

## APPENDIX I COMMITTEE REPORT

March 20, 2026

The Appendix I Committee (James Chappel, H. Timothy Lovelace, Anne-Maria Makhulu, Jennifer Nash, Donald Taylor) was convened in September 2025. The Committee was charged with:

- Examining whether the existing policy considers, and appropriately balances, important values (e.g. academic freedom, free speech, safety, etc.);
- Ensuring that key terms are defined and that illustrative examples are provided;
- Making recommendations to ensure the policy is readily accessible and that all members of the Duke community receive adequate notice of it;
- Exploring whether the policy is consistent with other Duke policies;
- Clarifying who has jurisdictional authority over faculty in these matters, including investigatory authority, and
- Clarifying the procedures to be followed in cases involving faculty, from initial investigation through final resolution.

Over the course of the academic year, our committee studied and documented the history of the PPD (Appendix I: Pickets, Protests & Demonstrations) policy, noting its evolution from 1968. We interviewed 10 stakeholders about the existing policy and consulted with the quantitative and qualitative data collected by the Academic Freedom Committee in 2024. We also studied 10 expressive activity policies from peer institutions. This report documents our key findings.

### **1. Key Recommendations:**

- The committee's charge suggested that we could reform the existing PPD policy and offer recommendations on how an improved policy could be better publicized to members of the Duke community. After researching the values-driven expressive activity policies of our peer institutions, we identified fundamental deficiencies in Duke's policy, and determined that revising the existing policy was both untenable and undesirable.
- Duke's existing policy is exceedingly brief. Even the title—"pickets, protests, and demonstrations"—reveals its narrow focus on regulating protest. Peer institutions have developed robust policies focused on expressive activities and/or free expression that both reflect and articulate institutional values and guiding principles. Peer institutions articulate clear policies on an array of expressive practices beyond protest, including postering, chalking, recording, vigils, leafleting, banners, tenting, and peaceable assembly, while maintaining a broad focus on the institution's fundamental

values of open exploration and discovery. Duke is also an outlier in its conception of protest as analogous to an event (requiring registration). Our peer institutions view protest as one form of expressive activity.

- Because Duke's PPD policy lags so substantially behind those of our peer institutions in terms of a well-articulated, substantive expressive activity policy, we recommend that a committee constituted of administrators, faculty, and student representatives is charged with drafting a new expressive activity policy that begins by articulating broad principles and commitments.

A new policy should be pedagogical in its mission, effectively instructing the Duke community about the institution's key commitments. We recommend that the new policy be easily accessible (peer institutions have websites devoted to the institution's expressive activities policies). We recommend that any future policy be guided by core values, namely: offering the community clarity on the policy's terms, predictability around its enforcement, and eliminating discretion. This new policy should integrate the findings and concerns of our committee and the Academic Freedom Committee.

The task of drafting a new policy is a substantial undertaking, and it should unfold democratically, with community feedback and buy-in. We recommend that this new committee hold town halls to solicit feedback on the proposed policy so that the process for enacting a new policy models the kind of democratic exchange we hope to see on campus. We also recommend that at the end of the 2026-2027 academic year, this new policy should come to Academic Council for a vote.

- We offer two strong recommendations to this new committee, based on our year-long study:
  - We recommend that a new policy designate a town square or public commons on West Campus that is open for expressive activity during clearly stated times. Expressive activity held in the town square during permissible times would not have to be pre-registered. We imagine that reasonable time and manner restrictions would have to be determined by the committee charged with developing a new policy (see more, below, on time, place, and manner restrictions at peer institutions).
  - The University Judicial Board (UJB) should not serve as the body that adjudicates alleged faculty violations of any expressive activity policy. The existing Faculty Hearing Committee is an ideal venue for hearing any issues

related to alleged violations of an expressive activity policy. We emphatically conclude that students should not sit on any hearing body that adjudicates allegations of faculty violations, and that alleged violations of an expressive activity policy are matters of faculty governance, not matters for Human Resources.

## **2. Key Features of Conversations with Stakeholders**

- **List of Stakeholders Interviewed:**
  - Clay Adams (Assistant Vice President, Dean of Students Office)
  - Lee Baker (Vice Provost for Undergraduate Education)
  - Daniel Ennis (Executive Vice President)
  - Sara Greene (Former Chair of University Judicial Board)
  - Mohamed Noor (Executive Vice Provost)
  - Mary Pat McMahan (Vice Provost/Vice President of Student Affairs)
  - Yash Sharma (Duke Student Government Speaker of the Senate)
  - Rebecca Stein (Former Chair of Academic Programs Committee)
  - Charlotte Sussman (Chair of the Committee on Academic Freedom and Responsibility, Free Expression, and Engagement)
  
- Additionally, some Duke community members reached out to our committee requesting the opportunity to share their opinions on the existing policy
  - Peter Feaver (Director of the Program in American Grand Strategy)
  - The Care Assembly
  - Duke Academics and Staff for Justice in Palestine
  
- We also consulted:
  - Petition signed by 130 faculty members published in the *Duke Chronicle* <https://dukechronicle.com/article/duke-university-faculty-petition-to-change-protests-pickets-demonstrations-policy-free-speech-registration-requirement-20250513>
  
- **Key Takeaways from Interviews:**
  - Some stakeholders argued that the current policy has important strengths, including keeping the campus safe and ensuring that events do not conflict with each other.
  - There is considerable debate as to whether the current policy is new, substantially revised, more “bureaucratized,” newly “actionable,” and/or revived in a new political context.
  - Some stakeholders voiced anxiety about vague terms in the policy, particularly “disruption” and “noise.” For some, these terms are sufficiently ambiguous that determining how to comply with the policy is unclear. For others, these ambiguous terms open up troubling room for discriminatory enforcement.

- Some stakeholders raised questions as to whether the UJB should be the body that adjudicates alleged faculty violations of the policy, and voiced concerns about the UJB's lack of procedural clarity.
- Student stakeholders voiced a concern about registration requirements. They are unclear as to what determines if an event is approved, and why some organizations are allocated different (or less desirable) spaces than others. They also expressed concern that spontaneous protests—which often emerge in response to breaking news—are prohibited by a registration requirement.

### **3. Key Findings from Academic Freedom Review**

When it proved logistically challenging for us to launch our own survey of the Duke community's views on the existing PPD policy, Academic Council recommended that we examine the data collected by the Academic Freedom and Responsibility (AFR) Committee. In February 2026, Charlotte Sussman (Chair of AFR) shared an AI generated summary of responses to a survey the AFR Committee circulated to the Duke community. The data we received was related exclusively to the PPD policy. Sussman noted that the AFR questionnaire did not ask about PPD specifically, and any opinions about it were included by participants voluntarily. Thus, the data does not reflect an effort to gather information on opinions about PPD in any systematic or general way.

The questionnaire received 510 submissions. 21 comments submitted by constituents (faculty, students, staff, and alumni) explicitly referenced the PPD policy. These comments raised concerns about the vagueness and ambiguity of the existing PPD policy and noted that the policy has a chilling effect on free speech.

### **4. Key Features of Peer Institutions' Policies**

We examined the expressive activity policies of 10 peer institutions: Cornell, Dartmouth, Emory, Johns Hopkins, MIT, Northwestern, University of Pennsylvania, Princeton, Yale, and Stanford.

- Our peer institutions organize their policies under the broad rubric of freedom of expression, expressive activity, or expressive conduct. Duke's policy is unusually narrow in its focus on "pickets, protests, and demonstrations." Generally, policies begin with a broad articulation of institutional principles and commitments or a statement on principles of academic freedom. For example, Cornell's expressive activity policy begins by elaborating the institution's commitment to "open inquiry and freedom of expression" which they describe as "... central to our academic mission and ... essential parts of our learning environment." Similarly, Johns Hopkins' [Free Expression website](#) begins by articulating the university's key values: academic freedom, inclusion, and a duty of care.
- At our peer institutions, expressive activity policies are easy to find. Some have websites explicitly devoted to those policies: see [Stanford](#) (which has also developed a two-page

summary of their policy) and [Cornell](#). [Others](#) include frequently asked questions (FAQs) on their expressive activity websites to assist community members who seek answers to questions about compliance.

- At our peer institutions, expressive activity policies are treated as part of the intellectual mission of the university, and are seen as pedagogical in nature. Cornell’s policy, for example, includes a list of readings that “informed the Cornell Committee on Expressive Activity’s development of the final Expressive Activity Policy, with consideration of campus stakeholder input.”
- Expressive activity policies cover far more than “pickets and protests,” including spontaneous gatherings, rallies, speeches, performances, placement of flyers on campus, chalking, and construction of structures on campus (e.g. tents, encampments). Thus, expressive activity policy websites at our peer institutions often include links to other key policies or that intersect with expressive activity including regulations on the use of campus grounds, excessive noise policies, policies around photography and filming on campus, policies around drones on campus, anti-doxxing policies, anti-harassment and non-discrimination policies, and general principles of community.
- Many peer institutions articulate content-neutral time, place, and manner rules for expressive activities (e.g. time restrictions for amplified sound or limits on night-time sound).
- There are significant variations in how peer institutions regulate amplified sound and registration requirements (e.g. Johns Hopkins notes that the registration of events is suggested, but not required; MIT explicitly requires registration and prior approval of any noise amplification). There are also variations in how they regulate spontaneous gatherings.
- We provide a ChatGPT 5.2 analysis on the following page that compares Duke’s policy with those of Johns Hopkins, MIT and Northwestern to provide a more granular comparison that is not as unwieldy as a comparison of more than 10 policies. The most distinct aspect of Duke’s PPD policy is its “eventification” of any type of gathering, including protest—instituted via the Fall, 2024 modification of “event” rules. Hence, in spite of the PPD policy per se not changing, the experience of groups to initiate any type of gathering, including protest, has become meaningfully more difficult.

# Protest Policy: Duke, MIT, Johns Hopkins & Northwestern

Feature	Duke	Johns Hopkins (JHU)	MIT	Northwestern
Right of assembly expressed	Yes — recognized but protests are treated as events subject to university policies. <sup>1</sup>	Yes — framed as protected expression with guidelines. <sup>3</sup>	Yes — community members may protest with rules. <sup>2</sup>	Yes — protected but regulated. <sup>4</sup>
Advance notice / registration	Required via Duke event registration system (Duke Groups). <sup>1</sup>	Guidance exists but not always a strict universal notice rule. <sup>3</sup>	Advance planning procedures required for demonstrations. <sup>2</sup>	Student groups generally asked to notify administrators before demonstrations. <sup>4</sup>
Disruption limits	Disruptive or disorderly protests that interrupt operations are prohibited. <sup>1</sup>	No obstruction or disruption of activities permitted. <sup>3</sup>	Demonstrations cannot disrupt essential Institute activities or block access. <sup>2</sup>	Demonstrations cannot disrupt university operations or block access. <sup>4</sup>
Encampments / structures / overnight	Not explicitly detailed in the protest policy; structures generally require event approval. <sup>1</sup>	Encampments generally prohibited without approval. <sup>3</sup>	Unauthorized encampments and structures are prohibited. <sup>2</sup>	Overnight demonstrations generally prohibited and materials must be removed. <sup>4</sup>
Amplified sound	Usually regulated through event approval and logistics policies. <sup>1</sup>	Amplified sound governed by disruption and event rules. <sup>3</sup>	Amplified sound generally requires approval. <sup>2</sup>	Sound restrictions apply in certain locations and times. <sup>4</sup>
ID / compliance with officials	Participants may be required to show Duke ID to university officials. <sup>1</sup>	Participants must comply with officials and may be asked to identify themselves. <sup>3</sup>	Participants must comply with directions from Institute officials or MIT Police. <sup>2</sup>	Participants must comply with directions of university officials. <sup>4</sup>

Footnotes and Sources from official policy statements.

1. Duke University, “Pickets, Protests, and Demonstrations,” Duke Community Standard and University Policies.
2. Massachusetts Institute of Technology, “12.7 Protests and Demonstrations,” MIT Policies & Procedures.
3. Johns Hopkins University, policies on protests and demonstrations and student conduct guidelines.
4. Northwestern University, Demonstration Policy and Student Handbook guidelines.

## **5. History of the Pickets, Protests, and Demonstrations Policy**

This document lays out a timeline of the policy's history, along with several relevant conclusions that can be drawn from that history. As this history shows, the PPD policy has evolved significantly over time. The 2024 revisions represent a significant departure in the policy's history.

### **Part A: Timeline**

The committee felt it critical to include a historical account of the policy to clarify that Appendix I has not simply remained unchanged since 1968. Instead, a small number of revisions altered the policy's practical implementation, including shifts in enforcement mechanisms, the introduction of pre-registration guidance, and the most recent designation of protests as "events," bringing organized political expression under a broader framework for governing matters such as noise, amplification, accessibility, and logistics. While earlier revisions primarily adjusted procedures for enforcement or administrative oversight, these recent changes have incorporated protest activity most fully into the general management of events by Student Affairs. What follows is the history of the evolution of the policy from 1968.

***January 1968.*** The first version of the policy that we know of is dated to January 1968 and was titled "Duke Regulations of Pickets and Protests." The process of its drafting is unclear; it was presumably written in response to the nationwide culture of anti-war protests. The document begins with a defense of "legitimate forms of picketing and protesting," contrasting them with "illegitimate forms," defined as those that "disrupt the orderly operations of the institution or any action that might in any way jeopardize public order or safety. Picketing and demonstrations must not interfere with entry to buildings, offices, or classrooms nor prohibit the normal flow or pedestrian or vehicular traffic (Picketing which permits normal access to buildings is not to be deemed as interference)." There are no details on enforcement or consequences, but the policy does stipulate that any protesters will receive an oral or written warning before any charges are filed.

***August 1968.*** Over the summer of 1968, President Douglas Knight put together a committee of faculty, staff, and students to expand the January 1968 policies. They came up with something much more detailed, and their finished policy was released in August. It is transcribed below as Appendix A. The first two paragraphs have remained in place until today, where they can be found as the "Statement of Policy" in the current version. The "Rule" is also the same as today. The rule is as follows: "Disruptive picketing, protesting, or demonstrating on Duke University property or at any place in use for an authorized University purpose is prohibited."

To a great extent, then, the spirit of the current PPD policy was put in place by this committee in the Summer of 1968. Compared to today, though, there is much more work done to define "disruptive" behavior. There is a lengthy section, now absent from the policy, that defines what is meant by this term.

Compared to the January policy, the August one is more explicit about enforcement. If there are violations, ECAC will appoint a hearing committee, with two faculty members and two students and one dean (presumably that is for students—it says of faculty that they “will follow the arrangements provided under the regulations for the guarantee of tenure in the University”). Though unclear, this regulation would remain constant until 2013.

**1985-1986.** At some point between 1968 and 1985, the PPD policy was revised and the lengthy definition of “disruptive” behavior was removed. It remained in other respects the same.

**2000.** At some point between 1985 and 2000, the enforcement mechanism of the PPD policy was revised. Student cases were now meant to be heard by the University Judicial Board rather than an ECAC-appointed hearing committee. Faculty regulation remained the same.

**2013.** The policy was revised again in [2013](#). Introducing four major innovations: 1) The text now included a suggestion, but not requirement, for pre-registration. The policy states: “Students planning a picket, protest, or demonstration should contact University Center Activities and Events for guidance and further information.” 2) There is now a ban on any protest activities at the Medical Center. 3) It is made clear that faculty, like students, are meant to be adjudicated through the University Judicial Board. 4) For the first time, the policy owner is clarified to be the Office of Student Conduct.

**2024.** The policy was of course revised again in 2024, and it was this revision that occasioned the formation of this committee. It is substantially similar to the 2013 revision, with the significant caveat that protests are for the first time designated as “Events.” Pickets, Protests, and Demonstrations are now subject to all of the rules and regulations of any “[event](#)” at Duke University, which includes regulations about accessibility, amplified sound, and more. Note that this is only true in the [Duke Community Standard](#); the faculty handbook does not include this stipulation. Confusingly, the handbook reintroduces the language that faculty are to be governed according to the regulations of tenure, while also saying that they are subject to the University Judicial Board.

## Part B: Findings

1) Stability of the Policy. The basic intellectual framework of the policy, including its title, has been in place since 1968. This accounts for the elements of it that feel quite outdated (the language of “picketing” is not widely used any more, and the language about free expression that is used in the current policy is now almost sixty years old).

2) Lack of clarity about enforcement for faculty or staff. Staff are not mentioned in any versions of the policy. The enforcement mechanisms for faculty are vague throughout.

3) The policy has become less clear and more discretionary over time. This happened between 1968 and 1985. The 1968 policy, included in Appendix A, is explicit about how exactly disruption is to be defined; it also provides far more detail about how things will be enforced

(verbal warnings before punishment, for instance). By 1985 these things were gone and the skeletal policy we know today was in place.

4) The shifting designation of protest activity. In 2024, for the first time, protests were classified as “events,” subject to all of the regulations of university events. This includes the requirement for pre-registration, the availability of a fund code, and so on.

## **Appendix A**

### **The August 1968 Policy**

#### August 1968 policy

#### University Statement

Duke University respects the right of all members of the academic community to explore and to discuss questions which interest them, to express opinions publicly and privately, and to join together to demonstrate their concern by orderly means. It is the policy of the University to protect the right of voluntary assembly, to make its facilities available for peaceful assembly, to welcome guest speakers, and to protect the exercise of these rights from disruption or interference.

The University also respects the right of each member of the academic community to be free from coercion and harassment. It recognizes that academic freedom is no less dependent on ordered liberty than any other freedom, and it understands that the harassment of others is especially reprehensible in a community of scholars. The substitution of noise for speech and force for reason is a rejection and not an application of academic freedom. A determination to discourage conduct which is disruptive and disorderly does not threaten academic freedom; it is, rather, a necessary condition of its very existence. Therefore, Duke University will not allow disruptive or disorderly conduct on its premises to interrupt its proper operation. Persons engaging in disruptive action or disorderly conduct shall be subject to disciplinary action, including expulsion or separation, and also to charges of violations of law.

#### Regulations on Pickets, Protests, and Demonstrations

##### Rule

Disruptive picketing, protesting or demonstrating on Duke University property or at any place in use for an authorized University purpose is prohibited.

##### Definition

Disruptive picketing, protesting, or demonstrating consists of any conduct which directly interferes with the orderly operation of the University or with the lawful pursuits of any member of the University community or any person otherwise on University premises with the express or implied permission of the University.

Without in any way limiting the scope of the foregoing definition, the following actions are specifically prohibited:

- a. Unauthorized occupancy of University facilities or buildings.
- b. Interference with the rights of students, faculty or staff and persons who are guests of the University to gain access to any University facility for the purpose of attending classes, participating in interviews, conferences or any other proper purpose.
- c. Interference with the orderly operations of the university, by breach of the peace, physical obstruction or coercion, or by noise, tumult, or other forms of disturbance.
- d. Interference with University traffic, be this traffic pedestrian or vehicular.

### Implementation

Violation of the rule stated above shall lead to appropriate disciplinary action. Charges of such violations may be brought by the President or his delegated representatives. Lack of prompt response to a cease and desist order by the President or his representative will constitute an aggravation of the offense.

### Hearing and Appeal

Hearing Committees will be appointed by the Executive Committee of the Academic Council to judge initially and expeditiously all cases involving students which arise under the regulations that pertain to pickets, protests and demonstrations. The Hearing Committees are to be regarded as a temporary arrangement subject to re-examination after the report of the Committee on Judicial Procedures is at hand.

A Hearing Committee will consist of two faculty members, one Dean and two students. These students will be selected from members of the judicial boards or governments in the undergraduate, graduate or professional colleges or schools. The Chairman of the Hearing Committee will be designated by its members.

The Hearing Committee will conduct its proceedings in accordance with academic due process.

The decision of the Hearing Committee shall be final if the accused is exonerated or if there is no appeal. In other cases appeal may be taken to the President, in which case such appeal shall be solely on the record of the proceedings before the Hearing Committee. Argument on appeal shall be on written submission, but the President may in addition require oral argument.

The procedures for faculty members will follow the arrangements provided under the regulations for the guarantee of tenure in the University.

The procedures for non-academic employees will be as provided in the Personnel Handbook.

### Amendments

These regulations on Pickets, Protests, and Demonstrations may be changed or amended by the University at any time but any such change or amendment shall be effective only after due notice or publication. These regulations supersede any regulations heretofore issued on the subject.

## **Appendix B: Statements Submitted to Our Committee**

### Duke Academics and Staff for Justice in Palestine Calls on Duke to Abolish its PPD Policy

Duke Academics and Staff for Justice in Palestine calls on Duke to abolish its Pickets, Protests and Demonstrations (PPD) policy immediately. The policy prohibits any disruptive picketing, protesting, and demonstrating on Duke property under the assumption that such disruption is detrimental to campus life. It has had a repressive and chilling effect on free association and expression on campus. The policy requires that pickets, protests, or demonstrations must 1) comply with university event policies and processes and 2) be registered with the university prior to the event. Violations of the policy carry significant penalties, including expulsion. Like our colleagues, "we are concerned that this policy, if left as is, will chill protest at Duke." At least one student group has been outright denied permission to hold their protest on campus, and others have had to move their protest or risk being in violation of PPD. Our university has a rich history of "disruptive" actions leading to necessary change. We demand immediate dissolution of the PPD policy and we raise the following arguments:

#### A brief history of disruption at Duke

We recognize that disruptive protest can be a form of free speech that moves the university into alignment with its mission. Consider this brief history of disruption at Duke.

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In the 1960s, Black student activism, such as the 1969 occupation of the Allen Building, led to efforts to recruit, retain, and support more Black students at Duke and to the creation of an Afro-American studies program. See Theodore D. Segal, Chapter 9 "We Shall Have Cocktails in the Gloaming: Aftermath" in *Point of Reckoning: The Fight for Racial Justice at Duke University*, Duke University Press, 2021.

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In the mid-1980s, anti-apartheid student activism, including protests and the construction of an "Apartheid Prison" shantytown, helped pressure Duke to divest from South Africa. Following arrests and disruption, the Board of Trustees voted in May 1986 to sell \$12.5 million in stocks. Student actions resulted in Duke completing full divestment by January 1988. See John Fitzpatrick, "DSAC protest to include prison, shanty buildings," *The Chronicle*, April 10, 1986.

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In 2015, students disrupted a "Duke Today" panel discussion among Duke administrators. These students later moderated a hearing wherein groups of Black, Latinx, and Asian students made demands to Duke administrators to address racism at Duke and improve experiences for students of color. Some demands were addressed, such as Duke renaming the main quad after Julian

Abele (the Black architect who designed parts of Duke's campus), Duke providing a space for Latinx students on campus (La Casa), and Duke providing more administrative support for the Latino Student Recruitment Weekend.

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In 2018, students in the People's State of the University (PSOTU) group interrupted an alumni address to issue demands to university administration, including formalizing consequences for acts of hate and bias on campus and increased transparency for Board of Trustee meetings. This action led to PSOTU's inclusion in the university administration's Working Group for Community and Dialogue. Duke later met some PSOTU demands, including not asking first-round employment applicants if they committed a felony and implementing transparency initiatives for the Board of Trustees.

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In 2020, in response to and alongside various forms of activism nationally and locally, Duke engaged in many wide-ranging anti-racist initiatives across the University and the Health System. This included providing resources to increase and sustain student and faculty diversity and efforts to address racism and promote health equity in the Health System. Read here about Duke renewing their commitment to anti-racism and anti-bias initiatives in September 2020, here and here about anti-racism updates provided in October 2020, and here about Duke's Racial Equity Advisory Council's first year report in June 2022.

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We cannot help but notice the stark difference in how Duke viewed itself in 2020--committed to anti-racism with values of diversity, equity, and inclusion--and how it has since succumbed to political pressures to erase commitments to racial equity. For example, Duke's anti-racism website, which detailed its anti-racist commitments (referenced in this article as <https://anti-racism.duke.edu/commitments/>; see here for March 2021 and here for Dec. 2025 versions of the website), has been changed to focus on campus culture more generally.

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More recently, the Duke Graduate Students Union has applied pressure on the administration to improve graduate student workers' conditions via rallies, petitions, and other actions, including a successful campaign from 2022 to 2023 for legal recognition as a collective bargaining unit. Their work before and after recognition has pushed Duke to make improvements in working conditions, including increasing annual stipends, longer parental leave, and more affordable parking plans.

The Palestine exception

Duke's PPD policy falls within a long-standing tradition in higher education of proclaiming support for academic freedom while suppressing pro-Palestinian discourse, and disproportionately targeting pro-Palestinian supporters. The PPD policy does not protect free speech or dialogue. Rather, it is an example of the Palestine exception, a pattern of institutional discrimination and selective enforcement of policies and laws that restricts the voices, scholarship, and advocacy of Palestinians and their allies. Designed to suppress and penalize political speech in support of Palestine, the PPD policy restricts our freedom of expression and our right to protest.

The PPD policy is corrupt and represses academic freedom and freedom of association on campus. The policy does not protect, it silences and punishes political speech. The memos in the Appendix below provide further evidence of how disruption and protest are important means of expressing one's beliefs and improving university life.

### Civil discourse

Duke's administration may say they are committed to civil discourse, but the PPD policy proves otherwise. PPD does not ensure a civil campus but polices association and expression. By creating the current policy at a moment when pro-Palestine protest was growing (and being repressed) at campuses across the country, it created an environment of discrimination, suppression, and punishment for faculty, staff, and students. Duke succumbed to external and internal pressures to repress students, faculty, and staff.

Duke's ideal of civil discourse quells debate and dialogue. PPD suppresses critical thinking, expression, and collective action in all realms of the university. More specifically, PPD effectively suppresses the humanities and social sciences, areas of knowledge that teach students to speak out against injustice.

Under PPD, raising one's voice is framed as misconduct; disruption of repression is wrongly interpreted as harassment; and claims for "civility" only restrict speech and produce an environment of censorship.

### Appendix

I. Memo on Protest History at Duke University

II. Memo on 1970 California Supreme Court case In Re:Thomas Patrick Kay et al.

I. Memo on Protest History at Duke University

This memo describes a small number of events in the history of unsanctioned protest (protest that takes place outside of the university's normal regulations for demonstrations) by students at Duke, as well as the university leadership's response to those protests. It is based on preliminary research - primarily, published newspaper articles. The historical record we have demonstrates that university leadership has been quite flexible in how they characterize and respond to

unsanctioned protest. In particular, leadership tended to say that while they might disagree with the means of protest, they agreed with the goals of the protesters, and attempted to reach resolutions that addressed the concerns motivating the protest without utilizing harsh discipline, such as suspension and expulsion. In the case of the 1999 sit-in, they gave informal sanction to the students' action but requested that they clean up after themselves. Such an approach seems to have been effective, both from the point of view of the administration (bringing unsanctioned protest to a conclusion without violence or unnecessary escalation of tensions) and the students (achieving at least partially their goals). Perhaps, though we can only speculate, this approach was influenced by a shared recognition of the significance and positive value of an earlier history of student protest at Duke, such as the 1969 Allen Building takeover.

#### Case 1:

In 1999, Duke Students Against Sweatshops (DSAS) occupied the president's office for 31 hours. They objected to Duke's signing onto a flawed code of conduct for the companies that were licensed by Duke to produce campus apparel (for instance, it did not require those companies to list where their factories were).

Duke ended the sit-in by signing an agreement with DSAS to pursue a stronger agreement with its licensing company. It is unclear, but it is unlikely that disciplinary action was pursued given the tenor of spokesperson comments below.

Here is an excerpt from this article: "As protests go, this one was fairly tame. Duke officials said they agreed with the students' cause, if not their strategy. And administrators allowed students to remain just outside the president's office after the building had closed. When the protest started on Friday, about 90 students were participating, but that number dwindled to about 20. 'They were in the outer lobby,' said [Duke spokesperson] Mr. Burness. 'We told them they could. We had a series of conditions, including that they had to clean up.' Of the students' cause, he said: 'I don't think at any point have we had a disagreement with them on the objective. It was just on what the best way to get there was.'"

#### Case 2:

In 2015, several hate incidents occurred on campus. These included a student hanging a noose from a tree nearby the student union, the defacement of a Black Lives Matter poster, and homophobic graffiti. This came just a couple of years after many students criticized the university for an inadequate response to the Asia Prime fraternity party, popularly known as the "racist rager." In November, of 2015, President Brodhead, Provost Kornbluth, and Dean Ashby held an open forum in Page Auditorium to discuss the state of the university. Prior to the event, a group of student activists took over the stage at Page, used a bullhorn from the stage to demand that the administrators attend a student-organized forum the following Friday, and then chanted at the university leadership before exiting. The activists were upset that the administrators had

not given sufficient advance notice for the forum and had also not invited student involvement in planning the forum. Administrators agreed to attend the student-organized forum.

At the student-organized forum, students read an in-depth document titled "Demands of Black Voices," and Mi Gente and Asian American Alliance also issued demands. One of the demands was the renaming of West Union "Abele Union" in honor of the architect Julian Abele. This demand obviously resulted in the naming of Abele Quad. A pdf of "Demands of Black Voices" is hosted at the following article. Another demand was for the formation of an Asian American Studies Department. Students and supporting faculty first proposed an Asian American Studies Department in April 2002. See the timeline for Asian American Studies at Duke here.

Footage of the protest is at the beginning of the video embedded in this article.

Case 3:

In 2014, Executive Vice President Tallman Trask allegedly hit parking attendant Shelvia Underwood with his Porsche and then called her a racial slur. On February 29, 2016, the Duke Chronicle published an article about the alleged incident. As part of their investigation, the Chronicle asked Trask whether the incident had occurred. Trask denied hitting Underwood and also denied using the racial slur. After showing Trask a copy of the letter of apology he had written to Underwood ("I very much regret the incident before the Elon football game. I should have been more patient and I apologize"), he admitted to hitting her with his car.

A second article in the Chronicle based on interviews with a dozen employees in Parking and Transportation Services (PTS) revealed a pattern of racist and homophobic treatment of PTS workers that received little investigation or attention from Duke.

In April, a group of students occupied the Allen Building with a list of demands, including Trask's resignation or termination and the resignation of two other administrators connected to PTS. In this case, a Duke administrator met with the students the day after the occupation began, and informed them that the university would not agree to their demands and threatened them with disciplinary action, including suspension or expulsion, if they did not leave.

By Monday, the university had reversed course and announced that the students would not face disciplinary action or legal penalty. This announcement occurred as the occupation was ongoing (read more here).

An encampment was established outside Allen building by other protesters.

A small group of faculty also wrote in support of the occupying students and the PTS employees who spoke out (some attended rallies supporting the occupation).

Below is an excerpt from the letter of support, which notes that the action comes after an insufficient response from Duke. The faculty here express the commonly held sentiment that unsanctioned protest is often crucial in making ideas "visible and audible" to the power-holders

at Duke. In other words, implicit in the faculty's statement is an understanding that the integrity of discourse in our community, especially as it relates to matters of university policy, is also a matter of making sure that all members of that community are heard and seen, and that the question of whether one is heard and seen is greatly impacted by one's position within university structures of power. This gets right to the heart of the question of whether "noise" or unsanctioned protest is contrary to discourse; in some cases it is actually what sets discourse into motion by ensuring that previously ignored voices are responded to in more than a token way.

"This letter is a statement of support for the right of students to make their demands visible and audible. Through our statement of support, we articulate our solidarity with the workers—those who have risked retaliation and those who are silently standing in support of the ones who have spoken—and the students who are working on their behalf as an extension of their own commitments to fairness and justice in this community."

Students ended their occupation after 7 days. A 'play by play' is available [here](#).

Below is Brodhead's statement after the occupation ended, which is noteworthy in laying out disagreement with the tactic of occupation but does not cast them as undermining the mission of the university. To the contrary, it emphasizes the alignment between the protesters' goals and the university leadership's commitments:

"Though we have disagreed about the specifics of their demands and their choice of means, I respect their underlying passion for making Duke and the world a better place. [...] The university renews its commitments toward advancing the causes of fairness and inclusion across this community, including for workers. I now look forward to our coming together in this important cause."

II. 1970 California Supreme Court case *In re: Thomas Patrick Kay* This memo describes the 1970 California Supreme Court case *In re: Thomas Patrick Kay et al.*, and its bearing on the question of whether the existing PPD policy appropriately balances different values important to the university community, especially in the following passage: "The substitution of noise for speech and force for reason is a rejection and not an application of academic freedom. A determination to discourage conduct that is disruptive and disorderly does not threaten academic freedom; it is, rather, a necessary condition of its very existence."

The *In Re: Kay* case dealt with three individuals who were convicted for violating a California Penal Code statute. The statute states that a person who "willfully disturbs or breaks up" a lawful assembly or meeting is guilty of a misdemeanor. Of course, the PPD policy is not part of a criminal code, and we are not suggesting that the CA Supreme Court decision in itself somehow invalidates the PPD policy. We present this case because the CA Supreme Court justices considered exactly some of the questions about balancing different values that are raised by the PPD.

The case arose because of a protest at an Independence Day celebration where a number of political figures were speaking, including one congressperson, John Tunney, who was not supportive of a United Farm Workers-initiated boycott of table grapes. When Tunney began speaking, a group in the audience - the decision says somewhere between 25 and 250 people out of a total audience of 6,000 - started clapping and chanting for several minutes. At least one person also displayed the United Farm Workers flag.

In overturning the conviction of Kay and his co-defendants, the Supreme Court considered a number of competing First Amendment interests. The court recognized that freedom of assembly, freedom of religion, etc. would be meaningless if every gathering were potentially at risk of being prevented altogether by people intent on disruption. In another place in the decision, the court says that "Freedom of everyone to talk at once can destroy the right of anyone effectively to talk at all." However, the court also recognized that disturbing a meeting is often an important means of expressing one's beliefs as well:

"Audience activities, such as heckling, interrupting, harsh questioning, and booing, even though they may be impolite and discourteous, can nonetheless advance the goals of the First Amendment. For many citizens such participation in public meetings, whether supportive or critical of the speaker, may constitute the only manner in which they can express their views to a large number of people; the Constitution does not require that the effective expression of ideas be restricted to rigid and predetermined patterns."

Later on, the court reiterates this point: "The public interest in an active and critical audience has long been recognized. The heckling

and harassment of public officials and other speakers while making public speeches is as old as American and British politics; here, as in Great Britain, such protestant conduct has been thought to be outside the realm of legal regulation except in the most egregious of cases."

This is important because the court was concerned with the way the statute created a threat of sanctions that, in effect, would produce a chilling effect because it is overbroad. It concluded that statutes regulating the kinds of disturbances it described above should be narrowly drawn. In the specific case being considered, the court looked at a number of factors in concluding that it demonstrated that an overbroad statute would end up sanctioning activity that was important to protect. The program of the Independence Day gathering was not prevented from proceeding by the protest, and the protest did not stop interested audience members from hearing the speech of the Congressperson. While some in the audience said they were "disturbed" by the protest activity, the justices noted that this could be due to the content of the protesters speech.

Taken as a whole, the reasoning of the justices in the *In Re: Kay* case reject the stark contrasts that seem to underlie the earlier quoted paragraph of PPD. That paragraph suggests that disorderly and disruptive conduct lies outside the accepted norms of an academic community dedicated to the pursuit of truth through collective debate. The justices reject this suggestion by

looking at the history of actual public political discussion and debate. We too ought to reject this by looking at the history of actual public discussion and debate at Duke. As we know, there is an entire legacy of disruptive protest that runs from the 1969 occupation of the Allen Building through the work of Spectrum to more recent efforts to secure an Asian American studies program. Those protests are now widely recognized as examples of activism that were appropriate given the urgency of the issues that the protesters sought to place at the center of campus discourse; they are, correctly, not viewed as efforts to shut down debate or to harass or intimidate people who held an opposing point of view.

## **Statement from Care Assembly**

The Care Assembly is a group of grass roots level activists at Duke, with members representing everyone from Duke undergrads to tenured professors to staff. The Assembly recommends that the Committee call for both the removal of the PPD policy from the Faculty handbook, and the policy as a whole.

The PPD policy is premised on the claim that pickets, protests, and disruptions are not protected under "academic freedom" as they substitute "noise" for "speech" and "force" for "reason". Thus, in an attempt to "discourage conduct which is disruptive and disorderly", Duke insists this policy is necessary and invokes the vague and conservative term of "ordered liberty" that must exist for "academic freedom" to exist. The Assembly believes that these claims, and the policy as a whole, incorrectly confuses academic freedom and free speech, contradicts Duke's stated Values and Mission Statement, and misunderstands the purpose and value of protests.

The PPD policy incorrectly invokes academic freedom as justification to prohibit free speech:

Duke's Academic Freedom Policy in Chapter 1 of the Faculty Handbook mirrors the 3 fundamental principles of academic freedom put forward in the American Association of University Professors' (AAUP) 1940 Statement of Principles on Academic Freedom and Tenure. The AAUP statement is more expansive as it mentions that "institutions of higher education are conducted for the common good and not to further the interest of the individual teacher or the institution as a whole" and that "the common good depends upon the free search for truth and its free exposition", values that are absent from Duke's Academic Freedom Policy in the Faculty Handbook.

In the absence of these additional principles, Duke's academic freedom policy only applies to classes, research, and academic duties. Protests are thus not included in Duke's definition of academic freedom. Even the 2025 report prepared by the Committee on Academic Freedom and Responsibility, Free Expression, and Engagement recognizes that this is the goal - "the PPD policy focuses on operationalizing [academic freedom] principles" - but as the policy is "outside [their] remit" they didn't investigate the policy further. However, the Committee did recognize that "as a private institution, Duke University is not bound by the First Amendment" and that, "the University may also reasonably regulate the time, place, and manner of expression to ensure the institution's proper functioning". The Assembly believes that this reveals the unstated goals of the PPD policy - to regulate both the content and method of protests making them essentially useless by using the less objectionable idea of protecting academic freedom as cover to do so. This inadequate application of academic freedom threatens the actual purpose of academic freedom and sets up a dangerous precedent for future actions to further erode freedom.

Ironically, Duke actually violates academic freedom principles and its practice of "shared faculty governance" by unilaterally making changes to the PPD policy without consultation and input with the Academic Council.

Considering the already contentious relationship between Duke Administration and the various faculty bodies set up in the name of shared governance, the PPD policy is just one more incidence of the Administration acting unilaterally.

The PPD policy violates Duke's stated Values and Mission Statements:

We must also reckon with the reality that Duke implemented the PPD policy in response to anti-genocide protests happening at Duke and around the country. Duke must pause and do some self-reflection - what does it say about Duke and its values that it would implement policies that would punish people who would protest genocide? Duke asks of its members that "as stewards of Duke's trust, we are accountable... As leaders, we represent Duke and acknowledge that we are held to the highest standard. We are vigilant in our intentions, leading by example and considering the implications of our actions." The only leadership on display is the leadership to silence protests of genocide and the implicit support of crimes against humanity. Is this the "superior liberal education to undergraduate students, attending not only to their intellectual growth but also to their development as adults committed to high ethical standards and full participation as leaders in their communities" that we wish to impart on Duke students?

The Committee on Academic Freedom and Responsibility, Free Expression, and Engagement Report also addresses the debate around institutional neutrality. The Assembly argues that as a place of higher education and learning and an institution that strives to be a leader, the policy of institutional neutrality is Duke abdicating its role, value, and mission to lead. Holocaust survivor Elie Wiesel said "We must take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented." Duke's neutrality on genocide shows that Duke is effectively choosing the side committing the genocide. Even the neutral stance, however, is incorrect - Duke's refusal to divest from companies involved with the genocide means that Duke is actually complicit in the occupation and genocide of Palestine. The future will not look kindly on us and on Duke for allowing and supporting genocide.

The PPD policy misconstrues and vilifies protest instead of recognizing the value protests bring to Duke:

The policy misconstrues protests as "noise" and "force" that replaces "speech" and "reason", missing the point that protests have a reason and are speech. The policy misses the fact that protests occur because prior "peaceful" and "non-disruptive" "speech" has failed. How many committees and meetings and provost initiatives are set up to maintain the status quo of the system? It is precisely the intransigence, the inertia of the system, and the people in

power that require escalation by the protestors. We can look at Duke's own history as an example of this. In 1967, Duke's Black students formed the Duke Afro-American Society asking for

reasonable reforms to improve Duke for Duke's growing Black community. However, Duke's administration did nothing until approximately 50 members of the Society took over the Allen Building in 1969 making it so that Duke could no longer ignore them.

Whether it is Rosa Parks refusing to give up her seat in Montgomery, Alabama, or Rev. Douglas Moore leading the Royal Seven to sit in the "whites only" section of the Royal Ice Cream Parlor, at times disruption and disorder is necessary to bring about change that improves the world.

While all protests are happening, the liberal outcry at the time is that the protests are destabilizing and disrupting. However, many years after the disruptive protests, the liberals end up recognizing the importance of the protest actions and praise them. At Duke, President Price can now claim that the Allen Building Takeover "was one of the most pivotal moments in our university's history" and that the students "forever shifted our sails toward the prevailing winds of justice and equality" even though the students at the time were placed on 1 year of probation.

A protest that requires permits, that doesn't disrupt the norm and normal functioning is simply a parade, an "event" as Duke calls it. A "protest" that is bound in time and place that can and will be ignored is precisely the goal of the PPD policy. As stated, the policy's goal is to maintain "ordered liberty". Duke is attempting to preserve and ossify its current institutional norms and values against change. In a changing world, this guarantees that Duke will become a stagnant university incapable of change, a relic of times past, and wholly irrelevant in the future. To avoid this from happening, this policy has to be repealed.

For these reasons, the Care Assembly unequivocally recommends that the Committee call for the full repeal of the PPD policy, both from the Faculty Handbook and from Duke's overall policies.