

UFC Response to Recommendations by the Faculty Ho Plaza Comm.

The University Faculty Committee (UFC) met on May 20th, 2013, following the May 8th, 2013 Senate meeting at which the faculty committee's report on the November 19, 2012, event on Ho Plaza was presented and discussed. The UFC's responses to the five recommendations in that report are given below; each *recommendation (italicized)* is followed by the UFC reaction (regular type font). Because the Campus Code is under the jurisdiction of the University Assembly (UA), specifically their Codes and Judicial Committee (CJC), the UFC decided that the Faculty Committee Report (along with the UFC's comments thereupon) should be passed *in toto* on to the CJC as background information for its use in revising the Campus Code. The UFC additionally asked that the UA/CJC should also receive copies of the approved minutes of the May 8, 2013, Faculty Senate meeting. By the time of the release of the Faculty Committee's report, the CJC was far along in its revision of the Campus Code in reaction to the Ho Plaza incident; this had been discussed at the UA's final meeting of Spring 2013.

The UFC generally endorsed the Faculty Report and commended the Faculty Committee (Richard Allmendinger, William Fry and Margaret Washington) for its the excellent and balanced document.

University Faculty Senate Ad Hoc Committee Recommendations

The Ad Hoc Committee appointed by the Senate to investigate events of November 19, 2012 as they pertain to freedom of expression, academic freedom and freedom of peaceful assembly, recommends the following:

- 1. The phrase on campus ID cards reading "...is to be shown for identification upon request" should be eliminated or clarified. The criterion for CUP requests to show identification should be the same as for any police officer in any public setting: ID can only be requested with legitimate suspicion of unlawful activity. Just because Cornell can write a different standard because the campus is judged private property does not mean that it should do so in all instances. On November 19, CUP request for ID from the Cornell faculty at the rally significantly and unnecessarily escalated tension, regardless of the intent of the CUP investigators involved.*

The UFC maintained that this phrase should remain on campus ID cards, but that it must be clarified. The UFC felt that University Counsel's office should be consulted in any re-write.

- 2. The faculty's right to freedom of expression, peaceful assembly and academic freedom should take priority over their responsibility to acts as "agents of the University." Specifically, the right of faculty to participate in peaceful demonstrations on campus is to be affirmed and observed and public safety officers need to be aware of that fact. We realize that this priority may not*

apply to those members who also serve in administrative positions.

The UFC believed that this point should be highlighted in the background information used in all future training of Cornell University police officers and that the Vice President of Human Resources and Safety Services should be asked to insure that this happens in the future.

- 3. The right to ad hoc assembly for the purpose of free speech and expression, without the necessity of filing a UUP notification, should be preserved and protected. Groups should be allowed to assemble, march, and speak in the open areas of the campus, so long as they do not infringe upon the primary educational mission of the University and so long as they respect the right to free speech of competing groups (if any). In that sense, the wording of the Campus Code should be clarified to remove any ambiguity, including the use of amplified sound.*

The UFC felt that this issue deserved careful consideration by the CJC/UA in their rewriting of the Campus Code. It was important to preserve the ability of groups to assemble spontaneously. Thus, while it is generally desirable to have advance notice of meetings (so that, for example, University staff can help and safeguard participants), it should not be mandatory to receive a permit in advance of any meeting. Thus seeking a permit should be encouraged but not required. Ambiguities between the permitting process and the Campus Code should be eliminated. At present the application process appears to be inflexible, and yet in practice it is not. The new rules should clarify how the permitting process has been, and will be, implemented in the future. An aspect of this is also discussed in regard to Recommendation 4 below.

4. The Committee could not reach unanimity on the question of whether a permit or notification should be necessary for the use of amplified sound. All Committee members agree that public concerts and extremely loud events that draw large crowds (e.g., Slope Day) should require a permit to use amplified sound. Everyone also agrees that a permit should not be required when a single group or ad hoc protest/demonstration wishes to use amplified sound at a reasonable decibel level on Ho Plaza between noon and 1 pm. The lack of consensus arises with regard to the case where two groups both want to use amplified sound on Ho Plaza at the same time. Here, we offer two options that reflect the divergent views of the committee (and also the divergent opinions of the two experts on academic freedom consulted by the committee):

A. Where two groups wish to use the same outdoor space at the same time for competing purposes, little is gained by drowning each other out with amplified sound. The group that notified the University of their intent to use amplified sound first via the UUP process should be the only group allowed to use amplified sound. This does not prevent the second group from assembling adjacent to the first group, simply that they should not infringe the first group's right to be heard. This is in accord with the sections of the Campus Code dealing with the rights of visiting speakers.

B. Any prohibition on use of amplified sound, at a reasonable decibel level, in connection with rallies, protests, and demonstrations infringes on the right to free expression even if the sole purpose of a counter-protest is to drown out and prevent the original protest from being heard.

All UFC members maintained that the goal of the final Campus Code should be to encourage civil discourse that reflects the values of the University community. Most of them also believed that the question of special restrictions on the use of amplified sound should be specifically addressed by the UA/CJC. See also the response to Recommendation 3 above. But a few UFC members felt that this item was too narrow and that the Code should keep its discussion at a higher level.

5. The Committee recognizes that event managers and CUP have an important role in preserving the peace at campus events, rallies, and demonstrations. Given the significance and sensitivity of that role, event managers should have more complete training. Event managers should be familiar with the rules and regulations governing events they are asked to supervise and should be familiar with the particular protocol for those events.

The fact that an event manager had to call Day Hall for instruction reveals a lack of knowledge about handling situations such as that which developed on November 19. In particular, both event managers and CUP officers should have explicit training, beyond what is currently done, regarding free speech, peaceful assembly, and academic freedom on campus, including faculty participation in public demonstrations. In addition to preserving the peace, an explicit charge to event managers and CUP should be to protect rights guaranteed in the First Amendment.

The UFC supported this recommendation and asked that the Vice President for Student and Academic Services be notified of it. They strongly recommended that event managers receive additional training in safety and in crowd management. They further believed that faculty members should be encouraged to serve as event managers and also, as appropriate, to help with the training of these individuals.