

The seventh meeting of the Committee of Six for the academic year 2020–2021 was called to order by President Martin via Zoom at 3:05 P.M. on Monday, September 7, 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 the consideration of several committee assignments, after which the members turned to “Questions from Committee Members.” Professor Trapani noted that, while driving by the campus recently in the evening, he had seen a number of students congregating and not wearing masks. Some were drinking and being boisterous, while other students nearby were following social-distancing rules and wearing masks. He asked Provost Epstein whether coaches are now present on campus in the evenings later in the week and on weekends to support the efforts of student affairs staff to remind students about the rules related to COVID-19. Provost Epstein said that it is her understanding that some coaches are now walking around campus on Thursday, Friday, and Saturday evenings. In addition, as part of efforts to have more adults on campus in the evening, especially in residence halls, the college has increased the number of community development coordinator (CDC)s. The CDCs are staff members who are part of the residential life staff, the president noted. President Martin said that it is her understanding that there are now six CDCs (five are on campus and one is in the process of being hired), and Provost Epstein said that she believes that they are observing what is going on between 4 P.M. and 1 A.M. The CDCs are working to engage with students to build community and are also focusing on the need for safety, including the need to follow rules surrounding COVID-19 precautions. In addition, Dean of Students Liz Agosto often walks through campus late at night to get a sense of what is going on. President Martin said that she would inform Dean Agosto about the gathering that Professor Trapani had observed, and she thanked him for making her aware of it.

Professor Umphrey next asked about the status of the Ad Hoc Curriculum Committee’s recommendation that a new required sophomore seminar be developed. Provost Epstein responded that a number of faculty members have formed a group to pilot a sophomore seminar that would focus on issues of migration. She is not sure if the group is working on this project this semester, but said that she would check in with its members to get an update. Colleagues who are interested in bringing a proposal forward for a required sophomore seminar feel that it would have more potential for success if experimentation occurred before bringing the idea to the faculty for discussion and a vote.

The remainder of the meeting was devoted to a discussion of possible ways to address the intersection of hateful and harassing speech and the college’s [Statement of Academic and Expressive Freedom](#), an issue that the student leaders of the Black Student Union (BSU) raised last spring. In preparation for the conversation, the provost’s office provided the members with a good deal of background material about the current Statement of Academic and Expressive Freedom, which was approved by the faculty in May of 2016; [the BSU’s proposal to revise that statement](#); academic freedom statements from other institutions that the BSU collected and shared with last year’s committee; and the minutes of the Committee of Six’s conversations of last year about this issue. The committee was also provided with [the committee-of-the-whole notes from the faculty meeting of April 19, 2016](#), and [the faculty meeting minutes of May 3, 2016, when the statement was approved](#).

Continuing the conversation, President Martin noted that the college is moving forward with addressing a number of proposals that originated with the BSU, and also with other recommendations about ways in which the college might move forward with anti-racism efforts. She informed the committee that work will soon be completed on drafts that address three interrelated initiatives—a policy devoted to identity-based harassment and discrimination; a change to the honor code that will be based on the new policy on harassment and discrimination; and the development of a bias-reporting and response protocol, which will rely heavily on the implementation of restorative practices at Amherst (a recommendation of the External Advisory Committee on Diversity, Inclusion, and Excellence, the president noted). Laurie Frankl, Title IX coordinator, and Dean Gendron, senior associate dean of students, have worked on the policy and its translation into the language of the code, and the Presidential Task Force on Diversity and Inclusion has worked on the latter. President Martin said that

the BSU is aware that making changes to the college's Statement of Academic Freedom and Freedom of Expression is a faculty governance issue. The Committee of Six drafted the statement, and the faculty approved it, and any changes to the statement will require a vote of the faculty, it was noted. The committee felt that it would be informative to meet with the colleagues who have been working on the processes/policies that the president had just described, which should be considered by the committee in tandem with any proposal that may emerge to revise the Statement of Academic and Expressive Freedom, the members agreed. The provost agreed to organize this discussion. The committee noted that any bias-reporting and response protocol that encompasses classroom activity will need to be considered very carefully.

In anticipation of the discussion about whether to revise the statement, the members had asked Professors Manion and Umphrey to prepare drafts of approaches/language to revise the Statement of Academic and Expressive Freedom, with the goal of including limits on hateful and harassing speech—including the use of racial epithets that are targeted toward certain groups. Ahead of the meeting, Professor Umphrey had reviewed the statements of peer schools that had been gathered by the BSU, as well as policies on both academic freedom and anti-discrimination of fifteen institutions (including those the BSU noted), and had provided additional material to the committee.

Professor Manion began the conversation by expressing the view that any proposal to revise Amherst's Statement of Academic and Expressive Freedom should be framed within the context of the current moment, which is drawing greater attention to the impact of systemic racism in this country, and leading to change on many other campuses. Listening and responding to what Amherst students are requesting vis-à-vis the statement is very important, she noted. Professor Manion commented that many institutions are now addressing the use of racial epithets and other forms of harmful and harassing speech. If the faculty does not take action, Professor Manion feels that will indicate a lack of understanding and responsiveness to Amherst students' needs.

Suggesting a somewhat different approach, Professor Umphrey said that, while she agrees that it is important to respond to the concerns of the BSU, she also is cognizant that Amherst's Statement of Academic and Expressive Freedom is a recent document (passed by a wide margin in 2016), and that a great deal of thought, conversation, and effort led to its development and approval. She wants to honor that work and to consider carefully the best path forward. If the issue at hand is how to address the use of racist epithets, she expressed the view that it would be preferable to bolster the college's [Statement on Respect for Persons](#) in ways that address the concerns the BSU has raised, and to strengthen the statement more generally. At present it is very short and not very specific, she noted. Her research has revealed that most other institutions address the use of harassing and hateful speech, including racial epithets, in documents that resemble the Statement on Respect for Persons, rather than in statements on academic freedom. In her view academic freedom revolves around ideas, and an epithet is not an idea.

Continuing, Professor Umphrey commented that the idea of limiting speech in the classroom, a highly protected space, must be considered with great care. Such limits, she noted, could otherwise have a chilling effect on intellectual discourse. In her view, the issue of racial epithets and other hateful and harassing speech should be addressed as a matter of professional behavior on the part of faculty. The Statement of Respect for Persons already raises the issue of behavior in the classroom, without intruding into the realm of course content. Currently, Professor Umphrey noted, the following is part of the Statement on Respect for Persons: "Each member of the community should be free from interference, intimidation or disparagement in the work place, the classroom and the social, recreational and residential environment." Professor Umphrey suggested that language she had drafted and circulated to the Committee of Six about not permitting harassment and racial epithets could be incorporated into the final sentence of this statement. Professor Leise agreed that it would be preferable to revise the Statement on Respect for Persons, expanding it to include all behavior toward groups of people and individuals that the college does not condone, and only minimally revising the Statement of Academic and Expressive Freedom. She concurred with Professor Umphrey that, for

example, defining a racial epithet as an idea could lead to complexities surrounding academic freedom that would best be avoided.

Professors Kingston and Trapani commented that, in the faculty meeting minutes of April 19, 2016, there had been a discussion of the relationship between these two statements. At the time, they noted, Professor Sarat had asked whether the Statement on Respect for Persons would impose limits on the new Statement of Academic and Expressive Freedom. It was noted that the president, at the time, had said that the new statement was intended to serve as foundational protection of freedom of expression, including freedom against limits that might be imposed by the administration or the trustees. She had noted that the Statement on Respect for Persons sets norms for behavior, but that the Statement of Academic and Expressive Freedom would generally trump the Statement on Respect for Persons, commenting that it would be important for the college to provide the strongest possible protections for academic freedom. For this reason, Professors Kingston and Trapani noted, it seems preferable to address within the Statement of Academic and Expressive Freedom—as the overarching document—that the use of hateful and harassing speech, including racial epithets, is not protected speech. Professor Manion agreed, commenting that not addressing this important issue within the Statement of Academic and Expressive Freedom will be selling Amherst's students short, as they understand the issues at hand. In her view, students are pushing back against harmful content that has been taught for decades, despite its negative impact on underrepresented groups, in some cases. They are asking for change surrounding ideas, not just hateful and harassing speech, she noted. Provost Epstein said that, while she supports setting limits on the use of hateful and harassing speech that is targeted at particular groups, she is uncomfortable with the idea of course material not being taught because it may be disturbing, if there is an educational reason for doing so. She noted the tension between making students feel safe and shying away from difficult and sensitive material and conversations. Professor Umphrey noted that academic freedom is not a concept that is imagined by its proponents to be ahistorical or apolitical, as had been suggested. Concerns for its protection have arisen out of quite specific historical and political circumstances.

Continuing the conversation, Professor Kingston, who commented that he also supports having more discussion about the revision of the Statement on Respect for Persons, said that he is in favor of adding to the Statement of Academic and Expressive Freedom a portion (shown in red here) of the language that the BSU students has proposed. It reads as follows:

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. **THE TARGETED USE OF DISCRIMINATORY STEREOTYPES, EPITHETS, AND DEROGATORY REMARKS IS BEYOND THESE LIMITS AND HAS NO PLACE IN OUR COMMUNITY.** It 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

Professor Umphrey expressed concern that *discriminatory stereotypes* is too broad a phrase and too difficult to pin down. A stereotype for one person is an identity for another, she noted, commenting on the ambiguity, from a legal perspective that is inherent in the proposed language.

Continuing, Professor Umphrey asked the following question: how are we going to think about what a classroom is? Teaching is a relationship in which good teachers meet students where they are; but in asserting the value of academic freedom, faculty and staff also model for students an approach to thinking. The targeted use of epithets in a classroom is unprofessional and can be regulated on that basis alone, in her view. It would be best to avoid the abrogation of principle that can occur when trying

to define limits on academic freedom, she noted. The Statement of Academic and Expressive Freedom, she commented, is written at a principled level, as is appropriate for one of the central statements of the academic enterprise. Setting unclear limits is unwise, and racial epithets are better handled as abhorrent behavior, she reiterated, so as to maintain the clarity of the principle of academic freedom.

Professor Manion expressed support for drawing from the language provided by the students, but also had concerns about the inclusion of the phrase *discriminatory stereotypes*. She noted that the use of racial epithets has not been addressed in the past, despite the existence of the Statement on Respect for Persons. As a result, Professor Manion commented, students do not feel that there is a pathway to achieving accountability, particularly when tenured faculty members are involved. She argued that the college should meet students where they are; any changes that are made should be legible to students—or they will not be meaningful, in her view. President Martin said that she feels that making a short revision to the Statement of Academic and Expressive Freedom, in the section that the students had identified, seems an appropriate course.

Continuing, President Martin noted that the students are correct that the college has not had the mechanisms in place to bring forward complaints against students, staff, and faculty who have used targeted racial epithets and other forms of harmful and harassing speech—and to hold members of the community accountable. The new bias-reporting and response protocol and the new policy on harassment and non-discrimination will address this need. If it is determined that harassment and/or discrimination has taken place, the relevant grievance processes for faculty, staff, and students that are already in place will be used, she noted.

Returning to the discussion of the possible revision of the Statement of Academic and Expressive Freedom and/or the Statement on Respect for Persons, Professor Trapani said that he supports making changes to both to address the use of racial epithets and other harmful and harassing speech. He expressed the view that the two statements should ideally appear in close proximity, as they complement one another. Professor Kingston said that he does not support the BSU suggestion of adding restrictions on speech that advances historic forms of violence and oppression (see below) to the Statement of Academic and Expressive Freedom.

Even the most vigorous defense of intellectual and creative freedom knows limits. The targeted use of discriminatory stereotypes, epithets, and derogatory remarks is beyond these limits and has no place in our community. The language we reference above is weaponized in the advancement of historic forms of oppression and violence and those that may merely be offensive or cause discomfort.

He is unclear who or what body would judge what speech would constitute the advancement of historic forms of oppression and violence.

Commenting on the suggestion to revise the Statement on Respect for Persons to address students' concerns about hateful and harassing speech, President Martin expressed the view that the statement is essentially a values statement rather than a policy. The policy work that was done over the summer on identity-based harassment and non-discrimination has Title VI as its basis. With respect to institutional values, as opposed to policy, she noted that staff members have long been interested in having the college community develop a values statement for Amherst that is not exclusively focused on the academic mission. The Statement of Academic and Expressive Freedom is a faculty document, and the faculty is being asked to decide how to respond to the BSU's request, the president noted. Professor Manion commented that it seems to her that the faculty gets defensive when issues surrounding race and racism come up. In her view, the faculty is being asked to do something visible that acknowledges racism. It is her hope that the faculty will do so, she said. At the very least, a proposal to revise the Statement on Academic and Expressive Freedom should be brought to the faculty floor for a vote, Professor Manion said. She noted that the current statement already includes language that conveys

that academic freedom “knows limits.” In her view, the targeted use of racial epithets should be added to the list of “limits,” i.e., speech that can properly be restricted. It will be clarifying to make visible and transparent that racism falls into one of these categories, Professor Manion stressed.

The committee turned to next steps. Professor Umphrey expressed the view that the Committee of Six should consult with small groups of faculty about any proposal to revise the Statement of Academic and Expressive Freedom, before engaging in a committee-of-the-whole discussion at a faculty meeting. The other members agreed and considered ways to facilitate such consultation, in order to receive feedback. It was agreed that Professor Manion should develop a revised proposal to share with the committee. Once finalized, the proposal could then be discussed by colleagues in an open listening session organized by the provost, the members decided. Professor Trapani suggested that the materials from the BSU be provided in advance of these conversations, to offer the context for the proposal. The other members agreed that this would be a good idea. (At the committee’s next meeting, it was decided that a committee-of-the-whole conversation would be held at a faculty meeting on October 6, and that there would not be a listening session prior to that discussion.)

Concluding the meeting, the members considered whether to charge an ad hoc committee with exploring more holistic approaches to the evaluation of teaching that will be used during reappointment and tenure processes. The committee agreed to do so. The first step will be to develop a charge.

The meeting adjourned at 4:00 P.M.

Respectfully submitted,

Catherine Epstein
Provost and Dean of the Faculty