

The sixteenth meeting of the Committee of Six for the academic year 2020–2021 was called to order by President Martin via Zoom at 2:30 P.M. on Monday, November 16, 2020. Present, in addition to the president, were Professors del Moral, Kingston, Leise, Manion, Trapani, and Umphrey; Provost and Dean of the Faculty Epstein; and Associate Provost Tobin, recorder.

The meeting began with President Martin informing the members about two new student COVID-19 cases on campus; she expressed great concern and disappointment about a number of unauthorized student gatherings that had taken place over the previous weekend. The president noted that it has been reported that a number of those attending at least one of these parties, which had exceeded the group-size limit, had not been wearing masks. She said that the possibility of the virus spreading on campus has led to a decision to implement a number of additional health and safety rules, which will be put in place immediately ([see Dean Agosto's email outlining these measures](#)). Discussion then turned to a personnel matter.

The members returned to a discussion of their proposal to amend the Statement of Academic and Expressive Freedom. After reviewing the most recent iteration (finalized on November 9), the committee refined the language further. Much of the conversation focused on whether the proposed amendment is too broad. The members considered whether narrower definitions should be articulated within the statement so as to protect academic freedom to the fullest degree possible, while also limiting disparaging or abusive speech directed at individuals or groups based on group identity. In this context, the members discussed whether there should be greater specificity regarding the categories to which the restriction on directing disparaging or abusive speech would apply, according to the statement. Otherwise, most members agreed, there was a risk that the meaning of *group identity* and the range of groups that could be covered could be too broad, and therefore too inhibitory of speech. For this reason, the committee decided that the language of *protected class*, which offers the advantage of clear definitions and is consistent with the college's non-discrimination policies, would be preferable. It was agreed that it would be important to share what these protected categories are by including the college's non-discrimination policy at the end of the statement.

The committee also discussed the following line from the statement: "The college may properly restrict speech that, for example, is defamatory, harassing, invades a protected right to privacy or confidentiality, constitutes incitement to imminent violence, or otherwise violates the law." A member suggested that the sentence should be more declarative. Rather than saying the college *may* restrict such speech, the member proposed saying that the college *restricts* such speech. Professor Kingston disagreed and expressed the view that the use of *may* grants the college the flexibility to develop policies that articulate in more detail when speech would be restricted. The committee decided to retain *may*. The members also discussed whether to retain the word *reasonable* in the new language that would be proposed, which they had drafted earlier as follows: "It may also restrict disparaging or abusive speech (e.g., racial epithets) directed at an individual or group based on their actual or perceived group identity, for which there is no reasonable academic, educational, or artistic justification." Professor Umphrey expressed support for retaining the "reasonableness standard," noting that it provides some basis for assessing justifications for certain speech in the classroom, and the other members concurred.

After finalizing the language (shown below), the committee decided to have a meeting with the faculty to discuss the proposal, including the rationale for the wording. The purpose of the meeting would be informational, and the session would also provide an opportunity to answer the faculty's questions, the members agreed. This meeting was then set for December 1, at 5:00 P.M. The committee also agreed to bring its now-final proposal to amend the statement to the faculty for a vote at a formal faculty meeting on December 15.

November 9 Iteration of the Proposal to Amend the Statement of Academic and Expressive Freedom

Even the most vigorous defense of intellectual and creative freedom knows limits. The college may properly restrict speech that, for example, is defamatory, harassing, invades a protected right to privacy or confidentiality, constitutes incitement to imminent violence, or otherwise violates the law. **IT MAY ALSO RESTRICT DISPARAGING OR ABUSIVE SPEECH (E.G., RACIAL EPITHETS) DIRECTED AT AN INDIVIDUAL OR GROUP BASED ON THEIR ACTUAL OR PERCEIVED GROUP IDENTITY, FOR WHICH THERE IS NO REASONABLE ACADEMIC, EDUCATIONAL, OR ARTISTIC JUSTIFICATION. THE COLLEGE** ‡ may place reasonable limitations on the time, place, and manner of expression, and may restrict speech that directly interferes with core instructional and administrative functions of the college. But these restrictions and limitations must be understood as narrow exceptions to the college’s overriding commitment to robust open inquiry (voted by the faculty, May 3, 2016).

Final Language of the Proposal

Even the most vigorous defense of intellectual and creative freedom knows limits. The college may properly restrict speech that, for example, is defamatory, harassing, invades a protected right to privacy or confidentiality, constitutes incitement to imminent violence, or otherwise violates the law. **IT MAY ALSO RESTRICT DISPARAGING OR ABUSIVE SPEECH (E.G., RACIAL EPITHETS) DIRECTED AT AN INDIVIDUAL OR GROUP BASED ON THEIR ACTUAL OR PERCEIVED AFFILIATION WITH A PROTECTED CLASS*, AND FOR WHICH THERE IS NO REASONABLE ACADEMIC, EDUCATIONAL, OR ARTISTIC JUSTIFICATION. THE COLLEGE** ‡ may place reasonable limitations on the time, place, and manner of expression, and may restrict speech that directly interferes with core instructional and administrative functions of the college. But these restrictions and limitations must be understood as narrow exceptions to the college’s overriding commitment to robust open inquiry (voted by the faculty, May 3, 2016).

Amherst College subscribes fully to the AAUP statements of principles on academic freedom published in 1940, and assumes that faculty members know their rights and their responsibilities as members of the academic profession.

** Amherst College does not discriminate in admission, employment, or administration of its programs and activities on the basis of race, national or ethnic origin, color, religion, sex or gender (including pregnancy, sexual orientation, gender expression and gender identity), age, disability, genetic information, military service, or any other characteristic or class protected under applicable federal, state or local law. Amherst College complies with all state and federal laws that prohibit discrimination, including Title VII of the Civil Rights Act, Title IX, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, the Equal Pay Act and the Age Discrimination in Employment Act.*

Prompted by a review of language that the framers of the bias-reporting and response protocol had recently added to the document, the members discussed whether pedagogy should not be covered under the protocol. The new language reads as follows: “The curriculum, course content, and pedagogy are the province of the faculty and are not covered by this protocol.” A member initially expressed the

view that only the curriculum and course content should be excluded from the protocol. Following a wide-ranging discussion that included the consideration of a number of different classroom scenarios, the committee agreed that it should be possible for the protocol to be invoked when complaints are made about some things that are said or done in a classroom setting that might constitute bias. Some members expressed the view that pedagogical methods—for example dividing a class into discussion groups based on gender—should not be excluded from the protocol, as it is possible that strategies such as this one could result in incidents of bias, or even trauma, in one member’s view. In addition, a member of the committee wondered whether students would interpret the proposed exception as meaning that the college does not want to provide any avenue for them to report incidents of what they consider to be bias, if such incidents take place in a classroom.

Continuing the conversation, Professor Manion commented that the protocol should be a vehicle for holding faculty members accountable for the experiences that result from the way they run their classrooms. Professor Manion noted that students may have different expectations and reactions than faculty anticipate. If a student files a report about a faculty member, it could be an informative educational experience for the professor, it was noted. Other members disagreed, while recognizing the challenge that faculty may face when trying to address students’ feedback. Under the protocol, Professor Umphrey noted, reports that are made will focus on incidents of bias. For untenured faculty members, in particular, the accusation that they have committed bias could create a great deal of anxiety; the identity-based protocol is not a neutral system, she commented. Professor Umphrey suggested that, instead of calling a faculty member out, other ways should be available to communicate concern about bias taking place as a result of pedagogical strategies.

Some members concurred that it would be helpful to provide ways for students to engage in a conversation about a pedagogical practice that does not rise to the level of bias. This could be a less formal and less loaded process. Professor Trapani suggested that removing *reporting* from the name of the protocol would set a better tone—pivoting from an emphasis on calling individuals out to an emphasis on sharing experiences and education. It was noted that the protocol is not a faculty-specific policy, and that it is expected that the majority of reports will involve students reporting experiences related to other students. President Martin agreed to convey the committee’s suggestions to the colleagues in the Office of Diversity, Equity, and Inclusion who are developing the protocol. She also agreed that pedagogical methods should be covered by the protocol, commenting that there is a distinction between pedagogical methods and bias expressed while using them, and that the distinction matters. Aware of the distinction, the review team will determine if an incident rises to the level of bias.

The meeting ended with a brief conversation about how best to familiarize the community with the bias-reporting and response protocol, once the document is finalized. President Martin said that she anticipates sharing the protocol as part of an update that she will provide about progress that the college is making on its anti-racism plans.

The meeting adjourned at 4:30 P.M.

Respectfully submitted,

Catherine Epstein
Provost and Dean of the Faculty