OPEN EXPRESSION MANUAL

This manual is designed primarily for Open Expression Observers. Other interested parties may also find it useful in answering many of the questions frequently asked about the Respect for Open Expression Policy and its interpretation. The manual explains behaviors that constitute violations of the Policy, the roles and responsibilities of Observers and other officials concerning open expression, and the procedures Observers should follow when observing meetings, events, and protests. Also attached is a list of Open Expression Observers and members of the Committee for Open Expression for the current academic year (see Appendix A).

What is Open Expression?

Emory University (“University”) is committed to an environment where the open expression of ideas is valued, promoted, and encouraged. As a community of scholars, we affirm these freedoms of thought, inquiry, speech, and assembly. Firmly grounded in the principles outlined by the 2011 Taskforce on Dissent, Protest & Community Report (weblink to statement), the Respect for Open Expression Policy reaffirms Emory’s unwavering commitment to a community that inspires and supports courageous inquiry through open expression, dissent, and protest, while acknowledging the challenges and tensions that inquiry creates in an ever changing community.

Recognizing that the educational process of our institution necessarily includes various and diverse forms of open expression, the University affirms the rights of members of the Community to assemble and demonstrate peaceably within the limits of the Policy. Simultaneously, the University affirms the right of others to pursue their normal activities and to be protected from physical injury or property damage.

Emory University also affirms values of diversity, inclusion, and community. The University Community is diverse—in race, ethnicity, gender, sexual orientation, background, age, religion, abilities, life experiences, political ideologies, ideas of thought, and in many other ways. The actions of each community member have an impact upon the culture of inclusion and respect for which the University strives. The University is fundamentally committed to open inquiry, open expression, and the vigorous discussion and debate upon which the advancement of its multifaceted mission depends. Civility and mutual respect are core values in the community, and the University asks all members of the Community to weigh these values carefully when exercising their fundamental right to open expression.
Guidebook for Open Expression Observers

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I. The Respect for Open Expression Policy, the Committee for Open Expression, and Open Expression Observers

What is the Respect for Open Expression Policy?

The Respect for Open Expression Policy (“Policy”) outlines the University’s official support for the free exchange of ideas and opinions on campus, the rules under which that exchange is expected to occur, and the procedures for dealing with violations of these rules. The Policy was written in the early 2000s after a few events ended because of protests, and it was revised in 2013 after a two year, community-wide discussion on open expression occurred.

What is the Committee for Open Expression?

The University Senate Standing Committee for Open Expression (“Committee”) is a working group of community members—faculty, staff, and students—who seek to promote and protect the rights and responsibilities of community members related to issues and controversies involving speech, debate, open expression, protest, and other related matters. The Committee’s primary responsibilities involve educating and advising the Community about rights and responsibilities under this Policy and investigating alleged infringements of the right of open expression of any member or members of the University community through mediation and informal conflict. Its additional responsibilities are to mediate when possible during campus incidents and disturbances to prevent conflicts and violations of the Policy, to advise administrative officials when requested, and to interpret the Policy at the request of any member of the University community.

What is the role of the Senior Vice President and Dean of Campus Life (“DCL”) in issues related to open expression?

The DCL has ultimate responsibility for protecting and maintaining the right of open expression and for enforcing the Policy. When the DCL chooses to delegate that responsibility, the delegates then have the full authority to act in the name of the DCL under the Policy. References to the DCL both in the Policy and in this Manual include his or her designees, who will take the form of trained staff or faculty who serve as Expression Observers to help protect open expression and the rights of all parties involved.

What are Open Expression Observers?

As part of the responsibilities for enforcing the Policy, the DCL may send an Observer, known as an Open Expression Observer, to meetings or protests which may involve violations of the Policy. The Observer’s role is to protect the rights of the meeting or protest participants to express their opinions in non-disruptive ways, to educate all
present on the Policy and how to refrain from violating the Policy, and to protect the rights of other members of the University community to conduct reasonable business.
II. Violations of the Policy

At what types of activities might violations of the Policy occur?

The Policy permits the DCL to determine whether to send an Observer to any activity where violations of the Policy might occur. Observers may be sent to observe, for example, scheduled and unscheduled rallies, protests, vigils, sit-ins, controversial lectures or classes, or even disputes between two student groups in an outdoor space on campus, which might involve rights to free speech.

Are specific locations off-limits for public meetings, events, and protest?

There are many locations on campus especially conducive to Protests and other forms of Dissent. A comprehensive list of these spaces can be obtained in the Dobbs University Center’s Meeting Services, whose staff can assist with reservations of most space on campus or assist in connecting with owners of other spaces. Moreover, the foundations of this Policy are grounded in the principles of the entire campus being open and available to members to build community through Protest and Dissent. As such, all spaces, both indoors and outdoors, should be available to support both planned and impromptu Protest and Dissent. For planned events, reservations can be made and will not be denied because of the content of expression.

There are a few narrow exceptions for locations that are generally not available for these types of Events or Protests. The Committee should be consulted whenever possible before making a determination that members of the Community are indeed violating the principles of this Policy. This includes the following:

a. Private offices, research laboratories or associated facilities, and computer centers.

b. Specific areas of offices, museums, libraries, and other facilities that regularly restrict access as a result of valuable or sensitive materials, collections, equipment, and records protected by law, or by existing University policy such as educational records, student-related or personnel-related records, or financial records.

c. Classrooms, seminar rooms, auditoriums, meeting rooms, or outdoor spaces in which classes, private Events, or private Meetings are being held or are scheduled to be held during the time of the Protest. If the focus of the Dissent or Protest includes one of these locations, there is an affirmative support to ensure Protests in places like the outdoor spaces in front of the buildings or common gathering places close to these locations occur.

d. Outdoor and indoor locations when the free flow of traffic, both vehicular and pedestrian, will be unreasonably impeded; entrances or exits to private offices, classrooms, and meeting spaces are blocked; or undue health and safety risks to members of the Community is created.
e. Hospitals, healthcare service providers, emergency facilities, communication systems, utilities, or other facilities or services vital to the continued functioning of the University.

If the focus of the Dissent or Protest includes one of these areas, there is support to ensure protests are able to take place in nearby outdoor spaces, such as in front of the building that houses the room in question, or in common gathering places close to the desired location.

NOTE ON UNRESERVED SPACES:

We fully support and acknowledge as a Community that sometimes impromptu Dissent and Protest is pivotal to achieve the Principles of this Policy. Not having a reservation is not sufficient reason for terminating any Protest unless the impromptu Protest unreasonably interferes with prior scheduled Meetings, Events, or essential operations of the University. The Committee or Observer shall ensure impromptu Protests continue until it should otherwise be relocated to allow for prior scheduled activities.

To what standards of conduct must participants adhere?

Each member of the Community is expected to know and follow this Policy. A person who violates these standards, or other policies of the University in course of open expression, may be held accountable for that conduct. Any member of the Community who is in doubt as to the propriety of planned conduct may seek guidance from the Committee in advance of his or her planned Event.

The right to Dissent is the complement of the right to speak, but these rights may conflict at certain times. The University promotes simultaneous, but not disruptive, Dissent. As such, a speaker is entitled to communicate a message to an audience during an allotted time, and the audience is entitled to hear the message and see the speaker during that time. A dissenter must not substantially interfere with the speaker’s ability to communicate or the audience’s ability to hear, see, or question the speaker. Protests outside of a Meeting or other Protest shall not impede access to the Meeting nor substantially interfere with the communication inside.

Members of the Community shall focus on helping Dissent and Protest continue while making modifications to ensure no violations continue to occur. Further, the Committee for Open Expression should be consulted whenever possible before making a determination that members of the Community are indeed violating the principles of this Policy.

Community members, in the course of their actions, violate this Policy if they:

a. Unreasonably infringe on the rights of other Community members to engage in open expression, protest, and dissent.

b. Cause substantial disruption to a Meeting or Event that impedes on the rights of
attendees to that Meeting or Event, including excessive noise, continually interrupting a speaker, or preventing an audience from seeing/engaging with a speaker during a Meeting or Event.

c. Create undue hardship that substantially impedes a Community member’s right to open expression, such as unreasonable space reservation or usage policies.

**Why isn’t the Policy more precise about specific unacceptable behaviors?**

It is extremely difficult to think of and list all the specific behaviors that would be unacceptable in all situations. A certain level of noise (for example, chanting, or making speeches with a microphone) might be tolerable in an outdoor space, but intolerable in an indoor space where non-participants might be working nearby. To be effective, the Policy must allow for some flexibility of interpretation and enforcement on the part of Committee members and Observers. The standards of conduct are intended to provide general parameters for conduct to both participants and observers. The Policy provides general rules on conduct, but you, as an Observer, may simply have to use your “best judgment” (in consultation with a member of the Open Expression Committee whenever possible) when deciding whether specific behavior violates the Policy.

**Do any other activities constitute a violation of the Policy?**

Yes. You have the power to instruct participants at a meeting or protest to modify or terminate their behavior and to request University identification once you have notified them formally that their conduct violates the Policy. Failure to follow your instructions in either instance is itself a violation of the Policy. However, it cannot be emphasized strongly enough that you should instruct individuals to modify or terminate their behavior with extraordinary prudence. Your task as an Observer is to try to ameliorate a problem and to influence people to follow the Policy—the affirmative commitment to open expression is preeminent. The same is true, to a lesser extent, with the power to demand identification.
III. The Roles of Open Expression Officials and EPD at a Meeting, Event, or Protest

In addition to Open Expression Observers, what other officials have authority to make decisions concerning open expression at an event?

The only other officials with authority to make decisions concerning open expression at an event are the DCL or his/her designee (Observer) for open expression.

What authority do representatives from the Committee for Open Expression have at an event?

At the scene of an event, the Policy states that members of the Committee for Open Expression have the authority to: mediate conflicts to prevent violations of the Policy from occurring, advise the DCL and his or her designee for open expression when certain behaviors violate the Policy, and inform other University administrators present at the scene on issues concerning the Policy.

As an Observer, what authority do I have at the scene of an event?

As an Observer, you have the authority to: mediate conflicts that may arise at the event and make decisions as to whether certain behaviors are violations of the Policy. You also have the additional responsibility to notify individuals formally that their conduct violates the Policy, but you should resort to this action only after you have warned them to desist and only as a last resort.

How should I resolve disagreements between myself and other University officials or administrators on interpretation of the Policy?

According to the Policy, the DCL or his or her designee is responsible for administering the Policy. However, if you disagree with a Committee member’s interpretation of the Policy, you may discuss your point of view with the representative in an attempt to resolve the dispute. If you cannot resolve the disagreement, you should contact the DCL or his or her designee for advice; however, if the DCL or staff is unavailable, the Observer has the authority through the Policy to make a final determination.

In the absence of a Committee member to advise you, if other University officials or administrators present at the scene disagree with your interpretation and want you to take actions that you believe may be inappropriate, you should immediately contact the DCL or his or her designee to ask for assistance in resolving the problem. Officials or administrators who disagree with your actions may later ask the Committee to make a prospective ruling on that particular issue of disagreement.

Who may request that members of the EPD attend a meeting or protest?
Members of EPD may attend a meeting or protest at the request of the DCL, his or her designee, the Observer, the person or group sponsoring or responsible for the event, or people at whom the event is directed (in the case of a protest). EPD may also attend an event when prominent public figures are involved or when EPD or the Observer determines that there is a possibility of violence at the event. If you think police protection is necessary at an event, you should call EPD directly.

**What role does EPD play in protecting open expression rights?**

EPD is responsible for protecting those involved in an event, including participants, observers, and by-standers, against the threat of or actual personal injury or harm. They are also responsible for protecting property from damage or threat of damage.

EPD usually stands off to the side, but within view of those involved in the event. The Policy does not permit EPD to collect or maintain information about members of the University community, except in connection with alleged crimes, violations of University regulations, or as specifically authorized in writing by the University President. EPD is not responsible for formally informing individuals that their behavior violates the Policy or for interpreting the Policy for members of the University Community.

**Is it the Observer’s responsibility to decide if and when EPD should intervene to terminate an event?**

The decision to terminate an event is the responsibility of the Observer, but the Policy states that doing so is a most serious step. The decision to terminate an event should be made, when possible, in consultation with the DCL and/or his or her designee and a member of the Committee, if present. Contact the DCL or his or her designee immediately if a situation looks as if such a step may need to be taken.
IV. Procedures to Follow for Monitoring a Meeting, Event, or Protest

Who is in charge of open expression for the DCL?

The Senior Vice-President and Dean of Campus Life has ultimate responsibility for enforcement of this policy.

Who are the Observers?

Several administrators and faculty members from throughout the University are serving as members of observation teams. One team, with a designated Team Captain, will assume monitoring duties for specified months each year (see Appendix A).

What are the responsibilities of the Team Captain?

In any given month, the Team Captain for that month is in charge of sending at least one member of the team, including him or herself, to monitor any meeting, event, or protest where a violation of the Policy might occur.

How will I, as an Observer, know when I am needed at any particular event?

In most cases, the individual(s) sponsoring the event or EPD will notify the DCL (or another staff member) that an Open Expression Observer is needed. He or she will contact the Team Captain and ask him or her to ensure that at least one Observer attend the event. The DCL will request the presence of at least one member of the Committee on Open Expression.

What should I take with me when I go to monitor an event?

You should take the following items with you when you go on monitoring duty:

- Camera (A cell phone camera will suffice, or, if you do not have access to one, the Division of Campus Life can provide a camera for you.)
- Copies of the Policy for yourself and for anyone who may want one
- Open Expression Observer badge
- Manual for Open Expression Observers for reference if necessary
- Paper and pencil, in case you need to take notes
- Open Expression brochures
What should I do when I first arrive at the event?

- Put on your badge.
- Introduce yourself to those responsible for sponsoring the event and others involved in the event (for example, the chair of the meeting, the instructor of the class, or office personnel).
- Identify yourself to the EPD Officer on duty if present and (if you recognize him or her) the representative from the Committee on Open Expression (the Committee representative will also be trying to identify him or herself to you).
- Explain your role as an Open Expression Observer and the purpose of the Policy, and ask the leaders of the event about their specific plans to promote open expression and balance dissent with the other components of the event.
- Offer to answer questions or provide clarification.

What should I do if the event is going smoothly and is NOT disruptive?

If the event is not disruptive, do nothing. Just observe. Stand in an unobtrusive spot and watch for counter demonstrators or hecklers, who sometimes require more attention than demonstrators.

What should I do if the event becomes disruptive and I think a violation is about to occur?

If you think a violation is about to occur, you should:

- If one is present, consult with the representative of the Committee for Open Expression and with other members of your team to make sure the behavior in question violates the Policy.
- If all of you agree that the behavior exhibited violates the Policy, you should:
  - immediately identify yourself to the individuals involved;
  - advise those individuals whose conduct is questionable how they could alter their behavior to conform to the Policy (remember, affirmative commitment); and
  - warn those individuals that their behavior violates the University’s Respect for Open Expression Policy. Emphasize that continuation of that behavior may lead to disciplinary action against them under the University’s judicial procedures, but that they can [insert various options to modify behavior] to be able to continue their protest within the spirit of the Policy.

At this point, you may wish to refer the potential violators to the appropriate part of the Policy that refers to these individuals’ conduct, as well as the provision that makes a refusal to obey instructions an immediate violation. If a dispute is occurring at the scene of a meeting or protest, this may also be a good point to intervene as a mediator to try to bring about a resolution that satisfies the basic interests of the disputants.
If they stop their questionable behavior, then you do not have to do anything else at this time.

If they argue about their behavior or your authority, you should explain:

- you and the other official observers interpret the behavior as a violation;
- you are the immediate authority;
- your actions and the sequence of the events will be reviewed during any judicial proceedings that may ensue; but
- failure, at that moment, to obey your instructions violates the Policy.

**Are there any circumstances in which I should immediately issue a citation without first warning the individuals involved?**

In most instances you should assume ignorance on the part of the participants of the Policy’s standards concerning locations and conduct for meetings, events, and protests. When possible, explain to the individuals involved why and how their behavior violates the Policy, and suggest how they can change their behavior to conform to the Policy, before warning them that their continued behavior will result in a violation.

Be sure to give them a reasonable amount of time to comply with your instructions before you take further steps. Help brainstorm with them ways in which they can alter their behavior to continue meeting their own expression goals while not violating the policy.

**What should I do if the behavior continues and a violation has occurred?**

If the behavior continues and a violation has occurred, you should:

- Confirm your judgment, if possible, with the representative(s) from the Committee for Open Expression, or with the DCL or his or her designee, or with other members of your Observer Team;
- Formally tell the individuals involved that their behavior is a violation under the Policy, and they are being formally cited;
- Ask the violators to show you their IDs, reminding them if necessary, that failure to do so is itself a violation;
- Write down their names and ID numbers if possible; and
- Ask them once more to modify their behavior.

**AT THIS POINT, TAKE NO FURTHER ACTION WITHOUT THE PRESENCE OR PERMISSION OF THE DCL OR DELEGATE UNLESS HE OR SHE IS UNAVAILABLE.**
6) As soon as possible, take notes on the sequence of events. You must submit a full report to the DCL’s Office after the event. The online form for the report can be found on the DCL’s website.
7) If necessary, continue to remind the individuals involved that they have violated the Policy, and repeat your request for them to modify their behavior.

**What should I do if a representative from the Committee for Open Expression is not present to advise me?**

If a member of the Committee for Open Expression is not available to advise you on interpretation and enforcement of the Policy, then you must use your own best judgment to decide whether certain behaviors violate the Policy. If, in your judgment, a violation is about to occur, follow steps 3-7 above.

**What should I do if the sponsors are holding the event in a location that is off-limits?**

If the event is being held in an unacceptable location you should:

- Assume ignorance of the Policy on the part of the participants;
- Inform the participants that they are not permitted to hold their event in that location (refer to section II of this document);
- Ask them to move their event to a suitable location;
- Warn them that their continued occupation of that space violates the Policy; and
- Give them a reasonable amount of time to comply with your instructions before you inform them formally that their behavior violates the Policy.

**How should I handle complaints about noise?**

If you receive a complaint about noise, you should:

Consult with others present who may be reasonably removed from the situation to determine if the noise is, indeed, unreasonable. Noise should not interfere unreasonably with the general operations of the University. However, can other modifications be made to help either hinder noise or relocate those concerned.

If you (and the Committee member) agree that the noise is a violation, follow the steps outlined above to inform the participants of a violation.

**May I discuss the situation with the individuals involved after I have warned or informed them that their behavior violates the Policy?**
As long as you have given the appropriate warnings, you may discuss the situation with those individuals as much as you or they wish. They may want to know what sanctions they may face.

Cases involving undergraduate students are referred to the Office of Student Conduct who will investigate the event and decide what disciplinary proceedings, if any, to pursue. If the Office of Student Conduct issues a sanction, such sanction may include disciplinary probation, suspension, or expulsion. In addition, the DCL has the authority to suspend students immediately if he or she determines that the student’s behavior is a threat to order, health, or safety.

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

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

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

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

Cases involving contracted workers shall be discussed by the Committee for Open Expression in collaboration with the University administrator managing that relationship.

If there are questions which have not been answered by this manual, please direct them to the Open Expression Observer coordinator, Matt Garrett, Assistant Dean of Campus Life and Director of the Office of Student Leadership & Service. He can be contacted at: matt.garrett@emory.edu.
Appendix A

Committee for Open Expression
Members TBD

Open Expression Observers:
Coordinator: Matt Garrett, Assistant Dean of Campus Life (matt.garrett@emory.edu)

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