

FIGHTINGBACK

**A Handbook for Responding to Anti-Israel Campaigns
on College & University Campuses**



GLEN S. LEWY, NATIONAL CHAIR

ABRAHAM H. FOXMAN, NATIONAL DIRECTOR

KENNETH JACOBSON, DEPUTY NATIONAL DIRECTOR

DAVID MILLSTONE, CHAIR, EDUCATION COMMITTEE

ED S. ALSTER, DIRECTOR, EDUCATION DIVISION

CHARLES F. KRISER, CHAIR, INTERNATIONAL AFFAIRS COMMITTEE

**MICHAEL SALBERG, ASSOCIATE NATIONAL DIRECTOR,
DIRECTOR, INTERNATIONAL AFFAIRS**

STACEY BERKOWITZ, DIRECTOR, CAMPUS AND CONFRONTING ANTI-SEMITISM INITIATIVES

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605 Third Avenue • New York, NY 10158-3560 • (212) 885-7700 • www.adl.org

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Anti-Defamation League

The Anti-Defamation League (ADL) is one of the nation's premier civil rights and human relations agencies. When ADL was established in 1913, its charter stated: "The immediate object of the League is to stop, by appeals to reason and conscience, and if necessary, by appeals to law, the defamation of the Jewish people. Its ultimate purpose is to secure justice and fair treatment to all citizens alike and to put an end forever to unjust and unfair discrimination against and ridicule of any sect or body of citizens." ADL's long-term commitment to fighting anti-Semitism and all forms of bigotry is the basis for all of its anti-bias initiatives.

Today, ADL's offices in the United States and abroad work to secure justice and equitable treatment for all people through information, education, legislation and advocacy. From the United Nations, to the Vatican, to the seats of foreign governments, ADL's International Affairs staff is there — fighting anti-Semitism and bigotry, promoting Jewish security, and supporting Israel and the advancement of the peace process in the Middle East. Its Civil Rights staff files amicus briefs challenging discrimination and drafts model legislation. (For example, 45 states and the District of Columbia have enacted laws similar to or based on the ADL model hate crime statute, which may enhance penalties when crimes are committed because of a victim's immutable identity, such as race, religion, ethnicity, sexual orientation or national origin.) The League's Center on Extremism monitors extremist groups, from neo-Nazi skinheads to international terrorist groups. Its Education Division seeks to break the cycle of hatred through curriculum and trainings that build bridges of communication, understanding and respect among diverse racial, religious and ethnic groups around the world.

On the local front, ADL's 30 Regional and Satellite offices respond daily to grassroots concerns and issues regarding intergroup relations and incidents of bias. Further, the regional office professionals implement national programs and are a valued resource for government, media, law enforcement, educators, community organizations and the public. Timely, informative conferences and workshops bring together thousands of diverse community leaders annually to address pressing concerns and problems identified at the local, national and international levels. These offices also focus on local public policy concerns, legal matters, education issues, individual and group civil rights complaints, and intergroup and interfaith affairs. In conjunction with a regional board of volunteer leaders, the professional staff acts in concert with local communal, political, and law enforcement officials to defuse community racial and ethnic tension by providing informational and educational programs, by targeting needed resources and by encouraging and providing a forum for dialogue.

Introduction

The outbreak of the second intifada in 2000 led to a resurgence of anti-Israel and anti-Zionist campus activity. On many campuses anti-Israel rallies were a daily occurrence. Some crossed the line into violence, overt anti-Semitism and hate, with protesters engaging in vandalism, physical assault and hate speech. These episodes created an atmosphere of intimidation and fear among Jewish members of university communities.

Anti-Israel and anti-Semitic incidents took place on campuses across the United States and Canada. For example, in 2001 there was an arson attempt at the Hillel House at the University of California, Davis. In September 2002, anti-Israel protesters at Montreal's Concordia University held a violent rally that forced the cancellation of a speech by former Israeli Prime Minister Benjamin Netanyahu. In April 2004, the group Al-Awda held its annual convention at Hunter College in New York City, where attendees marched to the Israeli consulate to protest the killing of Abdel Aziz Rantisi, leader of Hamas. Signs waved by the crowd included "What's next Sharon? Ovens!!", "Globalize the Intifada," and "All of Israel is 'occupied territory.'" In May 2006 the University of California, Irvine hosted the "Holocaust in the Holy Land" conference that featured a lecture called "Israel: The Fourth Reich." Throughout the conference students distributed Holocaust denial literature.

Today, while daily protests are less common, Israel's detractors continue to invite self-proclaimed anti-Israel speakers to campus, launch divestment campaigns and plan annual "Israel Apartheid" weeks. In addition, anti-Israel bias has increasingly been reported in the classroom where professors allegedly

penalized students for holding views on the Arab-Israeli conflict that were more favorable to Israel.

When anti-Israel incidents take place on a campus, it is natural for students to want to react with counterrallies and protests. In doing so, it is essential for students to first plan strategically before they act. Strategic thinking combines research with action. The key to approaching anti-Israel rallies, protests, editorials and bias in the classroom is to understand freedom of speech and how it applies on campus. Once students understand their rights, they can take appropriate action to make sure those rights are upheld. In some situations, the response may be to plan a counterprotest; and, in other situations, there may be opportunities to reframe the debate on their own terms.

Fighting Back: A Handbook for Responding to Anti-Israel Campaigns on College and University Campuses provides pro-Israel students with a legal approach to combating anti-Israel and anti-Semitic incidents on campus. The guide is divided into sections that outline when criticism of Israel becomes anti-Semitism, explore freedom of speech issues on campus, answer frequently asked questions about responding to anti-Israel programs and offer action planning strategies to combat anti-Israel rhetoric and acts. The final section of the guide is an appendix of campus codes of conduct and examples of presidential statements on free speech.

Please do not hesitate to contact your local ADL office at www.adl.org when you need assistance in addressing anti-Semitic and bias incidents on campus.

Glossary of Terms

The definitions that follow are provided to clarify the meaning of the terms as they are used in this handbook.*

Anti-Israel

Anti-Israel refers to extreme and/or illegitimate criticism of Israel that can take many forms, including the denial of Israel's right to exist and/or holding Israel to different or higher standards than other countries. Anti-Israel sentiment should be distinguished from legitimate critiques or questioning of specific Israeli government policies, politicians, and so on.

Anti-Semitism

Anti-Semitism is prejudice and/or discrimination against Jews. Anti-Semitism can be based on hatred against Jews because of their religious beliefs, their group membership (ethnicity) and sometimes the erroneous belief that Jews are a race.

Anti-Zionism

Anti-Zionism is criticism or rejection of the right of Jews to have their own homeland.

Bias Incident

Non criminal conduct, including words, slurs or action, which is directed at any individual, residence, house of worship, institution or business because of the victim's actual or perceived personal characteristics — race, religion, gender, ethnicity, national origin, sexual orientation, gender identity or disability.

Bigotry

An unreasonable or irrational attachment to negative stereotypes and prejudices.

Discrimination

The denial of justice and fair treatment in many arenas, including employment, education, housing, banking and political rights. Manifestations of discrimination can be both personal (an individual act) or institutional (supported and sanctioned by power and authority that confers privilege on members of a dominant group while disadvantaging members of other groups.) Targets of discrimination are chosen based on arbitrary characteristics, such as their race, age, sex, sexual orientation, nationality or religion.¹

Extremist Group

An extremist group is one in which the political, ideological or philosophical goals are so far outside those of the mainstream that the extremist has no chance of accomplishing those goals by the normal political process.

Fighting Words

Abusive or hateful words that, when spoken, naturally provoke violent action and incite an immediate breach of the peace.²

* The terms that are defined with legal definitions vary from state to state.

Harassment

A pattern or course of conduct of using abusive words, gestures and/or actions directed at a specific person for the purpose of causing that person substantial emotional distress and alarm.³

Hate Crime

A hate crime is a criminal act directed against a person, group of persons, or property in which the perpetrator intentionally selects the victim because of the victim's actual or perceived race, religion, national origin, ethnicity, sexual orientation, gender or disability. State laws differ on protected categories.*

Hate Group

An organization whose primary purpose is to promote animosity, hostility and malice against persons belonging to a race, religion, ethnicity/national origin, sexual orientation or disability group which differs from that of the members of the organization.

Hate Incident

A hate incident is conduct, speech, or expression in which a bias motive is evident as a contributing factor (regardless of whether the act is criminal). Acts of criminal violence that include elements of hate activity but are not directed at a particular person, institution or business (do not have a specific target or victim) are also hate incidents. These include racist comments or some acts of vandalism, such as racist graffiti on sidewalks or bus stops.

Hate Speech

Hate speech is verbal attacks based on race, ethnicity, religion, national origin, gender, disability or sexual orientation.

Hostile Educational Environment

A hostile educational environment exists when harassment at a college or university is "severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services" of the school.⁴ Casual or insignificant isolated incidents are not enough to give rise to a hostile environment.⁵

Intimidation

Willfully and purposely placing another person in fear of bodily harm.⁶

Libel (individual/group)

Defamation by false written or printed words.⁷

Threat

A communicated intent to inflict physical or other harm on a person or property.⁸

* In 1981, ADL drafted a model for hate crimes legislation. The text can be found at http://www.adl.org/99hatecrime/text_legis.asp.

Free Speech On Campus

Before understanding how to respond to anti-Israel speakers or rallies on campus, it is important to understand what type of speech is and is not protected by American law and your campus code of conduct.

1 | Free Speech and the First Amendment

The First Amendment of the United States Constitution prohibits the government from suppressing the speech of individuals, groups and organizations. This allows for the rich, varied discussions that are key elements of American democratic society. It also forbids the government from stopping hateful speech, even when it finds that speech to be undesirable. In contrast, speech that is criminal in nature, such as harassment, threats or intimidation, is not protected by the First Amendment and is not permitted in society in any context, including on university campuses.

The First Amendment applies only to government entities, not private entities, such as private businesses. However, some states, such as California, have extended the First Amendment protections to private universities as well. Thus, depending on your state, the extent to which a university can regulate speech often depends upon whether it is a public or private institution.

2 | Free Speech at Public Universities

The First Amendment limits the right of government bodies and officials to restrict speech. Because they are funded by state governments and run as public entities, public universities fall under

that category and the First Amendment applies.⁹ Public universities generally cannot prohibit student protests or rallies, even when their content offends the views of the school administration and many others on campus.¹⁰

These free speech rights, however, are not absolute.¹¹ A public university can restrict the time, place and manner of protests on its campus in order to serve an important objective, such as ensuring that the speech does not interfere with classes, studying or other university events.¹² A university can also use such restrictions to ensure that its students are safe from harm.

An example of a time, place and manner restriction is, "Bullhorns may only be used outside of the library between 12 p.m. and 2 p.m." Here, the restricted time is between 12 p.m. and 2 p.m., the restricted place is outside of the library and the restricted manner of speech is the bullhorn.

Any campus rules restricting speech must be reasonable and content-neutral.¹³ A public university generally may not regulate the subject matter or viewpoint expressed by speakers. The above example meets these requirements because it applies to all speech regardless of content and is reasonably related to the university's interest in maintaining the library as a quiet place to study.

Regulations must also "leave open ample alternative channels of communication"¹⁴ so that free speech is not stifled. The bullhorn restriction

does not completely prohibit students from exercising their free speech rights outside of the library outside of the hours of noon and 2 p.m.; rather, they just cannot do so using a bullhorn.

It would likely be impermissible, however, for the university to have a requirement that states, “Bullhorns may not be used outside of the library to protest university policies.” Although alternative channels of communication remain available (e.g., students can protest university policy without a bullhorn), this regulation restricts speech based on its message, and therefore, violates the content-neutrality requirement.

Although time, place and manner restrictions can be imposed on all speakers, whether they are students, faculty, staff or outside persons who have come to the university campus to voice their views, a public university is legally required to provide a location where people can speak freely.

3 | Free Speech at Private Universities

As mentioned previously, because private universities are not government entities, the First Amendment does not strictly limit the actions of university officials on their own property in the same way as at public universities. Thus, in most states, private universities have greater leeway than their public counterparts to regulate and even prohibit speech on campus, including placing restrictions on both the form and content of on-campus speech.

However, this power to regulate is not absolute. Most private universities are subject to federal loan regulations, state constitutions or state laws that limit their right to curb free speech in much the same way as does the First Amendment. In some states, many private universities have chosen to adopt First Amendment principles in regulating campus behavior, even though they are not required

to do so. Whether these protections are provided by law or campus policy, they create a duty for the university to protect expressive activities.

Virtually all colleges and universities, both public and private, affirm the principle of academic freedom. Academic freedom, though not absolute, is an even more expansive doctrine than the First Amendment. A more detailed explanation of academic freedom is provided later in this *Guide*. Information on your university’s free speech policies is typically located in the school’s student handbook or code of conduct. Examples of college and university codes of conduct are provided in appendix A.

4 | Student Speech on Campus

Most universities have a student code of conduct that prohibits students from engaging in harassing speech or acts on campus. These codes are generally intended to protect students from harassment by other students. Often found in student handbooks, the code serves as a contract between the students and the academic institution. An effective student code of conduct must strike the right balance between discouraging hateful speech and not stifling lawful speech.

In general, student codes of conduct prohibit words or actions by a student that place another individual in fear of his safety or interfere with his working or learning environment. These codes further prohibit student conduct on campus that interferes with university functions or disturbs the peace. This can include unapproved protests and “fighting words.” Violations of the code of conduct are addressed by the school, usually through a judiciary committee.

Students should read and understand their school’s anti-discrimination policies and student code of conduct. These internal regulations

Free Speech On Campus

are essential for understanding and addressing student-to-student harassment or discrimination. Most universities distribute these materials to all new students, and make them available on the university Web site.

Examples of university codes of conduct can be found in appendix A.

5 | Speech in the Classroom

The U.S. Supreme Court has maintained a deep commitment to safeguarding academic freedom, which is of “transcendent value to all of us and not merely to the teachers concerned.”¹⁵ As the Court held, “the classroom is peculiarly the ‘marketplace of ideas.’” *Id.*

Faculty speech is almost always protected from discipline by principles of academic freedom. The ideal of academic freedom demands that faculty members on university campuses be free to develop and espouse original and controversial ideas. Universities that have attempted to silence or remove faculty members for unpopular speech have faced significant pressure and condemnation from the academic community. For these reasons, most universities are reluctant to regulate the speech of their professors both in and out of the classroom.

Similarly, just as faculty speech is protected, professors are not permitted to penalize students based on their political or religious perspectives. Further, academic freedom protections may not extend to topics outside the curriculum. In its 1940 Statement of Principles on Academic Freedom and Tenure, the American Association of University Professors maintained that “teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.”¹⁶ This sentiment remains a foundation of professionalism in the field.

6 | Free Speech and the Campus Media

Campus media are a natural venue for the expression of ideas. Editors of campus newspapers should be aware that privately owned publications have editorial autonomy to decide what will and will not be published. Courts generally view student newspapers (even those at public schools) as private when student editors, and not school administrators, make decisions about content and advertising policies. Campus newspapers are under no legal or moral obligation to accept unsolicited articles or advertising containing false, misleading and/or defamatory statements. In fact, commercial newspapers generally do not accept such advertising. One federal appellate court observed: “The right to freedom of speech does not open every avenue to one who desires to use a particular outlet for expression.”¹⁷ Determining the paper’s editorial content and deciding what stories to print are solely the province of editors. It is important that student newspapers set formal standards for accepting advertisements similar to the terms and conditions found in commercial newspapers.

7 | Outside Speakers on Campus

On a public university campus, relatively little can be done to prohibit the comments of speakers who are not students or members of the faculty. It is crucial to keep in mind that hateful speech is not unlawful speech. In general, speeches at a political protest rally on a university campus are protected from discipline by public schools, as long as no specific threats were directed at an individual student or group of students. As with all speakers, the university can regulate the time, place and manner of the speech; however, the First Amendment protects the content of that speech from interference by a public university’s administration. This is especially true if the speaker

has been invited to speak on campus by a student group at an approved rally. If the speaker has not been invited, then the university may be able to remove him or her from the campus for disturbing the peace or interfering with the daily operations of the university. Students should refer to the student code of conduct, usually found on the university website, to determine its policies regarding outside speakers on campus.

Private universities have more freedom to prevent and punish discriminatory and harassing speech. If the speaker is from outside the university community, then the university may be able to exercise its discretionary power to prevent the speaker from coming onto the campus to speak. A private university also may be able to remove uninvited guests for trespassing.

It is essential to remember that just as student groups may exercise their free speech rights by sponsoring a controversial speaker or printing an incendiary opinion, university administrators as well as other student organizations may exercise their free speech rights by publicly criticizing both the message and the messenger as appropriate.

8 | Speech at Rallies and Protests

Student codes of conduct may apply with equal force to student or faculty speech at on-campus political protest rallies. Speech outside the legitimate scope of the rally that is profane, threatening, an incitement to violence or directed specifically against an individual or group of students based on race, religion, gender, ethnicity, national origin, sexual orientation, gender identity or disability can be disciplined by the university.¹⁸ There is legal precedent for a university to be liable for a breach of contract if it does not enforce its code against hateful speech.¹⁹ However, speech within the scope of the rally and directed to a general

audience is not punishable.²⁰

More generally, colleges and universities are required to provide a learning environment that is safe and free from hostility for all students. A school violates its duty to prevent a hostile environment when (1) a hostile environment exists, (2) the school has notice of the problem and does not utilize the mechanisms in place to notify the school, and (3) it fails to respond adequately to remedy the situation. In addition, students may have rights for protection from harassment under Title VI which prohibits discrimination on the basis of race, color and national origin in programs and activities receiving federal financial assistance.²¹

Federal law prohibits federally funded schools from allowing hostile environments to persist on campus in which students are harassed based on their race, color or national origin. Religion (as well as sexual orientation) is not included in the groups protected under the federal law,²² although some states and cities extend this protection to religion, sexual orientation, gender and/or gender identity. Victims of such an environment can sue for injunctive relief, to force the university to take action or to receive monetary damages.²³

9 | Free Speech Zones

Universities may not stop a speech or demonstration simply because they fear that the audience will be hostile to the speaker's message. Some campus administrations have used reasonable crowd-control measures to maintain security, peace and order at demonstrations and counterdemonstrations. Authorities may, for instance, choose to use magnetometers to monitor anyone entering the rally area or physically separate the demonstrators from those opposing them. Free speech zones are often established at public universities to keep conflicting groups apart.

Free Speech On Campus

While the administration may have a compelling interest in limiting where on campus students may engage in speech, the university campus has traditionally been viewed as a forum for sharing viewpoints, and the administration should be cautious to avoid violating the First Amendment.

10 | **Offensive Literature and Symbolic Speech**

Often student groups or outside speakers distribute extremist literature. Leaflets are one of the most highly protected forms of speech. The university may rarely restrict, let alone prohibit, the distribution of literature. A blanket ban on distributing noncommercial leaflets in places appropriate for political expression is

constitutionally prohibited. Concerns about littering are not sufficient to merit any restrictions on leaflets and even anonymous leaflets typically are protected.

Universities generally may not prohibit offensive symbolic speech, such as the display of a Nazi or Confederate flag. The First Amendment prevents the government from banning symbols that it finds deplorable or offensive. However, university administrators can exercise their own free speech rights to condemn hate and hateful symbols.

Using Your Voice

While it may seem that the First Amendment limits the ability to respond to hateful speech, remember that the First Amendment gives those with opposing viewpoints the right to speak as well. You can speak out against hate messages and encourage others to do so as well.

Further, students also have a right to be free from discrimination in their educational environment. While always an option, legal remedies may be difficult, time-consuming and expensive to pursue. Often the simplest and most effective way to deal with a persistently hostile environment at the school is to lodge a complaint with school administrative officials and explore solutions with them. Contact numbers for the university administration are available in student handbooks, both in print and on the Internet. The right office to contact might be the ombuds officer, the student activities office, the Equal Employment Opportunity Commission office, the diversity office, student affairs, campus police or the president's office.

Moreover, while protests may be constitutionally protected, the protests cannot disrupt normal school functions, obstruct student access to school buildings, create pervasive, severe, or persistent harassment of students, or physically intimidate or threaten individual students. When protests exceed these parameters, students should alert the university.

Remember, one of the best remedies for "bad speech" is "good speech." Organize your own rally, distribute flyers and utilize campus blogs, newsletters, e-mail Listservs and other Internet resources. In addition, encourage university administrators to speak out against hateful and offensive speech, sending a message that the institution does not condone hateful speech and that it is concerned with the safety of all its students.

Sample response letters from university presidents following hateful incidents on their campuses are included in appendix B.

Building An Effective Response Strategy

The most important thing to know about responding to anti-Israel sentiment is that you are not alone. There are over 30 national organizations,* including Hillel, that focus on advocating for Israel on campus. These organizations have a long history of working with students to deal with anti-Semitic and anti-Israel expressions and programming. They can work with you to brainstorm effective response strategies and assist with funding. Recognizing that there are many resources and allies available to you is the first step to effective activism.

Another key to responding to an anti-Semitic and anti-Israel campaign is to think strategically. Students often feel that confrontation and counterprogramming are their only options, and in some cases, protesting is not only appropriate but necessary. Anti-Semitic incidents and speech should not go unnoticed. However, in the long run, it may be strategically more effective to spend your time presenting a positive image of Israel rather than reacting to negative attacks.

* The Israel on Campus Coalition is a network of 33 national organizations committed to working collaboratively to assist students in fostering support for Israel on the college campus. A complete list of ICC organizations can be found at www.israeloncampuscoalition.org.

Being Positive: Making the Case for Israel on Campus

The best strategy for students who support Israel is to be proactive rather than merely reactive on campus. Your job is to make a positive case for Israel, instead of focusing solely on refuting and counteracting anti-Israel agitation. The latter puts you in the position of always playing catch-up and acting within the parameters of an agenda that is set by others. When you move first, with positive programming, you get to set the tone and the agenda.

The people you most want to educate are not anti-Israel activists, who may never agree with you. Rather, seek to educate campus opinion leaders, potential student groups who may be allies and the general campus population who are amenable to hearing the case for Israel. Indeed, a number of your peers may become important public and private sector decision makers in the years to come after they graduate.

In making an affirmative case, you will need a long-term, though flexible, plan of action in which you identify your target audiences and come to know them well. Such a campaign requires that you develop a level of expertise on the complicated and vexing issues of the Middle East conflict. You need to know your facts, which can only come through a lot of reading and some hard work. Most of all, you will need to communicate to others what Israel stands for and what it means to the Jewish people.

Here are some specifics to consider:

- Bring effective speakers and programs to campus to make a positive case for Israel, at least once each semester. Consider bringing in nonpolitical speakers and programs such as pop stars, artists and musicians, in addition to speakers and programs focusing on current political events. Israeli academics on sabbatical in the United States are often available for speaking engagements. When on campus, these academics should not only be used for evening, extracurricular events but also as guest lecturers in appropriate courses as well. In addition, set up an interview for speakers with a reporter from the campus newspaper and schedule an appearance on campus radio (and TV if available). Always reach out to the campus media and invite them to cover your events.
- Provide concise, well-written and researched letters, op-eds and longer articles to the campus media. Submit items on a regular basis, but do not overdo it. These submissions should not always come from the same person or small group.
- Have a supply of literature on Israel on hand and seek to distribute it widely. Download and post such material on your group's Web site.
- Present an image of Israel beyond the conflict. Engage students through music, literature, films and other cultural elements of Israeli society.
- Take the lead on campus-wide campaigns that connect Israel to the mutual interests of other student groups. For example, Israel has a long history of providing equipment, financial resources and volunteer assistance to countries and people in crisis. By working on a campaign to end the violence in Darfur, helping victims of natural disasters, or promoting awareness about HIV/AIDS, you will find common ground and potential allies.
- Utilize Web sites like Myspace, YouTube, Facebook, IvyGate and other popular campus blogs to distribute positive messages about Israel to your peers.
- Be in regular contact with Jewish organizations and the Israeli embassy and consulates, which can be a source of timely information, literature, speakers and programs.

Building An Effective Response Strategy

Responding to Anti-Israel Incidents

While positive programming is preferable, there are situations where it is essential to react directly to anti-Israel incidents and rhetoric. Certainly, any anti-Semitic incidents cannot be ignored. When reacting to such situations it is also imperative to think strategically.

It is important to consider the following:

- Jewish groups on campus should maintain routine contact with appropriate personnel in the university administration (i.e., Student Affairs) and campus security. Keep them informed on a regular basis of national trends in anti-Israel activity (e.g., divestment campaigns, acts of violence, harassment, etc.) that should concern them. If an emergency situation arises, an already established relationship will provide you with easier access to the administration. Consider appointing one individual or a small group to serve as designated liaisons.
- While anti-Israel protests are protected by free speech rights, the protests cannot disrupt normal school functions, obstruct student access to school buildings, create pervasive, severe, or persistent harassment of students, or physically intimidate or threaten individual students. When the protests violate these parameters, alert the university and ask administrators to take action.
- Respond with accurate information in a succinct fashion to specific anti-Israel materials found in the campus media. It is most effective to do so in the form of op-eds or letters to the editor. Generally submit a response once, as continued back and forth gets tiresome to most readers and can prove to be counterproductive.
- In some situations, counterdemonstrations may be an effective and appropriate tactic. Keep the counterdemonstrators separate from the anti-Israel demonstration, so as to minimize the possibility of physical confrontation. Always be civil and come prepared with written statements for the campus and local media. Have a supply of literature that refutes the standard anti-Israel arguments available for the general public. Be sure to frequently cite unbiased sources in your arguments; using only overtly pro-Israel sources invites criticism and allows readers to easily dismiss your arguments.
- When an on-campus panel discussion excludes knowledgeable speakers supportive of Israel, make the case to the administration and to the general campus community that this event violates the accepted standards of fairness and balance. This point is especially vital when such events are sponsored/co-sponsored by academic departments or by the university itself. Your efforts in this regard will prove to be persuasive when you are able to affirm, rather than to challenge, the basic shared norms of the academic enterprise.
- Research anti-Israel speakers before they arrive on campus. Come prepared with pointed questions and to challenge inaccuracies.
- When anti-Semitic materials and/or rhetoric appear, you should publicly condemn them and seek to educate the administration and the general campus community to the dangers of hate on campus. Campus administrators and leaders should be urged to denounce strongly such bigotry. Keep in mind that not all anti-Israel material is anti-Semitic. When in doubt, contact Jewish organizations for guidance. ADL's advocacy manual, *Israel: A Guide for Activists*, www.adl.org/israel/advocacy, can be used as a reference for understanding when criticism of Israel becomes anti-Semitism.

- If you feel intimidated or discriminated against by your professor in your classroom because of your viewpoints or beliefs, you should follow established academic procedures and discuss the matter first with your instructor. Do so in a calm and nonpolemical fashion. If this does not lead to a satisfactory solution, you should next bring your concerns to the chair of the department. Subsequent levels of appeal would be to the academic dean, the academic provost and ultimately the vice president and president. If such appeals are mounted, be sure to have documentation of your claims: include statements from other students, detailed class notes, the course syllabus and assigned readings.
- Be careful with the language and rhetoric you use. It is easy to fall into arguments concerning “us” and “them” and to generalize about Palestinians when you are actually only referring to specific groups, political organizations, terrorist organizations, and so on.
- The Israeli-Palestinian conflict is a complicated topic. In order to strategically respond to the anti-Israel campaign, you must educate yourself and your peers on the nuances of the issues.

Some Long-Term Considerations

- Find common ground with other student groups on campus and work to build personal relationships with their membership. These may include college Democrats and Republicans, African American, Asian American, LGBT and Latina/o student groups. Often, when Jewish groups publicly support issues of concern to other groups, those groups will, in turn, support Jewish issues (or at least remain neutral).
- Encourage pro-Israel students to be active in key areas of student life such as student government, public affairs forums, campus newspapers and other media.
- Demonstrating vocal support for Israel should not fall on too few shoulders. Get many involved and pay attention to the developing leadership who can continue the effort when their older colleagues leave the campus.
- Encourage Jewish and non-Jewish students to travel to Israel to gain a firsthand perspective. Once they return, encourage them to share their experiences with their peers.

ANTI-SEMITISM: Prejudice and Discrimination Against Jews

Q:

What is anti-Semitism?

A:

Anti-Semitism is a form of hatred, mistrust, and contempt for Jews based on stereotypes and myths and often invokes the belief that Jews have extraordinary influence with which they conspire to harm or control society. It can target Jews as individuals, as a group or a people or Israel as a Jewish entity. Sometimes criticism of Israel or Zionism is anti-Semitic when it uses anti-Jewish stereotypes or invokes anti-Semitic symbols and images, or holds Jews collectively responsible for all actions of the State of Israel. This kind of intense hostility toward Israel, distinct from legitimate critique of Israel's policy, has been linked with increases in anti-Semitic violence.

Anti-Semitism has existed over many centuries and the negative stereotypes it draws on have taken hold in the popular culture and thought of many societies. It can take the form of hate speech, discrimination, or violence against people or property. It may target individuals or communities on small or large scales. The most extreme example of this was the Nazi regime's organized plan to exterminate the Jews during the Holocaust.

Q:

Common Anti-Semitic Myths and Stereotypes

A:

- Jews are cheap, greedy, “crooks,” cheaters, or they are rich, good with money, materialistic
- Jews control society, the banks, media, Hollywood, the government
- Jews are disloyal to their country, and trying to secretly undermine and control the world
- Jews are a distinct and inferior race
- Jews exaggerate or exploit the tragedy of the Holocaust to invoke guilt and sympathy
- Jews are responsible for the death of Jesus
- Jews think they are better than everyone else, the biblical concept of chosen people is twisted to charge Jews with wanting to dominate or harm other groups

ANTI-SEMITISM: Prejudice and Discrimination Against Jews

Q:

Why Is Hatred of Jews Called “Anti-Semitism?”

A:

The origin of the term “anti-Semitism” is important to understand. There is no belief system called “Semitism” that one can be opposed to, nor is there a “Semitic” ethnic or racial group. The word “anti-Semitism” is generally attributed to Wilhelm Marr, a German agitator. Marr used the German term “Antisemitismus” in a book entitled “The Way to Victory of Germanicism over ‘Judaism,’” published in 1879. Marr claimed that “scientific” research into the characteristics of the Jewish “race” justified hatred for Jews. In the same year his book was published, Marr founded a political party, “The League of Antisemites,” which campaigned for the expulsion of Jews from Germany. Just over half a century later, Adolf Hitler and the Nazi Party took this racially based hatred for the Jews a deadly step further when they exterminated six million Jews in what was described as “The Final Solution.”

There are two important aspects to understanding the origins of the word “anti-Semitism.” The first is that “anti-Semitism” was popularized as a term not by Jews themselves, but by individuals and political groups who openly proclaimed their hatred of the Jewish people. The second is that “anti-Semitism” refers solely to hatred directed against Jews. The interpretation that Arabs are “Semites” and therefore cannot be anti-Semitic (or that they are also victims of anti-Semitism) is not based in the historical origins of the term, which make clear that “anti-Semitism” was designed to refer to Jews alone. Had the terms “anti-Judaism” or “anti-Jewism” been utilized instead, there would not even be any confusion regarding their meaning; however, the term “anti-Semitism” was chosen in order to cloak the hatred of Jews in a supposed scientific respectability.

When Does Criticism of Israel Become Anti-Semitism

Anti-Semitism and Criticism of Israel

The sovereign State of Israel and its government can be legitimately criticized just like any other country or government in the world. Criticism of particular Israeli actions or policies is not anti-Semitic.

How can one distinguish between criticism of Israel that is within the bounds of legitimate political discourse, and that which crosses the line into anti-Semitism? Context and choice of terms can be very telling when differentiating between legitimate criticism of Israel and anti-Semitism.

One way to make this distinction is to recognize when those who criticize Israel invoke traditional anti-Jewish references, accusations and conspiracy theories, for example, when Israelis are depicted using *Der Stürmer** – like centuries old stereotypes (i.e., hooked noses; bent over, dark, ugly, demonic figures). Additional examples are when Israelis are accused of crimes that are reminiscent of age-old anti-Jewish conspiracy theories (e.g., alleged Israeli/Jewish plans for world domination, accusations that a Jewish cabal [elders of Zion] is behind Israel's strength or behind foreign policy that is favorable to Israel, or allegations of Israeli actions that are derivative of medieval blood libels).

Another common anti-Semitic theme has become the comparison of Israelis to Nazis and Israeli leaders to Hitler. This comparison between the Jewish state and those who perpetrated the greatest act of anti-Semitism in world history is not an impartial or dispassionate accusation. This is a charge that is purposefully directed at Jews in an effort to associate the victims of the Nazi crimes with the Nazi perpetrators and serves to diminish the significance and uniqueness of the Holocaust; making such a comparison is an act of blatant hostility toward Jews and Jewish history.

Finally, deeper bias against Israel and Jews may be evident when Israel is held to a different standard than any other country in the world. For example, when critics of Israel question or deny Israel's right to exist simply because there is disagreement with their policies, but similarly do not question other countries' (e.g., France or Jordan) right to exist. Similarly, questions of bias arise when Israel is singled out for harsh criticism or rebuke for actions or policies in which other nations around the world engage without similar censure.

ADL's advocacy manual, *Israel: A Guide for Activists*, can be used as a reference for further exploring the nuances of criticism of Israel and when such criticism crosses the threshold to anti-Semitism. See www.adl.org/israel/advocacy.

* *Der Stürmer* was a weekly Nazi newspaper published by Julius Streicher from 1923 to the end of World War II in 1945.

Frequently Asked Questions When Responding to Anti-Israel Activities On Campus

The following scenarios are adapted from actual incidents on campuses across the country. The answers are intended to help you think strategically about different ways to address these concerns.

If you are encountering any of the scenarios presented, or would like to seek assistance with other situations where you feel targeted by hate on your campus, please do not hesitate to contact the Anti-Defamation League at www.adl.org

Q

■ *Recently, an anti-Israel group organized a protest rally on my campus. During the event, several speakers used anti-Semitic language in their speeches. Some of the speakers were faculty and students, and others were from outside the university's community. I was deeply offended by their comments. Isn't such hate speech against the law? Is there anything I can do about these rallies?*

A

■ Both the protest rally and the speakers' comments are likely protected speech and not subject to discipline. In general, speeches at a political protest rally on a university campus are protected from discipline by both private and public schools, so long as no specific threats were directed at an individual student or a group of students. The fact that you were offended by the words does not mean that they were unlawful.

■ Since your true concern is with the behavior you experienced, you should urge your university administration and student leaders to issue a public statement against the hateful speech that occurred at the rally. When administrators speak out and condemn the hateful and anti-Semitic nature of speech, they are exercising their own right to free speech and academic freedom and demonstrating their commitment to campus safety.

Q

During a recent antiwar rally, a few of the participating students singled me out as Jewish. They pushed me up against a wall, threatened to physically hurt me and made anti-Israel comments like calling me a “Zionist Nazi” and saying “You have blood of innocent Palestinians on your hands.” I feel threatened. What can I do?

A

The first thing you should do is contact your university police or local police station and report the incident. Physically assaulting a person because of the victim’s actual or perceived race, religion, gender, ethnicity, national origin, sexual orientation, gender identity or disability is a hate crime. Hate crimes affect entire communities, not just the victim. For this reason, many states have adopted hate crimes laws that call for more severe penalties when crimes are determined to be motivated by hate. Further, most states have laws against verbal provocation, often called “fighting words.” In this example you were physically threatened. However, even if you were not physically touched, it is possible that the words directed at you might have constituted fighting words.

You should also report the incident to the university. If you do not feel comfortable contacting the university yourself, you can ask a friend, faculty member, or school counselor to do it for you. Most universities allow anyone to report a violation of the code of conduct, regardless of whether he/she was the target of the incident. Some universities have online capabilities for anonymously reporting events. Faculty members and counselors can be good resources for helpful advice and guidance in resolving the issue. You also can ask the local Hillel to speak out on the issue so that you do not feel alone.

ADL, with its extensive academic and law enforcement contacts, is a valuable resource as well. As a respected off-campus agency, it can be most effective when working in concert with on-campus groups and individuals.

In addition, review your university’s written policy prohibiting student-to-student discrimination based upon race, religion, gender, ethnicity, national origin, sexual orientation, gender identity or disability. The university can take disciplinary action against students who intimidate and threaten other students in violation of that policy.

Frequently Asked Questions When Responding to Anti-Israel Activities On Campus

Q

Following a recent anti-Israel rally, several students posted anti-Semitic fliers around campus. Can I have these removed?

A

Leaflets are one of the most highly protected forms of speech. The government may rarely restrict, let alone prohibit, the distribution of literature. However, most universities have policies for posting flyers on campus. If the flyers were not posted in accordance with the university policy, the administration may take the flyers down. If this does not happen, contact the university and complain about the flyers and the fact that they have not been removed. If there is still no action, contact the university again to register a complaint about its failure to act. Given the varied nature of campus administrative responsibilities, be sure to register your complaint with a variety of relevant offices (i.e. Student Affairs, Housing, Campus Union, individual departments, maintenance, police, etc.).

If the flyers were posted in accordance with university policy, it is illegal for individuals to remove the flyer. Ask the university administration and other campus leaders to respond to the flyers by explicitly stating that it does not condone anti-Semitic behavior, whether in written publications or in speech. When a university responds with a strong statement condemning such behavior, it sends a strong message of community and respect to all students.

Another approach is to counter offensive flyers with your own flyers. Your flyers should provide strong, factual language that corrects the misinformation or bias presented in the original leaflet.

Q

In celebration of the festival of Sukkot, my fellow Jewish students and I got permission to construct a Sukkah on our campus. Several days later it was defaced with swastikas. What should I do?

A

This criminal act of vandalism is considered a hate crime. You should report it to the university police and/or the local police department. You should take pictures of the swastikas to preserve a record of the crime. Have the swastikas removed after the photos are taken and the police complete their on-site investigation.

If you know who committed the crime (or have concrete suspicions), you should report that to the police and university administration as well, so that both criminal charges and disciplinary proceedings can be pursued

Q

A panel discussion is taking place on campus, sponsored by a student organization. The panelists are an Israeli and a Palestinian. The program is publicized as a balanced view of the conflict. In reality, both the Israeli and the Palestinian panelists are harshly critical of Israeli policy. Is there anything that can be done to ensure a balanced discussion the next time around?

A

The best thing to do in this situation is to counter this speech with your own speech. Set up a debate that is truly balanced, write a letter to the editor of your campus newspaper, or find and invite speakers supportive of Israel to your campus. Or invite the student organization to co-sponsor a debate with you, where each of you can present a speaker. It is highly recommended to hold a debate if, and only if, the speakers are professional experts. Reach out to other student organizations and individuals who may agree that the presentation was biased and unfair.

Strategically thinking, your response would differ if this event had been sanctioned by the university rather than a student group. If the panel had been coordinated by the university, explain clearly why this is a biased program and ask them to sponsor another event that provides a pro-Israel perspective.

Your university Hillel or local ADL can assist you in finding engaging and informative speakers to participate in panels or speaking engagements that you organize.

Frequently Asked Questions When Responding to Anti-Israel Activities On Campus

Q

This past week there was an anti-Israel rally on campus where students held signs saying “Zionism = Racism” and “Israel = Nazism,” and constructed mock “Israeli Apartheid Walls” on the main campus thoroughfare which included pictures of bloodied Palestinian babies. Anti-Semitic flyers were posted around campus and a student who sits next to me in one of my classes had a Star of David with a slash through it on his notebook. It seems that almost every week there is a protest, a speaker, or a rally of this sort. The number of offensive comments flowing from these events has increased steadily as well. I feel insecure walking through campus, going to the dining hall, or even attending class. What can I do?

A

General nontargeted expressions of anti-Semitism, although hateful, offensive and sometimes scary, are protected by the First Amendment and are not legally actionable.

However, depending on the frequency, location and intensity, if a threshold is crossed which creates a hostile learning environment, there are possible avenues of legal recourse. For example, if the people holding the signs or conducting the mock checkpoints are blocking your access to class, then the school should respond and ensure your unimpeded access to class or other university locations.

If you have been singled out on your campus and are the target of harassment, which has become so pervasive, persistent or severe that you feel insecure going to class or even walking across campus, you should immediately contact the police to file a complaint.

If the harassment is based upon your race, color, or national origin and the university receives federal funding (most do), then the administration has an affirmative duty to prevent such an environment from continuing on the campus. Such harassment may be in violation of federal law. Many state and local laws extend this protection to race, religion, gender, ethnicity, national origin, sexual orientation, gender identity or disability as well.

If you have registered a complaint about the hostile conditions that exist and your university takes no actions to eliminate the problem, you may need outside legal assistance. A school violates its legal duty to prevent a hostile environment when (1) there is a hostile environment, (2) the school has notice of the problem and (3) it fails to respond adequately to remedy the situation.

Q

- *The student government was recently presented with a proposal to divest all university financial holdings from companies that do business with Israel. How do I counter this campaign?*
-

A

- Since the outbreak of the second intifada in September 2000, organized campaigns have promoted the “divestment” of university, municipal, church and other investment portfolios from Israeli companies and from companies that do business with Israel, as a punitive measure against Israel for its policies in the West Bank and Gaza Strip. Divestment campaigns have been defeated on campus due to effective counteradvocacy. Petitions in support of divesting from Israel led to counterpetitions that, in most cases, have gathered even more signatures. For example, while a pro-divestment petition drive in 2002 at MIT and Harvard managed to collect 440 signatures, a counterpetition had the signatures of more than 2,500. A pro-divestment petition at Columbia University in 2002 had garnered 537 signatures, while a counterpetition collected 24,820 signatures.
-

To help counter anti-Israel divestment initiatives, develop materials and share your views explaining why divestment from Israel is wrong. Talking points may be found through organizations such as ADL, AIPAC, and the Israel embassy and should be used as the basis of your own personal advocacy, opinion pieces or letters to the editor. Shape these talking points into a petition. Reach out to build a coalition against divestment efforts. Call on local politicians, college administrators and professors to speak out against divestment.

Frequently Asked Questions When Responding to Anti-Israel Activities On Campus

Q

- *While I was trying to go to class, a group of anti-Israel protesters blocked my access to the building. They made threatening comments toward me and made anti-Semitic remarks. Is there anything I can do about this?*

A

- Depending upon the severity of the threats, the conduct may violate state and federal law and may be considered a hate crime. If you felt threatened by the incident, you should contact your local and/or university police department and file a report.
- In addition, blocking your access to classrooms and university buildings is most likely a violation of your school's policies for protests. You should report this incident to the university, which can take appropriate disciplinary action.

Q

- *While attending a recent on-campus Israel-Palestine debate sponsored by an anti-Israel group, I was singled out and searched and then placed under "security surveillance" by the students hosting the debate. They followed me to my seat and stood behind me throughout the debate. I believe this was because I am Jewish. Can they do this to me?*

A

- This group cannot use the event as an opportunity to discriminate and humiliate other students on campus. Such harassing behavior by students most likely violates the school's code of conduct. You should immediately notify the university that such conduct occurred and work with the administration to remedy the situation and discipline the perpetrators.

Q

■ *My university does not have a student code of conduct that prohibits students from harassing each other. Is there anything I can do to get one written?*

A

■ You can help your university to develop guidelines to prevent this type of harassment on campus. ADL has many resources to help schools and students develop rules to prevent discrimination, including model and sample codes of conduct, such as those in appendix A. You also can contact your local ADL office for assistance.

Q

■ *I recently wrote a paper in my Middle East Studies class supporting Israel's right to exist. I have always been a solid A student, but received a C in the class. If I do not agree with my professor's political perspective, can my grade be penalized?*

A

■ If you feel discrimination or intimidation within your classroom, the most important action is to speak up. It is the responsibility of a university to provide an atmosphere conducive to speculation, experiment and creativity. Faculty members are hired as experts in their field to educate students on a specific subject. Individual professors are entitled to their personal and professional perspectives on religion, politics, history, and current events. These various perspectives are crucial to the academic process and environment. However, when faculty enter the classroom, it is their duty to present their subject in a professional manner.

■ The classroom environment is a venue for learning. Students have a right to learn in an environment without intimidation based on their perspectives. While this does not mean that students should only hear views with which they agree, it does mean that the professor has an obligation to create an environment where multiple perspectives can be expressed. A professor's intolerance may isolate

Frequently Asked Questions When Responding to Anti-Israel Activities On Campus

students who hold opposing perspectives and force them to hide their beliefs in order to protect their academic standing.

The first step is to talk with your professor about the situation. If you do not feel comfortable confronting the professor on your own, talk with other students in the class who may have experienced a similar situation. Keep copies of your term papers and exams. If you feel that you are being penalized based on your political perspective, show your work to the department head or dean of students who can determine if you were graded fairly. You can also contact the academic dean/administrator for the subject area, Hillel director, or another university professional who can advise you.

Q

I was harassed by students participating in a recent anti-Israel rally. Three students came up to me and made anti-Semitic statements. They followed me to class yelling “Zionism is racism.” I was not physically assaulted, but I felt threatened. I reported the incident to my university, but it failed to take any action against the other students. What should I do now?

A

You should contact the university to confirm that they have reviewed your complaint. It is possible that they are conducting an investigation before holding any disciplinary hearings. If they have decided not to go forward with any disciplinary action, find out the reason. For example, they may have settled the issue with the students in an alternative way. Keep in mind that your university might have a nondisclosure policy regarding school disciplinary actions and may not be willing to inform you about the actions it took.

If the harassment you suffered continues and the university continues to refuse to, or fails to, rectify this, you might consider pursuing legal action against the school. If the school receives federal funds, it has an affirmative duty to eliminate a hostile environment of which it is aware and it is liable to you if it fails to do so.

If the harassment you suffered included threats of physical violence against you, this would be considered a hate crime. Contact the local police immediately. They may be able to bring charges against the individuals who threatened you.

APPENDIX A: Campus Code of Conduct

The following codes are provided as examples of university student codes of conduct. Each university's code will vary in the extent to which harassing speech is regulated. Students should read and be familiar with their university's code.

UNIVERSITY OF PENNSYLVANIA (Philadelphia, PA)

TOTAL ENROLLMENT 23,980 <http://www.vpul.upenn.edu/osl/openexp.html>

GUIDELINES ON OPEN EXPRESSION

I. Principles

- A. The University of Pennsylvania, as a community of scholars, affirms, supports and cherishes the concepts of freedom of thought, inquiry, speech, and lawful assembly. The freedom to experiment, to present and examine alternative data and theories; the freedom to hear, express, and debate various views; and the freedom to voice criticism of existing practices and values are fundamental rights that must be upheld and practiced by the University in a free society.
- B. Recognizing that the educational processes can include meetings, demonstrations, and other forms of collective expression, the University affirms the right of members of the University community to assemble and demonstrate peaceably in University locations within the limits of these Guidelines and undertakes to ensure that such rights shall not be infringed. In keeping with the rights outlined in I.A. above, the University affirms that the substance or the nature of the views expressed is not an appropriate basis for any restriction upon or encouragement of an assembly or a demonstration. The University also affirms the right of others to pursue their normal activities within the University and to be protected from physical injury or property damage. The University shall attempt to ensure that, at any meeting, event or demonstration likely to be attended by non-University law enforcement authorities, the rights provided by these Guidelines are not infringed.
- C. The University shall be vigilant to ensure the continuing openness and effectiveness of channels of communication among members of the University community on questions of common interest. To further this purpose, a Committee on Open Expression has been established as a standing Committee of the University Council. The Committee on Open Expression has as its major tasks: participating in the resolution of conflicts that may arise from incidents or disturbances implicating these Guidelines; mediating among the parties to prevent conflicts and violations of these Guidelines; interpreting these Guidelines; advising administrative officers when appropriate; and recommending policies and procedures for the improvement of all levels of communication.
- D. In case of conflict between the principles of the Guidelines on Open Expression and other University policies, the principles of the Guidelines shall take precedence.

II. Definitions

- A. For the purposes of these guidelines, the “University community” shall mean the following individuals:
 - 1. Persons who are registered as students or who are on an unexpired official leave of absence.
 - 2. All persons who are employed by the University.
 - 3. Trustees and associate trustees of the University and members of Boards of Overseers or other bodies advisory to the University.
- B. For the purposes of these Guidelines, “meeting” and “event” designate a gathering of persons in a University location previously reserved for that purpose. Unless designated as public, meetings are considered to be private. Events are considered to be public. “Demonstration” designates the presence of one or more persons in a University location with the intent to express a particular point of view in a manner that attracts attention, as in protest, rallies, sit-ins, vigils, or similar forms of expression. “University location” designates:
 - 1. The campus of the University;
 - 2. Any location owned, leased or used by the University, when used by members of the University community; and
 - 3. Areas immediately adjacent thereto.

III. Standards

- A. The University, through the President, the Provost, and the Vice Provost for University Life, shall act to encourage and facilitate free and open expression within these Guidelines.
 - 1. The University shall publish these Guidelines at least once each academic year in a manner that brings them to the attention of members of the University community. The University shall publish the rules adopted pursuant to IV.B.1 by the Committee on Open Expression at least once each academic year in a manner that brings them to the attention of members of the University community.
 - 2. The University shall establish standards for the scheduling of meetings and events. This shall involve:
 - a. Publishing policies and procedures whereby members of the University community, upon suitable request, can reserve and use designated spaces within University buildings for public or private meetings or events;
 - b. Publishing policies and procedures whereby members of the University community, upon suitable request, can reserve and use designated outdoor spaces on the University campus for public meetings or events;
 - c. Publishing policies and procedures that specifically address requests involving groups composed entirely or predominantly of persons who are not members of the University community (see Section VI);
 - d. Consulting with the Committee on Open Expression with regard to the substance of the policies and procedures and the manner of their publication; and, if practicable, consulting

APPENDIX A: Campus Code of Conduct

with the Committee on Open Expression before denying a request for use of a room, facility, or space by an organization recognized by the University for a reason other than prior assignment of the room, facility, or space. In any event, any such denial must be reported promptly to the Committee.

- B. Each member of the University community is expected to know and follow the Guidelines on Open Expression. A person whose conduct violates the following Standards may be held accountable for that conduct, whether or not the Vice Provost or delegate has given an instruction regarding the conduct in question. Any member of the University community who is in doubt as to the propriety of planned conduct may obtain an advisory opinion from the Committee on Open Expression in advance of the event.
1. Individuals or groups violate these Guidelines if:
 - a. They interfere unreasonably with the activities of other persons. The time of day, size, noise level,* and general tenor of a meeting, event or demonstration are factors that may be considered in determining whether conduct is reasonable;
 - b. They cause injury to persons or property or threaten to cause such injury;
 - c. They hold meetings, events or demonstrations under circumstances where health or safety is endangered; or
 - d. They knowingly interfere with unimpeded movement in a University location.
 2. Individuals or groups violate these Guidelines if they hold a demonstration in the following locations:
 - a. Private offices, research laboratories and associated facilities, and computer centers; or
 - b. Offices, museums, libraries, and other facilities that normally contain valuable or sensitive materials, collections, equipment, records protected by law or by existing University policy such as educational records, student-related or personnel-related records, or financial records; or
 - c. Classrooms, seminar rooms, auditoriums or meeting rooms in which classes or private meetings are being held or are immediately scheduled; or
 - d. Hospitals, emergency facilities, communication systems, utilities, or other facilities or services vital to the continued functioning of the University.
 3.
 - a. Individuals or groups violate these Guidelines if they continue to engage in conduct after the Vice Provost for University Life or delegate has declared that the conduct is in violation of the Guidelines and has instructed the participants to modify or terminate their behavior.

* An "unreasonable noise level" is defined as sound above 85 decibels measured by a calibrated sound-level meter at an "A" weighting on "slow" response ten feet away from and directly in front of the source, amplifier or loudspeaker when the latter is within 50 feet of a building.

Prompt compliance with the instructions shall be a mitigating factor in any disciplinary proceedings based upon the immediate conduct to which the instructions refer, unless the violators are found to have caused or intended to cause injury to person or property or to have demonstrated willfully in an impermissible location.

b. If the individuals or groups refuse to comply with the Vice Provost's or delegate's order, they may challenge the appropriateness of the order to the judicial system. If the judiciary finds that the conduct was protected by the Guidelines, all charges shall be dismissed.

c. Individuals or groups complying with the Vice Provost's or delegate's order may request that the Committee on Open Expression determine if the Guidelines were properly interpreted and applied to their conduct.

IV. Committee on Open Expression

A. Composition

1. The Committee on Open Expression consists of thirteen members: five students, five faculty members, two representatives of the administration, and one A3 representative.
2. Members of the Committee are appointed by the steering committee in the following manner:
 - a. Student members shall be nominated from undergraduate students, graduate students, and graduate professional students through existing mechanisms for each student body. Undergraduate and graduate and professional students shall rotate majority representation each year. Three undergraduate and two graduate and professional student members shall alternate with two undergraduate and three graduate and professional students every other year.
 - b. Faculty members shall be nominated by the Senate Executive Committee.
 - c. The administration members shall be nominated by the President.
 - d. The A3 representative shall be nominated by the A3 Assembly.
 - e. Each member shall be selected for a term of one year beginning the day after Labor Day each year. Any individual may not serve for more than two consecutive terms. Before Commencement, the Committee shall inform the Vice Provost and the University community which of its members will be available during the summer for mediation and advising.
 - f. Vacancies shall be filled for the unexpired term by the appropriate nominating body or persons.
3. The chair of the Committee shall be selected by the steering committee from among the members of the Committee on Open Expression.

B. Jurisdiction

The Committee has competence to act in issues and controversies involving open expression in accordance with these Guidelines. The Committee's responsibilities are the following:

1. Issuing rules to interpret or give more specific meaning to the Guidelines. Before adopting a rule, the Committee must hold an open hearing on the proposed rule and receive the views of

APPENDIX A: Campus Code of Conduct

individuals or groups. An affirmative vote of eight members is required for adoption, modification or rescission of a rule to be effective.

2. Recommending to the University Council proposals to amend or repeal the Guidelines. An affirmative vote of seven members is required to make such recommendations.
3. Giving advisory opinions interpreting the Guidelines at the request of a member of the University community for the purpose of advising that person or the University community. Such advice is provided to guide future action. If the Committee does not give a requested opinion, it must indicate its reasons for not doing so. The Committee must respond to such requests as soon as feasible but in any event not later than within one month of the receipt by the Chair of the Committee.
4. Giving advisory opinions interpreting the Guidelines at the request of administrative officials with responsibilities affecting freedom of expression and communication. Such advice is provided for the purpose of guiding future action.
5. Mediating in situations that involve possible violations of the Guidelines. Those Committee members available at the time may act on behalf of the Committee. In carrying out the mediation function, the Committee or those members present may advise the responsible administrative officials and any other person with respect to the implementation of the Guidelines. Those Committee members who have acted on behalf of the Committee must report on their activities to the full Committee.
6. Reviewing the following administrative decisions for the purpose of providing advice on future actions.
 - a. At the discretion of the Committee, administrative decisions involving these Guidelines made without consultation with the full Committee.
 - b. All instructions by the Vice Provost or delegate to modify or terminate behavior under Section III.B.3 of these Guidelines.
7. Investigating incidents involving the application of these Guidelines to aid the Committee in its functions of rulemaking, recommending changes in the Guidelines or issuing advisory opinions. Such functions provide guidance to the University community for future action. The results of Committee investigations for these purposes shall not be a part of the initiation, consideration or disposition of disciplinary proceedings, if any, arising from the incidents.
8. Adopting procedures for the functions of the Committee, varied to suit its several functions, consistent with these Guidelines. Procedures that are not wholly matters of internal Committee practice must be made public in advance of implementation. Except as otherwise provided, the Committee may determine its own voting procedures.
9. Submitting an annual report to the Council and the University on the status of the Committee's work in the University journal of record.

C. Procedures

1. Except as provided with respect to the mediation function in Section IV.B.5, seven members of

the Committee constitute a quorum.

2. The Committee can authorize subcommittees, selected from its own members, to act for the Committee in any matter except the issuance of rules interpreting or implementing the Guidelines or the making of recommendations to amend or repeal the Guidelines.
3. The Committee shall respect the privacy of individuals as its general policy and shall maintain the right to declare the confidentiality of its proceedings.
 - a. If a person appearing before the Committee requests that his or her testimony or information be kept confidential, the Committee shall consider such a request. The Committee then shall determine whether to honor that request and shall inform that person of its decision before testimony is given.
 - b. Minutes of particular Committee meetings may be declared confidential by the Committee or be so declared at the discretion of the chair subject to review by the Committee.
 - c. All Committee documents containing confidential material, as determined by the chair, shall be clearly marked “confidential” and shall carry a warning against unauthorized disclosure.

V. Responsibilities for Enforcement

- A. It is the responsibility of the Vice Provost for University Life (hereafter referred to simply as the “Vice Provost”) to protect and maintain the right of open expression under these Guidelines.
- B. Observation of meetings, events or demonstrations, when deemed necessary by the Vice Provost to protect and maintain open expression, shall be the responsibility of the Vice Provost, who may delegate such responsibility. This delegate shall have full authority to act in the name of the Vice Provost under these Guidelines.
 1. The observer (Vice Provost or delegate) shall identify himself or herself to those responsible for the meeting or event or to the leaders of the demonstration.
 2. The Vice Provost shall attempt to inform the chair of the Committee on Open Expression of meetings, events or demonstrations to which an observer will be sent. The chair may designate a member or members of the Committee to accompany and advise the observer. Such a Committee representative shall also be identified to those responsible for the meeting or event or to the leaders of the demonstration.
 3. Except in emergencies, the Vice Provost’s authority under these Guidelines shall not be delegated to employees of the University’s Department of Public Safety. The role of public safety personnel at a meeting, event or demonstration is defined below, in Section V.C.3.
 4. Any observer or Committee representative who attends a meeting, event or demonstration shall respect the privacy of those involved. If there has been no violation of these Guidelines, other University regulations, or applicable laws, an observer, committee representative, or public safety employee who attends a meeting, event or demonstration shall not report on the presence of any

APPENDIX A: Campus Code of Conduct

person at such meeting, event or demonstration.

- C. The Vice Provost or delegate is responsible for enforcing Section III.B. and may instruct anyone whose behavior is violating or threatens to violate these Guidelines to modify or terminate such behavior. The instruction shall include notice that failure or refusal to comply is a further violation according to Section III.B. of these Guidelines. However, an instruction or warning by the Vice Provost or delegate is not a prerequisite for a finding that a violation has occurred.
 1. When the Vice Provost or delegate declares that an individual or a group has violated the Guidelines, he or she may request to examine their University identification.
 - a. Failure to comply with this request is in violation of the Guidelines.
 - b. In the event that any person(s) are deemed by the Vice Provost or delegate, in consultation with available members of the Committee on Open Expression, to have violated the Guidelines and such person(s) refuse to show University or other identification, the Vice Provost or delegate shall if practicable inquire of other individuals present as to the identity of the claimed violator(s). Identification by two other individuals shall suffice to establish identity. Should it not be possible to establish identity in this way, the Vice Provost or delegate may direct that photographs be taken of the participant(s) in the claimed violation. The Vice Provost or delegate must warn the individual(s) that their photographs will be taken unless identification is presented. Photographs and videotapes obtained without such warning may not be used as evidence in disciplinary proceedings. It is preferred that a member of the Committee on Open Expression take any such photographs; however, if no such person is able or willing to do so, another member of the University community may be requested to do so. As soon as safely practicable, all such photographs shall be turned over to the Vice Provost or delegate. Any photographs taken (including videotapes and negatives) shall be used solely by the Office of Student Conduct for the purpose of investigation of alleged violations and possible identification of alleged violators of these Guidelines. If it is determined that no violation has occurred, the Vice Provost or delegate shall destroy the photographs. If a violation is found to have occurred, after identification has been made and the case has been adjudicated, the Vice Provost or delegate shall destroy the photographs. None of the photographs shall be published. After each incident at which photographs are taken, the Committee on Open Expression shall report on the incident to the University Council, via the chair of the University Council Steering Committee, regarding what happened in the incident, which individuals saw the photographs, and the disposition of the photographs.
 2. In carrying out this responsibility for safeguarding the right of open expression, the Vice Provost shall obtain the advice and recommendation of the representatives of the Committee on Open Expression whenever feasible.
 3. The Vice Provost or delegate may request members of the University Police to attend meetings, events or demonstrations to help protect the open expression of those involved.
 - a. Any person acting as an agent of the Division of Public Safety who attends a meeting, event or demonstration in a University location shall be clearly identifiable as such and in normal

duty uniform. (Arms may be carried if they are part of “normal duty uniform.”)

b. Public Safety personnel also may attend meetings, events or demonstrations when requested to do so by the person or group responsible for the event, when prominent public figures are involved, or when the Commissioner of Public Safety or delegate determines that there exists an imminent danger of violence at the event.

4. Terminating a meeting, event or demonstration by force is a most serious step, as this action may exacerbate existing tensions and may lead to personal injury and property damage.

a. Avoidance of injury to persons by the continuation of a meeting, event or demonstration is a key factor in determining whether it should be forcibly terminated. Property damage and significant interference with educational processes are also factors to be considered and may be of sufficient magnitude to warrant forcible termination.

b. Whenever possible, the Vice Provost or delegate should consult with the Committee on Open Expression before seeking a court injunction against those involved in a meeting, event or demonstration or calling for police action.

c. The Vice Provost or delegate shall inform those involved that he or she intends to seek an injunction or call for police intervention before he or she does so.

d. When a meeting, event or demonstration is forcibly terminated, a full statement of the circumstances leading to the incident shall be publicized by the Vice Provost within the University.

D.

1. Cases involving undergraduate students are referred to the Office of Student Conduct who investigates the event and decides what disciplinary proceedings, if any, to pursue.

2. Cases involving graduate or professional students are referred to the Office of Student Conduct or to the established disciplinary body of the school in which the student is enrolled.

3. Cases involving faculty are referred to the appropriate Dean or to the Provost.

4. Cases involving University staff or administrators are referred to that individual’s supervisor or any other person with supervisory responsibility over that individual.

5. Cases involving trustees and associate trustees of the University and members of the Boards of Overseers or other bodies advisory to the University are referred to the Executive Committee of the Trustees.

E. The Division of Public Safety shall not collect or maintain information about members of the University community,* except in connection with alleged crimes, violations of University regulations, or as specifically authorized in writing by the President.** This regulation shall not affect personnel information concerning current, past or prospective employees of the Division of Public Safety.

* Videotaped or closed circuit television information collected by posted, fixed location cameras is excluded, as long as it is in conformance with the rules of the CCTV policy as of January 13, 1999.

** to Public Safety and the Open Expression Committee.

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VI. Non-University Persons

These Guidelines address themselves explicitly to forms of individual and collective expression in a University location by members of the University community. The extent to which the privileges and obligations of these Guidelines may be made applicable in particular circumstances to individuals who are not members of the University community shall be determined by the Vice Provost or delegate. Participants in meetings, events and demonstrations in a University location are required to comply with the instructions of the Vice Provost or delegate. (See III.A.2.c.)

DARTMOUTH COLLEGE (Hanover, NH)

Total Enrollment 5,700 students

<http://www.dartmouth.edu/~deancoll/documents/handbook/>

FREEDOM OF EXPRESSION AND DISSENT

Freedom of expression and dissent is protected by College regulations. Dartmouth College prizes and defends the right of free speech and the freedom of the individual to make his or her own disclosures, while at the same time recognizing that such freedom exists in the context of the law and in responsibility for one's actions. The exercise of these rights must not deny the same rights to any other individual. The College therefore both fosters and protects the rights of individuals to express dissent.

Protest or demonstration shall not be discouraged so long as neither force nor the threat of force is used, and so long as the orderly processes of the College are not deliberately obstructed. Membership in the Dartmouth community carries with it, as a necessary condition, the agreement to honor and abide by this policy.

DARTMOUTH COMMUNITY STANDARDS OF CONDUCT

Preamble: Students and student organizations at Dartmouth College accept membership in an academic community dedicated to the pursuit of intellectual and personal growth. Dartmouth seeks to provide educational opportunities of excellence, both in and outside the classroom, to assist students to develop critical thinking, integrity, judgment, appreciation of cultural and ethnic diversity, as well as social and ethical values necessary for community life. Dartmouth College expects its students and student organizations to conduct themselves in a manner which is consistent with the institutional community's pursuit of its educational objectives. The integrity of the Dartmouth community depends upon students' and student organizations' acceptance of individual responsibility and respect for the rights of others. All Dartmouth students and student organizations must abide by College policies.

The College has developed a set of Standards of Conduct which govern the behavior and activities of individual students and student organizations on or off campus. Violation of the Standards set forth below may subject individuals or recognized organizations to disciplinary action. Changes in the enumeration or definition of these Standards may take place from time to time and such changes take effect upon appropriate notice to the Dartmouth community by the Dean of the College. Students and recognized organizations have an obligation to obey the rules and regulations governing disciplinary proceedings of the COS, the Dean of the College, and other College authorities having disciplinary responsibility. Further, individuals and recognized organizations are obligated to obey the decisions of the COS, the Dean of the College, and the Class Deans and to meet, on request, with the deans, the Director or Assistant Director of Undergraduate Judicial Affairs, and other College officials in the course of an investigation.

Dartmouth's undergraduate disciplinary system is not intended to address every social ill or every grievance one member of the community may have against another. There are many behaviors that most members

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of the community would find rude, disrespectful or obnoxious that violate no College regulation and are, therefore, not adjudicable under the disciplinary system. The fact that many behaviors are not adjudicable does not mean that the College does not take them seriously or fails to appreciate their negative impact on individuals or on the community. For example, the College has developed the “Principle of Community” which in itself is not adjudicable. In this context, there are responses which are more effective and more in keeping with the aspirations of an academic community: expressions of disapproval in the exchange of different ideas through free and open discussion and debate.

Nevertheless, the College has established community standards of conduct which are adjudicable. The purpose of these standards and the system for implementing them is not simply to prohibit misbehavior and to punish violations of regulations. All communities, including academic communities like Dartmouth, have the need to articulate standards of conduct; to educate people about behavior and traits of character that the community wishes to promote or discourage; to protect members of the community from unwarranted interference or harm; to hold individuals and groups responsible for their actions and the consequences of their behavior; and to cultivate an environment conducive to the achievement of the community’s purposes, in this case, the purpose of learning. In other words, codes or standards of conduct and disciplinary systems exist to preserve and enforce the values of the community.

Students should recognize that student membership in the Dartmouth community is a privilege, and that certain types of misbehavior will result in temporary or, where appropriate, permanent revocation of membership. Students who have disciplinary cases pending are not eligible for a degree until the case has been resolved and the student has been restored to good standing. In any case in which penalties are imposed, the case is not resolved until the suspension, period of probation, or other penalty has been completed. Additionally, some disciplinary infractions may result in the revocation of certain student privileges, such as driving College vehicles for college-sponsored activities.

STANDARD I

Students and student organizations must not engage in behavior which causes or threatens physical harm to another person or which would reasonably be expected to cause physical harm to another person “consensual” or not. Examples of such behavior include but are not limited to: Conduct which places another in reasonable fear for his or her safety or in danger of bodily harm; use or threat of physical violence or injurious conduct (whether directed at another, at oneself, or at an object); hazing (See: Hazing).

STANDARD II

Students and student organizations must not engage in behavior that threatens the safety, security or functioning of the College, the safety and security of its members, or the safety and security of others.

Examples of such behavior include, but are not limited to:

- Disorderly conduct. The College requires orderly conduct of all students while in Hanover and its environs, as well as at any College-related function or activity, whether in Hanover or elsewhere (including, for example, students on off-campus programs or players and spectators at “away” athletic contests).

DARTMOUTH COLLEGE (Hanover, NH)

- Coercion, harassment or hazing. Harassment is defined as abusive behavior or conduct that is targeted at an individual or group and is ordinarily repeated (See also: Hazing).
- Any disruption of the orderly processes of the College (See also: Standard VIII).
- Operating a motor vehicle while under the influence of alcohol or other drugs (See: Alcohol Laws of the State of New Hampshire).
- Knowingly providing false information or making misrepresentations to any College officer, College committee, duly-recognized College organization, or member of the College community acting on behalf of the College; or in any way misrepresenting to any individual or agency their status at or relationship with the College (e.g., enrolled, graduated, authorized to represent, etc.). Students are obligated to provide College personnel with accurate identification upon request. Also, students may not forge, alter, or use or possess without authorization College documents, records, billing numbers, or instruments of identification. Students may not possess any falsified instrument of identification (The prohibition on false statements or information includes statements or information provided during the admissions process. See: Misrepresentations in Admissions Procedures).
- Students must comply with the College policy on weapons (including prohibition against possession or use of conventional firearms, air guns, gas-powered guns, or any slingshot device) (see: Weapons, Firearms, Fireworks, and Projectiles) and are prohibited from possessing, storing, or using fireworks or other explosives. Tampering or interference with, as well as destruction or misuse of, fire safety, fire prevention, or other emergency equipment is also prohibited.
- Tampering with locks to College buildings, unauthorized possession or use of College keys or access cards, and the alteration or duplication of College keys or access cards are prohibited under this standard as is the unauthorized entry or presence in private rooms, offices, or other restricted areas including campus construction sites. This standard applies to sporting events as well, where unauthorized presence in reserved, restricted, recognized and/or posted areas, or on athletic playing surfaces, tracks, or sidelines is prohibited.
- Misappropriation of or negligent or intentional damage to personal or College property.
- In general, any conduct which interferes with the College's responsibility to protect the health and safety of its members or visitors, to protect College property or the property of others, to carry out its functions, or to provide its members and others with services would also be in violation of this standard.

STANDARD III

Students and student organizations are prohibited from engaging in sexual abuse of any kind. (See: Sexual Abuse) Sexual abuse includes, but is not limited to: conduct of a sexual nature which reasonably would be expected to have the effect of threatening or intimidating the person at whom such conduct is directed; intentional physical contact with an intimate part of the body of another person without that person's consent; sexual intercourse when such contact is achieved without consent; through physical force,

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coercion, or threat, or in situations in which the victim is unable to give consent because of physical or mental incapacitation by reason of drug or alcohol consumption, sleep, or unconsciousness.

STANDARD IV

Students and student organizations shall abide by the College's Student Alcohol and Drug Policies. (See: Student Alcohol Policy, and Student Drug Policy.)

STANDARD V

Students and student organizations shall abide by the Academic Honor Principle. (See: Academic Honor Principle.) The wide spectrum of behaviors encompassed by this standard, and cases of repeated violations, will incur the most serious sanctions the College can impose, up to and including separation.

STANDARD VI

Students and student organizations are subject to disciplinary action for violation of the laws of any jurisdiction, whether local, state, federal, or foreign.

Evidence of a conviction in a court or administrative proceeding, or written admission of a violation of this standard shall be conclusive as to a violation of law. Pendency of an appeal of a conviction shall not affect the application of this standard.

STANDARD VII

Students and student organizations must abide by College policies, rules, and regulations. These include, but are not limited to, those policies, rules, or regulations published in the undergraduate Student Handbook or any other official College publications, as well as the operating regulations (both written and oral) of academic and non-academic offices, centers, classrooms, laboratories, and departments of the College. Failure to comply with the terms of a disciplinary sanction is also a violation of this standard (See: Rules and Regulations for a partial listing)..

STANDARD VIII

Students and student organizations must not intentionally disrupt, interfere with, or obstruct teaching, research, or College administration. Actions among those considered to constitute intentional disruption of the orderly processes of the College include, but are not limited to, the following:

- the unauthorized entry into, or occupation of a private office, work area, or a closed and/or posted College building;
- the failure to maintain clear passage into, out of, or to any part of a College building or passage-way;

DARTMOUTH COLLEGE (Hanover, NH)

- conduct that interferes with normal activities or movements in a building, including the failure to vacate a building or office at its normal closing time (the presence of College employees or other authorized individuals in a building or office after hours does not alter the normal closing time);
- conduct that restricts or prevents College employees from performing their duties; or
- conduct (including by way of example, obstruction, noise, or the display of banners or objects) that prevents or disrupts the effective carrying out of a College function or approved activity, such as classes, lectures, meetings, interviews, ceremonies, and public events.
- Interference with fair and equal access to the computing and library resources of the College is also prohibited by this standard.

APPENDIX A: Campus Code of Conduct

UNIVERSITY OF CALIFORNIA, SANTA CRUZ (Santa Cruz, CA)

Total Enrollment 15,000

http://www2.ucsc.edu/judicial/handbook06-07/handbook_06.pdf

POLICY ON SPEECH AND ADVOCACY

The university is committed to assuring that all persons may exercise the constitutionally protected rights of free expression, speech, assembly, and worship.

It is the responsibility of the chancellor to assure an ongoing opportunity for the expression of a variety of viewpoints. The time, place, and manner of exercising the constitutionally protected rights of free expression, speech, assembly, and worship are subject to campus regulations that shall provide for non-interference with university functions and reasonable protection to persons against practices that would make them involuntary audiences or place them in reasonable fear, as determined by the university, for their personal safety.

CODE OF STUDENT CONDUCT

Student Conduct

Students are members of both society and the university community, with attendant rights and responsibilities. Students are expected to comply with all laws and with university policies and campus regulations. The standards of conduct below apply to students as the term 'student' is defined in Section 14.40 of these Policies. They also apply to:

- a. applicants who become students, for offenses committed as part of the application process;
- b. applicants who become students, for offenses committed on campus and/or while participating in University-related events or activities that take place following a student's submittal of the application through his or her official enrollment; and
- c. former students for offenses committed while a student..

Grounds for Discipline

The use of "fighting words" by students to harass any person(s) on university property, on other property to which these policies apply as defined in campus implementing regulations, or in connection with official university functions or university-sponsored programs; "Fighting words" are those personally abusive epithets which, when directly addressed to any ordinary person are, in the context used and as a matter of common knowledge, inherently likely to provoke a violent reaction whether or not they actually do so. Such words include, but are not limited to, those terms widely recognized to be derogatory references to race, ethnicity, religion, gender, sexual orientation, disability, and other personal characteristics. "Fighting words" constitute "harassment" when the circumstances of their utterance create a hostile and intimidating environment which the student uttering them should reasonably know will interfere with

the victim's ability to pursue effectively his or her education or otherwise to participate fully in university programs and activities;

Hazing or any method of initiation or pre-initiation into a campus organization or any activity engaged in by the organization or members of the organization which causes or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to any student or other person.

APPENDIX A: Campus Code of Conduct

PENNSYLVANIA STATE UNIVERSITY (University Park, PA)

Total Enrollment 43,252

<http://www.sa.psu.edu/ja/pdf/policiesrules.pdf>

CONDUCT

The Pennsylvania State University is dedicated to maintaining a scholarly community that promotes intellectual inquiry and encourages the expression of diverse views and opinions. When students accept admission to Penn State, they accept the rights and responsibilities of membership in the academic and social environments of that community. Students are expected to support its essential values and to maintain a high standard of conduct that may exceed federal, state, or local requirements. These values include the following:

- Personal and academic integrity;
- Respect for the dignity of all persons and a willingness to learn from the differences in people, ideas, and opinions;
- Respect for the rights, property, and safety of others;
- Concern for others and their feelings and their need for conditions that support an environment in which they can work, grow, and succeed at Penn State.

CODE OF CONDUCT

The Code of Conduct describes behaviors that are inconsistent with the essential values of the University community. Intentionally attempting or assisting in these behaviors may be considered as serious as engaging in the behavior. A person commits an attempt when, with intent to commit a specific violation of the Code of Conduct, he/she performs any act that constitutes a substantial step toward the commission of that violation. Many Code items are supported by University Policy Statements. The Code of Conduct Charge Codes can be found within the Judicial Affairs Reference and Training Manual at <http://www.sa.psu.edu/ja>.

POLICY STATEMENT ON FREE EXPRESSION AND DISRUPTION

- a) As an academic community, The Pennsylvania State University is committed to the protection and preservation of the free search for truth; the freedom of thought, inquiry, and speech; and the freedom to hear, examine, and debate alternative theories, data, and views. These are fundamental rights, which must be practiced, protected, and promoted by the University.
- b) It is essential in the University that channels of communication be open, effective, and accessible to all members of the academic community.
- c) The University recognizes, respects and protects all peaceful, non-obstructive expressions of dissent, whether individual or collective, that are within the law, that are within University regu-

lations and that do not interfere with the regular and essential operation of the University. The regular and essential operation of the University is construed to include, but is not limited to, the operation of its offices, classrooms, laboratories, and research facilities and the right of access to these and any other physical accommodations used in the performance of the teaching, research, and administrative functions and related adjunct activities of the University.

d) Disruption is an action or combination of actions by an individual or a group that unreasonably interferes with, hinders, obstructs, or prevents the regular and essential operation of the University or infringes upon the rights of others to freely participate in its programs and services.

e) It is the responsibility of University officials to initiate action to restrain or prohibit behavior that threatens the purposes or the property of the University or the rights, freedoms, privileges, and safety of the personnel of the academic community.

POLICY STATEMENT ON INTOLERANCE

Purpose:

The University is committed to creating an educational environment which is free from intolerance directed toward individuals or groups and strives to create and maintain an environment that fosters respect for others. As an educational institution, the University has a mandate to address problems of a society deeply ingrained with bias and prejudice. Toward that end, the University provides educational programs and activities to create an environment in which diversity and understanding of other cultures are valued. Acts of intolerance violate the principles upon which American society is built and serve to destroy the fabric of the society we share. Such actions not only do untold and unjust harm to the dignity, safety and well-being of those who experience this pernicious kind of discrimination but also threaten the reputation of the University and impede the realization of the University's educational mission.

Definition:

An act of intolerance refers to conduct that is in violation of a University policy, rule or regulation and is motivated by discriminatory bias against or hatred toward other individuals or groups based on characteristics such as age, ancestry, color, disability or handicap, national origin, political belief, race, religious creed, sex, sexual orientation, gender identity or veteran status.

Policy:

The Pennsylvania State University is committed to preventing and eliminating acts of intolerance by faculty, staff and students, and encourages anyone in the University community to report concerns and complaints about acts of intolerance to the Affirmative Action Office or the Office of the Vice Provost for Educational Equity, and in cases involving students, reports also may be made to the Office of Judicial Affairs. If any violation of University policy, rule or regulation is motivated by discriminatory bias against or hatred toward an individual or group based on characteristics such as age, ancestry, color, disability or handicap, national origin, political belief, race, religious creed, sex, sexual orientation, gender identity or veteran status, the sanction will be increased in severity and may include termination or expulsion from the University.

The University prohibits retaliation against anyone who files a complaint and/or participates in an investigation involving alleged acts of intolerance. Retaliation constitutes a separate violation and may result in a sanction independent of the outcome of a complaint.

Expression of Opinion:

The expression of diverse views and opinions is encouraged in the University community. Further, the First Amendment of the United States Constitution assures the right of free expression. In a community which recognizes the rights of its members to hold divergent views and to express those views, sometimes ideas are expressed which are contrary to University values and objectives. Nevertheless, the University cannot impose disciplinary sanctions upon such expression when it is otherwise in compliance with University regulations.

POLICY STATEMENT ON NONDISCRIMINATION*

The Pennsylvania State University is committed to the policy that all persons shall have equal access to programs, facilities, admission and employment without regard to personal characteristics not related to ability, performance or qualifications as determined by University policy or by state or federal authorities. The Pennsylvania State University does not discriminate against any person because of age, ancestry, color, disability or handicap, national origin, race, religious creed, sex, sexual orientation, gender identity or veteran status. Direct all inquiries regarding the non-discrimination policy to the Affirmative Action Director, The Pennsylvania State University, 201 Willard Building, University Park PA 16802-2801; Tel. (814) 863-0471.

*University Policy Manual, AD-42

SCHEDULING AND USE OF UNIVERSITY FACILITIES AND TIME, PLACE AND MANNER OF PUBLIC EXPRESSION

The following regulations provide the basis for authorization for use of University grounds and facilities and establish procedures for such authorized uses. The rights, obligations, and liabilities of authorized users and of other persons seeking to use the campus are defined below. While on University property, persons who are not students or employees of the University are required to adhere to the standards of conduct applicable to members of the University community and to abide by University policies and regulations. The University may require student, staff, or faculty identification for admission to events scheduled in University facilities. The purpose of these regulations is to facilitate the effective use and enjoyment of the facilities of the campus as an educational institution, and to ensure the right of free expression and advocacy.

Orderly procedures are necessary to promote use of facilities and free expression and advocacy, in order to conserve and protect facilities for educational use, and to minimize potential conflict between the right of free expression and the rights of others. Further, these regulations exist to prevent possible interference with University functions and responsibilities as an educational institution. The word "commercial" as used in the following regulations means any activity or event that results in a personal financial gain to the peddler or organization provided that contact between a peddler and a student shall not be deemed commercial if such contact was invited by the individual student involved.

APPENDIX B: Examples of University Presidential Statements on Free Speech

A LETTER FROM HIGHER EDUCATION LEADERS AND SUSAN V. BERRESFORD TO COLLEGE AND UNIVERSITY PRESIDENTS PROMOTING PLURALISM AND ACADEMIC FREEDOM ON CAMPUS²⁴

March 31, 2005

Dear President:

We are deeply troubled by reports of growing religious intolerance and of increasing restrictions on academic freedom on college and university campuses. In the wake of 9/11 and the continuing conflicts in the Middle East, the tone of academic debate has become increasingly polarized, and, in some cases, we see attempts to silence individuals, faculty and students alike, with controversial views. We believe that these problems are symptoms of the nation's larger and more complex challenge of sustaining informed political and civil discourse. In times like these, we need to be especially vigilant in maintaining and nurturing a free and open campus environment. Unrestrained academic scholarship and the expression of a wide diversity of viewpoints are the hallmarks of the American university system and must be vigorously defended. Through this letter and the attached Request for Proposals, we invite you to consider promising approaches for fostering a free and open campus community.

Colleges and universities bear a special responsibility to protect and respect academic freedom, not only in shaping their own policies, but also in supporting faculty members and students whose freedoms are threatened. Our institutions should be very clear about the role of academic freedom as a guarantor of free inquiry. University professors enjoy, both as teachers and as citizens, substantial latitude in what they say and what they write — free from institutional constraints or sanctions — save in rare situations. If, however, professors seek to exploit students, coerce the views of students, or display a demonstrable lack of competence in their discipline, their academic colleagues may conclude that their expression exceeds the limits of academic freedom. That is, academic freedom must always be accompanied by academic responsibility. Defending academic freedom also entails sensitivity to those rare cases where it is abused. Indeed, a central mission of academic freedom is to afford students the broadest range of learning opportunities as they prepare to understand and engage in an increasingly heterogeneous and global community.

Today there are new and genuine threats to academic freedom that have contributed to a deterioration of constructive dialogue on campuses. The recent rise in anti-Semitic incidents throughout the world has reverberated on American college and university campuses. There is also a troubling increase in anti-Muslim and anti-Arab incidents. On some campuses, a climate of intolerance has been exacerbated by attempts to target individual scholars with calls for their censure or removal. These problems are heightened by the use of the Internet to misrepresent and exaggerate controversial discourse. In the academy, the best way to deal with controversy and difficult dialogues is to engage with those with whom one disagrees, not to isolate them.

Open and honest dialogue is one of the defining characteristics of a vibrant academic community. Furthermore, it is an essential component of a strong civil society on which democracy depends. We must strive to ensure that all members of the community are treated as full and equal partners in the intellectual and

APPENDIX B: Examples of University Presidential Statements on Free Speech

institutional life of colleges and universities, especially those who may hold minority political views or religious beliefs. Campus leaders also must create an atmosphere of mutual respect, in which diversity is examined and seen in the context of a broader set of common values. We need to ensure that our discourse not only remains open but civil.

Many colleges and universities face a new, and quite remarkable, level of diversity among their student bodies. Since changing its immigration laws in 1965, the United States has experienced exponential growth in the diversity of faiths practiced by its citizens. Hindus, Sikhs, Muslims, Buddhists, and many others have joined, in increasing numbers, the ranks of citizens, along with Protestants, Catholics, and Jews. Colleges and universities are on the front line in weaving together this unprecedented diversity of faiths, races/ethnicities, and cultures into a new American social fabric. Precisely because so many of our students belong to organizations with resources provided by outside advocates, it is critical that we develop consistent policies to confront choices that may not have been made at the institutional level. Diversity is simply a fact of our local and global world, but pluralism requires engaging that diversity with study, debate, and dialogue; and this constitutes a new intellectual challenge for colleges and universities.

Promoting new scholarship and teaching about cultural differences and religious pluralism, while supporting academic freedom, requires a significant commitment at every level of the academic community. As leaders, we need to protect faculty, academic centers, and institutes from inappropriate pressures, from on and off campus, to limit the free exchange of ideas. We must ensure that faculty members have institutional support and encouragement to pursue scholarly and pedagogical approaches that address the new reality of the United States. It is no longer adequate for student affairs staff to bear, largely alone, the responsibility for sponsoring and overseeing difficult dialogues. We must develop rigorous academic programs to engage students in constructive dialogue around difficult religious, political, racial/ethnic, and cultural issues. Students need this training to take their places as successful leaders in civic life and to participate as members of our democracy.

There is a great need for innovative strategies to promote faculty, staff, and student involvement around these matters. The Ford Foundation invites your proposals to address the profoundly important challenges presented in the attached Request for Proposals.

Sincerely,

Susan V. Berresford, *President*
Ford Foundation

Robert M. O'Neil, *Former President*
University of Virginia, University of
Wisconsin System

Daniel O. Bernstine, *President*
Portland State University

Irvin D. Reid, *President*
Wayne State University

Robert J. Birgeneau, *Chancellor*
University of California, Berkeley

Donna E. Shalala, *President*
University of Miami

Derek Bok, *President Emeritus*
Harvard University

Judith Shapiro, *President*
Barnard College

Graham Spanier, *President* The
Pennsylvania State University

Augustine P. Gallego, *Chancellor*
Emeritus San Diego Community
College District

Shirley M. Tilghman, *President*
Princeton University

Juliet V. García, *President*
The University of Texas at
Brownsville and Texas
Southmost College

David Ward, *President*
American Council on Education

Ronald Mason, Jr., *President*
Jackson State University

James Wright, *President*
Dartmouth College

Johnnetta B. Cole, *President*
Bennett College for Women

HARVARD UNIVERSITY PRESIDENT LAWRENCE H. SUMMERS DENOUNCES ANTI-SEMITISM²⁵

September 17, 2002

I speak with you today not as President of the University but as a concerned member of our community about something that I never thought I would become seriously worried about — the issue of anti-Semitism.

I am Jewish, identified but hardly devout. In my lifetime, anti-Semitism has been remote from my experience. My family all left Europe at the beginning of the 20th century. The Holocaust is for me a matter of history, not personal memory. To be sure, there were country clubs where I grew up that had few if any Jewish members, but not ones that included people I knew. My experience in college and graduate school, as a faculty member, as a government official — all involved little notice of my religion.

Indeed, I was struck during my years in the Clinton administration that the existence of an economic leadership team with people like Robert Rubin, Alan Greenspan, Charlene Barshefsky and many others that was very heavily Jewish passed without comment or notice — it was something that would have been inconceivable a generation or two ago, as indeed it would have been inconceivable a generation or two ago that Harvard could have a Jewish President.

Without thinking about it much, I attributed all of this to progress — to an ascendancy of enlightenment and tolerance. A view that prejudice is increasingly put aside. A view that while the politics of the Middle East was enormously complex, and contentious, the question of the right of a Jewish state to exist had been settled in the affirmative by the world community.

But today, I am less complacent. Less complacent and comfortable because there is disturbing evidence of an upturn in anti-Semitism globally, and also because of some developments closer to home.

Consider some of the global events of the last year:

- There have been synagogue burnings, physical assaults on Jews, or the painting of swastikas on Jewish memorials in every country in Europe. Observers in many countries have pointed to the worst outbreak of attacks against the Jews since the Second World War.
- Candidates who denied the significance of the Holocaust reached the runoff stage of elections for the nation's highest office in France and Denmark. State-sponsored television stations in many nations of the world spew anti-Zionist propaganda.
- The United Nations – sponsored World Conference on Racism — while failing to mention human rights abuses in China, Rwanda, or anyplace in the Arab world — spoke of Israel's policies prior to recent struggles under the Barak government as constituting ethnic cleansing and crimes against humanity. The NGO declaration at the same conference was even more virulent.

APPENDIX B: Examples of University Presidential Statements on Free Speech

I could go on. But I want to bring this closer to home. Of course academic communities should be and always will be places that allow any viewpoint to be expressed. And certainly there is much to be debated about the Middle East and much in Israel's foreign and defense policy that can be and should be vigorously challenged.

But where anti-Semitism and views that are profoundly anti-Israeli have traditionally been the primary preserve of poorly educated right-wing populists, profoundly anti-Israel views are increasingly finding support in progressive intellectual communities. Serious and thoughtful people are advocating and taking actions that are anti-Semitic in their effect if not their intent.

For example:

- Hundreds of European academics have called for an end to support for Israeli researchers, though not for an end to support for researchers from any other nation.
- Israeli scholars this past spring were forced off the board of an international literature journal.
- At the same rallies where protesters, many of them university students, condemn the IMF and global capitalism and raise questions about globalization, it is becoming increasingly common to also lash out at Israel. Indeed, at the anti-IMF rallies last spring, chants were heard equating Hitler and Sharon.
- Events to raise funds for organizations of questionable political provenance that in some cases were later found to support terrorism have been held by student organizations on this and other campuses with at least modest success and very little criticism.
- And some here at Harvard and some at universities across the country have called for the University to single out Israel among all nations as the lone country where it is inappropriate for any part of the university's endowment to be invested. I hasten to say the University has categorically rejected this suggestion.

We should always respect the academic freedom of everyone to take any position. We should also recall that academic freedom does not include freedom from criticism. The only antidote to dangerous ideas is strong alternatives vigorously advocated.

I have always throughout my life been put off by those who heard the sound of breaking glass, in every insult or slight, and conjured up images of Hitler's Kristallnacht at any disagreement with Israel. Such views have always seemed to me alarmist if not slightly hysterical. But I have to say that while they still seem to me unwarranted, they seem rather less alarmist in the world of today than they did a year ago.

I would like nothing more than to be wrong. It is my greatest hope and prayer that the idea of a rise of anti-Semitism proves to be a self-denying prophecy — a prediction that carries the seeds of its own falsification. But this depends on all of us.

MICHIGAN STATE UNIVERSITY PRESIDENT LOU ANNA K. SIMON ADDRESSES FIRST AMENDMENT RIGHTS ON CAMPUS²⁶

March 3, 2008

An Open Marketplace for the free Exchange of Ideas

I have written and spoken often over the past year about the university's commitment to free speech and the First Amendment, most recently in response to concerns about controversial speakers and events on campus last fall. I feel compelled to write again because of the ongoing actions of groups and individuals to intimidate, threaten, and ridicule fellow members of the MSU community, all under the banner of free speech.

I am particularly concerned about the number of students who have reported recently that they feel threatened and intimidated on our campus because of their political beliefs, racial or ethnic identity, sexual orientation, or religious practices. Just last week, members of ASMSU received death threats prior to a meeting they held to discuss a bill related to free speech (reported in the State News, February 24, 2008). No matter the reason, threats of violence and attempts to silence those with whom we disagree by ridicule or humiliation are antithetical to MSU's core values, and such threats have no place in an academic community.

I have said many times that a university should be an open marketplace for the free exchange of ideas. This in no way implies that we will not encounter ideas that make us uncomfortable or individuals whose views we find personally offensive. As I have said before, our freedom to impart our views is assured only if we recognize the equal freedom of others to impart theirs, even when — especially when — those views are at odds with our own. Attempting to suppress the free speech rights of any individual or group, especially by means that are intended to cause individuals to feel unsafe, undermines our efforts to encourage robust intellectual discourse.

We live in an increasingly violent world, as evidenced a few weeks ago in the shootings on the campus of Northern Illinois University. I'm sure none of us will forget the grief and horror we felt when hearing about this and other incidents of campus violence over the past year because it hits too close to home. A college campus should be a safe place — physically and intellectually — where learners and seekers come to expand their minds, dream big dreams, and discern and refine their beliefs about the world around them. A university is a place where all forms of diversity should be welcomed and respected and where everyone should be able to express their opinions and ideas.

Free speech is at the heart of academic freedom and is something we take very seriously at Michigan State. I encourage individuals and groups to exercise their right to free speech in ways that enhance the intellectual discourse rather than using the protections of the First Amendment to attempt to silence the voices of others. Where the exchange or exploration of ideas turns into personal attacks or threats meant to intimidate or frighten others, any value gained by the discourse is lost. As we strive to educate the next generation of the world's leaders, we must continue to keep an open dialogue about the challenges that prevent the free and safe expression of ideas on our campus and seek solutions that honor and respect the individual rights of every member of this community.

Endnotes

- 1 *Baker v. California Land Title Co.*, 349 F. Supp. 235, 238,239 (D.C. Cal. 1972); *Black's Law Dictionary* at 467. Federal statutes prohibit discrimination in employment, voting rights, housing, extension of credit, public education, and access to public facilities. *Black's Law Dictionary* at 467.
- 2 See *Chaplinsky v. United States*, 315 U.S. 568 (1942); *Gooding v. Wilson*, 405 U.S. 518 (1971). Fighting words doctrine applies only to face-to-face confrontations, not to speeches or actions directed to a group of people. *Gooding*, 405 U.S. at 518. Profanities alone do not constitute "fighting words." The standard test is whether a reasonable person would understand the words as provoking a fight. *Chaplinsky*, 315 U.S. at 56; *The UVM Post, Inc. Board of Regents of Univ. of Wisc.*, 774 F. Supp. 1163, 1170 (E.D. Wisc. 1991). Fighting words are categorically excluded from First Amendment protection. Using fighting words is a misdemeanor in many states.
- 3 *Black's Law Dictionary* at 717. The standard is objective: what a reasonable person would find abusive and offensive.
- 4 *Davidson v. Santa Barbara High Sch. Dist.*, 48 F. Supp. 2d 1225, 1230 (C.D.Ca. 1998) (finding a racially hostile environment where student was subjected to long accepted and tolerated racial harassment); *Monteiro*, 158 F.3d at 1033 (a racially hostile environment may exist at a high school where racial slurs were repeatedly directed at students, racist graffiti was scrawled about the school, and the school district refused to address students' complaints or to make any effort to halt the racist conduct).
- 5 See Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11448, 11449 (March 10, 1994).
- 6 *Black's Law Dictionary* at 821 – 22.
- 7 *Beauharnais v. Illinois*, 343 U.S. 250 (1952).
- 8 A "threat" is an avowed present determination, or an intent to injure presently or in the future. *Black's Law Dictionary* at 1480 "a serious expression of intent to harm or assault." *United States v. Orozco-Santillan*, 903 F.2d 1262 (9th Cir. 1990).
- 9 *Healy v. James*, 408 U.S. 169, 181 (1972) ("state colleges and universities are not enclaves immune from the sweep of the First Amendment"); *Saunders v. The Virginia Polytechnic Institute*, 417 F.2d 1127, 1130 (4th Cir. 1969) (students' freedom to express peaceful dissent on campus is more than a privilege; it is a basic right guaranteed by the First Amendment).
- 10 See *Saunders*, 417 F.2d at 1130.
- 11 See *Shamloo v. Mississippi State Bd. of Trustees of Inst. of Higher Learning*, 620 F.2d 516, 522 (5th Cir. 1980) (demonstrations can be prohibited if they are a material disruption of class work or school discipline).
- 12 See *Shamloo*.
- 13 *Healy*, 408 U.S. at 187 – 8.
- 14 *Ward v. Rock Against Racism*, 491 U.S. 781, 802 (1989).

- 15 *Keyishian v. Board of Regents of University of State of NY*, 385 U.S. 589 (1967).
- 16 American Association of University Professors, 1940 *Statement of Principles on Academic Freedom and Tenure*, <http://www.aaup.org/AAUP/pubsres/policydocs/1940statement.htm>.
- 17 *Avins v. Rutgers*, 385 F.2d 151, 153 (3rd Cir., 1967).
- 18 See *Saunders*, 417 F.2d at 1130; cf. *Chaplinsky v. United States*, 315 U.S. 568, 572 (1942) (holding that “fighting words” are not protected speech under the First Amendment).
- 19 *Knoll v. Bd. of Regents of the Univ. of Neb.*, 258 Neb. 1 (1999) (holding that the University of Nebraska’s Student Code of Conduct created a duty of care for the university to act when a student was injured in a fraternity hazing incident). Private universities owe people who enter their land a duty of care. In some states, state law extends this duty to public universities as well. If the university is aware of a dangerous condition that exists on its land, it may be held liable if injury occurs to an invitee. *Stockwell v. Bd. of Trustees of the Leland Stanford Junior Univ.*, 64 Cal. App. 2d 197, 200 (1944). Therefore, if injuries at protests are common on the university’s campus, then the university might be liable for injuries that occur at similar rallies in the future.
- 20 See *Saunders*, 417 F.2d at 1130; see also *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (forbidding the state to regulate speech that advocates the use of violence or lawlessness, unless such advocacy is directed to inciting or producing imminent lawless action and is likely to incite such action).
- 21 *Monteiro v. Temple Union High Sch. Dist.*, 158 F.3d at 1033.
- 22 *Monteiro*, 158 F.3d at 1033.
- 23 42 U.S.C. § 2000d-7; *Young v. Pierce*, 544 F. Supp. 1010, 1015 (E.D. Tex. 1982).
- 24 The Ford Foundation. *Difficult Dialogues: Promoting Pluralism and Academic Freedom on Campus. A Letter from Higher Education Leaders and Susan V. Berresford to College and University Presidents.* March 31, 2005. http://www.fordfound.org/news/more/dialogues/difficult_dialogues_letter.pdf.
- 25 President Lawrence H. Summers. *Address at morning prayers.* Harvard University Memorial Church, Cambridge, Massachusetts. September 17, 2002. <http://www.president.harvard.edu/speeches/2002/morningprayers.html>.
- 26 President Lou Anna K. Simon. *An Open Marketplace for the Free Exchange of Ideas.* March 3, 2008. http://president.msu.edu/desk/index.php?site/an_open_marketplace_for_the_free_exchange_of_ideas/.



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