



## Statement of the AAUP-Penn Executive Committee on Administrative Suppression of the Right to Assemble and Protest

The University of Pennsylvania's [Temporary Standards and Procedures for Campus Events and Demonstrations](#) constitute an attempt by the central administration to strip faculty, staff, and students of our rights to assemble, speak, and engage in protest—activities that are protected by the principles of academic freedom because they are necessary to education and to democracy itself. These new regulations exemplify what the national AAUP has rightly denounced as a coast-to-coast [“wave of administrative policies intended to crack down on peaceful campus protest.”](#)

The unilateral and secretive decision-making that produced these policies is indicative of Penn's unaccountable system of governance, and it underscores the need for faculty, staff, and students to work together to create legitimate, transparent, and democratic forms of decision-making. Those of us now subject to these rules had no part in creating them; indeed, we learned of them when administrators sent a [university-wide email](#) in June simply announcing that they were in force, apparently overriding at least parts of the [Guidelines on Open Expression](#). While the Guidelines on Open Expression describe procedures for changing the Guidelines, involving public hearings and votes to be taken at the level of the Committee on Open Expression and University Council, even these minimal required forms of consultation seem to have been set aside unilaterally. Faculty, staff, and students do not know how the task force now charged with permanently rewriting the Guidelines on Open Expression was composed or when public hearings will be held. Based on the [recent record](#) of the central administration, as well as the University Council and the Committee on Open Expression, we have little reason to believe that those hearings would be anything more than window-dressing. All these facts make a mockery of the principle of shared governance.

The rules themselves are in no way viewpoint-neutral: their timing and content both indicate that they are meant to silence speech critical of Israeli government policies and of the war on Gaza that the administration simply does not want to hear. They prohibit precisely the forms of nonviolent mobilization involved in last year's antiwar protests—from projecting images on campus buildings to camping out overnight. They grant administrators precisely the [powers to surveil protesters that the Guidelines on Open Expression denied them](#) last spring, but which they nevertheless attempted to deploy against participants in the Gaza solidarity encampment.

While they target antiwar protest and criticism of the Israeli government, these rules pose a much broader threat to all of us, no matter our political views. They all but ban assembly and protest on our campus by erecting a thicket of unreasonable restrictions:

- **Temporary Standards Part V** bans the use of amplified sound, and thus effectively prevents rallies and demonstrations, at precisely the campus locations standardly used for those activities—green spaces and plazas located near administrative buildings—during the times when most people are on campus.
- **Part V** gives the administration the right to deny the use of space “If noise resulting from an event in an outdoor space *may at times interfere or conflict with* library, office, and classroom activities” (emphasis added). Given the administration’s unilateral power to interpret and enforce these policies, they could define any and all noise as something that “may at times interfere or conflict” with these activities.
- The requirement (**Temporary Standards III.d, III.e, III.f**) that we submit applications to the administration 48 hours to 2 weeks in advance to hold any kind of event makes the right to assemble and demonstrate conditional on prior administrative approval. This grants the administration unacceptable latitude to deny permits based on the substance of the views expressed—latitude that we can reasonably expect this administration to abuse, given that it spent the last year attempting to suppress antiwar protest on the basis of its substantive content, in violation of the Guidelines on Open Expression.
- This same rule requiring application prohibits timely responses to crises. If a worker is killed or injured on the job, coworkers have every right to walk off the job and protest on the spot—except, apparently, at the University of Pennsylvania, where the administration would like two weeks to review the idea. Protest is frequently a response to urgent situations and rapidly developing events, and a two-week permit procedure quashes expression at the moment when it is often most necessary and effective.
- Requiring us to apply to hold a demonstration further constitutes a form of surveillance (in that it requires those engaged in dissent to identify themselves to administrators) and interrogation (equivalent to requiring us to sit down with administrators and tell them what we or our organizations plan to do in the future). These elements of the policy can be expected to have a chilling effect, discouraging faculty, staff, and students even from attempting to protest. The silence on our campus this fall suggests that these policies are already having a chilling effect.
- **Temporary Standards XIII.b** allows the administration to engage in another form of surveillance: demanding to see IDs at demonstrations. Not only does this intimidate those in attendance, but it can also be expected to dissuade faculty, staff, and students from attending a demonstration at all. It is important to note that before this rule was written, the original Guidelines on Open Expression (which superseded all other university policies) only authorized administrators to request IDs in circumstances where the Guidelines were being violated. This new rule is expressly designed to eliminate that constraint, and it therefore allows much broader surveillance of the identities of people who are not violating any university policy but simply attending a demonstration. The problem of surveillance is not resolved by the administration’s claim (Temporary

Standards XIII.b.i) that “Checking Penn IDs for safety concerns ordinarily does not involve making a record of the information for purposes of future disciplinary actions.” First, how do members of the University know whether a given situation is considered ordinary, and what recourse do we have to challenge administrative abuse, given that the administration has the exclusive authority to interpret and enforce these rules (Temporary Standards XIII.c, XIII.d)? Second, whether or not a record is made, requiring people to show their IDs makes their identities known to the administration immediately, and that knowledge can be used with or without written records.

- **Temporary Standards X** interferes with our ability to communicate the message of a demonstration to those not in attendance, trampling our rights to open expression as well as basic press freedoms. It specifically bans livestreaming “except in limited circumstances where reaching a wider audience is appropriate and approved by the Vice Provost for University Life” and stipulates that news media “may be asked to limit filming to specific areas of campus, especially during demonstrations.” A central purpose of a demonstration is to communicate concerns not just to those in attendance but to wider publics. These provisions undermine the efficacy of demonstrating at all and may dissuade members of the campus community from even attempting to do so.

Clearly these policies threaten the ability of any organization to hold a public demonstration on Penn’s campus. And indeed, the administration may already be using these rules to repress labor organizing at Penn. On August 27, for example, Penn Medicine residents—who voted last year to form a union with CIR/SEIU and began negotiating their first contract—were prevented from holding a union event. [According to the DP](#), residents gathered during their lunch break in the courtyard of Pennsylvania Hospital to mark a milestone in their contract campaign: they had organized a petition signed by a supermajority of members calling on management to meet their demands for fair pay. As is their right under the 1935 National Labor Relations Act, they came together to celebrate that achievement and distribute copies of the petition among the union’s members (along with burritos to go, as residents’ 80-hour work weeks often do not enable them to eat lunch). In response, Penn security did exactly what the Temporary Standards would prescribe: they shut down the gathering.

The Temporary Standards further open the door to academic freedom violations by requiring that speech on social media be “circumscribed by principles of...civility” (**Part IX.a**). The national AAUP has repeatedly warned against such vague demands for “civility” in intramural and extramural speech. The AAUP’s [website](#) offers extensive analysis of this issue, and we quote Henry Reichman, former chair of AAUP’s Committee A on Academic Freedom and Tenure:

[A]dministrative demands for civility may endanger academic freedom when applied to the extramural expression of faculty members... UCLA historian Michael Meranze wrote,

The demand for civility effectively outlaws a range of intellectual, literary, and political forms: satire is not civil, caricature is not civil, hyperbole and aesthetic mockery are not civil nor is polemic. Ultimately the call for civility is a demand that

you not express anger; and if it was enforced it would suggest that there is nothing to be angry about in the world... We don't need to pretend that all debates are friendly ones or that there are not real interests in conflict. If universities...are going to model intellectual discourse and life for the country, it is not going to be by imposing some rule of tone; it is going to be by demanding of people that they argue with reasons.<sup>1</sup>

**Part VII.iv** raises similar concerns, as it requires that members of the University “be respectful to University employees involved in ensuring...compliance with these guidelines.” This could prevent faculty, staff, and students from expressing dissent or protest against administrators who enforce these guidelines. The administration has exclusive power to interpret and enforce this policy, and is therefore at liberty to define protest and dissent themselves as disrespectful. Among other things, this would violate the academic freedom of faculty—specifically the right to freedom in intramural expression, which includes the right to criticize the University itself.

When one reads the Temporary Standards closely, it appears that their enforcement would not only trample on open expression, labor rights, and Penn’s written policies on academic freedom, but would interfere with the basic academic functioning of the University. We question whether these standards are enforceable at all or whether, either by design or by necessity, they can only be enforced in a discriminatory manner. For example:

*III.b. Events are presumed to be private, that is, limited to members of the Penn community, unless specifically stated otherwise.*

This provision reverses an element of the Guidelines on Open Expression, which stated that events were considered to be public (Guidelines II.b). The new rule appears to be inspired by the administration’s frustration that it could not expel community members from the Gaza solidarity encampment last spring. Yet the original rule regarding the public nature of campus events was a functional and necessary one for a university committed to fostering intellectual life: departments and centers routinely organize talks, conferences, and other academic programming featuring invited speakers, and academic events are often attended by colleagues and students from other institutions as well as interested members of the public. Today, it seems entirely possible that most programming at the University is not in compliance with the Temporary Standards, since few announcements for academic events “specifically state” that they are open to the public. Does the administration intend to crack down on academic events that are not in compliance—whether a dissertation defense attended by the candidate’s family, a department workshop featuring an invited scholar from outside Penn, or a film screening attended by colleagues from nearby institutions? Shutting down such events or retroactively punishing faculty and departments that host them would clearly harm the intellectual life of the University and violate the right of faculty to make academic programming decisions. Or does the

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<sup>1</sup> Henry Reichman, *Understanding Academic Freedom* (Baltimore: Johns Hopkins University Press, 2021), 97-98.

administration intend to use this rule only to target specific, disfavored individuals and organizations on the basis of the substantive content of their speech?

*IV.a. Schools, departments, institutes, individual faculty, students, and staff may not serve as "individual fronts" or "proxies" for non-Penn affiliated organizations who may solicit them in order to gain access to or use of Penn venues to organize or host an event on their behalf.*

Faculty members and academic departments, centers, and schools routinely bring the conferences of professional and scholarly organizations to Penn. This enriches the intellectual life of our university, enhances Penn's reputation, and is an expression of faculty members' right to freedom in research and teaching. For instance, in 2023, when the American Society for Legal History (ASLH) held its annual meeting in Philadelphia, Penn Carey Law hosted the plenary lecture and a reception, and an ASLH pre-conference symposium also convened at Penn—a tribute to the University's status in the field of legal history. To prohibit such activity would impoverish the intellectual life of the University, violate faculty members' academic freedom, and professionally marginalize Penn faculty, preventing us from performing service to our scholarly communities.

If the administration intends to enforce these rules, it threatens the core research and teaching mission of the University, the labor rights of every campus employee, and all aspects of academic freedom and open expression.

If the administration plans instead to be selective and does not intend to enforce these rules consistently, then it must acknowledge that they are discriminatory in nature, aimed at suppressing mobilization against Israeli government policies and warmaking, and possibly other forms of activity including labor organizing, on the basis of the content of the views expressed and participants' substantive goals.

No matter the administration's intentions, it is up to all of us to use and defend the rights that remain ours under the principles of academic freedom and open expression that Penn's written policies have long protected, to reject the illegitimate attempt to overhaul them, and to organize to win real governing power within the University to ensure that rights that exist on paper can be practiced in reality. If the last year has taught us anything, it is that the University of Pennsylvania, and the United States itself, desperately need legitimate, democratic forms of decision-making to defend the freedom to learn, teach, research, assemble, speak, and dissent.