity an administrative or board reversal of a favorable faculty committee hearing judgment in a case involving extramural utterances. In the words of the 1940 Statement of Principles, “the administration should remember that teachers are citizens and should be accorded the freedom of citizens.” In a democratic society freedom of speech is an indispensable right of the citizen. Committee A will vigorously uphold that right.”

Excerpts from Executive Summary to AAUP Report, “Ensuring Academic Freedom In Politically Controversial Academic Personnel Decisions” (2011):

“Politically controversial cases involving college and university teachers spurred the founding of the AAUP and have recurred frequently thereafter. The Association has noted with special concern recent cases arising out of the war on terror, the conflict in the Middle East, and a resurgence of the culture wars in such fields as health and the environment.”

“The full report notes the recent developments that have heightened the problem of political intrusion into the academic personnel process and fostered a climate inimical to academic freedom in which partisan political interests threaten to overwhelm professional judgment in academic personnel proceedings.”

“Current political threats to academic freedom have intensified with the rapid growth of the Internet and new media that have made it possible for talk-show hosts, bloggers, and well-funded interest groups to supplement the trustees, politicians, corporate and religious groups, and journalists who previously put untoward pressure on the university. At the same time, the need for faculty members to contribute their expertise to public discourse and policy debates has increased. The protection of their unfettered expression, including the ability to espouse highly controversial and unpopular views, is an essential social responsibility of universities and colleges.”

“The freedom that the common good requires, however, can be hard to maintain, as we have learned from such prior experiences as the dismissals of controversial professors and subsequent constraints on academic discourse during and after the two world wars. These events teach us that political restrictions on academic expression must not be countenanced—even when most faculty members support or at least acquiesce in them. To avoid a recurrence of such situations, the contemporary political pressures on the academic community must be countered by emphasizing how free universities contribute to the common good even as they create political tensions between the academy and society that require the protection of academic freedom.”

“Political intrusion, the report notes, usually arises out of controversies over political ideology, religious doctrine, social or moral perspectives, corporate practices, or public policy— not more narrowly professional disagreements and disputes among academics. It may arise from within as well as from without the university. Political intrusion from within may occur when members of the university who are sensitive to political concerns engage in self- censorship or when politically motivated academics violate or disregard sound academic principles and procedures. It may also come from outside the university when, for example, private corporations or public officials seek to persuade universities to terminate particular research activities, programs, or the services of the faculty members involved.”

Principles to Guide Decision Making regarding Politically Controversial Academic Personnel Decisions [from Executive Summary of AAUP Report, Ensuring Academic Freedom In Politically Controversial Academic Personnel Decisions (2011)]:

The fundamental principle is that all academic personnel decisions, including new appointments and renewal of existing appointments, should rest on considerations that demonstrably pertain to the effective performance of the academic's professional responsibilities.

A. Assessing Charges of Indoctrination in the Classroom

1. Only the proven demonstration of the use of “dishonest tactics” to “deceive students”— not the political views, advocacy, or affiliations of the faculty member— may provide grounds for adverse action.
2. In a politically controversial proceeding, the admonition to tailor questions narrowly to permissible issues of academic fitness and to avoid any inquiry into political affiliations and beliefs is plainly imperative.
3. Neither the expression nor the attempted avoidance of value judgments can or should in itself provide a reasonable ground for assessing the professional conduct and fitness of a faculty member.
4. “So long as opinion and interpretation are not advanced and insisted upon as dogmatic truth, the style of presentation [in the classroom] should be at the discretion of the instructor” (Freedom in the Classroom³).
5. Whether a specific matter or argument is essential to a particular class or what weight it should be given is a matter of professional judgment, based on the standards of the pertinent disciplines and consistent with the academic freedom required if the disciplines themselves are to remain capable of critical self-reflection and growth.
6. Exclusion of controversial matter, whether under the persistent-intrusion clause of the 1970 Interpretive Comment 2 on the 1940 Statement or in the name of protecting students from challenges to their cherished beliefs, stifles the free discussion necessary for academic freedom.

B. Collegiality and Civility Are Not Appropriate Independent Criteria for Evaluation

The academic imperative is to protect free expression, not collegiality. In keeping with the general admonition that evaluation should focus on professional fitness, the statement On Collegiality as a Criterion for Faculty Evaluation maintains that whatever

is pertinent with regard to collegiality should emerge through an evaluation based on the standard considerations of teaching, scholarship, and service.

C. Consideration of Extramural Speech in Politically Controversial Personnel Decisions

1. Consideration of the manner of expression is rarely appropriate to an assessment of academic fitness.
2. An administration should not discipline a faculty member for an off-campus statement that the faculty member could freely make on campus.
3. We find no basis upon which an institution might properly discipline a faculty member for extramural speech unless that speech implicates professional fitness.
4. We recommend, therefore, that institutions be especially careful in bringing charges shortly after controversial extramural expression and that, should disciplinary hearings be found necessary, the administration, board, and faculty all take special care to ensure full, fair, and equitable proceedings and judgments.
5. Academic institutions should take special care to ensure that the sanctions resulting from judicial determinations of criminal activity involving expressive conduct are not unnecessarily compounded by institutional sanction: for faculty, as for students, institutional authority should never be used merely to duplicate the functions of general laws. If, however, institutions are legally compelled to take such action, or if the faculty committee considers it pertinent to an evaluation of professional fitness, then academic hearings should be confined to the issue of whether the alleged conduct has substantially impaired the professional fitness of the academic appointee.

D. Compelled Political Declarations: Loyalty Oaths and Disclaimers

A faculty member's principled refusal to sign a loyalty oath should not be a justifiable reason for not appointing a faculty member or for terminating an appointment.

E. Civil Disobedience

In matters involving civil disobedience, as in disciplinary or other personnel proceedings generally, assessment of a particular charge of misconduct should be considered in the light of the faculty member's professional record considered as a whole. Institutions should be similarly cautious about imposing sanctions on the basis of inferences about a controversial individual's supposed lack of remorse and possible future activities.

Excerpts from, AAUP Investigative Report (April 2015), “Academic Freedom and Tenure: The University of Illinois at Urbana-Champaign”

“‘Civility’ is vague and ill-defined. It is not a transparent or self-evident concept, and it does not provide an objective standard for judgment. Historians have shown that over the centuries (whether used by aristocrats to distinguish themselves from the bourgeoisie, by the bourgeoisie to elevate themselves above the lower classes, or by Christians to establish their superiority to Jews and Muslims) the notion of civility consistently operates to constitute relations of power. Moreover, it is always the powerful who determine its meaning--a meaning that serves to delegitimize the words and actions of those to whom it is applied.” (p.14).

“Inevitably, the standard of civility conflates the tone of an enunciation with its content.” (p.14)

“The notion of a hostile learning environment assumes that students have a right not to have their most cherished beliefs challenged. This assumption contradicts the central purpose of higher education, which is to challenge students to think hard about their own perspectives, whatever those might be.... Ideas that are germane to a subject under discussion in a classroom cannot be censored because a student with particular religious or political beliefs might be offended. Instruction cannot proceed in an atmosphere of fear that would be produced were a teacher to become subject to administrative sanction based upon the idiosyncratic reaction of one or more students.” (p.15)

EXHIBIT C

Examples of threats against and intimidation of scholars and teachers

1) Scientists under assault for working on topics such as climate change.

Aside from the harm expected from proposed cutbacks in federal funding for research supported by such organizations as the Environmental Protection Agency or the National Institutes of Health, scientists who produce knowledge that challenges preferred policies of the current federal administration, especially regarding continued reliance on fossil fuels, have come under criticism through spurious attacks on their research. A recent example includes false charges directed against scientists affiliated with the National Oceanic and Atmospheric Administration of having "manipulated global warming data" in a 2015 study published in the journal *Science* (<http://www.ecowatch.com/open-season-climate-scientists-2259332495.html>).

Another example includes Cornell scientists and others who have been smeared by the Breitbart website and other sources close to the Trump administration for their analyses of hydraulic fracturing for extraction of natural gas (<http://www.breitbart.com/big-government/2016/08/23/destroying-americas-energy-industry-phony-methane-issues/>).

Further, the federal administration's appointments to such positions as White House energy aide and director of the Environmental Protection Agency include prominent deniers of the validity of scientific research (<http://www.eenews.net/stories/1060049700>).

2) The creation of "watchlists" of college professors.

These websites list professors, including some at Cornell, whose words are often taken out of context or whose controversial opinions have been cited as evidence of promotion of "anti-American values" (<https://www.nytimes.com/2016/11/28/us/professor-watchlist-is-seen-as-threat-to-academic-freedom.html>); <https://www.insidehighered.com/news/2016/11/22/new-website-seeks-register-professors-accused-liberal-bias-and-anti-american-values>).

This is not a matter of professors being too thin-skinned to resist criticism of their views. As the American Association of University Professors describes, one such website

lists names of professors with their institutional affiliations and photographs, thereby making it easy for would-be stalkers and cyberbullies to target them. Individual faculty members who have been included on such lists or singled out elsewhere have been subject to threats of physical violence, including sexual assault, through hundreds of e-mails, calls, and social media postings. Such threatening messages are likely to stifle the free expression of the targeted faculty member; further, the publicity that such cases attracts can cause others to self-censor so as to avoid being subjected to similar treatment. Thus, targeted online harassment is a threat to academic freedom

<https://www.aaup.org/news/targeted-online-harassment-faculty#.WM7YkhiZORw>)

Universities must be prepared to defend their faculty members when they come under such threats (<https://www.insidehighered.com/news/2017/02/02/aaup-says-colleges-should-defend-professors-targeted-online-harassment-due-political>).

3) *Harassment of professors based on their area of scholarship, such as topics related to Islam.*

Some scholars have seen their research demeaned and their personal safety threatened, solely on the basis of their topic of study. For example, a professor, who holds appointments in Law and History at Harvard and directs the Islamic Legal Studies Program, has been accused by media sources close to the Trump administration of scheming to “bring Sharia law to America” because this person runs a MacArthur Foundation-funded project on Islamic jurisprudence which includes a postdoctoral fellowship program (<http://www.angrypatriotmovement.com/program-bring-sharia-here/>; <http://www.breitbart.com/big-government/2016/12/25/harvard-university-launches-fellowships-islamic-law-influence-u-s-policy/>; <https://www.radcliffe.harvard.edu/news/press-releases/425000-award-macarthur-foundation-shariasource>). According to Cornell colleagues, this faculty member has faced personally directed threats.

4) *Legislative overreach in attempts to regulate curriculum through threats of cutting funds.*

Members of the Wisconsin state legislature, for example, have threatened to reduce funding for the University of Wisconsin at Madison because they object to a course on race relations called "The Problem of Whiteness" and a six-week program on masculinity (<https://www.insidehighered.com/quicktakes/2017/01/05/wisconsin-madison-criticized-mens-discussions>).

5) *Harassment of faculty members for hosting outside speakers with controversial views.*

A recent example concerns a Middlebury College professor and her guest who were not allowed to speak and who were intimidated and assaulted as they tried to leave the Middlebury campus.

https://www.nytimes.com/2017/03/13/opinion/understanding-the-angry-mob-that-gave-me-a-concussion.html?_r=0

https://www.nytimes.com/2017/03/03/us/middlebury-college-charles-murray-bell-curve-protest.html?_r=0