FAQ About the Policy Governing Time, Place, and Manner of Expressive Activity

1. At whose behest is this policy revision taking place, and why now?

Following the protest activity on campuses around the country in spring 2024, including at Smith, it is important that President Willie-LeBreton provide the community with clearer expectations for campus demonstrations, protests, and other expressive activity. This is particularly critical at a moment when people disagree about the boundaries of expressive activity or its content. In addition, several organizations, including the U.S. Department of Education, the American Civil Liberties Union, the Anti-Defamation League, the Council on American-Islamic Relations, and the American Jewish Committee, strongly advised colleges and universities to update their policies.

We share the breadth of organizations above to show that they represent a variety of viewpoints. We did not necessarily take their specific advice, but their outreach signaled the need to review our own policies. It was, however, the Department of Education's letter—one that brought a larger context and a longer view—that suggested colleges and universities have such policies or update them if they are inadequate. They cautioned, too, that the U.S. Department of Justice would be closely monitoring colleges regarding violations of Title VI. To refuse this advice, it was clear, could mean risking an investigation and possible sanction of the college by the Department of Education or the Department of Justice.

At the direction of the president, members of the president's team and legal counsel worked on this revision from May through August 2024. The president then sought input on the draft from Faculty Council, the Academic Freedom Committee, the faculty as a whole, Staff Council leadership, and the Student Government Association cabinet. Much of their feedback was integrated into the policy before sharing the draft of the updated policy with the entire community.

While President Willie-LeBreton felt that it was important to include elected representatives of students and staff in the review of the draft policy, she privileged her consultations with faculty. Faculty hold a unique role, as outlined in the Code of Faculty Governance, to teach students, to act as guides and mentors, and, along with the Academic Freedom Committee, to consider the ideals by which the college protects faculty members' ability to research and speak about controversial or unpopular subjects. That said, when a draft of the policy became public, she appreciated the insights that a broader community review could offer.

2. Does this policy change the president's powers?

No. The Code of Faculty Governance Section II.A. defines the president's role: "The President is the chief executive officer and chief administrative officer of the college, shall have the general and active management, control and direction of the educational activities, financial operations and other affairs of the College, and shall have the general powers and duties usually vested in the office of the president of a college. … The President shall be responsible for the discipline of the College, for the care and use of the buildings and equipment of the College, and for carrying out the measures authorized by the Board, including such measures concerning the internal administration of the College."

3. Why was the current policy in need of revision?

This revised policy aims to reinforce community expectations and replaces the previous policy, titled "Policies Concerning Freedom of Expression and Dissent," which lacked the necessary clarity and did not sufficiently incorporate our community values. The revised policy aims to provide more transparency about the logistics (i.e., time, place, and manner) by which expressive activity can occur on campus consistent with academic freedom, freedom of speech, Smith's academic mission, and safety. It aims to protect community members' right to expressive activity while ensuring that such activity does not impede the college's operations or educational mission, or violate reasonable expectations of privacy. It achieves these goals not by limiting the content of expressive activity, but by defining the time, place, and manner by which expressive activity can occur. It also clarifies who is subject to the policy—students, faculty, staff, and visitors. The previous policy was also incorrectly located only in the student handbook; the new policy has been moved to a central and easily accessible location on Smith's website.

4. Does this policy affect student and faculty rights in the Statement of Academic Freedom and Freedom of Expression?

No. This content-neutral policy governs only the logistics by which freedom of speech may be exercised. Freedom of thought and expression remain bedrock principles of the college. At Smith, academic freedom continues to protect faculty who choose to teach, speak, and write on provocative issues within their areas of expertise.

5. How does Smith College interpret academic freedom for faculty and students?

Academic freedom allows faculty[1] to explore, within academic norms, controversial or unpopular ideas in their scholarship and classroom teaching without fear of institutional reprisal. This protection is crucial for intellectual exploration and the pursuit of truth, which are core to Smith's mission. Tenure further ensures that faculty can express opinions related to their field of expertise, even if those views are critical of the administration or other issues. The principle of academic freedom extends beyond freedom of speech, encompassing the right to conduct research, publish findings, and teach subjects without external censorship or coercion. Academic freedom is considered essential to the integrity of higher education and academic inquiry.

Students are generally afforded significant rights to freedom of expression within academic settings. Students are learners who, within the academic bounds set by the faculty and the college, should have freedom to explore a range of ideas, express opinions, and engage in debate as part of their education. While students are not granted academic freedom in the same sense as faculty, they are encouraged to think critically, challenge ideas, and express dissenting viewpoints as part of their educational experience.

6. Does the Statement of Academic Freedom and Freedom of Expression apply to staff?

No. However, staff have rights to engage in protected, concerted activity under Section 7 of the National Labor Relations Act.

Smith staff members, including administrators and support personnel, typically do not have the same rights to freedom of expression and academic freedom as faculty and students. Their roles, while important and often essential, are different in scope and function and do not have a reliance on academic freedom, as their primary responsibility is providing services that support the operational functions of the institution.

7. Does this policy change how or when the college will engage law enforcement?

No. The college is committed to managing situations peacefully and with discussion-based resolutions whenever possible. Smith has a campus culture that actively embraces the values of open and mutually respectful dialogue and exchange. The willingness of administrators, staff, and faculty to think through, talk to, and work with each other and with students to reach peaceful resolution remains unchanged. When expressive activity is peaceful and lawful, the

[1] According to the Code of Faculty Governance, Section III.A.2, "Members of the tenure-track Faculty are those persons on appointments leading toward consideration for tenure. Members of the permanent Faculty are those holding tenure of office. Together, these constitute the ladder faculty. Members of the non-tenure-track Faculty are senior lecturers, senior laboratory instructors, lecturers, laboratory instructors, visitors, professors in residence, and lecturers and professors of practice."

Campus Safety Department will remain in close communication with college leadership at all times to minimize the department's involvement. However, Massachusetts law requires the Campus Safety Department and other law enforcement officers to intervene, without first seeking permission from campus officials, when there is a credible threat to safety, when property is being damaged, when state or federal laws are being violated, or when there is disruption to critical operations, for example, blocking access to emergency services. See Massachusetts General Laws Ch. 41 § 98; M.G.L. Ch. 266; M.G.L. Ch. 269.

8. Does this policy create a new process for faculty, staff, or students to be disciplined?

No. Violations of college policies by students, faculty, and staff will be adjudicated according to the applicable procedures outlined in the following policies:

- The Student Handbook and Code of Student Conduct for students;
- The Code of Faculty Governance and the Policy of Appointment, Reappointment, Promotion, and Tenure for faculty; and
- The Employee Handbook for staff.

Depending on the nature of the conduct involved in a violation of this policy, other college policies and procedures may be applicable, including but not limited to policies related to non-discrimination and harassment, equal opportunity, Title VI, and Title IX.

9. Why does the same policy apply to students, faculty, and staff? Why not have

Most higher education institutions opt for a single policy that applies to all community members for several reasons. This policy regulates the logistics of speech (when, where, and how it occurs) rather than the content or substance of the speech itself. By applying a single policy, we ensure that activities are managed consistently, regardless of who is organizing them. Consistency of policy application reduces confusion and the potential for misunderstandings about what is allowed when and where.

10. Where did the "Time, Place, and Manner" concept come from?

The use of content-neutral "time, place, and manner" restrictions on speech has roots in American jurisprudence on the First Amendment. As public universities (which are subject to the First Amendment) expanded in the mid-20th century, there was increasing tension between the need to maintain order and safety on campus and the growing demands for free speech, particularly during the Civil Rights Movement and anti–Vietnam War protests. The concept of regulating the time, place, and manner of speech, rather than the content, emerged from court rulings interpreting the First Amendment. Courts used such restrictions as a way to balance the right to free speech with the government's ability to regulate certain aspects of expression in

order to maintain public order and safety. Amid the recent surge in student activism, private colleges have increasingly recognized the need for clearer guidelines around speech. Consequently, it has become a higher education best practice to delineate the time, place, and manner in which expressive activities should occur on campus.

11. How was the 7:00 a.m. to 10:00 p.m. time frame for amplified sound or other

This time frame aligns with the city's zone of quiet hours per Northampton Code of Ordinances Chapter 312, Article IV.

12. Why does the policy suggest that anonymity is incompatible with constructive

While there is historical precedent that anonymity has been deployed effectively to challenge laws that stripped individuals of their humanity, our ideals on a residential campus include the free and open exchange of ideas. Recent times have brought challenges to creating spaces where we can be confident that everyone will respect the privacy and even the sanctity of exchanges such that individuals are free to express themselves, to not express themselves, and to change their minds. A residential community of scholars where students live alongside one another and where violence and unlawful retaliation are expressly prohibited should allow us to engage in the kind of unfettered exchanges that are the hallmark of higher education in a democratic society. Ideally, discourse, intellectual exchange, and opportunity to take in each other's humanity occur face-to-face, in the classroom, in hallways, in dining halls, on walks, in houses, or in the course of expressive activity. While this is not always possible, this policy includes an aspiration that we relate to one another with openness and transparency whenever possible.

13. Why are student course evaluations anonymous when the policy suggests

Anonymity in the context of student course evaluations serves a different purpose: It ensures that students are able to offer candid evaluations of courses without concern that their comments may influence their future grades.

14. Why don't faculty or staff get to vote on or help draft every policy at the

Colleges have a division of responsibilities among faculty, administration, and the board of trustees, which balances the need for faculty involvement with operational efficiency and legal compliance. Faculty focus on academic matters, such as curriculum, academic standards, and tenure requirements. Administrative policies related to budgeting, facilities, and legal compliance are handled by administrators with expertise in and responsibility for those areas. Policies concerning safety, financial decisions, and employment practices are typically assigned to administrators by trustees. The college relies on established peer-elected leaders, such as Faculty Council, Staff Council, and the Student Government Association, to be the representative bodies for input from faculty, staff, and students, respectively. The college must balance seeking community input with efficient and effective policymaking. In addition, faculty, staff, and students should not be overburdened with administrative tasks when their primary responsibilities are elsewhere. (See the American Association of University Professors Statement on Government of Colleges and Universities). All of this said, the administration will continue to consult and collaborate with faculty, students, and staff on matters that directly affect their roles, rights, and responsibilities on campus.

15. Can spontaneous protests still happen?

Yes, as long as they adhere to guidelines regarding time, place, and manner in this policy.

16. If a student walks out of a class, is that a violation of this policy?

Not necessarily, but students may face other consequences if they violate class attendance policies set by faculty or attempt to coerce or intimidate others to leave class as well. The Code of Faculty Governance Section VII.D. provides that "Absences do not relieve the student from responsibility for work required while they were absent. The burden of proof that they have done the work rests with them. The instructor should decide in advance what the procedure is to be when students are absent, especially from written tests, and should announce the policy to the class."

17. There are a few traditions at Smith that may violate this policy because they create loud noise at night or near residences. Can students carry on these traditions?

Yes. While this policy generally regulates when and where expressive activities can occur, the college recognizes the significance of long-standing traditions that contribute to campus culture and allows exceptions to this policy for those specific events. For example, traditions like an impromptu gathering of students one night to ask the president for Mountain Day, or the "primal

scream" the night before final exams, will be allowed to continue as long as the gatherings remain respectful, brief, and do not pose safety concerns.

18. What does "impede" mean in Section III.J.?

"Impede" refers to actions that seriously disrupt the college's ability to operate, such as obstructing scheduled classes, meetings, and events, or hindering access to essential services and campus safety. While some level of disruption is expected during protests, this policy distinguishes between minor or brief interruptions and prolonged, extreme, or total obstructions that prevent others from engaging in academic or campus activities.

19. What is the role of the Campus Safety Department during protests?

The Campus Safety Department has sworn police officers and non-sworn staff employed by Smith who work to ensure that every member of our community can safely learn, live, and work on campus. During expressive activity such as protests, they monitor the protest to ensure that participants and people nearby remain physically safe. If tensions rise, they may step in to de-escalate conflicts, focusing on peaceful resolution and communication. To support their work, they receive ongoing training and education on topics that are central to building trust and partnership with students, faculty, and staff, such as de-escalation, anti-racism, and community engagement.

20. This policy feels like it tells us everything that community members can't do. Are you able to share a list of everything that community members can do?

No. How community members might express themselves and their opinions is too capacious to list and is beyond the scope of the college's policies, but certainly most ways that we express ourselves do not negatively impact the functioning of the college or the experiences of fellow community members. At Smith, there are spaces for community members to have their voices and political positions heard, and if there need to be more such spaces, please suggest them.

21. Whom can I contact if I have questions about this policy?

You may write to policy-feedback@smith.edu. In addition, students may contact the Office of Student Affairs, faculty may contact the Provost's Office, and staff may contact Human Resources.