



Lifting The Fog :
Restoring Academic Freedom & Free Expression
At Cornell University

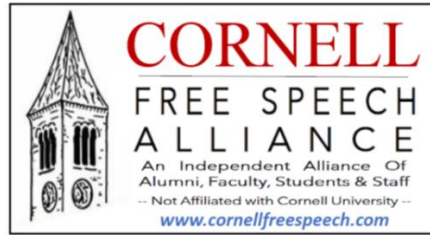
**CFSA Open Inquiry Policy Recommendations
To Cornell University**

August 14, 2023

Submitted to :
University President
University Provost
Board of Trustees

By :
Cornell Free Speech Alliance





Cornell Free Speech Alliance : Mission

Founded in August 2021, the Cornell Free Speech Alliance (CFSA) has been established to preserve the original educational principles and vision that have served as Cornell University's guiding light for more than 150 years. Nearly all Cornell alumni and most faculty, students, and staff are not aware of the Cornell Administration's policies, programs, and practices that impair the historical Open Inquiry goals of the university. A great majority of the Cornell Community opposes such Anti-Open Inquiry / Anti-Academic Freedom / Anti- Free Expression policies —which have been introduced without their knowledge or consent. CFSA aims to illuminate and correct current campus conditions by engaging Cornell alumni, faculty, students, and staff in the six basic areas of activity noted below.

Investigate



Spotlight



Outreach



Educate



Organize



Influence



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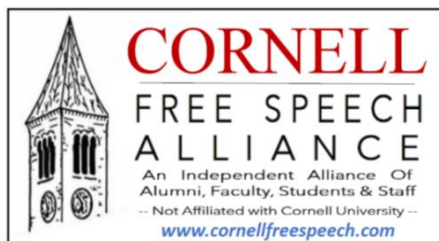
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INPUT FROM LEADING FREE SPEECH ORGANIZATIONS

The CFSA Open Inquiry Policy Recommendations are a timely and important defense of academic freedom, free expression, and viewpoint diversity at one of our nation's great colleges and leading research universities. We urge Cornell's leadership to act on these recommendations, and thus honor Cornell's historic commitment to the pursuit of truth and the dissemination of knowledge.

John Tomasi / President, Heterodox Academy (HxA)

Policy reform at universities across the US is sorely needed to strengthen academic freedom, free speech, and viewpoint diversity on campuses. The CFSA Open Inquiry Policy Recommendations to Cornell University are a strong and incisive prescription for such reform. AFSA plans to use these recommendations to Cornell as a strong basis for a set of "model policies" for American universities.

Constance T. Buehler / Board Member & New Member Chair, Alumni Free Speech Alliance (AFSA)

Free expression is central to the search for truth. Without it, higher education is a hollow shell, a farce. ACTA commends the Cornell Free Speech Alliance for its untiring efforts to raise awareness and hold Cornell accountable to its core values, above all free and open inquiry and expression. Cornell administrators must engage with concerned alumni, seeing them not as inconvenient critics, but as guardians of values and partners in helping Cornell achieve its highest aspirations.

Michael Poliakoff / President, American Council of Trustees and Alumni (ACTA)

Speech First applauds Cornell Free Speech Alliance for developing policy recommendations that not only protect students' First Amendment rights, but also remove policies that specifically chill student speech. A majority of universities implement mechanisms to identify, track, and shut down dissenting voices. We commend the CFSA policy recommendations that defend and protect free speech on campus. Our students deserve the right to speak and think freely.

Cherise Trump / President, Speech First

The CFSA Open Inquiry Policy Recommendations demonstrate a strong commitment to free speech and academic freedom. These recommendations forge a path forward for Cornell that embraces ideological diversity and stronger protections for dissenting viewpoints. The Institute for Free Speech fully supports the aims of these recommendations and hopes that the Cornell Administration will adopt these reforms.

Bradley A. Smith / Chairman and Founder, Institute for Free Speech (IFS)

The CSFA Open Inquiry Policy Recommendations show 'what right looks like' for universities desiring an open and intellectually diverse campus. We urge the Cornell Administration and Trustees to carefully review and act on these recommendations before continued stifling of dissenting views causes lasting damage to Cornell's reputation for innovation and excellence.

Charles E. Davis / Chairman & President, Alumni Free Speech Alliance (AFSA)

Cornell has committed itself to promoting the theme of free expression during the 2023-2024 school year. The survey data, speech codes, and recent campus controversies clearly show that the institution has a long way to go before they firmly establish a culture of free speech. I am thrilled to see alumni working to ensure that Cornell makes good on its commitments to students and faculty.

Connor Murnane / Director of Engagement and Mobilization, FIRE

The policy reforms recommended to Cornell by CFSA are greatly needed. However, as we all know, “personnel is policy”. Many university staff members and even whole departments (e.g. DEI departments) directly impair free speech and academic freedom on campus. Cornell likely must make significant personnel changes at all levels if it is serious about making the policy shifts that are required.

Tom Rideout / Vice Chairman & Board Member, Alumni Free Speech Alliance (AFSA)

Private universities like Cornell offer too few avenues for real accountability. Left unchecked, the university can easily cave to the worst trends in higher education, abandoning academic freedom and stifling the pursuit of truth. With its policy recommendations, CSFA provides a vital roadmap for course correction. Cornell should take note.

John Sailer / Senior Fellow & Director of University Policy, National Association of Scholars (NAS)

The principles of the CFSA policy recommendations provide a solid foundation for Cornell and other non-religious schools to foster and respect religious freedom on campus. Religious diversity contributes to viewpoint diversity on campus and helps to enrich the collegiate environment.

Lori Windham / Member of the Bar of the US Supreme Court, Attorney For First Amendment & Religious Freedom Law

The importance of open inquiry and free expression on American campuses cannot be overstated. The protection of free speech within institutions of higher education like Cornell is what makes it possible for this country to turn out exemplary leaders year after year. That is why we are so enthusiastic about the CFSA’s recommendations to Cornell. FAIR applauds these efforts to uphold our nation’s foundational principles.

Leigh Ann O’Neill / Managing Director of Legal Advocacy, Foundation Against Racism & Intolerance (FAIR)

Academic freedom and free speech at Cornell are under siege. The University of Virginia faces the same problems. Cornell’s adoption of the CFSA policy recommendations will help release students and faculty from the oppressive ideological orthodoxy now dominating campus life. We are witnessing an educational crisis which our universities must address now.

Thomas Neale / President / The Jefferson Council, University of Virginia

The CFSA Open Inquiry Policy Recommendations are a terrific endeavor. CFSA launches valuable policy proposals right out of the gate. I hope not just Cornell, but universities across the country will take note.

Keith E. Whittington/ Founding Chair, Academic Freedom Alliance (AFA)

Cornell students, parents, faculty, alumni, and donors see the University’s progressive drift away from encouraging individual achievement, open inquiry, and freedom of thought and expression. By adopting the CFSA Open Inquiry Policy Recommendations, Cornell leadership can prevent continued reputational damage to one of America’s finest institutions. Hopefully, this path will be chosen.

Linda Sweeney / President, Alumni and Donors Unite

It is important for Cornell to adopt the CFSA Policy Recommendations. But policies are just words. People are needed to implement these policies. Regrettably, many university administrators now have their careers and track records linked to programs which directly oppose free speech and academic freedom on campus.

Therefore, to get these policies implemented at Cornell, the right people must be hired to do the job.

John O’Donnell / Member, Board of Directors, Harvard Alumni For Free Speech (HAFS)

With its Open Inquiry Policy Recommendations to Cornell University, CSFA has provided a roadmap that all universities can follow to protect free expression, academic freedom, and viewpoint diversity on campus.

Jenna Robinson / President, The James G. Martin Center for Academic Renewal

At Cornell and UNC-Chapel Hill, many students and faculty cannot speak or teach the truth, much less openly seek it. Orwellian DEI staff and infrastructure infect our universities with unjust, identity-based ideology and cancel culture. Thus, our State has made compelled speech and most DEI training illegal. We urge Cornell to adopt the CFSA policy recommendations and help return Open Inquiry to the Ivies.

Douglas Monroe / Chair, UNC Alumni Free Speech Alliance

The Cadet Foundation completely supports CFSA Open Inquiry Policy Recommendations as a vital standard for free speech and academic freedom. The CFSA recommendations represent a critical, and essential, move from mere statements to actionable university policy reforms. The Cadet Foundation sees these as a model for others to emulate and calls on Cornell to adopt and implement them immediately.

Robert C. Morris, Jr. / President and Founder, The Cadet Foundation / Alumni of Virginia Military Institute

Support for freedom of expression and academic freedom are foundational principles for our universities, which lead the continuing drive to advance knowledge. These principles are especially important at leading institutions like Cornell. We urge Cornell to strengthen its support for these principles by adopting the CFSA Open Inquiry Policy Recommendations.

Wayne Stargardt / President, MIT Free Speech Alliance (MITFSA)

Too many elite universities are afflicted with limitations on free expression and an atmosphere of ideological conformity. The CFSA Open Inquiry Policy Recommendations chart a course for Cornell and other universities to take action to restore free expression and viewpoint diversity on campus.

John Bruce / Board Member, UNC Alumni Free Speech Alliance (UNCAFSA)

Alumni can do wonderful things for their Alma Maters....to pull them back to the values that... have made (their universities) what they are today. It is a fundamental miscarriage of an institution's vision to think of its alumni as a group of walking check books. They are the guardians of values.

Michael Poliakoff / President, American Council of Trustees & Alumni (ACTA)



CORNELL : CURRENT CAMPUS CONDITIONS

Ezra Cornell's Founding Mission

I would found an institution where any person can find instruction in any study.

Ezra Cornell / University Founder, 1865

Ruth Bader Ginsburg On Free Speech

The right to speak my mind out, that's America ... The right to think, speak and write as we believe without fear that Big Brother will retaliate against us because we don't tow the party line.

Ruth Bader Ginsburg / Cornell '54 / Associate Justice, Supreme Court of the United States

Statements On Cornell Campus Conditions

Cornell's motto says it is an institution where 'any person can find instruction in any study'. Instead, it is becoming a place where everyone is pressured to subscribe to the same ideas, no matter their course of study.

American Council of Trustees & Alumni (ACTA)

Cornell's monoculture stifles free expression and attacks academic freedom. How can the university be intellectually diverse when surveys show 99% of faculty & staff have the same political loyalties, while 88% of students censor themselves? This atmosphere suppresses free thought and free speech. The Cornell administration must act now to create a more welcoming environment for diversity of thought.

Karen Tallentire / Cornell Alumnus

Many Cornellians are scared to challenge the progressive status quo and speak in opposition to those pushing ideological conformity.

Laura Jocelyn / Cornell Student

Cornell ranks 188th out of 203 US universities in its Administration's support for free speech.

FIRE University Free Speech Survey - 2022

I knew we had a problem with freedom of speech at Cornell, especially after the Ann Coulter event. (The above ranking of 188 out of 203) figures definitely confirmed this issue for me.

Max Whalen / Cornell Student

Cornell leadership recently announced a "Year of Free Speech" for 2023-24 academic year. This appears to be little more than a PR campaign aimed at relieving the mounting pressure for university reforms – not a serious effort to address the problems on campus. While claiming devotion to free speech and academic freedom, Cornell leadership has stated that it has no intention of changing the policies which are suppressing these freedoms. This position is not acceptable.

Steve Mirabito / Cornell Alumnus

Professors, staff members and students are strongly discouraged from entertaining certain topics even privately, much less discussing them publicly on campus

Professor Wendy Williams / Cornell University

These days, Cornell's Day Hall seems to be confused about its job -- which is to properly and prudently oversee a great research university. Instead, Day Hall seems inclined to run a Political Action Committee. The Trustee Board needs to adopt the CFSA Policy Recommendations to start the process of getting Day Hall back on track.

Anthony Delgreco / Cornell Alumnus

(The) Cornell University President.... recently announced that the theme of the 2023-24 academic year will focus on free expression, and set up a Steering Committee for Free Expression to that end. (However) Cornell (has) stack(ed) the new free speech committee with DEI scholars.

The College Fix / May 2023 Article

It is really pernicious...For students, the path of least resistance is to keep your mouth shut. This very much undermines the learning environment (at Cornell).

Matthew Samilow / Cornell Student

The alarming reality is that Cornell is rejecting highly qualified faculty applicants in the pure sciences for the sole reason that their political views do not conform to the University's DEI viewpoint preferences. Such policies are sure to be challenged in court soon. Cornell should save itself great embarrassment and potential financial liability by ceasing such discriminatory practices immediately.

Carl F. Neuss / Cornell Alumnus

Students ... cannot say things in their classes. This is what is so remarkably depressing about Cornell...You are in an environment that discourages dissent.

Professor Richard F. Bensel / Cornell University

In the competition among ideas, Cornell University should serve as an open forum for vigorous debate and discovery -- and not become a cheerleader for, or proponent of, one political ideology or another. Unfortunately, the University has now adopted partisan political action as a key purpose. With this loss of viewpoint balance and neutrality, Cornell is currently failing in its fundamental educational mission.

Kenneth P. Wolf / Cornell Alumnus

(With the) intolerance of meaningful debate...the risks and penalties are tangible...from shaming and ostracizing, to fear of loss of tenure and jobs for professors...

Professor Stephen Ceci / Cornell University

Private talks with faculty and students are shocking. An Orwellian atmosphere exists at Cornell. The campus is riddled with anxiety about saying the wrong thing or holding the wrong view. It is heartbreaking to see.

Alvaro Diaz Bedregal / Cornell Alumnus

Today, many Cornell faculty and students live in fear. If they hold the wrong view, university leadership gives no support and mob justice may be unleashed against them.

Professor Richard A. Baer / Cornell University

The current monoculture on campus has stifled “seeking the truth” for both faculty and students alike, creating the greatest threat in the University’s 158 year history to Ezra Cornell’s goal of founding an institution where ‘any person can find instruction in any study’.

Brian Forzani / Cornell Alumnus

We write as a group of liberals frustrated with the current campus hostility towards free speech and open dialogue.

Ben Feldman / Cornell Student

Cornell University removes bust of Abraham Lincoln, citing a ‘Complaint’ (the display) was taken down following “a complaint.” It’s not the first time Lincoln’s name has been scrubbed from an institution in the fervor of post-2020 iconoclasm.

The National Review / June 2022

The Cornell clock tower, arts quad and hockey uniforms look the same. But an intolerant ideological grip has transformed campus into something unrecognizable. With a few notable exceptions, dissenting faculty, staff and students have been sidelined or silenced.

Steve Baginski / Cornell Alumnus

The DEI bureaucracy...creates division, entitlement, and intimidation which prohibits free speech. People are so afraid of being called a racist ... that they won’t say anything. My students are afraid to express themselves.”

Professor Randy Wayne / Cornell University

The lack of ideological debate on this campus is extremely harmful to students.

Jessica Reif / Cornell Student

Under strong pressure to conform to ideological norms, 88% of Cornell students report self-censorship in class and on campus.

Foundation For Individual Rights In Education (FIRE)

Differences should be what the university is most about – not just differences in how people look, but in how people think.

Julius Kairey / Cornell Student

Some are pessimistic about bringing needed change to Cornell. I am more positive -- because the current learning environment is so utterly indefensible. And, Cornell leadership knows this.

Vivian Desanto / Cornell Alumnus

Students do not feel comfortable expressing their opinion ... due to fears of social ostracism and especially from fear of punishment from the administration.

Anonymous Graduate Student’s Letter To The Dean / Cornell University

99.5% of Cornell Faculty, Academics’ Donations Given to Left-Leaning Groups.

The Cornell Daily Sun

Faculty donations go almost entirely to (a single political party). This reflects the extreme homogeneity of political views on campus.

Professor Richard F. Bensel / Cornell University

Cornell leadership fails to protect free speech. Denouncing a professor while taking no action and citing job protection tells faculty and students lacking such protection that they are at risk. This is how ideological conformity is imposed on campus.

Professor William A. Jacobson / Cornell University

Cornell's commitment (to free speech) feels more perfunctory than real... The faculty know that the university doesn't really back you up.

Matthew Samilow / Cornell Student

Cornell leadership must recognize that denial and/or neglect of the open inquiry and academic freedom problems currently confronting the University will not work. The problems are real and they are serious. With an embedded monoculture on campus, the independent judgements of the Board of Trustees are now crucial. The Board must act to protect Cornell and its founding principles.

David Ackerman / Cornell Alumnus

For a decade, there has been a very strong positive correlation between the expansion of Cornell's collaborative (international) programs and the increasingly repressive environment of the host institutions with which we are involved . . . It seems almost lock step that if oppression goes up, so does Cornell's involvement abroad.

Professor Richard F. Bensel / Cornell University / [FIRE Article on Cornell Global Hubs](#)

A repressive campus culture does not eliminate those with dissenting views. The goal is to win hearts and minds—not to cancel them.

Sara Stober / Cornell Student

Gettysburg Address, Abraham Lincoln bust removed from Cornell library (by Administration) ...Exhibits, statues and names honoring historical American figures have come under increasing scrutiny, most notably during the protests and riots in the summer of 2020. Lincoln was among the figures targeted.

New York Post / June 2022

(T)he University is looking for ways to train students faculty and staff in the reigning campus orthodoxy. ...Cornell is working to ensure that its students won't hear a variety of viewpoints by mandating that faculty applicants pass an ideological litmus test to get a job.

American Council of Trustees & Alumni (ACTA)

The most untrained eye can observe that .. the university continues to endorse an abhorrent lack of (viewpoint) diversity.

Raj Kannappan / Cornell Alumnus / VP, Young Americas Foundation

Faculty viewpoint conformity contributes to a campus culture hostile to free expression. Viewpoint diversity should be embedded in the hiring process just as the university embeds other forms of diversity.

Professor William A. Jacobson / Cornell University

Faculty preach a very uniform way of thinking which is very clearly reflected in our classes and assignments.

Jessica Reif / Cornell Student

I enjoyed my time at Cornell tremendously, but I don't think I'd enjoy it if I were there today. I would hate the pressure to conform to a set ideology.

Loretta Breuning / Cornell Alumnus

Cornell's monoculture distorts research. The study of American poverty is directly impeded. Only certain causes and solutions are "acceptable" avenues of study -- others are not. Free academic inquiry is shut down.

Anonymous Professor / Cornell University

DEI programs, with their divisive identitarian concepts, compelled speech, suppressed dissent, and the soft bigotry of low expectations, have no place at Cornell -- whose defining and legitimizing purpose as a place of learning and human fulfillment can only be realized through a steadfast commitment to freedom of speech, open inquiry, civil discourse, and genuine intellectual diversity.

J. Kenneth Davis / Cornell Alumnus

Cornell is captive to a religious fervor which is intolerant of non-believers. The religion of identity politics and grievance culture now pervades Cornell and seems determined to stamp out viewpoint diversity and free academic inquiry.

Professor Richard A. Baer / Cornell University

There are a million examples of (Cornell University) actions that contribute to the (repressive) culture...The fear on campus is an effective deterrent (to free speech).

Matthew Samilow / Cornell Student

The First Amendment guarantees of religious freedom and free speech go hand-in-hand. It is very distressing to see attacks on traditional religious faith at Cornell. In particular, instances of antisemitism have grown at the University. My concern is that current Cornell policies impair, rather than uphold, religious freedom. This is not the Cornell I once knew.

David Ackerman / Cornell Alumnus

Cornell ... will not benefit if it becomes known as a place that is hostile to academic freedom.

Dr. Peter Wood / President, National Association of Scholars

We are actively discouraged ... from engaging in intellectual discussion in favor of regurgitating talking points that professors give us.

Jessica Reif / Cornell Student

There is no way to explain away the transparent contradictions between the university's diversity policy and its supposed commitment to a competition of ideas.

Raj Kannappan / Cornell Alumnus / VP, Young Americas Foundation

The fact that Cornell leadership felt the need to recently declare 2023-24 "The Year of Free Speech" on campus speaks volumes. CFSA now reaches over 50,000 Cornellians. As alumni become more informed on how much Cornell has drifted from its founding mission, demands for a substantial shift in University policy (not just speeches and PR) will grow. Cornell must now make this shift.

Alvaro Diaz Bedregal / Cornell Alumnus

I've been watching the campus climate for 50 years now. This is the worst it's been (with respect to the free speech environment).

Robert Platt / Cornell Alumnus

(Cornell's) leaders talk about preserving the values of free speech and open inquiry... But do they have the spine to punish students when they violate those standards? (The University President's) recent comments ... do not inspire confidence. (The) President... should be taking the lead; instead, she's deflecting responsibility.

Real Clear Education / November 2022

Time might be running out on Cornell's reputation for excellence given the school's recent retreat from the values of open inquiry and free expression....Students, faculty, and alumni say the school is suffering from a monoculture in which dissenting voices are rare and unwelcome.

American Council of Trustees & Alumni (ACTA)

ALUMNI FREE SPEECH ALLIANCE



Cornell University



Princeton University



Harvard University



UNC / Chapel Hill



MIT



Stanford University



University of Virginia



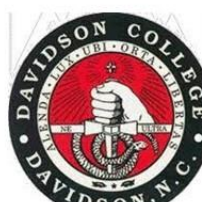
Yale University



Lafayette College



Bucknell University



Davidson College



Washington & Lee



Macalester College



Wofford College



UCLA



Columbia University



Boston University



James Madison University



UC Berkeley



Michigan State University

The Cornell Free Speech Alliance (CFSA) is a founding member of the [Alumni Free Speech Alliance](#) (AFSA). Established in September 2021, AFSA is a consortium of alumni, students, faculty, and staff organizations from leading US universities. AFSA membership is now comprised of 20 university groups and continues to grow rapidly. Each AFSA Member is committed to promoting and protecting the following three fundamental educational pillars at their respective institutions : 1) Freedom of Expression; 2) Viewpoint Diversity; and 3) Academic Freedom. Essential to the mission and proper functioning of every university, these three Open Inquiry principles are now under attack on college campuses across the nation as pressures grow to impose ideological orthodoxy, intellectual dogma, and viewpoint conformity on the faculties, students, and staffs of these historic educational institutions.

All AFSA Members are bound together in their common struggle to push back against today’s powerful forces which are creating harmful monocultures on campus and which impair the University quest for “truth and knowledge” by making “partisan political activism” a priority in their policies governing educational curricula, academic research, and faculty hiring and promotion. AFSA Members are in the vanguard of the nationwide effort to return environments of Open Inquiry to America’s university campuses.



Date: August 14, 2023

To: President Martha Pollack / Cornell University
Board Chairman Kraig Kayser & Cornell Board of Trustees
Provost Michael Kotlikoff / Cornell University

From: [Cornell Free Speech Alliance \(CFSA\)](#)

CC: [Alumni Free Speech Alliance \(AFSA\)](#), [Speech First \(SF\)](#), [National Association of Scholars \(NAS\)](#), [Foundation for Individual Rights and Expression \(FIRE\)](#), the [American Council of Trustees & Alumni \(ACTA\)](#), [Academic Freedom Alliance \(AFA\)](#), [Heterodox Academy \(HxA\)](#), the [Foundation Against Intolerance & Racism \(FAIR\)](#), the [Manhattan Institute \(MI\)](#), the [Institute for Free Speech \(IFS\)](#), [Harvard Alumni For Free Speech \(HAFFS\)](#), [MIT Free Speech Alliance \(MITSA\)](#), [UNC Alumni Free Speech Alliance \(UNCAFSA\)](#), [The Jefferson Council / UVA](#), [Alumni and Donor Unite](#), [The James G. Martin Center for Academic Renewal](#), [The Cadet Foundation / VMI](#), [The Becket Fund \(TBF\)](#)

Subject: *LIFTING THE FOG : RESTORING ACADEMIC FREEDOM & FREE EXPRESSION AT CORNELL UNIVERSITY*

Transmittal of
*“CFSA Open Inquiry Policy Recommendations
to Cornell University”*

Overview

In recent years, Cornell University has drifted away from its founding mission of discovering and disseminating “knowledge and truth” – and, instead, has prioritized “assertive political action” as a primary driver of its institutional activities. This mission drift has engulfed the university in a “foggy haze” of

ideological dogma, altered priorities, conflicting purposes, viewpoint intolerance, and free speech impediments which has greatly impaired the Open Inquiry environment now existing on campus. As a consequence, a Cornell student survey conducted by the Foundation for Individual Rights and Expression (FIRE) has found that 88% of students now self-censor their speech on campus. FIRE has also determined that the current Cornell Administration ranks [188th out of 203 US universities](#) in its support for free expression. In addition, media surveys report that the University's faculty and staff currently represent a 99% pure political monoculture. These are devastating conditions to exist at a university such as Cornell which claims to support diversity of thought and viewpoint. The highly respected American Council of Trustees and Alumni (ACTA) now says this about Cornell University :

Cornell's motto says it is an institution where 'any person can find instruction in any study'. Instead, it is becoming a place where everyone is pressured to subscribe to the same ideas, no matter their course of study.

American Council of Trustees & Alumni (ACTA)

Diversity and inclusion are very worthy goals and Cornell University has an important role to play in supporting creative thinking and research aimed at improving society. However, as noted above, University policies and practices have crushed, rather than enhanced, viewpoint diversity on campus. Current Cornell policies increasingly impose political and intellectual conformity on its faculty and students -- which is antithetical both to the University's educational mission and to advancing positive change of the type a diverse society can embrace. The ideological dogma and thought orthodoxy prevailing on campus today contradict all that Cornell stands for by replacing the University's search for "truth and knowledge" with a mission focused on "political activism" and mandated viewpoints.

As a consequence, along with other universities, Cornell is suffering from intense public criticism as well as legal scrutiny for fostering learning environments that impede Free Expression, Academic Freedom, and Viewpoint Diversity. The growing politicization of the University prevents free and open intellectual debate, discussion, and discovery. The goal of Cornell Free Speech Alliance (CFSA) is to help the University stay true to its founding

educational principles and to make Cornell a beacon of Open Inquiry that will enhance its stature and uniqueness among America's greatest universities.

The background and purpose of this transmittal are outlined below:

- Cornell University's founding mission of developing and disseminating "truth and knowledge" is wholly dependent upon the University's steadfast commitment to three (3) essential Open Inquiry principles: 1) Free Expression; 2) Academic Freedom; and 3) Viewpoint Diversity.
- Cornell leadership has progressively moved the University toward official policies and positions that are increasingly narrow and political in character — and which do not reflect the Viewpoint Diversity of US society as a whole.
- Extensive press reporting has exposed the serious challenges to Open Inquiry now existing at Cornell (see [Ref. A](#) and [Ref. B](#)).
- Media surveys have found that [99% of Cornell faculty and researchers](#) share the [same political party alignment](#) and that Cornell is well below average among U.S. universities in terms of the free speech climate on campus (i.e. the bottom 25% per recent [FIRE survey](#)).
- This extreme one-sidedness has created an intellectual monoculture which has greatly diminished the Academic Freedom and Free Expression conditions on campus.
- As has been extensively [reported by faculty and students](#) (see "Cornell: Current Campus Conditions" herein on *page iii*), the resulting acute thought orthodoxy on-campus has marginalized a great number of students and faculty at Cornell who hold views that do not conform to the majority opinion and has emboldened the Cornell Administration to prioritize "partisan political activism" over the "search for truth and knowledge" in a variety of University actions and policy initiatives.
- This increased politicization and political activism of the University has become more extreme in recent years as US national politics have become more polarized and confrontational.
- Because of the greatly narrowed, rather than broad range of, "acceptable" social and political views on campus, Cornell faculty, staff, and students have become isolated and insulated from the Viewpoint Diversity that exists within the broader society which the University is intended to serve.

- CFSA has learned from Cornell faculty and students that a growing and intense “fear” of personal and/or professional retribution exists due to the viewpoint intolerance now prevailing on campus (see “Cornell: Current Campus Conditions” on *page iii*).
- Most alumni can hardly imagine that such an “aura of fear” could possibly exist at a university such as Cornell. Yet, this is the condition now prevailing at the University.
- The monoculture and intolerance existing at Cornell today engenders this fear and directly undermines the essential educational pillars of Open Inquiry, Free Expression, Academic Freedom, and Viewpoint Diversity in favor of creating unanimity of thought within the on-campus Cornell Community. The resulting intellectual orthodoxy prevents Cornell from carrying out its mission to objectively pursue truth and knowledge.
- This intolerant monoculture also poses threats to religious freedom at Cornell as [proposed university polices](#), instances of [religious discrimination](#), and [antisemitism](#) present growing challenges to religious faith on campus.
- For this reason, Cornell can benefit from independent viewpoints and off-campus influences to help steer the University back to its intended educational mission and to push back against intolerance .
- The Cornell Free Speech Alliance is composed of Cornell alumni, faculty, students, and staff who represent such an independent influence that seeks to help Cornell strengthen and refocus on its core principles and to help return the University to an environment where Open Inquiry, Free Expression, Academic Freedom, and Viewpoint Diversity can again thrive.
- To achieve this goal, the Cornell Administration and Board of Trustees must take specific actions to institute a variety of greatly needed University policy reforms in order to redirect the University toward its founding goals and aspirations.
- In addition, given New York State employment law and recent US Supreme Court decisions, discrimination in Cornell’s current faculty and staff hiring practices and in its student admissions processes may well be unlawful. Therefore, beyond concerns about loss of Academic Freedom and Open Inquiry on campus, Cornell leadership should recognize that a continuation of its current policies and practices could create very substantial legal and financial liabilities for the University in the future.

- To address these serious challenges, a document entitled “*CFSA Open Inquiry Policy Recommendations to Cornell University*” is transmitted herewith (see ATTACHMENT A below). CFSA urges the Cornell Administration and Board of Trustees to review and implement these policy recommendations as soon as possible.
- The CFSA policy recommendations draw upon the following well-established academic freedom policy guidelines published by the University of Chicago and Yale University : the Chicago Principles, the Kalven Report, the Woodward Report, and the Shils Report (see APPENDICES).
- As explained in these highly respected reports, the CFSA policy recommendations are essential for the proper functioning of Cornell University. However, based on CFSA’s detailed review, none of these policies currently exist (or are enforced) at Cornell, while many existing University policies and practices (especially proposed or adopted [DEI related practices](#)) run directly counter to the key educational and ethical principles upon which Cornell University was founded.
- Beyond written policy alone, Cornell’s personnel and staffing practices must also be adjusted to advance policy reforms aimed at positively impacting campus life. To correct the growing impediments to Open Inquiry, Cornell must hire professional staff who are assigned and empowered to fully implement the necessary policy reforms.
- To the extent the University retains personnel who resist, ignore, or undermine existing University free speech and academic freedom protections, the Cornell Board of Trustees and Administration must not shrink from making the personnel changes needed to redirect the University to prioritize Open Inquiry, Academic Freedom, Free Expression, and Viewpoint Diversity.
- A very troubling fact is that FIRE has determined that the current Cornell Administration is performing in the bottom 8% among US university administrations with regard to its support for free expression on campus.
- This very low performance level indicates that the Cornell Board of Trustees should exert strong oversight in working with the Administration to improve the Open Inquiry environment at the University.

- CFSA representatives plan to meet soon with the Cornell Administration and Board of Trustees to discuss ways that the policy recommendations made herein might be implemented in timely fashion to assist the University in correcting course and returning to its longstanding educational values and proper priorities.

Since CFSA's August 2021 founding, the Cornell Administration has come under increasing pressure from news media, committed alumni, faculty, students, and academic freedom / free speech non-profit organizations urging the University to make needed policy reforms. With the degraded free speech environment now prevailing at Cornell, CFSA has been calling upon the Administration since Spring 2022 to adopt the Chicago Principles for free expression and to institute First Amendment / Free Speech training for all incoming students. Unfortunately, the Cornell Administration has ignored these calls and has not responded to CFSA requests for University engagement and action on these pressing matters.

Then, in mid-April 2023, Cornell leadership made a sudden and unexpected announcement to launch a [“Year Of Free Speech” program](#) on campus for the 2023-24 academic year. Regrettably, follow-on [program appointments](#) and [press statements](#) made by Cornell leadership indicate that this “Year Of Free Speech” may be little more than a public relations / advertising campaign aimed at deflecting and resisting these growing pressures – rather than at making the substantive policy changes which are necessary. Policy reform, not speeches and PR campaigns, is what is needed at Cornell. It is CFSA's hope that the University will alter its stance of denial and resistance -- and now implement the sorely needed Open Inquiry policy recommendations presented in ATTACHMENT A.

Further background and details associated with the [*“CFSA Open Inquiry Policy Recommendations To Cornell University”*](#) are provided below.

Background

[Cornell Free Speech Alliance](#) (CFSA) is a non-profit, non-partisan organization composed of Cornell alumni, faculty, staff, and students who work to advance the principles and policies necessary to protect and preserve the following three essential pillars of Open Inquiry at Cornell University: 1) Academic Freedom; 2) Free Expression; and 3) Viewpoint Diversity. To encourage the

University's adherence to and protection of these critically important educational pillars, CFSA is transmitting herewith the "*CFSA Open Inquiry Policy Recommendations to Cornell University*" (see ATTACHMENT A below).

CFSA supports the key aspects of the following four well-known reports, which examine and address the critically important subject of Open Inquiry at U.S. Universities: i) the Chicago Statement (APPENDIX 1); ii) the Kalven Report (APPENDIX 2); iii) the Woodward Report (APPENDIX 3); and iv) the Shils Report (APPENDIX 4). Published by the University of Chicago and Yale University, these reports provide a sound framework for university policies and governance on matters of Academic Freedom, Free Expression, and Viewpoint Diversity on campus. Over [100 leading US universities](#) have adopted the Chicago Principles as their policy for free speech on campus. Cornell's current policies are insufficient to properly protect free speech; yet, the University thus far has failed to adopt the Chicago Principles as has been recommended by CFSA. Together, the above four (4) reports provide the necessary policy foundation to support and protect the above noted key pillars of university Open Inquiry.

To ensure that the CFSA policy recommendations made to Cornell reflect the very best state-of-practice for U.S. university governance, CFSA has requested and received the review and input of the following non-profit organizations which are focused on advancing Open Inquiry in university education: the Academic Freedom Alliance (AFA), the Foundation for Individual Rights and Expression (FIRE), the Alumni Free Speech Alliance (AFSA), the National Association of Scholars (NAS), Speech First (SF), Heterodox Academy (HxA), the American Council of Alumni & Trustees (ACTA), the Foundation Against Intolerance and Racism (FAIR), and the Institute for Free Speech (IFS). Input from these highly respected organizations (cc'd herewith) is incorporated in the CFSA policy recommendations. However, the full range of recommendations presented in ATTACHMENT A are made by CFSA alone.

The principles set forth in the Kalven Report, the Shils Report, the Chicago Statement, and the Woodward Report emphasize the necessity of free speech, academic freedom, viewpoint diversity, and institutional political neutrality on university campuses since these comprise the essential elements needed for the proper and effective functioning of a university. These reports make clear that even America's greatest universities must be diligent in maintaining and refreshing their commitment to the advancement of truth and knowledge and

in resisting pressures for political and/or social conformity and thought orthodoxy within higher education.

Cornell has strayed from these Open Inquiry foundations. To keep Cornell focused on its mission to advance objective truth and knowledge, CFSA recommends the following initiatives be undertaken by the Cornell Administration and Board of Trustees:

- Revise university policies to restore and protect open inquiry, academic freedom, viewpoint diversity, and free expression as the paramount principles undergirding and permeating all aspects of Cornell University activities in carrying out its educational mission.
- Restore administrative intent and specific means to enforce policies to deter any who would act in violation of these principles and to ensure explicit and public sanction of any who remain undeterred.
- Confront and eliminate all specific practices and factors which have led over time to the erosion, loss, and/or degradation of these key principles at Cornell.

The specific recommendations aimed at advancing the above general initiatives are set forth in the attached “CFSA Open Inquiry Policy Recommendations” submitted herewith as ATTACHMENT A.

Current Conditions at Cornell

Several factors are contributing to the Open Inquiry challenges now confronting Cornell University. First, institutional neutrality has been lost at Cornell. As concluded in the Kalven Report (see APPENDIX 2), the University should take no position on political matters that are the subject of unresolved debate and/or disagreement within the larger society. Yet, the Cornell Administration, without consultation of its supporters and constituencies, has endorsed, adopted, and energetically promoted a variety of strongly held positions on controversial issues such as race relations, climate, sex and gender, immigration, and others. As made clear in the Kalven Report, political activism promoted by the University or its Administration is in direct conflict with the fundamental educational mission of Cornell and should not be permitted.

Second, a fundamental purpose of Cornell University is to provide the larger society with an arena for the free investigation, scientific discovery, and wide discussion and debate of ideas and knowledge among faculty and students, without regard to prevailing popular opinion within the broader culture.

However, Cornell Administration policies have severely diminished this free investigation, especially for faculty, across a wide swath of important academic disciplines including the humanities, social sciences, engineering, the natural sciences, and medicine. Indeed, Cornell Administration policies are now violating the basic tenets of academic freedom by imposing pressures for politically oriented instruction throughout the coursework and curricula in virtually all departments and academic fields within the University. Such curricular mandates directly violate the critically important pillars of academic freedom upon which the integrity of Cornell University and its mission are founded.

Third, any individual or group at Cornell who seeks to forcibly limit the free discovery and free speech of others should be deterred and/or explicitly and publicly sanctioned. Robust and spirited debate is a key element of open inquiry. However, Cornell Administration policies, practices, actions, and inactions have allowed persons whose views are unpopular among some on campus to be cancelled or shouted down at Cornell through heckling, personal character attack, career impairment, and other means. Meanwhile, transgressors are undeterred by the Cornell Administration and its policies. Thus, such hecklers and cancellers have had no fear of discipline or consequences and, thereby, are free to impair the rights and impugn the personhood and views of others at Cornell. The result is the creation of a dangerous toxicity within the Cornell educational environment. The solution to speech with which people disagree is more speech -- not the disruption of speech or retaliation against those holding disfavored viewpoints.

Fourth, as memorialized in the Chicago Principles (APPENDIX 1) and the Woodward Report (APPENDIX 3), freedom of expression is perhaps the most important asset of a university. But, through disruption of the free and open exchange of differing views or of unpopular or controversial speech, Cornell frequently has designated ever changing and broadening categories of undefined “hate speech” and “micro-aggressions”. Meanwhile, a growing proportion of students appear to believe that physical violence is justified to counter those holding opposing views with accusations of “hate speech” – which can be defined in whatever arbitrary manner might then be fashionable. The result is that a “cloud of fear” now engulfs Cornell University, where the Foundation for Individual Rights in Expression (FIRE) reports that [88% of students self-censor](#) and many faculty report an inability to teach and debate competing ideas freely and openly in the classroom.

Fifth, in the search for truth and knowledge, freedom of academic inquiry and expression should be protected even if such freedoms may offend some -- which educational history tells us they are bound to do. Academic freedom and free speech are paramount principles within a university. Today, the content of scientific research, personal and professional expression, and academic writings at Cornell are under constant pressure to conform to “politically correct” norms that run directly counter to and seriously undermine open inquiry, academic freedom, and viewpoint diversity. Concerns of “community”, “belonging”, “microaggressions” and related efforts to “protect students from harmful ideas” must be clearly and emphatically subordinated to the essential principles of open inquiry, academic freedom, free expression, and viewpoint diversity. Yet, the Cornell Administration’s adoption of “Core Principles” in 2019 have resulted in efforts to eradicate “bad speech and bad ideas” and have elevated “protect from harm” concerns to a level equal to or greater than that of academic freedom and free speech. Recently, DEI administrators, whose sole focus is to promote and magnify such “protect from harm” thinking, have been put in charge of Cornell’s upcoming “Year of Free Speech”. Appointing administrators or faculty, who are committed to DEI policies that suppress and constrain open inquiry, to plan and lead such a campus-wide initiative is likely to chill, rather than encourage, speech. Such appointments will further impair open inquiry and free expression at Cornell.

Lastly, as memorialized in the Shils Report (see APPENDIX 4), hiring, promoting, and granting tenure to faculty should be based solely on individual academic and research achievement and performance. Personal political views, religious beliefs, social perspectives, academic conformity, intellectual orthodoxy, and/or other viewpoint-related or personal factors unrelated to the pertinent academic field should be given no consideration in the hiring, promotion, or tenure of faculty. Yet, Cornell is now using faculty “DEI Statements” as a political litmus test in the hiring of faculty to weed-out candidates who do not adhere to certain preferred viewpoints and political perspectives defined as desirable by the Cornell Administration. In some cases, Cornell is eliminating faculty candidates who do not belong to a particular identity or racial group in its faculty hiring decisions. Examples of DEI Statements imposing identity group and/or political bias in Cornell faculty hiring decisions show how far the University has strayed from fair, proper, and legal employment processes. Future “CFSA Cornell Campus Reports” (see [Ref. A](#) and [Ref. B](#)) will illuminate such practices now being used in faculty searches at Cornell. Articles published by the [Cornell Daily Sun](#) and [The College Fix](#)

suggest that such methods have helped to create a homogeneous political culture that makes viewpoint diversity and academic freedom impossible to achieve. Current Cornell Administration policies have created a campus culture where faculty are not only politically monolithic, but intolerantly so, in many instances. An environment of open inquiry and academic freedom cannot exist at Cornell under policies and conditions which eradicate viewpoint diversity and promote the unchallenged thought orthodoxy now existing.

Policy Recommendations

The above realities represent only a partial recounting of the troubling conditions existing at Cornell today. Reporting by leading educational non-profit organizations and the US national press has highlighted the above Cornell campus conditions. In addition, future “CFSA Cornell Campus Reports” will be published in the coming months which further describe the “conditions on the ground” experienced by Cornell faculty, students, and staff.

For alumni who have not spent extended periods on campus in recent years, it may be hard to believe that Cornell University could be suffering from the acute open inquiry, academic freedom, and free expression maladies described above. Yet, the Cornell Administration and Board of Trustees well know that the above realities indeed prevail on campus today. Many alumni are greatly disappointed and dismayed to learn of the degradation of fundamental educational principles that has taken hold at Cornell. A key aim of CFSA is to spotlight the current realities and, in so doing, to mobilize alumni, students, faculty, staff, the Cornell Board of Trustees, and the current Cornell Administration to support and implement University policy changes which can begin to return Cornell to a place where open inquiry, academic freedom, viewpoint diversity, and free expression can once again thrive.

Now reaching over 50,000 Cornellians, having over 160 volunteering alumni, and numbering over 110 faculty members as well as many students and staff as supporters, CFSA has built a broad base of on-campus and off-campus members of the Cornell Community who provide first-hand insights regarding policies, practices, and conditions currently prevailing at the University. These reports may lead CFSA to amend or expand its policy recommendations to Cornell University in the future.

Mitigating Institutional Risks

Today’s assault on academic freedom and free speech poses grave risks to the fundamental principles and legacy of Cornell University. However, in addition

to these growing open inquiry risks, current Cornell policies and practices may also create potential legal, financial, and reputational jeopardy for the University. Recent Supreme Court decisions on racial bias in student admissions, controversies associated with web-based “anti-bias reporting systems” (such as those used at Cornell), abusive DEI training tactics, and discriminatory practices employed in faculty hiring can also create serious legal risks for the University. Such practices and related disciplinary actions (including at Stanford University) have recently led to the suicide deaths of an educational administrator and a student – and resulting lawsuits filed against the institutions involved (see [Case A](#) and [Case B](#)). If court cases continue to be brought that successfully [challenge the lawfulness of current university practices](#), substantial financial liability and damages judgements could be levied against universities. Indeed, [Oberlin College, for example, has been found liable](#) for payment of over \$36 million in lawsuit damages to a plaintiff who was subjected to malicious attack and slander at the hands of the college. Such lawsuits against US universities are on the rise.

If Cornell policies and practices remain unchanged, the University may open itself up to serious financial damage. Such potential liabilities could greatly harm Cornell if its current policies are determined to be unlawful. The existence of University departments or staff who help create such patterns of risk should have no place at Cornell. Of course, beyond the legal, ethical, and financial damage that could be done, Administration actions that put Cornell in such jeopardy would also have disastrous impacts on the University’s larger standing and reputation within US higher education. Implementation of the CFSA Open Inquiry Policy Recommendations will help protect the University from these growing risks. Therefore, the Administration and Board of Trustees should view the CFSA policy recommendations as a means for institutional “risk reduction”. It is incumbent upon Cornell leadership to change those policies that introduce such threats to the University and its operations.

CFSA Meetings With Cornell Leadership

To address the conditions described above, CFSA hereby submits to the Cornell Administration and the Board of Trustees the attached “CFSA Open Inquiry Policy Recommendations” (see ATTACHMENT A) which the Administration and Board are encouraged to review and implement. In order to provide further specifics and background related to these recommendations, CFSA respectfully requests an in-person meeting with the Cornell President and the Executive Committee of the Board of Trustees in September 2023. Toward this end, CFSA will be in contact with the President’s Office and the Board Chairman

by August 25, 2023 in order to set a date for such in-person meetings. It is requested that the President and Board Chairman respond to CFSA by this August 25 date to confirm the scheduling of such meetings. CFSA looks forward to engaging constructively with the Cornell Administration and Board of Trustees to advance efforts to strengthen the environment for Open Inquiry, Academic Freedom, Free Expression, and Viewpoint Diversity at Cornell University.

Respectfully Submitted,

CORNELL FREE SPEECH ALLIANCE
Open Inquiry Policy Working Group

(Signees in Alphabetical Order)

David Ackerman	Prof. Richard A. Baer	Steven Baginski
Loretta Breuning	Cindy Crawford	J. Kenneth Davis
Anthony Delgreco	Alvaro Diaz Bedregal	Brian A. Forzani
Prof. Emily Heebner	Prof. Wm. Jacobson (Law)	Raj Kannappan
Andrew Lindseth	Jon A. Lindseth	Dr. Vivek Mathew
Prof. Luana Maroja	Stephen Mirabito	Carl F. Neuss
Susan Price	Robert Shwab	Prof. Allan Stam
Arthur Taft	Karen Tallentire	Kenneth P. Wolf

Anonymous Cornell Faculty Members, Alumni, & Donors

Members of the Cornell Community Signing Via Electronic Petition

ENCLOSURES

ATTACHMENT A:

CFSA Open Inquiry Policy Recommendations To Cornell University

APPENDIX 1: The Chicago Principles (published by the University of Chicago)

APPENDIX 2: The Kalven Report (published by the University of Chicago)

APPENDIX 3: The Woodward Report (published by Yale University)

APPENDIX 4: The Shils Report (published by the University of Chicago)

ATTACHMENT A:
**CFSA Open Inquiry Policy Recommendations
to Cornell University**

PREAMBLE

Published over fifty years ago by the University of Chicago, the Kalven Committee Report (see “APPENDIX 2”) concluded the following regarding the University’s Role in Political and Social Action:

The university is the home and sponsor of critics; it is not itself the critic. It is, to go back once again to the classic phrase, a community of scholars. To perform its mission in the society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its own community. It is a community but only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby.

Since the university is a community only for these limited and distinctive purposes, it is a community which cannot take collective action on the issues of the day without endangering the conditions for its existence and effectiveness. There is no mechanism by which it can reach a collective position without inhibiting that full freedom of dissent on which it thrives. It cannot insist that all of its members favor a given view of social policy; if it takes collective action, therefore, it does so at the price of

censuring any minority who do not agree with the view adopted. In brief, it is a community which cannot resort to majority vote to reach positions on public issues.

As further emphasized in the Chicago Principles (see “APPENDIX 1”) and the Woodward Report (see “APPENDIX 3”), there is nothing more critical to the mission of the university than fostering the robust debate that justifies its unique position within society. Such freedom is necessary for the development of knowledge and must be protected and upheld for faculty, students, visitors, and all other members of the Cornell community in every discipline. Without the freedom of open inquiry and debate, the pursuit of knowledge quickly is displaced by conformity to the dictates of powerful voices and subsumed by divergent motivations. Such freedom is necessary to students if they are to develop the robust mental skills that will allow them to take their place in the world, whether by forming the next generation of academic knowledge-seekers or by applying what they have learned on a broader stage.

Such an approach is consistent with the views of Cornell University’s founder:

Coeducation of the sexes and entire freedom from sectarian or political preferences is the only proper and safe way for providing an education that shall meet the wants of the future and carry out the founders idea of an Institution where any person can find instruction in any study. I herewith commit this great trust to your care. –Ezra Cornell

These principles are especially crucial today when the prevailing culture tends to focus on free speech as a right pertaining only to those topics NOT in dispute and congratulating itself as a free speech champion when everyone agrees, and when speakers dutifully repeat the established viewpoint as bestowed by the university and suppress those views that are contrary to it, oftentimes under the heading of misinformation or hate speech. Thus, not all speech on all issues is suppressed, only that which

is most needed: speech that challenges the established viewpoint. Such an approach of speech suppression is not new, but rather seems to raise its censorious head in every generation forcing each new generation to say, “not on my watch.”¹

Suppression of speech is, of course, also contrary to Cornell’s multifarious policies, including, for example, Cornell’s Student Code of Conduct, which provides:

We are a community whose very purpose is the pursuit of knowledge. We value free and open inquiry and expression — tenets that underlie academic freedom — even of ideas some may consider wrong or offensive.

Freedoms to teach and to learn, to express oneself and to be heard, and to assemble and to protest peacefully and lawfully are essential to academic freedom and the continuing function of the University as an educational institution.² To that end, Cornell University should abide by the following:

¹ See, e.g, the 1974 Report of the Woodward Committee to Yale University, which stated, If the priority assigned to free expression by the nature of a university is to be maintained in practice, clearly the responsibility for maintaining that priority rests with its members. By voluntarily taking up membership in a university and thereby asserting a claim to its rights and privileges, members also acknowledge the existence of certain obligations upon themselves and their fellows. Above all, every member of the university has an obligation to permit free expression in the university. No member has a right to prevent such expression. Every official of the university, moreover, has a special obligation to foster free expression and to ensure that it is not obstructed.

Available at <https://yalecollege.yale.edu/get-know-yale-college/office-dean/reports/report-committee-freedom-expression-yale>

² Available at <https://statements.cornell.edu/2021/20210602-student-code.cfm>.

RECOMMENDED POLICIES & ENFORCEMENT MECHANISMS

ARTICLE 1: General University Policy

RECOMMENDATION 1a: Adopt the Chicago Principles (see APPENDIX 1) without caveat, disclaimer, or reduction as expressing Cornell University’s unwavering position on protecting freedom of speech and open inquiry.

RECOMMENDATION 1b: Adopt the Kalven Committee Report (see APPENDIX 2) on the University’s Role in Political and Social Action as expressing Cornell University’s position on the role of the university in society.

- i. Eschew political activism in playing any role in the mission of the University speaking on its own behalf. As the Kalven Report asserts, *“The university is the home and sponsor of critics; it is not itself the critic.”* This means, in particular, to refrain from involving the University in political activism in its own name, personal attacks, or any other political statements or action that purports to express a political position taken by the University. In particular, members of the existing or any future administration, although free to speak in a personal capacity, should not present personal views—or even views held by a plurality or majority of the administrative staff—as the “view” of Cornell.
- ii. Facilitate diversity of viewpoint and expertise within and among fields of study (through hiring, retention, compensation, assignment, promotion, and tenure

practices; and thesis, research, and dissertation support).

- iii. Provide training respecting diversity of viewpoint and expertise.

RECOMMENDATION 1c: Clearly and unequivocally state that words are not physical violence and physical violence is not speech.

RECOMMENDATION 1d: Reject the “heckler’s veto”:

- i. Do not charge security fees to a student or student organization based on any of the following:
 1. The content of the student’s or student organization’s expression;
 2. The content of an invited guest’s expression; or
 3. The anticipated reaction to an invited guest’s expression.
- ii. Ensure that any protest in response to other speakers or speech does not interfere with physical ingress or egress to an event or the ability of speakers and listeners to hear and be heard.
 1. University response to violations should be timely, proportionate, and publicized to provide transparency to victims and the general population. The policy on which the University response is based should be cited and any deviation from the policy should be explained in a publicly available forum.
 2. Potential responses include: violator bears the cost of the event or the cost of repairing or replacing any physical damage; notice on the violator’s

transcript, loss of University-controlled student aid; suspension; or in cases of egregious, repeat, or violent behavior: expulsion or dismissal.

RECOMMENDATION 1e: Create and maintain an administrative structure that operates as a check on University policies or practices that infringe on speech or ideological diversity. The structure must be independent of existing or proposed administrative roles tasked with implementing any University policy that touches on speech and have authority to veto or modify any proposals that violate rigorous support for free speech, viewpoint diversity, and/or open academic inquiry. Such structure must not include any member who is simultaneously engaged in implementing University speech or personnel policy.³ This recommendation is expressly for the purpose of establishing proper checks and balances and is no reflection on the personal characters or characteristics of the individuals involved.

RECOMMENDATION 1f: Diversity of Thought

- i. Make diversity of thought and viewpoint diversity a clearly stated and prominent objective of the University. Free speech and academic freedom have little meaning if they do not encompass the diverse viewpoints of persons of disparate economic, geographical, and cultural backgrounds. Free speech and personal or academic debate among people whose viewpoints differ encourages learning, appreciation and understanding of viewpoints of those whose experiences and perspectives may differ from one's own. It encourages comity and

³ Unfortunately, the approach adopted by the University in selecting personnel to implement the Year of Free Speech is just such an approach and should be abandoned.

compromise — which are essential for a university, and our democracy, to thrive.

1. Student, Faculty and Staff diversity of thought should be encouraged through casting a wide net for potential applicants and encouraging application for admission or hiring from a wide array of economic, geographical, and cultural backgrounds.

ARTICLE 2: Students

RECOMMENDATION 2a: Freshman orientation should include a training module on the importance of free speech and academic freedom on campus as well as practical instruction on how to engage in civil debate and constructive disagreement, including:

- i. That they will hear opinions with which they strongly disagree;
- ii. Instruction on what is protected and not protected under the First Amendment and applicable state law;
- iii. That they should feel free to engage with speakers with whom they agree as well as those with whom they disagree without causing disruption; and
- iv. They have no cause of action against someone for protected speech; Cornell will not take any adverse action based on protected speech.

RECOMMENDATION 2b: Students should not be compelled, under any circumstances, to express as their own, opinions that they do not hold on threat of discipline or expulsion, or to be specially privileged for expressing such opinions.

RECOMMENDATION 2c: The Cornell student body should reflect a broad diversity of viewpoint and should be required to adhere to the Open Inquiry policies of the university and to fully respect the Free Expression rights of other persons on campus.

- i. Student diversity of thought and viewpoint should be encouraged through casting a wide net for potential applicants and encouraging application for admission from a wide array of backgrounds.
- ii. The student admissions process should conform to U.S. and N.Y.S. laws that prohibit bias or preferences in favor or against particular demographic, viewpoint, or racial groups in the selection of the student body.
- iii. At the time of student matriculation, each new student should be provided with and give written acknowledgement of receipt of the pertinent Cornell University policies regarding Open Inquiry and Free Expression on campus. Students who fail to adhere to such policies should be appropriately sanctioned (as noted below).

RECOMMENDATION 2d: The University should diligently and forcefully protect students' free speech rights, both inside and outside the classroom, in full accordance with University policies and the principles, protections, and prohibitions of the First Amendment, regardless whether acting in a public or private capacity. This protection should be both affirmative as expressed in policy and negative in rejecting attacks on student speech for any speech that would be protected under law.

RECOMMENDATION 2e: Any limitations on student speech should comport with reasonable time, place and manner

restrictions consistent with federal and state law and not include prior restraints such as requiring permits for open outdoor spaces, free speech zones, or any limitations based on viewpoint.

RECOMMENDATION 2f: Any student accused of any infraction should have due process, including : immediate dismissal of any complaint that arises from protected speech or infringes on academic freedom; an auditable record including the basis for determining that the alleged violation did not involve protected speech; the name of the person making the original protected/non-protected determination; public access to the policy and training required of such person; and a maximum period of 30 days to make an initial determination.

- i. Any allegation that has not been processed within 30 days shall be immediately dismissed.
- ii. For alleged infractions that move beyond the initial determination stage, the determination to proceed to investigation shall include an explanation of how the alleged infraction falls into a category of speech unprotected by law or is “for harassment that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.”⁴
 1. The accused student shall be provided confrontation of the accuser, cross-examination, presentation of witnesses or other evidence, the presumption of innocence, an impartial fact-finder, the right to an advisor or attorney-advocate, and the right to appeal a finding of individual liability.

⁴ The standard for liability under Title IX as articulated in the U.S. Supreme Court’s ruling in *Davis v. Monroe County Bd. of Education*, 526 U.S. 629 (1999).

RECOMMENDATION 2g: Students should not be encouraged or supported in spying and reporting on each other or any other member of the University community for any alleged infraction arising from any speech, expression, or the reporter's interpretation thereof that is protected by the First Amendment, the Constitution of the State of New York, or any other state or federal law.

- i. Any existing system to gather and/or retain such information that exceeds mandatory reporting requirements, e.g. requirements under the Clery Act, Title VI, and Title IX, *i.e.*, bias reporting system, should be dismantled immediately and all data purged.
- ii. For any student or other member of the University community for whom records exist in the current or any previous system that related to protected speech, those individuals should be notified of the creation and maintenance of such records and provided with documentation guaranteeing the permanent destruction of such records.
- iii. For future reports of harassment or other non-protected speech the University is required by law to investigate, any reports that relate to protected speech should be purged regularly and timely once it has been determined that no action is required to be taken.

RECOMMENDATION 2h: Student organizations should be able to choose their own leadership, membership criteria, and tenets without interference from the University.

RECOMMENDATION 2i: DEI (by any name) course requirements should be eliminated for all courses of study that do not directly implicate it.

ARTICLE 3: Faculty and Staff

RECOMMENDATION 3a: Consistent with the recommendations of the Shils Report⁵ (see APPENDIX 4) faculty, including tenure track and visiting professors, should be evaluated based on their individual contribution to their own academic field and the Cornell community without reference to facility in the lexicon of critical studies⁶. DEI⁷ statements (by any name), or other pledge of allegiance or statement of personal support or opposition to any political ideology or movement, should not form any part of the evaluation of an individual's fitness for a faculty position. Such DEI statements shall not be suggested or requested (nor considered if voluntarily submitted) and shall not be employed in hiring, retention, compensation, assignment, promotion, or tenure, or for any other related purpose, nor should any such form or statement be encouraged or included in a faculty member's personal file.

RECOMMENDATION 3b: Faculty and staff should not be compelled, under any circumstances, to directly or indirectly express as their own, opinions they do not hold on threat of discipline or dismissal, or to be specially privileged or subject to adverse consequences for expressing such opinions.

RECOMMENDATION 3c: Faculty speech and personal or academic writings, investigations, and research, both inside and

⁵ See Report of the University of Chicago Committee on the Criteria of Academic Appointment © 1972 by The University of Chicago. All rights reserved. Reprinted with permission from The University of Chicago Record, Vol. IV, No. 6 (December, 1970), and Vol. VI, No. 1 (January 31, 1972) (copy attached).

⁶ <https://www.mastersincommunications.com/research/critical-cultural-studies/>

⁷ "Diversity Equity and Inclusion"

outside the classroom, should be protected by the University in full accordance with the principles, protections, and prohibitions of the First Amendment and academic freedom, regardless whether acting in a public or private capacity. This protection should be both affirmative as expressed in policy and negative in rejecting attacks on faculty speech for any such speech or expression that would be protected under law, including publishing or writing that would traditionally fall under the heading of “academic freedom”.

RECOMMENDATION 3d: Any faculty or staff accused of any infraction should have due process, including immediate dismissal of any complaint that involves protected speech or infringes on academic freedom; an auditable record including the basis for determining that the alleged violation did not involve protected speech; the name of the person making the original protected/non-protected determination; public access to the policy and training required of such person; and a maximum period of 30 days to make an initial determination.

- i. Any allegation that has not been processed within 30 days shall be immediately dismissed.
- ii. For alleged infractions that move beyond the initial determination stage, the determination to proceed to investigation shall include an explanation of how the alleged infraction falls into a category of speech unprotected by law or is otherwise unlawful conduct not entitled to First Amendment protection.

RECOMMENDATION 3e: The accused faculty or staff shall be provided confrontation of the accuser, cross-examination, presentation of witnesses or other evidence, the presumption of innocence, an impartial fact-finder, the right to an advisor or attorney-advocate, and the right to appeal a finding of individual liability.

Conclusion

The policies recommended herein are essential for the proper functioning of Cornell University. These recommendations are founded upon the University of Chicago and Yale University policy guidelines presented in the APPENDICES that follow. Based on CFSA's review, none of these recommended policies currently exist (or are enforced) at Cornell and various existing University policies and practices run directly counter to the key educational principles upon which Cornell is founded. CFSA recognizes that proper administrative structures and personnel adjustments and additions will be required to implement the policy changes set forth above. CFSA encourages Cornell leadership to make those personnel changes that are required to properly and promptly implement the above reforms. With the current Cornell Administration rated by FIRE as performing in the bottom 8% among US universities with regard to support for free expression, it is recommended that the Board of Trustees exert strong involvement and oversight in working with the Administration to restore Open Inquiry to the Cornell campus.

The above policy recommendations will greatly reduce unwanted legal and financial jeopardy for Cornell. Substantial financial liability and damages judgements could be levied against universities from court cases that successfully challenge the lawfulness of current campus practices related to free speech and individual rights. If Cornell policies and practices remain unchanged, the University may open itself up to serious financial damage. Such potential risks, which could greatly harm Cornell if current policies are determined to be unlawful, will be mitigated through the adoption of the recommended policies.

CFSA will continue to engage with Cornell faculty, students, and staff regarding current policies and conditions at the University that restrict or impair Open Inquiry, Academic Freedom, Free Expression, and/or Viewpoint Diversity on-campus. Based on this continuing engagement, CFSA may make future amendments to the above policy recommendations to the Cornell Administration and Board of Trustees.

APPENDICES SECTION

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APPENDIX 1

The Chicago Principles (University of Chicago)

Report of the Committee on Freedom of Expression

The Committee on Freedom of Expression at the University of Chicago was appointed in July 2014 by President Robert J. Zimmer and Provost Eric D. Isaacs “in light of recent events nationwide that have tested institutional commitments to free and open discourse.” The Committee’s charge was to draft a statement “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.”

The Committee has carefully reviewed the University’s history, examined events at other institutions, and consulted a broad range of individuals both inside and outside the University. This statement reflects the long-standing and distinctive values of the University of Chicago and affirms the importance of maintaining and, indeed, celebrating those values for the future.

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University’s culture. In 1902, in his address marking the University’s decennial, President William Rainey Harper declared that “the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago” and that “this principle can neither now nor at any future time be called in question.”

Thirty years later, a student organization invited William Z. Foster, the Communist Party’s candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that “our students . . . should have freedom to discuss any problem that presents itself.” He insisted that the “cure” for ideas we oppose “lies through open discussion rather than through inhibition.” On a later occasion, Hutchins added that “free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities.”

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated “those virtues which from the beginning and until now have characterized our institution.” Central to the values of the University of Chicago, Levi explained, is a profound commitment to “freedom of inquiry.” This freedom, he proclaimed, “is our inheritance.”

More recently, President Hanna Holborn Gray observed that “education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.”

The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.

In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.

As a corollary to the University’s commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest

speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago's long-standing commitment to this principle lies at the very core of our University's greatness. That is our inheritance, and it is our promise to the future.

Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law,
Chair

Marianne Bertrand, Chris P. Dialynas Distinguished Service Professor of
Economics, Booth School of Business

Angela Olinto, Homer J. Livingston Professor, Department of Astronomy and
Astrophysics, Enrico Fermi Institute, and the College

Mark Siegler, Lindy Bergman Distinguished Service Professor of Medicine and
Surgery

David A. Strauss, Gerald Ratner Distinguished Service Professor of Law

Kenneth W. Warren, Fairfax M. Cone Distinguished Service Professor,
Department of English and the College

Amanda Woodward, William S. Gray Professor, Department of Psychology
and the College

APPENDIX 2

The Kalven Report (University of Chicago)

Kalven Committee:
Report on the University's Role in Political and Social Action

Report of a faculty committee, under the chairmanship of Harry Kalven, Jr. Committee appointed by President George W. Beadle. Report published in the Record, Vol. I, No. 1, November 11, 1967.

The Committee was appointed in February 1967 by President George W. Beadle and requested to prepare "a statement on the University's role in political and social action." The Committee conceives its function as principally that of providing a point of departure for discussion in the University community of this important question.

The Committee has reviewed the experience of the University in such matters as its participation in neighborhood redevelopment, its defense of academic freedom in the Broyles Bill inquiry of the 1940s and again in the Jenner Committee hearings of the early 1950s, its opposition to the Disclaimer Affidavit in the National Defense Education Act of 1958, its reappraisal of the criteria by which it rents the off-campus housing it owns, and its position on furnishing the rank of male students to Selective Service. In its own discussions, the Committee has found a deep consensus on the appropriate role of the university in political and social action. It senses some popular misconceptions about that role and wishes, therefore, simply to reaffirm a few old truths and a cherished tradition.

A university has a great and unique role to play in fostering the development of social and political values in a society. The role is defined by the distinctive mission of the university and defined too by the distinctive characteristics of the university as a community. It is a role for the long term.

The mission of the university is the discovery, improvement, and dissemination of knowledge. Its domain of inquiry and scrutiny includes all aspects and all values of society. A university faithful to its mission will provide enduring challenges to social values, policies, practices, and institutions. By design and by effect, it is the institution which creates discontent with the existing social arrangements and proposes new ones. In brief, a good university, like Socrates, will be upsetting.

The instrument of dissent and criticism is the individual faculty member or the individual student. The university is the home and sponsor of critics; it is not itself the critic. It is, to go back once again to the classic phrase, a community of scholars. To perform its mission in the society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its own community. It is a community but only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby.

Since the university is a community only for these limited and distinctive purposes, it is a community which cannot take collective action on the issues of the day without endangering the conditions for its existence and effectiveness. There is no mechanism by which it can reach a collective position without inhibiting that full freedom of dissent on which it thrives. It cannot insist that all of its members favor a given view of social policy; if it takes collective action, therefore, it does so at the price of censuring any minority who do not agree with the view adopted. In brief, it is a community which cannot resort to majority vote to reach positions on public issues.

The neutrality of the university as an institution arises then not from a lack of courage nor out of indifference and insensitivity. It arises out of respect for free inquiry and the obligation to cherish a diversity of viewpoints. And this neutrality as an institution has its complement in the fullest freedom for its faculty and students as individuals to participate in political action and social protest. It finds its complement, too, in the obligation of the university to provide a forum for the most searching and candid discussion of public issues.

Moreover, the sources of power of a great university should not be misconceived. Its prestige and influence are based on integrity and intellectual competence; they are not based on the circumstance that it may be wealthy, may have political contacts, and may have influential friends.

From time to time instances will arise in which the society, or segments of it, threaten the very mission of the university and its values of free inquiry. In such a crisis, it becomes the obligation of the university as an institution to oppose such measures and actively to defend its interests and its values. There is another context in which questions as to the appropriate role of the university may possibly arise, situations involving university ownership of property, its receipt of funds, its awarding of honors, its membership in other organizations. Here, of necessity, the university, however it acts, must act as an institution in its corporate capacity. In the exceptional instance, these corporate activities of the university may appear so incompatible with paramount social values as to require careful assessment of the consequences.

These extraordinary instances apart, there emerges, as we see it, a heavy presumption against the university taking collective action or expressing opinions on the political and social issues of the day, or modifying its corporate activities to foster social or political values, however compelling and appealing they may be.

These are admittedly matters of large principle, and the application of principle to an individual case will not be easy.

It must always be appropriate, therefore, for faculty or students or administration to question, through existing channels such as the Committee of the Council or the Council, whether in light of these principles the University in particular circumstances is playing its proper role.

Our basic conviction is that a great university can perform greatly for the betterment of society. It should not, therefore, permit itself to be diverted from its mission into playing the role of a second-rate political force or influence.

Harry Kalven, Jr., *Chairman*

John Hope Franklin

Gwin J. Kolb

George Stigler

Jacob Getzels

Julian Goldsmith

Gilbert F. White

Special Comment by Mr. Stigler:

I agree with the report as drafted, except for the statements in the fifth paragraph from the end as to the role of the university when it is acting in its corporate capacity. As to this matter, I would prefer the statement in the following form:

The university when it acts in its corporate capacity as employer and property owner should, of course, conduct its affairs with honor. The university should not use these corporate activities to foster any moral or political values because such use of its facilities will impair its integrity as the home of intellectual freedom.

APPENDIX 3

The Woodward Report **(Yale University)**

[\(https://yalecollege.yale.edu/\)](https://yalecollege.yale.edu/)

Report of the Committee on Freedom of Expression at Yale

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Chairman's Letter to the Fellows of the Yale Corporation

December 23, 1974

To the Fellows of the Yale Corporation:

The following report is the result of the findings and deliberations of a committee appointed last September by President Kingman Brewster, Jr. The President was responding in part to a resolution adopted by the Yale College Faculty on May 2, 1974, requesting him "to appoint a faculty commission to examine the condition of free expression, peaceful dissent, mutual respect and tolerance at Yale, to draft recommendations for any measures it may deem necessary for the maintenance of those principles, and to report to the faculties of the University early next term." Guided by the Rules of Governance adopted in 1970, the President appointed a committee of thirteen consisting of five faculty members, two members of the administration, three graduate students, two undergraduates, and one member of the Yale alumni. Their names, with one exception, will be found at the end of the report.

In efforts to fulfill its assignment, the committee <https://yalecollege.yale.edu/> not only reviewed the record of the past decade but also sought to inform itself about attitudes and opinions of all members of the University community who wished to make their views known. Repeated invitations in the press brought in numerous written statements, many of them thoughtful and informative. The committee also held advertised public as well as private hearings and recorded hours of testimony and advice.

It is gratifying to report that the committee found strong support for the maintenance and defense of freedom of expression among those whose views were received. A smaller number held reservations of various kinds about how much freedom should be tolerated. Some felt that freedom of speech was too dangerous, or that enjoyment of free speech should await the establishment of equality or the liberation of the oppressed. Only one appeared willing to advocate censorship and suppression of unpopular speakers.

How well the views last mentioned are represented in the dissenting statement of one member of the committee it is impossible to say. At least it serves as some indication of the difficulties the University might face in implementing the principles supported by the committee. Printed exactly as delivered, the dissenting member's statement was only received after the committee had finished its deliberations, completed the writing of its report, and disbanded for the holidays. The committee was therefore unable to comment on the faithfulness with which its views are represented, the scrupulousness with which its words are quoted, or the accuracy of factual allegations.

From the beginning of its investigations the committee has been aware that Yale's problems are shared by sister institutions at home and abroad. Correspondence with some of them has reinforced the impression that a movement which in its inception in California a decade ago proudly invoked the name of Free Speech has in latter days showed signs of repudiating its original commitment. While this investigation is confined to the experience at Yale, it has been the hope of the committee that its statement might inspire in other universities a rededication to the principles asserted in this report.

The Secretary of the University has kindly agreed to make available to those requesting them the full texts of the President's baccalaureate address of May 19, 1974 and the public statements of the Yale Corporation that have been quoted in this report.

C. Vann Woodward

Chairman

The Report of the Committee

I. Of Values and Priorities (https://yalecollege.yale.edu/get-know-yale-college/office-dean/reports/report-committee-freedom-expression-yale)

And though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter.

John Milton, Areopagitica, 1644

If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought - not free thought for those who agree with us but freedom for the thought that we hate.

Oliver Wendell Holmes, Jr., U.S. v. Schwimmer, 1928

The primary function of a university is to discover and disseminate knowledge by means of research and teaching. To fulfill this function a free interchange of ideas is necessary not only within its walls but with the world beyond as well. It follows that the university must do everything possible to ensure within it the fullest degree of intellectual freedom. The history of intellectual growth and discovery clearly demonstrates the need for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. To curtail free expression strikes twice at intellectual freedom, for whoever deprives another of the right to state unpopular views necessarily also deprives others of the right to listen to those views.

We take a chance, as the First Amendment takes a chance, when we commit ourselves to the idea that the results of free expression are to the general benefit in the long run, however unpleasant they may appear at the time. The validity of such a belief cannot be demonstrated conclusively. It is a belief of recent historical development, even within universities, one embodied in American constitutional doctrine but not widely shared outside the academic world, and denied in theory and in practice by much of the world most of the time.

Because few other institutions in our society have the same central function, few assign such high priority to freedom of expression. Few are expected to. Because no other kind of institution combines the discovery and dissemination of basic knowledge with teaching, none confronts quite the same problems as a university.

For if a university is a place for knowledge, it is also a special kind of small society. Yet it is not primarily a fellowship, a club, a circle of friends, a replica of the civil society outside it. Without sacrificing its central purpose, it cannot make its primary and dominant value the fostering of friendship, solidarity, harmony, civility, or mutual respect. To be sure, these are important values; other institutions may properly assign them the highest, and not merely a subordinate priority; and a good university will seek and may in some significant measure attain these ends. But it will never let

these values, important as they are, ~~override its~~ <https://yalecollege.yale.edu/> central purpose. We value freedom of expression precisely because it provides a forum for the new, the provocative, the disturbing, and the unorthodox. Free speech is a barrier to the tyranny of authoritarian or even majority opinion as to the rightness or wrongness of particular doctrines or thoughts.

If the priority assigned to free expression by the nature of a university is to be maintained in practice, clearly the responsibility for maintaining that priority rests with its members. By voluntarily taking up membership in a university and thereby asserting a claim to its rights and privileges, members also acknowledge the existence of certain obligations upon themselves and their fellows. Above all, every member of the university has an obligation to permit free expression in the university. No member has a right to prevent such expression. Every official of the university, moreover, has a special obligation to foster free expression and to ensure that it is not obstructed.

The strength of these obligations, and the willingness to respect and comply with them, probably depend less on the expectation of punishment for violation than they do on the presence of a widely shared belief in the primacy of free expression. Nonetheless, we believe that the positive obligation to protect and respect free expression shared by all members of the university should be enforced by appropriate formal sanctions, because obstruction of such expression threatens the central function of the university. We further believe that such sanctions should be made explicit, so that potential violators will be aware of the consequences of their intended acts.

In addition to the university's primary obligation to protect free expression there are also ethical responsibilities assumed by each member of the university community, along with the right to enjoy free expression. Though these are much more difficult to state clearly, they are of great importance. If freedom of expression is to serve its purpose, and thus the purpose of the university, it should seek to enhance understanding. Shock, hurt, and anger are not consequences to be weighed lightly. No member of the community with a decent respect for others should use, or encourage others to use, slurs and epithets intended to discredit another's race, ethnic group, religion, or sex. It may sometimes be necessary in a university for civility and mutual respect to be superseded by the need to guarantee free expression. The values superseded are nevertheless important, and every member of the university community should consider them in exercising the fundamental right to free expression.

We have considered the opposing argument that behavior which violates these social and ethical considerations should be made subject to formal sanctions, and the argument that such behavior entitles others to prevent speech they might regard as offensive. Our conviction that the central purpose of the university is to foster the free access of knowledge compels us to reject both of these arguments.

They assert a right to prevent free expression. They rest upon the assumption that speech can be suppressed by anyone who deems it false or offensive. They deny what Justice Holmes termed "freedom for the thought that we hate." They make the majority, or any willful minority, the arbiters of truth for all. If expression may be prevented, censored or punished, because of its content or because of the motives attributed to those who promote it, then it is no longer free. It will be subordinated to other values that we believe to be of lower priority in a university.

The conclusions we draw, then, are these: even when some members of the university community fail to meet their social and ethical responsibilities, the paramount obligation of the university is to protect their right to free expression. This obligation can and should be enforced by appropriate formal sanctions. If the university's overriding commitment to free expression is to be sustained, secondary social and ethical responsibilities must be left to the informal processes of suasion, example, and argument.

II. Of Trials and Errors

Part of the Committee's charge was to assess the condition of freedom of expression at Yale. This requires some search of the University's record, good, bad, and indifferent, in defending its principles. The full history is too long and complicated to unfold here, but there are more reasons for concentrating on the recent past than lack of space and time. It is not clear, for one thing, how early in its history Yale's commitment to these principles became firm. Nor is it clear how much is to be gained by comparing in this respect the old Yale with the new Yale of recent years.

While the old Yale laid valid claim to being a national institution with representatives in its student body and faculty from all parts of the country and many parts of the world, in significant ways it was more homogeneous than the new Yale. One consequence of that homogeneity was the absence of some divisions that would plague the future. Changes in policies of recruitment, admission, and grants of assistance replaced the relative homogeneity of old Yale with the heterogeneity of new Yale. The decade of the sixties brought larger delegations of classes, races, and ethnic groups that had been underrepresented before or not present at all. The new groups were more self-conscious as minorities and others were more conscious of them. Reactions ranged from insensitivity for minority points of view to paternalistic solicitude for minority welfare and feelings. And sometimes insensitivity and solicitude commingled.

The new heterogeneity did not prevent the forging of a strongly held consensus on certain issues. One of them was civil rights, and especially the rights of black people. Another was opposition to the Vietnam War and a multitude of policies associated with it. Yale shared in full the spirit of political activism and radical protest that swept the major campuses in the sixties. Storms of controversy and crises of

confrontation broke over the campus with a force comparable to that which crippled some of the country's strongest universities. Yale was generally regarded as exceptionally fortunate in its ability to weather the years of crisis. Some thought the University led a charmed life, and while President Brewster had numerous critics, others attributed Yale's comparative stability to the quality of leadership provided by his administration. A complete account of those years, even a full study of free speech during the sixties would contain much in which Yale could take pride. Placed in the context of failures elsewhere, the failures at home – and they are serious enough to cause concern – would loom less large.

The University's commitment to the principle of freedom of expression was put to severe tests during the years of campus upheaval. It should be noted, however, that the main incidents of equivocation and failure with which this report is concerned did not coincide with the years of storm and stress. The first incident, that of the invitation to Governor George C. Wallace, occurred in 1963, before the full onset of the critical period. The others came in 1972, after the tumult had subsided, and in 1974, a year of relative tranquillity. The latter incidents are those involving General William Westmoreland, Secretary of State William Rogers, and Professor William Shockley. Only the last of them culminated in actions that physically prevented a speaker from being heard when he appeared before an audience. The other scheduled speakers did not actually appear before an audience for various reasons, including the withdrawal of an invitation, decisions by invitees not to appear, and threats of disruption and possible violence. But failure or equivocation in defense of free speech was fairly attributable to the University community in some degree in at least three and possibly all four incidents.

It should be recalled that the record of the University includes successes as well as failures, and that the successes in defense of principle were not all on the side of speakers who supported the University consensus on the war and racial issues. In spite of prevailing hostility to their views on the part of a large campus majority, General Curtis LeMay, Governor Ronald Reagan, Senator Barry Goldwater, and Professor Richard Herrnstein were invited, received, and heard during these years.

The first of the failures came in the fall of 1963 when the Political Union invited Governor George C. Wallace of Alabama to speak at Yale. He was only one of several political figures, including Senator George McGovern and Representative Robert A. Taft, Jr., who were scheduled for appearances in the fall term, but Wallace stood out as the most controversial. He accepted the invitation. At the height of the civil rights crusade, the Governor was regarded as the very symbol of reactionary intransigence, the national champion of segregation. In the previous spring he was the central figure in a series of bloody racial confrontations in his state. Then on September 15, shortly after the Political Union invitation, four black children were killed and some twenty others were injured in the bombing of a church in Birmingham. The Governor did not condemn the bombing as forthrightly as many thought he should. In these

circumstances Mr. Brewster, then Provost of the University, asked the officers of the Political Union to consider withdrawing their invitation. When the Union complied, he justified his request in view of “the damage which Governor Wallace’s appearance would do to the confidence of the New Haven community in Yale and the feelings of the New Haven Negro population.” He expressed gratitude for a decision “in the interest of law and order as well as town-gown relations.”¹

Reactions to the decision contrast strikingly with the responses to comparable incidents during the next decade. “We are shocked by the Provost’s statement,” declared an editorial in the Yale Daily News in the issue quoting it. “The more we consider Yale’s treatment of the invitation to Governor Wallace, the more painful it all becomes,” said an editorial three days later, adding that “This kind of action simply does not belong in this great academic community. The pressures of time must not dull our allegiance to such a basic duty of a free University.” One inference drawn by the News from the Provost’s pronouncements on the Wallace incident was that in the administration’s view, “the threat of disorder and poor taste” was on the whole “more important than any issue of free speech involved.” It quoted the opinion of Zachariah Chafee, Jr., an eminent constitutional scholar, that “We are more especially called upon to maintain the principles of free discussion in case of unpopular sentiments or persons, as in no other case will any effort to maintain them be needed.”

The *News* reported that “feeling among faculty members and students” with regard to the withdrawal of the invitation “appears almost overwhelmingly negative.” In addition to the criticisms by faculty members and administrative officers. The *News* quoted an editorial of the New York Herald-Tribune calling it “highly unfortunate that the threat of disorder should cast a shadow on the tradition of free speech at Yale” which “deserves a stronger defense from all concerned.” The *Boston Herald*, according to the *News*, called the University action “a disservice to the cause of civil rights and liberties.”

A sequel to the episode was a second invitation to Wallace by Law School groups. Commenting on this action, Provost Brewster said, “Yale will not stand in the way of an appearance by Governor Wallace even though the administration has told the sponsors that it is both offensive and unwise at this time.” He left “the ultimate responsibility to the students,” and added that “While we regret that decision of the law students, we will do our best to help them conduct an orderly and dignified meeting and will expect this same spirit in the Yale community.” This expectation was never put to the test, however, since Wallace did not accept the new invitation.

In the ensuing years of political activism, radical protest, violent dissent, and confrontation, Mr. Brewster, now President, gave repeated public assurances of the University’s commitment to “the risk of real freedom,” which “has been vindicated at Yale for 264 years.” One of the risks was irresponsibility, but “the capacity for responsibility which emerges from exposure to irresponsibility is far stronger, far

tougher, far more impressive than the kind of responsibility which is either coerced by restraint or moulded by paternalism.” He drew the line against “compromise on the basic proposition that forcible coercion and violent intimidation are unacceptable means of persuasion...as long as channels of communication and the chance of reasoned argument are available.”

In the worst of the crises in the activist years, that centering on May Day, 1970, freedom of speech never had freer rein. It will be recalled that May Day, 1970, came the day after President Nixon announced the invasion of Cambodia. Even before the invasion, waves of protest were already sweeping over the nation’s universities. Sit-ins, classroom disruptions and violence were the domestic disorder of the day. In New Haven, resentment was also fueled by the Black Panther trial that drew nationwide attention.

May Day became a symbolic day of protest, and New Haven became a symbolic focus for the protesters. Thousands of militant demonstrators were heading for New Haven and the University to join many local sympathizers. Together with local and national authorities, the Yale administration made plans to meet the crisis. President Brewster urged that all protest be peaceful, and that disruptive acts be avoided. The University gates were thrown open to outside demonstrators and many were provided with food and lodging. Revolutionary Black Panthers and their supporters spoke freely to huge crowds at Woolsey Hall, Battell Chapel, Ingalls Rink, and Dwight Hall, as well as on the New Haven Green. It was reported that Jerry Rubin urged at Woolsey Hall that “Yale University be closed down forever” and preached “a permanent revolution.” Panthers declared they intended to “turn Yale into a police state,” and “create peace by destroying the people who don’t want peace.” They urged students to “pick up your guns” and “to kill pigs.” Orators hurled revolutionary threats, insults, and obscenities at the faculty, the administration, the Corporation, and the University and all they stood for and vowed they would “burn it all down.”

In the May Day crisis there was, of course, no feasible way of “withdrawing” invitations to fifteen or twenty thousands of uninvited guests and scores of willing speakers. Nor did speakers and demonstrators of local origin stand on ceremony or await invitations. They spoke – often, without inhibition, and with free use of University facilities. Gratification over this triumph of uninhibited free speech, however, was dimmed for those who recalled that the Wallace speech had been discouraged “in the interest of law and order as well as town-gown relations.” Yet while the Black Panther demonstrations and speeches could hardly have been prevented in any event, they were perceived as being, and might well have been, more of a threat to law and order and town-gown relations than the appearance of George Wallace would have been in 1963. These disparities led some to conclude that this particular defense of free speech was less a triumph of principle than of pragmatic considerations. In all fairness, however, the perspective of time lends credence to the contemporaneous impression that in the extremely difficult

circumstances of May Day, the administration had maneuvered skillfully in its efforts to maintain peace without sacrifice of principle. Under conditions graver than those in which other universities had foundered or were simultaneously foundering, the strategy of tolerance and restraint succeeded.

Two years later, April 4, 1972, General William Westmoreland, Chief of Staff of the United States Army, was scheduled to speak at the invitation of the Yale Political Union to an audience limited to its members. Because of the large crowd anticipated, the Law School auditorium was selected. Before General Westmoreland's appearance the *Yale Daily News* carried a story about plans of anti-Vietnam War off-campus organizations to disrupt or prevent his speech. General Westmoreland arrived and was dining with his hosts when he was informed that hundreds of people, some students, but mainly Vietnam veterans from outside the city had packed the halls outside the Law School auditorium and were trying to force their way in past a barrier manned by the campus police. The campus police said they could not assure the general that the crowd could be restrained, and even if it were restrained, that he would not be subject to disruption and abusive language. So informed, he accepted the advice of his security aide to cancel the speech. Campus police then removed their barrier and those outside pushed into the auditorium and occupied its stage. The only students on the stage in a picture taken at that time were officers of the Political Union – the rest were outsiders. The announcement of the general's decision by the President of the Union was drowned out by shouted obscenities. Police discovered fresh paint spilled on the floor after the meeting ended.

Reactions to this gross violation of established principle differed markedly from campus responses to the milder discouragements of free speech in the Wallace affair. Faculty criticism was not nearly so vocal this time. Instead of shock and indignation, such as the *Yale Daily News* had expressed over the withdrawal of the Wallace invitation, the *News* editorial of April 6 laconically said, "We hope General Westmoreland enjoyed his dinner at Mary's last night..." It was obvious, declared the editor, that "the demonstrators did not stop the general" because "he made no attempt to speak." He added that he could not condone the crowd's violence. In a public statement President Brewster laid the blame upon General Westmoreland as well as on the demonstrators. While declaring that he was "disappointed" that the anti-war sentiment of demonstrators "overcame their concern for freedom of speech," the President was "doubly disappointed by General Westmoreland's decision to cancel his appearance" in view of administrative assurances "that he would be adequately protected in his right to be heard."

The President's statement was followed shortly by one from the Yale Corporation. While not repeating the assignment of blame to General Westmoreland, the Corporation extenuated the failure to protect freedom of speech in part on the grounds that "the location of the building made it impossible to deal adequately" with the disruptors, and that "the most threatening behavior was by people who had

no Yale connection.” They nevertheless affirmed that “the University must vindicate its commitment to freedom of speech, whether the threat comes from insiders or from outsiders” and that they were “determined to assure that any authorized meeting, performance, or speech scheduled at Yale shall be allowed to proceed without disruption.” The campus police had been unable to identify any student offenders and no disciplinary action was taken. They did identify some non-students, but since no acts of violence had occurred and the only ground for legal proceedings against them was trespassing, no charges were filed. The chief of the campus police said that “an unsuitable auditorium and an insufficient number of policemen” were “the major factors contributing to the refusal of General William Westmoreland to speak.”

Secretary of State William Rogers had also agreed to appear before the Yale Political Union on April 20 to accept the A. Whitney Griswold Award for international statesmanship. At the auditorium seized by the Westmoreland disruptors, reference to the Secretary’s visit had been greeted according to the *News* by the threat, “He’ll get chased away, too.” A spokesman of one of the groups that organized the demonstration against the general was quoted as announcing more than a week before the Secretary of State was to appear that plans were laid for “the most severe possible action” against Rogers. The Secretary of State postponed his visit until May 15.

On May 12, the day after some student violence protesting Marine recruiters on campus, in which several students were arrested, President Brewster issued a statement saying that “in the aftermath of General Westmoreland’s decision not to attempt to speak in the face of threatened disruption, it is absolutely essential for Yale to vindicate its commitment to freedom of speech.” While he said that he “would expect and even understand peaceful demonstration and picketing” against Rogers, any member of the University “who engages in violent or coercive action which interferes with the rights of others, including Secretary Rogers...will be subject to severe discipline.” He specified suspension and expulsion. Unlawful conduct of non-members of the University would be prosecuted. One spokesman for the planned disruption was quoted in the *News* as professing to be wholly undeterred by this announcement. But the hope of the administration to vindicate the University’s commitment of free speech was disappointed when Secretary Rogers cancelled his appointment because of “pressing engagements.”

In the meantime the administration was informed shortly before the event that the student branch of Lux et Veritas, an alumni organization, had invited Professor Richard Herrnstein of Harvard to speak at Yale on May 1. For some time Herrnstein had been subject to severe harassment on the Harvard Yard because of his views on the genetic transmission of human intelligence. Under threat of violence, his scheduled appearances at two other universities had been cancelled. Pointing out that May 1 was a provocative date, an administrative spokesman asked the inviters

to select another. They refused and declared the date to be a pure coincidence. <https://yalecollege.yale.edu/> Officers of their parent organization offered to call off the speech if requested, but no such request was made. Anticipating trouble at Yale, an officer of the administration assigned Sprague Hall, believed to be the most secure against disruption, for the speech. He also met with representatives of minority groups most concerned, told them the University was obliged to protect free speech, and gained their pledge of cooperation. The speech was delivered as scheduled without interference of any kind. In this instance the administration policies proclaimed before Secretary Rogers' planned visit were put to the test, and the principle of free discussion was observed and upheld by the entire University community.

Two years later, however, in the affair of Professor William Shockley, the Stanford University physicist, the University community failed to live up to the principle. For the first time in memory a speaker tried to speak at a scheduled appearance at Yale and was prevented from doing so by organized disruption. This time the opposition to the invitation and the determination to disrupt the speech came largely from within the University and was open, determined, and menacing from the start. It was also clear from the start that the opposition focused on Shockley, regardless of whom he debated, on his views of genetic inferiority and his proposal of voluntary sterilization as a solution.

The suggestion for the debate originally had come from Roy Innis, the black chairman of the Congress of Racial Equality, who proposed that he face Shockley before the Yale Political Union on national television after the fashion of the preceding Buckley-Weicker debate. In deciding whether to issue the invitation, the Union had before it the failure of Harvard (and other places) and the success of Princeton in resisting the prevention of a Shockley appearance. Well before the decision for the debate was reached, threats to prevent it were announced. Pronouncing the basic issue one of "free speech and unimpeded academic freedom," the Executive Board of the Union, after prolonged debate, decided on January 21, 1974, by a vote of 6 to 3 to invite Shockley and Innis and also voted against televising the debate. A *News* editorial seconded the invitation as "reaffirming the individual's right of public speech."

Shortly after the decision, officers of the Black Law Students and the Black Students Alliance at Yale joined with a graduate student and a medical student in a statement carried in the *News* of January 28: "We hereby serve notice that we vehemently oppose the Shockley Innis debate and will exert all necessary efforts to prevent its occurrence." They urged members of the Political Union to override their Board's decision and withdraw the invitation.

The University administration received delegations of objecting students and conferred with officials of the Union, but at this stage adopted a hands-off policy. Several student organizations however, did bring pressure on the Union. The Chairman of the Progressive Labor Party, according to the *News*, dismissed freedom of speech as "a nice abstract idea to enable people like Shockley to spread racism."

An open letter from an organization of Puerto Rican students to the Union called the debate “an insult to the Third World Community.” Other News stories reported that concerned members of the Asian American Student Association declared that it “must not be tolerated,” and a spokesman of the Chicano students did not think Shockley would “be given the opportunity to speak.” Catholic, Protestant, and Jewish Chaplains of the Yale Religious Ministry urged cancellation. Voices were also raised in support of the invitation. Some contended that opposition to the invitation was not the same as opposition to the principle of free speech. The Political Union held a referendum of its whole membership, and by a vote of 200 to 190 on February 17 recommended that the Board rescind its invitation, which it did.

Immediately after this action the student branch of Lux et Veritas, which had invited Herrnstein two years before, announced its intention to invite Shockley and another speaker to Yale. The administration thereupon abandoned its hands-off policy and intervened with two unprecedented statements published on February 18, one by the Yale Corporation and another by President Brewster, both calling in question the motives of the Lux et Veritas inviters and the views of the proposed speaker. In words which regrettably failed to give proper emphasis to the primacy of free expression, the Corporation statement declared that “This is apparently done in order to test whether Yale’s belief in free speech can stand up against such provocation. The entire community is being used. The sponsors have tried this sort of thing before and the Yale community did not rise to the bait.” The unspecified reference to “this sort of thing” was to the Herrnstein speech of May 1, 1972.

The President added a personal statement that “the use of free speech as a game, the lack of sensitivity to others, the lack of consideration for the community, and the lack of responsible concern for the University as an institution seem to me reprehensible.” Both statements asserted continued support of the principles of free speech, but both expressed reservations about the Shockley invitation if, as the President put it, “provocation rather than understanding is accepted as the basis for inviting speakers to a campus.” He recommended a boycott of the event as “the best way to show one’s scorn and distaste.” Complaining that “intimidation by the Yale Corporation and President Brewster hampers free and open discussion at Yale,” Lux et Veritas decided not to invite the speakers.

In spite of these official discouragements, a third student organization, the Calliopean Society, renewed the invitations to Shockley and Innis. It soon gave up, according to the *News*, because of “insufficient funds” and “threats emanating from members of the Yale community” that were described as “more than rhetorical.” In March another invitation was extended to Shockley by the newly reconstituted Yale chapter of Young Americans for Freedom (YAF), who also invited William Rusher, publisher of the *National Review*, to debate him. The subject of the debate later accepted by YAF, and one cause of offense to others, was, “Resolved: That society has a moral obligation to diagnose and treat tragic racial IQ inferiority.” A politically

conservative group, YAF stated that it regarded Shockley as a liberal and said its members sought refutation of his doctrines of state genetic control through Rusher's arguments.

For the debate, which was to take place on April 15, the administration assigned room 114 in Strathcona Hall. On April 12 the *Yale Daily News* ran a front page story telling in detail how "student protest now threatens to disrupt the event itself." Several protest organizations, not all of them endorsing disruptive tactics, were cited and quoted. The tactic that later proved to be the most effectively used to disrupt the debate was that attributed to the Ad Hoc Committee to Stop Shockley, namely to drown out all speakers with noise. Other groups planned to picket the debate outside the hall. The administration took some steps to discourage disruption. On the evening of April 13, at a meeting called by students and attended by about 100 people invited from the sponsoring and objecting groups, University Secretary Henry Chauncey, Jr., repeated the warning President Brewster had spelled out in the face of threatened disruption of a speech by Secretary of State Rogers in May 1972. On the day of the debate the News repeated these warnings of "severe discipline" against students using "violent or coercive action."

At the hour appointed, the speakers and their hosts arrived at 114 Strathcona Hall to debate. When YAF officers could not make themselves heard. Secretary Chauncey took the platform to repeat his warning and was shouted down. The speakers were not permitted to say an audible word. They were drowned out by derisive applause, insults chanted at Shockley, and shouted obscenities. No more than a third of the audience seemed to participate in the disruption. Chauncey sought to quiet the disrupters and warn them of disciplinary penalties, but without effect. "Racist Chauncey, go home!" became part of the chanting. After an hour and fifteen minutes Chauncey closed the meeting. The disruption of the speakers had been a complete success and the University's defense of principle had ended in total failure.

Response to this worst of the failures indicated further deterioration in the commitment to freedom of speech and the understanding of its importance in some quarters. Few faculty members spoke out. Far from echoing the old indignation called forth by the Wallace episode of 1963, the editorial voice of the college paper divided the blame, according the disrupters only a small share, citing repression elsewhere as justification for disrupting a speaker at Yale, stressing the unacceptability of the views of one of the debaters, deploring the invitations. And paraphrasing the statement of the Yale Corporation against the Lux et Veritas proposed invitation to shift the blame for the whole affair to the administration. Referring to the Corporation statement that "The entire community is being used," the editorial declared that "By sanctioning this particular debate, the University administration, and in particular Secretary Henry Chauncey, Jr., have allowed the community to be used in a way much more foul." President Brewster reminded the University that disrupters "were warned about the disciplinary consequences of their persistence in

preventing others from listening to Mr. Shockley.” He added that “it makes me sick that even a small minority of Yale students would choose storm trooper tactics in preference to freedom of speech.” The President was to elaborate his reactions in a baccalaureate address discussed below.

Information on the disruption and those who participated was collected by Dean Horace Taft and laid before the Yale College Executive Committee², which had responsibility for administering discipline to offenders against college rules. This committee heard charges against the alleged disrupters. Its deliberations took more than fifty hours, and its findings were awaited with interest. Judging from its statement released on May 10, the committee shared the ambivalence expressed by the *News* editorial and the President’s address of the week following. The statement declared that “the circumstances of this particular disruption” justified leniency to the offenders. Among these circumstances were “lack of adequate planning” in arrangements for the debate, the fact that “only a small fraction” of the disrupters were identified, that the subject of the debate, was perceived by some as “both insulting and provocative,” and that “frustration” was felt by those “who had worked several months” to prevent the invitation to Shockley. In view of the above considerations, while twelve students were found guilty and suspended for the following fall term, the Executive Committee ruled that they would be considered for readmission in the fall if they would express “willingness to abide by the conditions of General Conduct” in the Undergraduate Regulations. Eleven did so apply and were readmitted in the fall under no penalty save disciplinary probation for one semester. The twelfth student did not apply for readmission. A medical student was also identified as an offender. He appeared before an ad hoc disciplinary board convened by the Dean of Students of the Medical School, which suspended him and then in the same action reinstated him for the summer term.

Members of some of the twelve faculties of the University and a number of students expressed dismay and concern over the disruption of the Shockley-Rusher debate in public letters and speeches. At a meeting of one of the faculties, that of Yale College on May 2, 1974, a resolution was passed to “reaffirm its adherence to the principles set forth in the Undergraduate Regulations” and to ask the President to appoint a committee to examine the condition of those principles and recommend measures deemed necessary to maintain them. It was partly in response to this resolution that the President eventually appointed the committee that submits this report.

In his baccalaureate address on May 19 the President did not assert the primacy of free expression over competing values. Instead he included “the invitation as well as the disruption in his disapproval. He suggested that the disease that afflicts us is “a combination of arrogant insensitivity, and paranoid intolerance,” with gradations in both categories. He saw some of the first affliction “in the invitation which finally

brought Shockley to Yale” and declared that in its extreme form insensitivity could become “the true fanaticism of a Lenin or a Hitler.” He said that signs of both insensitivity and “paranoid intolerance” were evident among the disrupters.

* * *

This committee’s account has revealed instances of faltering, uncertainty, and failure in the defense of principle on the part of various elements in the University community. Within the community has appeared from time to time a willingness to compromise standards, to give priority to peace and order and amicable relations over the principle of free speech when it threatens these other values. Elements within the University community have shown since the time of the Wallace incident signs of declining commitment to the defense of freedom of expression in the University.

A significant number of students and some faculty members appear to believe that when speakers are offensive to majority opinion, especially on such issues as war and race, it is permissible and even desirable to disrupt them; that there is small chance of being caught, particularly among a mass of offenders; that if caught there is a relatively good chance of not being found guilty; and that if found guilty no serious punishment is to be expected. In the only instance of massive infraction of free speech in which offenders were subject to disciplinary action, that of the Shockley case, experience lent support to some of these assumptions.

From the administration have come promptings that have at times been mixed and contradictory. It is true that in each of the crises reviewed and in many other critical situations during the troubled decade just ended President Brewster has voiced the University’s commitment to freedom of expression, “to untrammelled individual initiative in preference to conformity,” and to academic freedom generally. It is also true that the administration has never barred outright an invitation to speak; it has assigned halls on request, and has warned against disruption. In specific instances, however, statements by the President and the Corporation have been interpreted as assigning equal if not higher value to law and order, to town-gown relations, to proper motives, to the sensitivity of those who feel threatened or offended, and to majority attitudes. Some of the statements have placed blame for failure not only on the disrupters and their lawlessness, but also upon the inviters of the speakers and their motives, and on the views of the proposed speakers as well. Moreover, the University’s physical arrangements for deterring and detecting disrupters have proved inadequate. And finally, the faculty has not been as alert as it might have been to these problems.

This committee, therefore, finds a need for Yale to reaffirm a commitment to the principle of freedom of expression and its superior importance to other laudable principles and values, to the duty of all members of the University community to

defend the right to ~~speak and refrain from disruptive~~ <https://yalecollege.yale.edu/> interference, and to the sanctions that should be imposed upon those who offend.

We agree with President Brewster's statement in his baccalaureate address of 1974, that "the prospects and processes of punishment" and the "lust for retribution" constitute no adequate solution – though we would urge clearer definition and more vigorous enforcement of rules. Rules and their enforcement must rest upon a consensus of the whole community on the principle of freedom of expression and a genuine concern over violations. To build this consensus we make the suggestions set forth in Part III of this report.

III. Of Ways and Means

The foregoing review has persuaded this committee that the time has come to revitalize our principles, to reaffirm and renew our commitment, and to find ways and means for the effective and vigorous defense of our values. To promote these ends we propose:

First, that a program of reeducation is required. Some members of the university do not fully appreciate the value of the principle of freedom of expression. Nor is this surprising. In one of his most famous dissents, Mr. Justice Holmes spoke to the question:

Persecution for the expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result with all your heart you naturally express your wishes in law and sweep away all opposition. To allow opposition by speech seems to indicate that you think the speech impotent, as when a man says that he has squared the circle, or that you do not care wholeheartedly for the result, or that you doubt either your power or your premises. But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas...

Abrams v. U.S., 1919

Education in the value of free expression at Yale is the business of all sectors of the University. Much needs to be done. The first need is for effective and continuing publication of the University's commitment to freedom of expression. At present, only two readily available documents address the subject and suggest standards of conduct: the Yale College "Undergraduate Regulations" and the "Rights and Duties of Members of the Yale Law School." We urge that all University catalogues, as well as the faculty and staff handbooks, include explicit statements on freedom of expression and the right to dissent. And that the attention of students should be directed to these statements each year at registration. We also urge that each school – its dean, its faculty, and its students – consider the most effective ways to

clarify and discuss the relation of free expression to the mission of the University.

<https://yalecollege.yale.edu/>

These might include addresses to entering students, discussions in informal settings such as the residential colleges, and special attention to the subject in student publications.

Second, that individuals and groups who object to a controversial speaker should understand the limits of protest in a community committed to the principles of free speech. Let us therefore be clear about those limits.

1) It is desirable that individuals and groups register in a wide-open and robust fashion their opposition to the views of a speaker with whom they disagree or whom they find offensive. When such a speaker has been invited to the campus by one group, other groups may seek to dissuade the inviters from proceeding. But it is a punishable offense against the principles of the University for the objectors to coerce others physically or to threaten violence.

2) The permissible registration of opposition includes all forms of peaceful speech, such as letters to newspaper editors, peaceful assembly, and counter-speeches in appropriate locations. Furthermore, picketing is permissible outside of a building so long as it is peaceful and does not interfere with entrance to or exit from the building or with pedestrian or vehicular traffic outside of a building. It is important to understand, however, that picketing is more than expression. It is expression joined to action. Accordingly, it is entitled to no protection when its effect is coercive.

3) There is no right to protest within a university building in such a way that any university activity is disrupted. The administration, however, may wish to permit some symbolic dissent within a building but outside the meeting room, for example, a single picket or a distributor of handbills.

4) In the room where the invited speaker is to talk, all members of the audience are under an obligation to comply with a general standard of civility. This means that any registration of dissent that materially interferes with the speaker's right to proceed is a punishable offense. Of course a member of the audience may protest in a silent, symbolic fashion, for example, by wearing a black arm band. More active forms of protest may be tolerated such as briefly booing, clapping hands, or heckling. But any disruptive activity must stop when the chair or an appropriate university official requests silence. Failure to quit in response to a reasonable request for order is a punishable offense.

5) Nor does the content of the speech, even parts deemed defamatory or insulting, entitle any member of the audience to engage in disruption. While untruthful and defamatory speech may give rise to civil liability it is neither a justification nor an excuse for disruption, and it may not be considered in any subsequent proceeding against offenders as a mitigating factor. Nor are racial insults or other "fighting words" a valid ground for disruption or physical attack – certainly not from a voluntary audience invited but in no way compelled to be present. Only if speech

advocates immediate and serious illegal action, such as burning down a library, and there is danger that the audience will proceed to follow such an exhortation, may it be stopped, and then only by an authorized university official or law enforcement officer.

6) The banning or obstruction of lawful speech can never be justified on such grounds as that the speech or the speaker is deemed irresponsible, offensive, un-scholarly, or untrue.

Third, the University could be more effective in discharging its obligation to use all reasonable effort to protect free expression on campus. We submit that this obligation can be discharged most effectively in the following ways:

1) The University and its schools should retain an open and flexible system of registering campus groups, arranging for the reservation of rooms, and permitting groups freely to invite speakers.

2) It is entirely appropriate, however, for the President and other members of the administration to attempt to persuade a group not to invite a speaker who may cause serious tension on campus. This is best done by communicating directly with the inviting group. It is appropriate for the University official to explain to the group its moral obligations to other members of the community. It is important, however, for the official to make it clear that these are moral obligations for the inviters to weigh along with other considerations in deciding whether to go forward, and that a decision to go forward is one which carries no legal or disciplinary consequences nor risks of more subtle University reprisals.

3) Once an invitation is accepted and the event is publicly announced, there are high risks involved if a University official - especially the President - attempts by public or private persuasion to have the invitation rescinded. There is a risk that the public or private attempt will appear as an effort to suppress free speech, and also a risk that a public attempt will lend "legitimacy" to obstructive action by those who take offense at the speaker. Should the President or any other University official think it necessary to make such an attempt, however, it is important that he also make it plain that if his appeal is disregarded, (a) no disciplinary jeopardy will attach to the inviting group, and (b) the University will make every effort to insure that the speech takes place.

4) Generally the inviting group should be free to decide whether the speech will be open to the public. However, if the administration has reasonable cause to believe that outsiders will be disruptive, it may appropriately limit attendance to members of the University. The duty of the administration is to uphold free speech within the university community and to insure that a speaker be heard. To discharge this duty it must have the power to impose sanctions against disrupters. It has little power against outside offenders against its rules.

5) The administration's obligation to protect freedom of expression also means that when it has reasonable cause to anticipate disruption, it may require that individuals produce University I. D. cards to gain admission. We suggest that such cards be issued to all members of the University and that they include a photograph.

6) Much can be done to forestall disruption if sufficient notice is given of the impending event. The administration and others can meet with protesting groups, make clear the University's obligations to free expression, and indicate forms of dissent that do not interfere with the right to listen. The inviting group can work closely with the administration to devise the time, place, and arrangements for admitting the audience (if there are any limits on who may attend) that will best promote order.

7) When the administration has reasonable cause to anticipate disruption, it should designate a particular hall as one best suited to protect a speaker from disruption and make that hall as secure as is reasonably possible. Effective arrangements for identifying offenders such as the use of cameras can serve as a deterrent.

8) A group inviting a speaker may close the meeting to the press. It also may invite the press. In either case, the administration should cooperate.

If a group wishes to arrange for television coverage, it should discuss the matter with an appropriate University official. Television should be permitted if the inviting group desires, unless the President or a person designated by him determines that the presence of television will itself make it substantially more likely that serious disruption will occur. If such a determination is made, it is the obligation of the administration to forbid television and to declare that the presence of television increases the risk of thwarting free expression and puts individuals and the property of the University at high risk.

9) The administration's responsibility for assuring free expression imposes further obligations: it must act firmly when a speech is disrupted or when disruption is attempted; it must undertake to identify disrupters, and it must make known its intentions to do so beforehand.

These obligations can be discharged in two ways. One, the administration may call the city police and the criminal law. This is undesirable except where deemed absolutely necessary to protect individuals and property, for police presence can itself lead to injury and violence. Two, the administration can make clear in advance that serious sanctions will be imposed upon those who transgress the limits of legitimate protest and engage in disruption. It is plain, however, that if sanctions are to work as a deterrent to subsequent disruption, they must be imposed whenever disruption occurs. They must be imposed and not suspended. They must stick.

10) Disruption of a ~~speech is a very serious offense~~ <https://yalecollege.yale.edu/> against the entire University and may appropriately result in suspension or expulsion. Accordingly, one who is alleged to have committed such an offense should be tried before the University-Wide Tribunal. The Tribunal's jurisdiction should vest upon complaint by the President or Provost. The collective assent of the deans should not be required in cases of this sort.

We believe that the procedures established in the charter of the University-Wide Tribunal and the sanctions that the Tribunal may impose are well suited to so serious an offense as the disruption of free expression.

Steven A. Benner, Yale College, 1975

Elias Clark, Master of Silliman College, Lafayette S. Foster Professor of Law

James P. Comer, Associate Professor of Psychiatry, Associate Dean of the Medical School

Lloyd N. Cutler, Visiting Lecturer in Law, Chairman Yale Development Board

Robert A. Dahl, Sterling Professor of Political Science

Marjorie B. Garber, Associate Professor of English

Walter R. Rieman, Yale College, 1977

Philip J. Sirlin, Princeton, 1973, Graduate Student in Economics

Elisabeth McC. Thomas, Dean Pierson College, Assistant Dean of Yale College

Hillel Weinberg, State University of N.Y., Buffalo, 1973, Graduate Student in Political Science

Harry H. Wellington, Edward J. Phelps Professor of Law

C. Vann Woodward, Sterling Professor of History (Chairman)

A Dissenting Statement

It is with sincere regret that I find myself unable to join the Majority Report. I am forced to admit, however, that I thought its statement of principles too facile and simplistic, its historical section full of value judgements, and its recommendations vague and expedient.

The Majority's theory is a simple one: a university's primary purpose is to discover and disseminate knowledge; free expression is necessary to achieve this purpose; therefore free expression should always supersede any other values which might conflict with it. I would challenge this theory on several fronts.

A. The Majority view is based on a positivist belief that science is a mode of inquiry by which man comes to learn incontrovertible truths, by means of which people can manipulate others so as to bring the maximum amount of “efficiency” to the social order. In contradistinction to this view, philosophers and social scientists have been telling us for years that all knowledge is relative, the result of social conditioning. External psychological, social, and historical conditions predetermine our thoughts, depriving individual people of their rational autonomy. For example, Freud attacks the autonomy of our moral beliefs about sex, and McLuhan speaks of the formative influence of the media on our most basic conceptions of the world. And many social sciences model their research on the basis that a person’s feelings, thoughts, and actions are dependent variables. Therefore how are we to believe that the reasons we give for what we believe or think are reasons at all, if the real reasons are outside of us? Thus, the notion that free expression strains our ideas through a firing line of rational dialogue is too simplistic: even after this process, we might remain pre-conditioned in some sense.

Karl Mannheim develops the concept of ideology as another means by which an individual’s social situation systematically distorts his way of thinking, thereby limiting the attainment of “objectivity” even if free speech is allowed. Mannheim concludes that knowledge is not a purely rational and disinterested theoretical enterprise, where praxis has no influence on theory. Instead, power relationships enter into our language and the theoretical structures by which we understand and appropriate our everyday experience. And technocratic thought forbids a discussion of *ends* – norms and values – in our political decision-making, so we have no *telos* – or general goal— for society, no system of ethics determined by *all* men and women in society, free from domination by ideology or technocracy. Until we have such a *telos*, free speech might be simply unrealizable because the neutrality of a purely rational interchange of ideas and arguments is impossible. Even if this extreme conclusion is not warranted, at the very least, before free speech can become a possibility, it will require liberation from and increased self-consciousness of the social and irrational factors that condition knowledge and pre-form the meanings and structures of language. Education, the “sociology of knowledge,” and anti-ideological actions are in order to the extent that they can help achieve the “mental space” necessary for undominated discussion of options.

Marcuse would agree with J.S. Mill and the Majority that “the *telos* of tolerance is truth,” i.e. that we tolerate free speech because it furthers truth. But Marcuse goes on to argue that this implies that specific limitations of tolerance are justifiable if they further the pursuit of truth. Marcuse identifies such “truth” with the liberation of the oppressed and the achievement of true equality, (an identification which should not be too difficult for us all to agree with), so he is willing to justify censorship by the oppressed in order to further their own liberation. The “continued existence” of “the small and powerless minorities which struggle against the false consciousness and its beneficiaries” is “more important than the preservation of

abused rights and liberties which grant constitutional powers to those who oppress these minorities.” So if the elimination of oppression is a rational goal for society (and I think it is), and therefore also a rational goal towards which the exercise of free speech ought to be teleologically directed, then the extent to which free speech helps us reach this “truth” gives us a rational criterion for delimiting the extent to which free speech is to be tolerated. If democratic, undominated discussion within the community so determines, we may prohibit the malicious advocacy of racist or imperialist ideas. As Rev. William Sloane Coffin pointed out: “Unless social justice is established in a country, civil liberties, which always concern intellectuals more than does social justice, look like luxuries. The point is that the three ideals of the French revolution – liberty, equality, fraternity, cannot be separated. We have to deal with equality first.”

From a *political* perspective, “rights” do not exist in the abstract, and the only concrete right to free speech is one which is backed up (usually with definite limitations} by those in power over a given community. Thus, because of the degree to which free speech is undermined by power relationships and ideological coloring, we should recognize that holding up a *pure model* of “free speech” to dissident oppressed groups (as the Majority does) often serves the cause of oppression more than that of free speech.

B. Even if “truth” were not colored by ideology and power relations, it is not clear that a “free marketplace of ideas” would discover this “truth” at all, much less discover it most efficiently. Fundamental to the Majority’s argument is the notion that good ideas will beat out bad ideas in such a free marketplace, as the passage from Areopagitica (Part I) indicates and as the portion of the Holmes quote (at the beginning of Part III) which was conveniently excised from the final draft affirms: “The ultimate good desired is better reached by free trade in ideas – ... the best test of truth is the power of the thought to get itself accepted in the competition of the market.” Such a market, like any other market, would require atomistic perfect competitors in order to most efficiently achieve the “truth.” Yet this market contains a good deal of monopoly power, which can dominate the market and drive out weaker, albeit “true,” ideas. This is most apparent with regard to the domination of the prevailing ideology discussed above: if the language and the prevailing structure of knowledge reflect the ideology of those in power, then the rational autonomy of the individual to think for himself is undermined, and free speech is pre-biased in favor of the prevailing ideology. But even if we liberated our consciousness of all ideological predispositions, there would still be people and classes with more political and economic power than others (including those who control the mass media and the educational institutions), and the ideas of these classes would still be in a stronger position on that “market” than the ideas of the weaker oppressed classes.

The failure of the free marketplace of ideas is implicitly accepted by the Majority, in their desire to limit the free expression of opinion by the Yale Administration and especially by the President. If we can rely on the free market of ideas to achieve truth and if, therefore, we should let anyone say anything any time, then we should not try to prevent the President of the University from saying anything he wants to say, as forcefully as he wants to say it, and as critically (of Lux et Veritas, YAF, Westmoreland, etc.) as he desires. Why, then, does the Majority insist that the President, if he deems an invitation to speak at Yale irresponsible, “Make it plain that if his appeal is disregarded no stigma will attach to the inviting group”?

Furthermore, there are other interferences with the free market of ideas at Yale, which the Majority does not find the slightest bit troublesome: the article by Dr. Spock which the Alumni Magazine refused to print; the termination of the employment of such radical faculty members as Staughton Lynd (History), Mills and McBride (Philosophy), and Resnick, Hymer, Weisskopf (Economics); censorship by the Administration of the Yale Band; punishment of streakers.

C. Even if a free exchange of ideas were the best means of discovering truth, a University has other important purposes and values besides the discovery and dissemination of academic knowledge, and other functions besides merely research and discussion of academic theory. There are other kinds of knowledge, too, such as human knowledge. It is clearly one of Yale’s goals to teach its students how to live responsibly in our modern society, how to deal with other people in a context of mutual respect and harmony; Yale strives to acculturate people to the larger society outside the university community, and this includes the promulgation of racial harmony, religious tolerance, non-sexist attitudes, etc. Indeed, Yale has a responsibility to the rest of society which it must live up to, over and above its own interests. In addition to free expression, other moral questions must be dealt with. The Chairman of this Committee has (Daedalus, 1974) bemoaned the fact that “within the university are to be found members of faculty, student body, or administration whose concern for social welfare and minority needs outside their walls overcomes their concern for the protection of university privileges.” I believe that the university should take a stand for its ideals on erupting national issues, and not merely cloister itself within the walls of knowledge-seeking. And I believe that the university’s commitment to minority groups and to equal opportunity is at least as laudable a value as free expression.

It is not clear to me that relying, as the Majority does, on the inviting groups to exercise responsibility in this area, either through their own leadership or as a result of the “moral suasion” of fellow members of the University, is likely to lead to this kind of education and commitment. The University must play a leading role in the education of good and moral citizens, especially in light of the fact that a disproportionate number of Yale graduates will wind up in positions of power and influence in society. I have no confidence that the kind of “moral suasion” suggested

by the Majority will ~~proselytize as effectively for~~ <https://yalecollege.yale.edu/> responsible invitations as it proselytizes for free expression. And if it does not, then the “chance” that the Majority is willing to take, – “that the results of free expression are to the general benefit in the long run, however unpleasant they may appear at the time” – will entail severe short run costs in terms of other values which the University is interested in promoting. Whereas the Majority is willing to accept these short run costs by insisting that free expression be the “paramount” priority in a university, I would try to balance the conflicting interests in each case, and weigh the values which would be sacrificed in the “short run” against the potential “long-run” knowledge which might be gained by allowing the free expression. If, for example, Hitler was invited to Yale to discuss his research into the area of Aryan racial superiority, and his policy prescription of extermination of all non-Aryans, I would have a hard time justifying allowing him to speak. Even if I were confident that his theories would, if wrong, eventually be disproved in the “long run,” I have learned from history that the “short run” costs would be overwhelming.

D. In determining the value of the knowledge which might potentially be gained in the long run, we must keep in mind that it is mainly “through research and teaching” that knowledge is discovered and disseminated, whereas people invited from outside the University to give public speeches – which is, after all, the problem which the Majority primarily addresses – further the University’s purpose in only a peripheral way, if at all. For example, it is difficult to see how William Shockley’s speech fits in to what Mr. Woodward (in the same Daedalus article] called “the traditional mission of the university ... ‘a unique fusion of the quest for knowledge through scholarship and the dissemination of this knowledge through *teaching*.’ (Emphasis added.) The speech certainly was not intended to “discover” new knowledge, nor is it clear to whom the speech was meant to “disseminate” any idea that had not already been disseminated many times in many different (public) places. Thus, while no one would dream of denying Shockley the right to think whatever “unthinkable” thoughts he wants, nor to discuss – on his campus, in the journals, on the Cavett show, or even in small seminars at Yale – “the unmentionable,” I just cannot see why we have to feel obligated to provide a public podium for him.

A public podium, especially a forum at a prestigious university like Yale, provides sponsors and speakers with advantages not easily obtained elsewhere. The means to obtain an audience, publicity, and an auditorium are easily at hand at minimal expense. In addition, the practice at Yale has been to provide additional security forces without charge to the sponsoring group, although in some cases the expense has run to several thousand dollars. These advantages – financial, publicity, prestige – are separate and apart from a speaker’s right to think what he wants to think and to express his views. The First Amendment, let us recall, only protects against government interference with expression: it does not create an obligation to provide a forum nor to guarantee a polite reception to all ideas. That is a question of academic courtesy, not free expression. Nor should a university feel obligated to go

beyond the canons of academic freedom, i.e. non-interference with faculty research and teaching – by providing a forum for unscholarly or socially harmful ideas. It might even be said that an invitation to such a public forum goes beyond mere speech, into the realm of action, and therefore need not be protected the way speech and thoughts are. This fact, coupled with the advantages which a university podium bestows upon a speaker, creates a responsibility on the part of both the university and the inviting group, to judge the expected benefits of its invitation against the possible adverse consequences, including any adverse national impact.

One important factor which must be considered before an invitation is “responsible” is the political implication. Putting aside any question of motive of the inviting group or of the speaker. Even if someone like Shockley had no desire to provoke a confrontation or to promote racism, even if he merely wanted to discuss his genetic theory and its implications, still the very nature of his policy prescriptions transpose his expression from mere speech into action. Thus, on top of the political fact that racial theories like Shockley’s will have the actual result of fanning racial hatreds (whether intended or not), Shockley’s policy recommendation – that the government offer cash incentives to low-IQ individuals who agree to have themselves sterilized – is particularly pernicious at a time when legislation has been introduced which mentions sterilization and when individuals have taken it upon themselves to forcibly sterilize young black people. Like the Hitler example above, the costs of such a racist political campaign are prohibitive, and may justifiably be opposed by political means. The problem, then, is not that the speaker’s ideas must surely be false, but that he is using vacuous questions to suggest pernicious action; not that it is wrong to permit dissemination of wrong and false ideas, but that there is something wrong in staging an event (a massively attended public lecture) which furthers his evil (political) ends. In the case of Shockley, another political implication of allowing him a forum at Yale (i.e. a place for the public discussion of current questions) is that it implicitly acknowledges that the question of inherent inferiority of blacks is an unresolved, debatable topic, an acknowledgement which the National Academy of Sciences has twice refused to make.

Another factor to be considered in determining whether an invitation is responsible is the motivation of the inviters and of the speaker. If the motivation is not to discover or disseminate knowledge, but to provoke a confrontation, to arouse the black or radical community to protest so they will be expelled from Yale, or worse yet, to incite a riot, then the invitation is irresponsible. Even the Majority’s “overriding university purpose” rationale fails to justify such a speech. There is also the question of what to do with groups which fail to adhere to the ethical considerations the Majority discusses in Part I, or groups which fail to consider these factors fairly, by giving their own interests undue weight or otherwise. I do not think that such an invitation is responsible, nor should it be condoned by the university. Reasonable individuals should be obliged not only to consider these factors, but also to act accordingly; procedural respect is insufficient without substantive respect. The

Majority is afraid punishment of such irresponsible invitations would inhibit free expression or subordinate it to other values, none of which they believe to be more important than free expression. As I said earlier, I would weigh the different values to determine what an optimum policy should be in each case. (I do not think that the fact-finding problem here is as difficult as the Majority seems to think. Courts and juries always make findings of fact, including the question of motive. If juries were not capable of determining motive, most criminals could never be convicted.) As for the Majority's problem with formal sanctions chilling free expression, I fail to see why the informal sanctions which they recommend (moral suasion) would not also chill free expression, too, though to a slightly lesser extent. Thus, extrapolating their argument for the absolute primacy of free speech above all other values, we are forced to conclude that even moral suasion should not be exercised against irresponsible invitations. The Majority is on a slippery slope and has to draw an arbitrary line between formal and informal sanctions.

If we extend the question from immoral motives to speech which is actually illegal, we find that the Majority has finessed the distinction between lawful and unlawful speech. Everyone must realize by now that the First Amendment, as interpreted by the Supreme Court, does not grant an absolute right to free expression; the right often depends upon the context of the situation. Military personnel, people in business relationships, slanderous and libelous utterances, fighting words, and pornography are not protected by the Constitution. No one may shout "fire" in a crowded theatre, nor speak in such a way as to create a clear and present danger of unlawful action. Despite these limitations on free expression for the purposes of the First Amendment, the Majority Report only mentions one limit on free expression for the purposes of Yale University: speech advocating immediate and serious illegal action. But why does the Majority make an exception here? Why not allow the speech and merely stop the advocated action? If the Majority argues that free speech should dominate *all* other values, then free speech must dominate the values which lie behind the outlawing of certain speech – including the value of protecting the government from speeches creating a danger of violent overthrow. Thus the Majority, too, has a line-drawing problem. If they are willing to stop speech which advocates serious illegal action, why not also stop the advocacy of serious *immoral* action? And why rely on university officials to determine what might be illegal action, how serious the action might be, or the likelihood that the audience will follow such exhortations? This sounds like the prior censorship the Majority seems to abhor. And if the university tries to stop such a speech but is unable to (or if the speech occurs before the Administration finds out about it, as is more likely), does the university punish the inviters? punish the disrupters? punish everyone?

The Majority says that defamatory speech does not create a right to disrupt, since civil remedies are available if the speech is proven to be illegal. But this ignores the fact, recognized by U.S. Courts, that racial minorities and other "suspect classifications" do not have the same opportunity to overturn policy by political

means, due to their ~~small numbers and relative lack of resources~~. Therefore the Courts apply a stricter standard of judicial scrutiny in cases which impinge upon fundamental rights of these groups. For the same reason, the Columbia Law Review's Model Defamation Statute stated: "False representations of fact about these groups (racial and other minorities) made in support of a cause of action impede the free interchange and wise choice of ideas because the enormity and repetition of such falsehoods have been shown to increase their acceptance." I would submit that, for similar reasons, Yale ought not to leave members of these minority groups to their civil remedies, without more. As a Dartmouth discipline committee said after Shockly was disrupted there two years ago, "A speech dealing with the slander of a racial group is not susceptible to academic discourse because verbal refutation cannot undo the damage caused by the utterance of this slander."

E. This brings us to the question of disruption. The Majority suggests that "any disruptive activity must stop" upon a reasonable request from the chair. This standard is as arbitrary as one might devise. Besides the fact that "disruptive activity" is not defined except by vague examples ("briefly booing," "heckling"), such a repressive scheme, leaving the determination of "reasonableness" of requests to a chair which is inevitably biased against the protestors, cannot help but chill the audience's right to protest, dissent, and assembly. Certainly the right to assemble publicly is meaningless if it cannot involve large masses, high emotions, roughness and even turbulence. Its value has been proved on countless occasions as a technique to propagate new, minority or unconventional opinions. How can this Committee stifle this and other forms of dissent in its desire to protect calmer forms of expression? We must remember, too, that dissent and assembly are of even more crucial significance to those groups which habitually lack majority status in almost every decision-making arena. Even the Majority's free-exchange-of-ideas theory holds that knowledge is furthered, not by lecturing to an absorptive audience, but by confronting questions and criticisms. Nor does that theory necessarily require compliance "with a general standard of civility," as the Majority demands. Anger, passion, and disagreement further the free interchange of ideas as we grope toward an understanding of truth.

The Majority also denies that either the content of the speech or the motivation of the speaker can be a mitigating factor in subsequent proceedings against disrupters. I fail to see why, if there are mitigating circumstances which might reduce a criminal charge from first degree murder to second degree or even manslaughter, why context and motivation cannot mitigate doing violence to another's right of expression. If someone utters "fighting words" (such as "you dirty Jew bastard") and you hit him in the face, you are probably within your legal rights; the speaker's irresponsibility mitigates your assault. I see no reason why university punishment should not be mitigated, too. I do not believe that the disruption which Yale has witnessed in the last few years has been either frivolous or frequent. It has been an expression of moral outrage, and emotional reaction to something that was deeply

felt to be wrong, not unlike the reaction of a bunch of revolutionary farmers who lined up against the British in 1775. Therefore I have a strong gut reaction against punishing opposition, on moral grounds based on profound belief in human dignity, to “irresponsible” (but “legal”) speech, while refraining from punishing the inviters of the speech for their disregard of “mutual respect” amid “charitable relations.” Of course, the best way for Yale to eliminate disrupters would be to screen out potential disrupters during the admissions process, and this alternative is no doubt being practiced to some extent here and elsewhere. But the cost to the ethnic and ideological diversity of the student body and therefore to the quality of the University would be considerable.

The constraints of time and the fact that the Chairman has asked me to try to limit my Minority Report to five pages forbid me to enumerate all of the difficulties I have with the historical section and the policy recommendations other than what is implicit in what I have already said. However, I do want to point out two problems with the history section which are quite important.

The Majority continually refers with obvious discontent to statements by President Brewster to the effect that he recognizes the existence of additional values within the university community other than free speech. I find Mr. Brewster’s commitment highly laudable (to the extent that it is not compromised by vacillation or by regressive policies in other areas), and I am surprised that the Majority remains unsatisfied, for it seems to me that most of the President’s statements have conformed remarkably well to the inhibitions and disclaimers promulgated in Part III, Section 3, (2) and (3) of the Report.

A point which goes more deeply to the fundamental rationale of the Majority is the historical fact that the disruptions at Yale have not been stimulated by academic issues about which the Majority claims Yale has a duty to present factual, rational argument above all else, but by political issues which are a source of equally competent contention throughout American society, centering around morality, opinion and passion rather than intellectual fact. Thus, the Committee would do well to exclude these events from their definition of “academic” freedom, and decline to recommend such severe punishment for students who have felt bound by their consciences to disrupt these non-“academic” events.

In sum, I agree that free expression is an important value, which we must cherish and protect. But it is not the *only* value which we uphold, either in our society or in our universities. Under certain circumstances, free expression is outweighed by more pressing issues, including liberation of all oppressed people and equal opportunities for minority groups.

Respectfully submitted,

Kenneth J. Barnes, Harvard, 1970, Law Student and Graduate Student in Economics

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¹ (*Yale Daily News*, September 20, 1963. Subsequent quotations, unless otherwise notes, are from the *News*.)

² (For its composition, jurisdiction, and procedures, see “Report on the Executive Committee of Yale College,” by a committee chaired by A. Dwight Culler, September, 1970.)

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APPENDIX 4

The Shils Report **(University of Chicago)**

A Report of the University of Chicago Committee on the Criteria of Academic Appointment
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The Committee

The Committee on the Criteria of Academic Appointment was appointed by President Levi on July 15, 1970. The members of the Committee are:

S. Chandrasekhar, the Morton D. Hull Distinguished Service Professor of Astronomy and Physics.

Dr. Roderick Childers, Associate Professor of Medicine.

John Hope Franklin, the John Matthews Manly Distinguished Service Professor of History.

Arthur Friedman, Distinguished Service Professor of English.

Jacob W. Getzels, the R. Wendell Harrison Distinguished Service Professor of Education and Psychology.

Harry G. Johnson, Professor of Economics.

Saunders Mac Lane, the Max Mason Distinguished Service Professor of Mathematics.

Edward Rosenheim, Professor of English, *Secretary*.

Edward Shils, Distinguished Service Professor of Sociology and in the Committee on Social Thought, *Chairman*.

John Simpson, the Edward L. Ryerson Distinguished Service Professor of Physics.

Lorna P. Straus, Assistant Professor of Anatomy and Biology.

H. G. Williams-Ashman, Professor of Biochemistry and in the Ben May Laboratory for Cancer Research.

Fourteen meetings were held in 1970—July 15, 24, and 28; August 4; October 6, 13, 20, and 27; November 3, 10, 17, and 24; and December 1 and 8.

The Committee was asked to reconvene on December 2, 1971 to elaborate its views on political criteria; a report of that meeting appears as section V of this report.

I. Introduction

The existence of The University of Chicago is justified if it achieves and maintains superior quality in its performance of the three major functions of universities in the modern world.¹ These functions are: (1) the discovery of important new knowledge; (2) the communication of that knowledge to students and the cultivation in them of the understanding and skills which enable them to engage in the further pursuit of knowledge; and (3) the training of students for entry into professions which require for their practice a systematic body of specialized knowledge.

In intellectual matters, at least, the whole amounts to more than the sum of the parts in isolation. A university faculty is not merely an assemblage of individual scientists and scholars; it must possess a corporate life and an atmosphere created by the research, teaching, and conversation of individual scientists and scholars which stimulates and sustains the work of colleagues and students at the highest possible level. Research, teaching, and training are the work of individuals. These individuals depend for their effectiveness, at least in part, on the University's provision of material and administrative services which enable their work to go on; they depend also on the maintenance in the University of an atmosphere of stimulation, tolerance, and critical openness to new ideas. The function of appointive bodies is to bring to the academic staff of the University individuals who will perform at the highest level the functions of research, teaching, and training and the maintenance of the intellectual community of the University. A university which does not perform at this level will lose its standing in the world and therewith its power to attract outstanding faculty members and outstanding students. Its failure to attract them will in turn reduce the quality of its performance. Every appointment of a mediocre candidate makes it more difficult to bring outstanding students to the university. This is why scrupulous insistence on the most demanding criteria in the act of appointment is so decisive for the University.

The conception of the proper tasks of the University determines the criteria which should govern the appointment, retention, and promotion of members of the academic staff. The criteria which are to be applied in the case of appointments to The University of Chicago should, therefore, be criteria which give preference above all to actual and prospective scholarly and scientific accomplishment of the highest order, actual and prospective teaching accomplishment of the highest order, and actual and prospective

¹In view of the invidious implications of the use of the masculine pronoun in all cases, it should be clearly understood from the beginning that where that pronoun is used, the reader of this report should understand it to refer to both sexes. Henry James once said, "When I say 'Oxford,' I mean 'Oxford and Cambridge.'" We are, *mutatis mutandis*, in the same position.

When the term *department* alone is used, it should be understood to refer to department, committee, institute, and school.

When *appointment* alone is used, it should be understood, unless it is otherwise clear from the context, that this means appointment, promotion, retention, or extension.

When we speak of "senior members" of the University faculty, we mean those on permanent appointment; when we speak of "junior members," we mean those not on permanent appointment.

The University of Chicago is generally referred to in the text as "the University."

contribution to the intellectual quality of the University through critical stimulation of others within the University to produce work of the highest quality.

The University of Chicago should not aim to be a pantheon of dead or dying gods. Appointments to the University should not be made solely on the basis of past achievements but only to the degree that past achievements promise future achievement.

The tradition of The University of Chicago has defined it, primarily but not exclusively, as a research university of the highest international standing. The University of Chicago is, by its tradition, an institution where research is done by academic staff and where students are trained to do research, by induction into the state of mind and disposition to do research on important subjects and with original results. Undergraduate teaching at The University of Chicago has been and must be conducted in a way which arouses in students their capacity for discrimination and disciplined curiosity so that upon reaching the latter years of their training they will have the skills, knowledge, discrimination, and motivation to make original discoveries or will begin to be ready for the effective performance of roles in society where these qualities will bear fruit.

In the performance of its functions in research and in professional training, it becomes necessary to appoint supporting staff who are indispensable to the performance of these functions but who are not qualified for appointment to the University faculty. This raises serious problems for the University in its effort to keep to its major tasks at the level its traditions and aspirations demand.

II. Procedural Matters

A. CRITERIA

Any appointive body must have a standard by which it assesses the merits of the alternative candidates before it. Academic appointive bodies in general, and at The University of Chicago in particular, must have clearly perceived standards which they seek to apply to particular cases. They must seek to choose candidates who can conform most closely with these standards in their most exigent application. The standards to be applied by any appointive body should be those which assess the quality of performance in (1) research; (2) teaching and training, including the supervision of graduate students; (3) contribution to intellectual community; and (4) services.² Distinguished performance in any one of these categories does not automatically entail distinguished performance in the others. For this reason, weighting of the various criteria cannot be avoided by appointive bodies. The Committee thinks that the criterion of distinction in research should be given the greatest weight.

B. THE APPLICATION OF CRITERIA

All academic appointments to University faculties must be treated with great seriousness.³ They should, wherever it is at all possible, be made on the basis of careful study by members of the appointive body of the publications and other written work of the candidate, and of written assessments, where desirable, by outside referees or consultants

²The criteria for academic appointments sometimes are distorted or degraded by pressures from the faculty or administration as a result of the need for special talent to carry out supporting services of the University or to fulfill a commitment made by the University to perform certain services.

³According to Statutes 13 (a) and (b) of the *Statutes* of The University of Chicago (pp. 41-43), the following categories do not possess membership in the University faculty: (1) Research Associates and (2) Field Work Personnel:

13. (a) *The Members of the University Faculties* are classified as follows: Professor, Associate Professor, Assistant Professor, and Instructor. Every person holding one of these titles shall be a member of the Faculty with status as defined in this Statute. . . .

(b) *Other academic personnel.* Membership in the University Faculties is restricted to persons holding appointment as prescribed in the preceding section of this Statute. Others, regardless of courtesy rank or stated rank equivalence, shall not be members of the University Faculty to which they are attached. They include the following:

(1) *Research Associates and Associates.* Research Associates are classified as follows: Research Associate (Professor), Research Associate (Associate Professor), Research Associate (Assistant Professor), Research Associate (Instructor), and Research Associate. The normal period of appointment of Research Associates shall be one year, and reappointments may be made without limitation as to number of reappointments in any rank. Connection with the University ceases at the end of appointment unless reappointment is provided.

Associates of Departments and Schools may be appointed to designate courtesy relationships. At the end of the term of appointment the connection with the University ceases unless reappointment is provided.

(2) *Field Work Personnel.* In the School of Social Service Administration and in the Department of Psychiatry appointments may be made to the following additional positions: Field Work Professor, Field Work Associate Professor, Field Work Assistant Professor, and Field Work Instructor. Appointments may be made for periods of one to three years, and reappointments may be made without limitation as to number of reappointments at any rank. Connection with the University ceases at the end of appointment unless replacement is provided.

which assess originality, rigor, and fundamental significance of the work and which estimate the likelihood that the candidate is or will become a leading figure in his field. They also should be made on the most careful consideration of his teaching ability, which includes the ability to contribute effectively to the research of graduate students. Appointive bodies should take into account the observations and written opinions of those who have observed or experienced the candidate's teaching or who have observed its results in the accomplishments of his students. They should be made on the basis of the best available information about the candidate's contribution to the intellectual activity of the university where he has worked previously in addition to his publications and his success with his students in their doctoral and subsequent research, as attested by their dissertations and publications.

All appointments, whether they are first appointments to instructorships or assistant professorships, or reappointments to assistant professorships, or promotions to permanent tenure at the level of associate professorship, or promotions from the rank of associate professor to that of professor, or appointments from outside the University to associate professorship, or extension beyond the age of normal retirement, must be conducted with the same thorough deliberation, the same careful study of relevant documentation and other evidence, and the same process of consultation. No decisions to appoint, retain, or promote between any grades should under any circumstances be regarded as "automatic."

Junior appointments of candidates who have just finished graduate work to instructorships or assistant professorships do, however, have a character of their own. The candidate's written work is likely to be scanty and may not even be available. There may be little or no evidence of his teaching, and it may be difficult to disentangle his originality from that of his professors. In such cases, all available evidence must be examined just as in other cases, but there cannot be the same certitude of judgment. For this reason, appointive bodies must always be quite explicit in stating that such an initial appointment is for a limited term.

There must be no consideration of sex, ethnic or national characteristics, or political or religious beliefs or affiliations in any decision regarding appointment, promotion, or reappointment at any level of the academic staff.

Particular care must be taken to keep "inbreeding" at a minimum. "Inbreeding" at the level of appointment to the rank of instructor and assistant professor is a temptation because the internal candidate is already known to the appointive body. The arguments against "inbreeding" are: (1) the dangers of relaxation of standards; (2) the dangers of narrowing and stereotyping the intellectual focus of the department in question; and (3) the dangers of appointing candidates who are excessively dependent intellectually on their former teachers' ideas and even presence. These are arguments to be taken seriously by appointive bodies. Nonetheless, the barrier against "inbreeding" should not be insuperable. Whenever an "inbred" candidate is considered, great pains must be taken to identify and examine with the utmost care the credentials of external candidates of high quality so that internal candidates can be properly compared with external candidates. Special emphasis should be given to external assessments in decisions which entail "inbreeding." Where, after severe scrutiny, the internal candidate is very clearly superior in his estimated potentiality as an original scientist or scholar to any of the external candidates, and if he is not only superior to his immediate competitors but is deemed likely to become an

outstanding figure in his subject, the objections to “inbreeding” should be overcome in that instance.

Decisions regarding retention or promotion must deliberately eschew considerations of convenience, friendship, or congeniality. No decision to retain or promote should permit the entry of considerations of the avoidance of hardship which might confront the candidate if a favorable decision is not made. Similarly, favorable decisions to retain or promote should not be rendered on the grounds that evidence is not sufficient for a negative or positive estimate of future accomplishment. The insufficiency of such evidence is in such cases indicative of the candidate’s insufficient productivity.

No appointments should ever be made in which the chief or major argument is that “outside” funds would accompany the appointment sufficient to relieve the regular budget of the cost of the appointment. Similarly, no appointment should ever be made on the initiative of a person or body from outside the University who offers to defray all expenses, salary, etc. on condition of a particular person’s appointment.

Care must be taken to avoid undue regard for the rights of seniority in promotion. Consideration should be given only to quality of performance, and age should be disregarded. Thus the fact that an older member of a department or one with a longer period of service remains an associate professor should not be permitted to inhibit the promotion of a younger person to full professorship; similarly, in promotions of assistant professors the age of the candidate in relation to the age of his colleagues at the same rank should not be considered in any decision.

Great caution must be exercised by appointive committees themselves to prevent their being “stampeded” by the prestige or influence of contemporaneity. There has for some years been an increasing tendency for universities to concern themselves in their teaching and research with contemporary events — especially in the social sciences and humanities — and it is perfectly understandable that this should occur. With this focus of attention, however, there has also been a corresponding tendency to regard participants in the contemporary events as qualified to become academic staff members on the ground that their presence in the university will bring to the university the immediate experience of those events. Appointive bodies must remember that universities are, insofar as their major intellectual functions are concerned, places for scientific and scholarly analysis and training in such analysis, not theatres for the acquisition of vicarious experiences. Proposals to appointive bodies urging them to consider present or recent public notables for academic appointments must be responded to by strict adherence to the criteria of academic appointment. Where rare exceptions to this rule are permissible, such appointments must not be classified as appointments to the faculty.

These observations should not be interpreted to mean that a candidate who hitherto has not been wholly or at all in the academic profession should be automatically excluded from consideration. It means only that appointive bodies must be certain to apply the same high standards of distinction of scholarly and scientific performance to these candidates as they would to any others.

C. MODE OF ARRIVING AT DECISIONS

At present there is a wide variation among the various schools and departments of the University in the composition of their appointive bodies and in the sequence of stages of the appointive process. There is no need for uniformity, other than that recommendations for appointment (retention, promotion, extension) should originate within departments and schools, pass to the dean of the division or school, and thence to the Provost and President for approval or rejection or reference back for further consideration.

The Committee recommends that departments, schools, and committees in the University make arrangements whereby all faculty members, irrespective of rank within the department,⁴ possess a voice in the appointment of new members. When it is a matter involving reappointment or promotion of existing faculty members, e.g., the reappointment or promotion of assistant professors, it is reasonable for those at the same level or below not to have a voice in the decision. The same documentation on prospective appointments which is available to senior members and external assessors should normally be available to junior members of the academic staff.

The Committee recommends that the various departments and schools of the University should establish rules which they regard as appropriate in inviting and considering the assessments of candidates for appointment made in a consultative capacity by students. The Committee is of the view that advisory student assessment of candidates for appointment should be taken seriously, particularly with regard to teaching performance and graduate supervision. The *Statutes* of the University and the obligations of the departments and schools in the performance of the three main functions of universities preclude the membership of students with voting powers on appointive bodies.

External assessors should be selected very meticulously. They should not be chosen perfunctorily or in anticipation of an assessment favoring a particular candidate. The Committee does not recommend that external assessors be invited to become formal members of appointive bodies or that they be invited to be present at interviews of candidates. It does recommend that the external assessors be provided with full documentation such as bibliographies, offprints, etc., just as provision should be made for all members of appointive bodies. At the same time, it points out that external assessors are sometimes more indulgent in their view of candidates for appointments at other universities than they are at their own. One procedure which might be followed is to request the external assessor to indicate whether he would support the appointment of the candidate at his own university to the same rank for which he is being considered at The University of Chicago. Supplementary oral consultation with assessors by telephone would be useful.

The Committee suggests that some designated members of appointive bodies, whenever an appointment is to be recommended, present their assessments of competing candidates in independently written statements as well as orally. These written assessments, together with the vote taken in the appointive body, should be sent to the dean of the division together with the recommendation.

⁴Not necessarily including those persons on expressly terminal appointments.

Appointive committees should not consider only one candidate at any one time for a given appointment. It should be a firm rule, followed as frequently as possible when there is an appointment to be made, that several alternative candidates be considered. Although difficulties might be encountered because not all the candidates considered might be willing to accept appointment, this practice would lend rigor to appointive procedures. This same procedure should always be followed when an assistant professor is being considered for reappointment for a second term or for promotion to an associate professorship. At this point, he should be considered as if it were a new appointment. It should be made clear that no appointments carry with them the assurance of reappointment or promotion.

The decision to appoint an assistant professor for a second term (of two or three years) should be made only if there is reasonable confidence that at the end of that period he is likely to be qualified for promotion to the rank of associate professorship. In considering internal candidates for retention or promotion (or extension), members of appointive bodies must be willing to recognize that their earlier assessments might have been wrong. The effectiveness of the University in the performance of its intellectual functions would be diminished by the repetition of earlier erroneous assessments.

D. SPECIAL SITUATIONS

The foregoing remarks accept the principle that the power of formal recommendation of appointment rests with the faculty members of departments and committees and schools. This is the general practice, established by tradition and convention, and it should be adhered to. There are, however, occasionally special situations where deviation from this practice is necessary.

Where the quality of work of a department, school, or committee has declined over the years, special weight should be given to the views of external assessors regarding any candidate whose appointment has been internal proposed. Where a field, subject or department is expiring because first-class intellects are not available to constitute its staff, the discontinuation or suspension of the department should be considered.

One way to deal with the situation of a deteriorated department or, what is quite a different situation, of a department which has too few professors to make the necessary judgment about optimal lines of development, is for the dean of the division to appoint an ad hoc committee of distinguished persons from other universities and from adjacent departments in The University of Chicago to canvass the field and make recommendations for appointments and promotions. Another way is for the president or provost to appoint a new chairman with powers greater than those ordinarily enjoyed by chairmen.

E. TERMS OF APPOINTMENT

Initial appointments to the rank of instructor or assistant professor should be treated variously. In some cases the evidence at hand may be strong enough to indicate that the candidate may well be a strong prospect for permanent tenure. In this case an initial appointment as assistant professor for a term of four years is advantageous. (This is

within the present provision of the University *Statutes*.⁵⁾ This would have the advantage that the next decision would be taken after a period of three years rather than the present period of two years for a three-year term of appointment. The latter term is often too short for the accumulation of sufficient evidence on the intellectual promise of the candidate.

In other cases, an initial appointment is based largely on recommendations of the candidates from outside graduate schools so that an initial appointment for two or three years, given the possibility of reappointment, may be most appropriate. In some departments it should be possible as a matter of general practice to offer junior appointments with the explicit understanding that the appointment is strictly a terminal appointment and that most or all of those so appointed will leave the University at the end of that term. Such arrangements have certain advantages in promoting a flow of young talent, in taking care of certain teaching and service obligations, in training young postdoctoral students here, and in assisting the flow of scholarly information. Moreover, the University remains free to appoint the very best of such persons in more permanent ways.

In many ways, the promotion to rank of associate professor and to permanent tenure is the one requiring greatest care and consideration.

Promotion to the rank of professorship from associate professorship should not be automatic either on the basis of seniority or after the lapse of a specified period of time. Promotion to professorship within the University should be made on the basis of the same procedures as appointments to full professorship from outside the University.

The Committee believes that on approaching the age of 65, members of the academic staff might be considered for reappointment for a three-year period. Each case should be considered by essentially the same procedures and with the same intensive and rigorous scrutiny as appointments at earlier ages and at lower ranks. The main criteria in the assessment of the faculty member in question should be teaching, research, and contribution to the intellectual accomplishment of his colleagues. Once a faculty member has reached the age of 68, he may be considered for subsequent reappointments of one year. Each such appointment should be considered in the light of the same criteria which are applied to earlier appointments. If the age of retirement should ever be raised to 68, post-retirement appointments should be made for one year at a time. Each reappointment should be subjected to the same criteria and procedures as other appointments.

In this connection, it is sometimes important to take into account the effect of retirement upon the general strength of the department. If, for example, several retirements are scheduled to take place concurrently and prospects for adequate replacement are not favorable, the department involved might be threatened by serious depletion of its staff

⁵*Statutes*—13 (a) (2), p. 41:

(2) *Assistant Professors*: The appointment of an assistant professor normally shall be for a term of either three or four years of full time service in one or more Faculties of the Departments, College, and Schools, provided that no person shall be appointed to serve in this rank for (a) a total of more than seven years, nor (b) a total of more than six years if he previously had an appointment for full time service in the rank of instructor for as long as four years. . . .

within a single year. In such cases, it may be desirable to “stagger” the retirement of senior faculty members by appropriate extension of their appointment.

In view of the fact that academic members of the University sometimes make arrangements several years before the age of normal retirement to resign in order to go to another university where the age of retirement is later, it might be desirable for the University that such decisions regarding extension may be made as many as two years prior to the age of normal retirement. (The arrangement for the supervision of dissertations also counsels a decision prior to the last year of normal tenure.)

The Committee discussed the possibility of an age of “early retirement” with modified pension provisions. It also discussed instances in which, for various reasons, a faculty member’s association with the University should be terminated before the statutory age of retirement. The Committee noted precedents for such a procedure in other universities and recommends that where a faculty member on permanent tenure shows no promise of continuing usefulness to the University, the termination of his appointment be given serious consideration. Such “early retirement” may be made possible through either modified pension provisions or the “commutation” of full-term appointment by a lump-sum payment of anticipated future salary.

The Committee recommends that there should be a category of strictly temporary appointment for which there is not only the usual terminal contract of appointment but explicit statement to the appointee that the appointment will not extend past a particular date. These short-term appointments should be used only on special occasions, such as emergencies where there is no regular member of the academic staff available to teach a particular subject which must be taught. If a person is on an emergency short-term appointment and is considered for regular appointment at the end of the period of his emergency appointment, his candidacy should be treated like any outside candidacy. (These observations do not apply to the short-term appointments of visiting professors and lecturers. To these appointments the same criteria apply as to normal appointments.)

F. CONDITIONS OF APPOINTMENT

All academic appointments, when confirmed by the provost, president, and Board of Trustees, should be notified by letter to the appointee, stipulating that his acceptance of the appointment places him under obligation to “conduct and supervise research, teach, and contribute to the intellectual life of the University.”

G. UNIFORMITY OF APPLICATION OF CRITERIA

A question has repeatedly been raised concerning the differing standards which seem to be applied to faculty members whose primary duties are in the College and those whose primary duties are in the divisions. Those in the latter category are judged primarily by their research accomplishments. The application of these same criteria for promotion and permanent tenure to those who are burdened with teaching does not seem to be fair. The existence of dual standards cannot be avoided as long as these two categories exist. The only way to abolish the dual standard is to abolish one of the categories by abolishing the differences in the kinds of tasks performed by members of the faculty.

The three criteria for appointment to The University of Chicago—distinction in research, distinction in teaching, distinction in intellectual contribution to the University as an intellectual community—should be applied in all situations in which appointments must be made. In general, as has already been stated, the criterion of distinction in research should be weighted most heavily. The University of Chicago faces a peculiar dilemma, however. It arises from the fact that at least since the 1930s, and more acutely over the past quarter of a century, there have been integrated into the structure of the University, two not wholly harmonious modes of weighting the criteria of research and teaching. Appointees to the University faculty posts in divisional departments, schools, and committees have been selected primarily according to the criterion of distinction in research; the other criterion was applied but given secondary significance. Appointees to the College have in certain fields been selected primarily according to the criterion of prospective teaching performance and promoted in accordance with evidence of distinction in teaching. The research criterion has not been disregarded, but it has not been given primacy or even equal weight.

These divergent weightings of the criteria have resulted in a degree of stratification in the University which is injurious, and various efforts have been made to overcome this stratification by various departments. Some of these efforts have apparently been successful; in others they have introduced an unassimilated mass of persons who do not share the intellectual aims of their colleagues and who believe they have no future in the University. In still others, stratification has been contained with good grace on both sides, but even in such fortunate outcomes, the fact remains the same: the criteria have been applied with different weightings and they have, therefore, constituted two different sets of criteria.

The Committee believes that normally appointment should involve both teaching and research and that candidates should be judged on both qualities. Appointive bodies should discourage appointments for research alone or for teaching alone. In particular, College appointments should not carry teaching loads so heavy as to preclude productive research activity.

H. JOINT APPOINTMENTS

It is one of the merits of The University of Chicago that it has often led in the development of new subjects through the freedom of its members to conduct interdisciplinary research and teaching. "Joint appointments" have been one of the devices

by which this kind of work has been fostered, and the Committee views such arrangements with favor. These joint appointments have, however, sometimes led to grave difficulties for both the individual holding the appointment and for the University. Primarily because of administrative problems and faculty politics, there have been cases where persons have held appointments with full privileges in one department but were denied the privileges associated with the appointment in another department. Joint appointments should enjoy the full privileges of the respective organizations, according to the level of appointment. Appointments initiated by institutes, interdisciplinary committees, etc. should be made as joint appointments with one of the teaching departments, and no members of the faculty should be able to find shelter from teaching by virtue of institute or committee appointments alone.

Joint appointments often present difficulties for junior members at the time of their reappointment or promotion. They find themselves in “double jeopardy.” Each department applies the criteria for advancement in its own way, and each exacts its own full set of demands independently of the other. Hence it is important to protect the joint appointee by not demanding twice the commitment of service on committees, examinations, etc. expected of normal appointments in a single department.

The Committee wishes to emphasize that when such appointments are made, each department participating should treat the appointment, whether it is from within or outside the University, with the same stringency as it would treat an appointment entirely within its own jurisdiction. The Committee is especially concerned that the fact that a department’s share of a joint appointee’s services in research and teaching is not paid for from its own budget should not cause the appointive process to be treated perfunctorily. Agreements to share in a joint appointment of a candidate wholly paid for from another unit’s budget should not encourage its treatment as a matter of “courtesy.” Research associates are not members of the University faculty entitled to the prerogatives of faculty members, except where as holders of joint appointments, they enjoy the title of “research associate (with rank of . . .)” in one of the departments.⁶ Research associateships do, however, fall into the category of academic appointments. For this reason, the Committee believes that their appointments should be reviewed periodically by the appointive bodies of departments, to ensure that the criterion of distinction in research is strictly adhered to. This would also render less likely the possibility that a research associate will become so “embedded” in the department that he is retained until the age of retirement or until he is recommended for faculty appointment.

⁶The University *Statutes* [13 (b) (1), p. 43] state: The normal period of appointment of research associates shall be one year, and reappointments may be made without limitation as to number of reappointments in any rank.

III. Criteria

A. RESEARCH

The criteria of appointment are implicit in the definition of the aims of The University of Chicago. The traditions of The University of Chicago in which these aims are contained place it under the obligation to be in the first rank of the universities of the world in all those subjects and fields in which it is active. This means that appointive bodies must seek to recruit to its staff and to retain on its staff persons whose accomplishments and potentialities are adjudged to be of the very highest order in research and in teaching and in the creation of an intellectual environment in which research of the highest order is done and in which students of distinguished intellectual potentiality are formed and guided.

The Committee regards distinction in research accomplishment and promise as the *sine qua non* of academic appointment. Even where a candidate offers promise of being a classroom teacher of outstanding merit, evidence should be sought as to the promise of distinction in his research capacity. Even if his research production is small in amount, no compromise should be made regarding the quality of the research done.

The appointment of academic staff members must, therefore, place in the forefront the criteria which will populate the University with persons capable of research at the most advanced level and of the highest quality.

It is imperative that in every case the appointive body ask itself whether the candidate proposed, if young, is likely in a decade to be among the most distinguished scientists or scholars of his generation; if middle-aged whether he is already in that position and whether the work which he is likely to do in the remainder of his career will be of at least the same quality.

In the recruitment of new staff members, emphasis should be placed upon the recruitment of younger persons who have not yet reached the height of their potentialities

Young staff members should be encouraged to do research in spite of the importance and pressure of their teaching. At the same time, appointive bodies must be on the alert against the dangers of appointing young persons in a way which forces them into research projects in which they have no genuine interest.

To offset the handicaps which might arise from concentration on undergraduate teaching, University departments should make a more determined effort to rotate their undergraduate teaching responsibilities so that junior members of the faculty can be provided with more time for research, especially when it is requested.

When older, very distinguished persons outside the University are considered for appointment, the major emphasis should be on their prospective intellectual influence in the University through teaching and informal contact with colleagues and students, as well as on the likelihood of a continued high quality of their own research. These same observations apply in general to candidacy of any person well past his middle age.

While stressing the preponderant importance of the appointment of young persons, the Committee recognizes that exceptions must sometimes be allowed. Thus, sometimes if there has been a disproportionate number of retirements or resignations by eminent senior members of a department, candidates at the same level of seniority and eminence might be sought by the appointive body. The need to maintain the prestige of the department and to render it attractive to outstanding younger persons would justify making this exception to the recommended emphasis on the appointment of younger persons.

It is obvious that sheer quantity of scholarly or scientific production, if of indifferent quality, must never be permitted to be counted in favor of any appointment. In assessing the research accomplishments of a particular candidate, adequate regard should be given to the extent to which his original intellectual or research accomplishments are contained in the work of research students and junior colleagues. Nonetheless, it is the quality of the actual publications, or the likelihood of such, which must be given the primary weight in assessment of research accomplishment and potentiality.

Appointive committees, in seeking out candidates and in making their decisions, should bear in mind the prospective development of the subjects on which the candidates have been working. They must seek to appoint a sufficient number of members of the department whose interests and skills are complementary to each other's, so that students will obtain a well-rounded training in their respective fields and so that there will be sufficient mutual stimulation within the department. At the same time, the appointive committees must be alert to the dangers of narrowing the range of intellectual interests represented in their respective departments.

Appointive committees in considering candidates should reflect not only on the candidate's capacity for development to eminence in his subject but the prospective vitality and continued significance of the candidate's main interest. It is important that departments should not become graveyards for subjects which have lost their importance. Thus, appointive committees in seeking out and considering candidates should, while regarding present or prospective distinction as indispensable, attend to the needs of the department in the various subfields within the discipline or subject and the capacity of those subfields for further scientific or scholarly development. Just as research projects should not be undertaken simply because money is available for them in substantial amounts, so there should be no academic appointments simply to staff a particular project.

B. TEACHING

Teaching at various levels and in various forms is one of the central functions of the University. No person, however famous, should be appointed to the University faculty with the understanding that he will do no teaching of any sort. Considerations regarding appointment should include the requirement that a candidate be willing to teach regularly and the expectation that he will teach effectively. Appointive bodies must bear in mind that teaching takes numerous forms. It occurs in lecture rooms, in small discussion groups, in research seminars, at the bedside in medical school, in laboratories, in reading courses, in the supervision of dissertations, and in the guidance of research assistants, postdoctoral

students, and residents in hospitals. It should be borne in mind by appointive bodies seeking to assess the teaching accomplishments of candidates that no one is likely to be equally competent or outstanding in all the different forms of teaching.

The Committee regards the success of the student in learning his subject and in going on with it to an accomplishment of intellectual significance as the best test of effective teaching. Assessment of performance in teaching should not be unduly influenced by reports, accidentally or systematically obtained, about the popularity of a candidate with students or his "being an exciting teacher." Other evidence of teaching effectiveness such as arousing students' interest in a problem, stimulating them to work independently, clarifying certain problems in the student's mind, etc., must be sought by appointive bodies. The assessment of teaching should include accomplishments in curriculum planning, the design of particular courses, and other teaching activities which go beyond the direct face-to-face teaching of students. The teaching of introductory courses should count to a candidate's credit no less than the teaching of advanced courses. (The responsibility of teaching an elementary course should be recognized by reduced teaching schedules as compensation.)

There should be no appointment in which the appointed person is expected to spend most of his time on classroom teaching.

C. CONTRIBUTION TO THE INTELLECTUAL COMMUNITY

The University is not just an aggregate of individuals performing research or a collection of teachers instructing students at various levels and in various fields. It is an institution which provides the services, auxiliary services, and facilities for research and teaching. The University must be administered and it must have financial resources to enable its academic staff to perform the functions for which they have been appointed.

In addition to being an institution with an administration and financial resources which provide the framework and facilities for research and teaching by academic staff members and students, it is also an intellectual community and a constellation of overlapping intellectual subcommunities built around, but not bounded by, committees and schools. It is an intellectual community in which interaction is about intellectual matters. The contribution which a member of the academic staff makes to the work of his colleagues and students by his own work, by his conversation in informal situations and by his criticizing and reading of their manuscripts, by his discussion of their research and of problems in their own and related fields is of great importance in creating and maintaining the intellectual quality of the University. He also contributes through his role in devising and revising courses of study (curricula) and other activities which go beyond his own teaching.

To what extent should these contributions be considered by appointive bodies?

First, regarding administration, members of the academic staff are not appointed to fill administrative roles. The fact that a candidate for appointment has been an excellent dean or is a good "committee man" or willingly serves on departmental committees or has been or might be an excellent department chairman adds to the merit of a member of the

academic staff. But it is a “gift of grace” and it is not pertinent to discussions about appointments, which must concentrate on intellectual performance, actual and prospective.

Although in principle younger members of the academic staff should be enabled to serve on committees and perform departmental duties other than their teaching and research, the decision regarding their reappointment or promotion should not be affected by their having or not having done so. The performance of some of these departmental chores often being at the expense of research, an appointments policy which accords importance to accomplishments of this sort might be injurious to the young staff member’s development as a scholar or scientist.

Universities require financial resources to support research, teaching, and administration of the university. Nonetheless, the capacity or incapacity of a candidate to attract financial resources or to “bring them with him” should not be a criterion for appointment. The acquisition of financial resources should be a task of the administration and a derivative function of the distinguished scientific or scholarly accomplishments and capacities of the members of the University faculty. If this rule is not observed, the University will be in danger of becoming an aggregate of affluent mediocrities.

The intellectual contribution of the academic staff member to his colleagues and students is a different matter. It is partly a function of his research and teaching accomplishments, but it also goes far beyond them. If a candidate is known to greatly stimulate his colleagues and students by his conversation and his criticism of their work, so that their individual performances are thereby improved, this should weigh in the consideration of a candidate for appointment.

Influence on the intellectual life of the University as an institution can be negative as well as positive. A member of the academic staff might be an impediment to the University’s performance of its intellectual functions, quite apart from his own performance as a research worker and teacher.

It should go without saying, therefore, that all appointees to the academic staff of the University should possess the requisite “academic citizenship.” By this the Committee means that appointive bodies are entitled to expect that persons whom they appoint to the academic staff will contribute what they can to the intellectual life of the University through their research, teaching, and intellectual intercourse in the University, and that they will abstain from deliberate disruption of the regular operations of the University.

The University must operate as an institution in order for its individual members to pursue their research and teaching. Deliberate obstruction of the work of the University through participation in disruptive activities cannot claim the protection of academic freedom, which is the freedom of the individual to investigate, publish, and teach in accordance with his intellectual convictions. Indeed, the only connection between disruptive actions within the University and academic freedom is that the disruptive actions interfere with the very action which academic freedom is intended to protect. Appointive committees, concerned with the maintenance or improvement of the intellectual quality of research and teaching in the University, must expect that those whom they appoint will enjoy the protection of academic freedom and that they will also be the guardians of that freedom. It is pertinent at this point to affirm what was said above about the irrelevance of political or religious beliefs and affiliations to decisions regarding appointment.

D. SERVICES

1. University Services

a) Services integral to research and training outside medicine. There are various kinds of services performed by members of the University. The first of these is the service which is indispensable for the performance of the central functions of the University in research and training. For example, faculty members in the physical sciences often require the collaboration of engineers for the conduct of their research. Such persons are normally highly qualified and could hold senior posts in engineering faculties or in industry. Their contribution is integral to research and although not members of the faculty they must therefore be accorded emoluments and privileges comparable to members of the University faculty of similar accomplishments and professional standing. Similarly, the training of social workers requires that supervisors be provided for their training in field work. Those performing these services are not defined by the University *Statutes* as members of the University faculty.⁷

b) Health care and the medical school. University service functions in the medical realm are those which do not *ipso facto* serve the primary functions of the University, viz., research and teaching. They include the provision of health care by the medical school to both the community at large and the student body. The staff who deliver these services are University faculty members in clinical departments, other academic personnel,⁸ and perhaps additional persons not specified in the *Statutes*.

It must be emphasized that though delivery of health care may be solely a service function (as in student and employee health clinics), more frequently it is an integral part of the University as an academic institution. It is such when it involves the teaching and training of medical students, interns, residents, and fellows. Of fundamental importance is the fact that teaching and care at the bedside on the one hand and medical research on the other are mutually interdependent and continuous activities, both of which provide intellectual tasks of the highest order. The commitments of members of the University faculty in the clinical departments (unlike those of members of the faculty in the basic medical and biological sciences) are therefore threefold. The training of outstanding physicians requires that faculty members deliver the best of medical care in addition to their research and teaching activities. For many reasons, it is practically impossible to ensure that every appointment in clinical departments reflects a similarly balanced excellence in all three areas. Thus, appointments to various academic faculty ranks in the clinical disciplines usually embrace a wide range of personnel, ranging from research workers of acknowledged excellence whose contributions to patient care may be outstanding, good, or slight; physicians whose respective contributions are equally meritorious but not of the very first rank; and clinicians whose dedication to research is modest. Some clinical departments also appoint a relatively small number of distinguished investigators who may or may not have a medical degree and who do not participate at all in clinical care.

⁷See *Statutes* of the University, 13 (b) (2), p. 43, quoted in footnote 3 of this report.

⁸*Ibid.*, 13 (b) (1), pp. 42—43, quoted in footnote 3 of this report.

The Committee believes that a great university medical school rapidly loses its eminence if it ceases to have a considerable number of outstanding investigators on the faculty of its clinical departments. Nevertheless, a medical school which cannot provide excellent care to the patients in its wards and clinics will produce only poor physicians and will fail to attract students, interns, and residents of high intellectual potentiality.

Physicians engaged in purely clinical work, who make no serious contributions to research or teaching, should under no circumstances be given any form of faculty rank or have any formal voice in recommendations for academic appointments. Many such clinicians who are not members of the University faculty are at present given the title of “research associate.”⁹ This term may be a misnomer inasmuch as these persons are not engaged in research and the title is also used as an additional designation for bona fide faculty members who hold joint appointments in two or more departments. The title of “clinical associate” might better describe persons involved in purely clinical service functions.

In situations where the financial competitiveness of private (or nonacademic) medicine has helped to deplete the academic pool of a clinical department, its resuscitation should depend more on attractive competitive stipends than on lowering the standards for academic appointments.

(c) *Concluding observations on University services.* The likelihood of appointments for purely “service” purposes is increased whenever the University undertakes, for whatever reason, the extension of services not related to its research and teaching functions. Such enterprises by definition require expertise and performance of a different kind from those expected of regular faculty members, and appointments to meet such needs should never be appointments to the faculty (as defined by the University *Statutes*). Decisions to extend medical and other services which do not involve either teaching or research or both should be made in the awareness that whatever persons are appointed will not be granted the status of members of the University faculty.

2. External Services¹⁰

a) *Public services.* There is a second type of service in which members of the academic staff become involved. This is public service, i.e., service for the federal, state, and municipal governments and for civic and voluntary associations. To what extent should appointive bodies consider accomplishments in such services as qualifications for appointment? The Committee is of the view that such services should not be considered as qualifications for academic appointment unless the service has a significant intellectual or research component. Thus, membership in a governmental body which does not perform research or make decisions regarding the promotion of research should not be regarded as a qualification for appointment. Membership in an advisory body which organizes, supports, and oversees research should be regarded as a positive qualification. Proximity

⁹*Ibid.*

¹⁰The *Statutes* of the University (Statute 16, p. 61) state that:

A member of the Faculty during the quarters of his residence may not engage in consultation, teaching at other universities, regular compensated lecturing, compensated editorial activities, or other substantial outside employment, unless such activity is consistent with his obligations to the University, is not inimical to the fullest development of his scholarly activities, and meets with the approval of his Chairman and Dean.

to the design and execution of the research program and its quality must be taken into account.

Incumbency in elective or political office, whether it be the presidency of the United States or the prime ministry of a country, should not be regarded as a qualification for appointment to the academic staff of the University.

Participation in the “delivery” of services for the non-University community should be considered in decisions regarding academic appointment only when there is an increment to knowledge or a valuable function in instruction or training arising from the “delivery.” Certain of these “deliveries” are undertaken as part of the “public relations” of the University or because government or civic bodies have not taken the initiative or responsibility which are properly theirs.

Nothing in the foregoing paragraphs should be interpreted as a judgment on the merit of the various public services or the appropriateness of their performance by members of the academic staff in their capacity as citizens. On the contrary, such services are often very important for society—local, national, and international. They must not, however, be counted as qualifications for academic appointment.

b) Academic services. Among the service activities sometimes performed by members of the academic staff are those performed on behalf of learned and scientific societies which the Committee designates as “academic services.” A threefold distinction can be made between (1) honorific services, e.g., presidency of a learned or scientific society; (2) intellectual services, such as editorship of a learned or scientific journal; and (3) administrative services, e.g., secretaryship of a learned or scientific society.

The first is a distinction conferred on persons who by their research have made and are making valuable contributions to their subjects. In most instances, such honorific offices represent a confirmation of the major criteria of academic appointment, namely distinction in research, and they may therefore be taken into positive account by appointive bodies.

The second, the editorship of a learned or scientific journal, is a contribution to the intellectual community in a particular discipline beyond the confines of the University. It is a contribution to the maintenance of standards of excellence in the discipline. It too should be taken into positive account by appointive bodies. Membership on advisory panels, e.g., National Institutes of Health (NIH) “study sections,” is an intellectual service; it is similar to editorship of a learned or scientific journal and is a contribution to the national and international learned and scientific communities. It should, accordingly, be taken into positive account by appointive bodies.

The third academic service, the secretaryship or a similar administrative function on behalf of a learned or scientific society, on the other hand, is a time-consuming activity which does not entail contributions to teaching or research; this type of service should not be taken into positive account by appointive bodies.

c) Private services. Consultative services for private industry are admissible as considerations in academic appointments only if they entail an enhancement of the

scientific accomplishments of the person involved. This is the aspect which should concern appointive bodies.

IV. Conclusion

The positive task of appointive bodies, i.e., the appointment of persons of the highest abilities, has been the main focus of attention in this report. There are, however, also negative tasks; these are the refusal to make appointments. These negative tasks fall under three headings. The first is relatively simple; it is to refuse to make appointments when there are no available candidates of sufficiently high quality. The only excuse for appointing a candidate of acknowledgedly undistinguished qualifications is that certain necessary teaching must be done if students are to be prepared for their degrees. This necessity can be met by the expedient, referred to in the body of the report, of explicitly temporary appointments for particular teaching tasks. The irregular situation should be under constant review so that it can be restored to a regular condition through appointments of the proper quality.

Where there is no particular teaching task of great urgency, in situations where there are no candidates of sufficiently high quality, actual or prospective, no appointments should be made. It is better for the University to allow a field to lie fallow than to allow it to be poorly cultivated. Appointments should not be made just because there is a list of candidates and funds to pay their salaries.

Appointive bodies have a second negative function, and this is to exercise a stern scrutiny over expansion. This responsibility, of course, they cannot exercise alone; they depend heavily here on the support and cooperation of the dean of the relevant division, the provost, and the president of the University.

Great care must be exercised in expanding the staff in established fields or in reaching into new fields of academic work. One of the great advantages of The University of Chicago in the present situation of universities in the world is that it is relatively small. There are many things which universities do, some of which are useful and admirable, but which need not be done by The University of Chicago. There is a great temptation, both when financial support is plenteous and when it is scarce, to take on new members, new fields of study and research, and new service functions because financial support is available. Some of these might be properly done by The University of Chicago where the University has a tradition which would enable them to be very well done or where there are clear and important intellectual and institutional benefits to be obtained from doing them. But to allow expansion and new appointments simply because financial resources are available to support them would be an error which would be wasteful of resources and damaging to the University.

The judicious performance of this negative task must not, however, be permitted to prevent the taking up of important new fields of study and research about which there are genuine and well-based intellectual convictions in the University and outstanding intellectual capacities to do them outstandingly well. Even where a field is intellectually important, the University, and this also means appointive bodies, should not venture into them simply because other outstanding universities are working in them. The expansion into the important new field should be undertaken only if appointments at a high level of quality can be made to provide the necessary staff.

There is a third negative function, already referred to in the body of this report. This is the problem of dealing with fields in decline because the subject has become exhausted within the country or in the world at large or because not enough young persons of sufficient potentiality for distinguished accomplishment wish to enter them.

The last three tasks are negative only in the sense that they involve the refusal to make appointments when the quality of the candidates is not sufficiently high. In fact, however, these negative functions, if properly performed, are as positive in their outcome as the more obviously positive tasks. It is indeed only if equal attention is paid to both—i.e., to the need for adamant refusal to be tempted into making appointments just because appointments can be made, as well as to the firm insistence on appointing candidates of actually or potentially great merit—that The University of Chicago will be what it ought to be. Only by an undeviating adherence to the criteria set forth in this report can The University of Chicago maintain and enhance its reputation among the universities of the world as a university of the first rank in certain fields, regain that position in others in which it has declined, and open up important new fields which no other universities have yet entered.

V. A Later Elaboration on Political Criteria

On 2 December 1971, the Committee on the Criteria of Academic Appointment was asked by President Levi to reconvene so that it could elaborate its views on political criteria in decisions regarding academic appointment, reappointment, and promotion.

In the *Report of the Committee on the Criteria of Academic Appointment* we said: “There must be no consideration of sex, ethnic or national characteristics, or political or religious beliefs or affiliations in any decision regarding appointment, promotion or reappointment at any level of the academic staff” (see above, “The Application of Criteria,” pp. 6-7). Further on in the Report, in connection with “academic citizenship,” we affirmed the earlier statement about “the irrelevance of political or religious beliefs and affiliations to decisions regarding appointments” (see above, “Contribution to the Intellectual Community,” pp. 25-26).

We now wish to elaborate the foregoing statements as follows:

In discussions and decisions regarding appointments, promotions, and reappointments, appointive bodies should concentrate their consideration of any candidate on his qualifications as a research worker, teacher, and member of the academic community. The candidate’s past or current conduct should be considered only insofar as it conveys information relative to the assessment of his excellence as an investigator, the quality of the publications which he lays before the academic community, the fruitfulness of his teaching and the steadfastness of his adherence to the highest standards of intellectual performance, professional probity, and the humanity and mutual tolerance which must prevail among scholars.

There are, accordingly, certain matters which when they do not unambiguously and demonstrably bear on the application of the foregoing criteria, must be studiously avoided in discussions about academic appointment. These matters include a candidate’s past and current associations and the objectives of his past or current employer, the sources of the funds which support his research and the uses to which third parties might or have actually put its results independently of his desires. It behooves all members of The University of Chicago to do all they can to ensure that the standards set forth above are strictly observed in discussions and decisions regarding academic appointments.