

# Report of the Presidential Policy Advisory Group on Free Speech at Ohio University



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UNIVERSITY

President Duane Nellis convened the Presidential Policy Advisory Group (hereafter “Advisory Group”) to review public comments on two interim policies (Policy 24.014, [Freedom of Expression](#), and 24.016, [Use of Outdoor Space on the Athens Campus](#)), identify and review other relevant materials and information, and develop recommendations to be used by the Executive Staff Policy Committee (see policy 1.001, [Preparation of Policies](#)) in drafting a permanent policy or policies addressing free expression and use of space at Ohio University.

This report represents the culmination of work by the Advisory Group. The report summarizes public comments on both interim policies via eight primary themes and multiple sub-themes. The report also offers recommendations for drafting a new policy or policies on free speech and space use at Ohio University.

## Overview of the Advisory Group and its Work

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President Duane Nellis and Interim Executive Vice President and Interim Provost David Descutner announced creation of the Advisory Group on October 31, 2017. In an Ohio University *Compass* article announcing formation of the group, President Nellis explained,

“We created this group to evaluate the comments we received, but also to map a pathway forward in keeping with our commitment to shared governance. The individuals who will serve Ohio University on this advisory group represent the breadth of discussion needed on this important matter. Having them all at the table where a consensus will be reached based on the balancing of multiple viewpoints will result in a more robust policy to carry us forward that is a proper representation of the values of the entire Ohio University community.”

Members of the Advisory Group:

- **Scott Titsworth**  
Dean representative and advisory group convener
- **Landen Lama**  
President, Student Senate
- **Maria Modayil**  
President, Graduate Student Senate
- **Jacqueline Wolf**  
Designee for Chair, Faculty Senate
- **Jessica Wingett**  
Chair, Administrative Senate
- **Sharon Romina**  
Chair, Classified Senate
- **Katherine Jellison**  
Chair/Director representative
- **Grant Garber**  
Legal Affairs representative
- **Andrew Powers**  
Chief of Police
- **Dusty Kilgour**  
Executive Director of Baker Center
- **Carly Leatherwood**  
University Communications and Marketing, ex-officio

The Advisory Group held ten meetings between November 14, 2017, and March 30, 2018. Early meetings of the Advisory Group focused primarily on analyzing the public comments gathered in response to the interim policies. The Advisory Group's analysis of the comments resulted in the development of recurring themes gleaned from the comments. The Advisory Group then studied the salient historical, legal, and social issues impacting free speech on American college campuses, including reading and discussing at length *Free Speech on Campus*, Erwin Chemerinsky and Howard Gillman (Yale University Press, 2017). Following their

study and discussion, the Advisory Group developed considerations to present to the campus community for feedback. After a lively community forum on March 21, the Advisory Group met to finalize their recommendations for the Executive Staff Policy Committee.

Minutes for each meeting of the Advisory Group can be found on the [Advisory Group's website](#). The recommendations of the Advisory Group are part of the process of formulating new policies regarding free expression and space use at Ohio University. Policy 1.001 describes that process in detail. The Executive Staff Policy Committee is responsible for policy development at the University. It is chaired by the Executive Vice President and Provost and includes the Vice President for Finance and Administration, the Vice President for Student Affairs and the General Counsel. The Committee will consider the recommendations in this report as it drafts one or more new policies on free speech, free expression, and the use of university spaces. ***We do not believe that our recommendations can be incorporated by merely revising the interim policies; the final policy/policies should reflect a wholly new effort to draft a policy or policies incorporating the recommendations below.*** Drafts of the new proposed policy or policies will then be distributed to the employee and student senates, deans, chairs and directors and other University community stakeholders for feedback and consultation prior to the President finalizing the content of the new policy/policies. The new policy/policies will then replace the current interim policies.

## A History of Free Speech and Activism at Ohio University

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During the January 25, 2018 meeting of the Advisory Group, William Kimok, University Archivist and Records Manager, delivered a 45-minute presentation on the history of activism and free speech at Ohio University. At the request of the Advisory Group and in collaboration with University Libraries, Mr. Kimok also presented his archival research to the university community on Wednesday, March 21<sup>st</sup>, in the afternoon prior to the public forum on free speech hosted by the Advisory Group.

This summary of Mr. Kimok's presentation cannot capture its full richness. We offer as part of this report only an outline of his presentation. The rich history provided by Mr. Kimok informed each of our recommendations.

There is a long legacy of free speech and expression at Ohio University. A plaque on College Green, the center of campus and home to Cutler Hall, reads:

*College Green has served as a forum for the voices of Ohio University's students throughout its history. Whether supporting civil rights, advocating for the abolishment of women's curfews, or in protest, students have and will continue to play a vital role in shaping Ohio University.*

Indeed, this legacy of encouraging student speech and activism is reflected beyond the College Green. An iconic feature of Ohio University is the "Graffiti Wall," which has content continually managed by the community, not the University. Ohio University is home to an award-winning independent newspaper, *The Post*, and numerous other independent journalistic endeavors over the course of its more than 200-year history. The *Green Goat*, for example, was a satirical publication, first published in 1913, that showcased cartoons and other artwork challenging University policy and community social norms.

In addition to these more ongoing opportunities for free expression, Ohio University also has a legacy of protest. Over decades, Ohio University students (and other members of the campus community) protested an array of local, national, and international issues such as overcrowded classrooms, inequitable treatment of women and minorities, the assassination of the Reverend Dr. Martin Luther King, Jr., the lack of an Afro-American Studies curricula, rising University tuition, the Vietnam war, abuse of migrant farm workers, among many others. The vast majority of these gatherings were peaceful. On rare occasions, protests turned violent or disruptive, resulting in arrests. Most recently, Ohio University students and others held rallies supporting the #blacklivesmatter movement, DACA, and civil rights as part of the annual Dr. Martin Luther King Day celebration. In short, Ohio University students have established a vibrant tradition of making their voices heard.

Yet while there has been a clear and consistent pattern of free speech, free expression, and activism at Ohio University, University policies have ebbed and flowed over the years. Early policies were, in fact, quite restrictive. One resolution passed by the Ohio University Board of Trustees in 1812 stated,

It is required of all the students to treat all persons whatsoever with modesty, civility and due respect, but more especially, to exhibit at all time the most respectful deportment to the officers of the university in his lawful commands, and if any student shall willfully disobey any officer of the University in his lawful commands, or shall either in speech or action manifest disrespect towards the President, he shall be admonished and make due acknowledgement to the offended party, or be suspended, as the faculty may decide.

Similarly, student attire was carefully regulated through the 1960s as documented in various rulebooks distributed to freshmen. Despite such restrictive policies, however, students and faculty were generally able to exercise free speech regularly.

President Vernon R. Alden was a pivotal figure in the history of free speech and expression at the University. In 1962, Dr. Alden created a “Speakers Policy” defending free speech and expression on campus. A photograph of that policy, provided by Mr. Kimok, is included here due to its historic importance.

**T**HE CONSTITUTION OF THE UNITED STATES very explicitly guarantees the right of free speech to all citizens. It is a very precious principle in a truly free society. It is a profound part of our heritage. Many wise and courageous Americans have fought strenuously to establish and to preserve this right of free speech.

A warning—such freedom is NOT a free gift. It is NOT a right to be taken lightly. It must be won; it must be fought for. It carries with it sober responsibilities—the responsibility of honest inquiry and dispassionate judgement. It demands that citizens examine an idea with depth and perception. To deserve the right of free speech, a person must be able to recognize the superficial, the ill-founded, and the deceptive.

At Ohio University, we believe that freedom of inquiry and discussion is essential to a student's educational development. We recognize the right of our students to engage in free discussion, to hear speakers of their choice, and to speak and write without fear of administrative action.

When recognized student groups consult with their faculty advisors and invite a speaker to appear on the Ohio University campus, I shall defend their decision and their basic right to hear the speaker of their choice. I have confidence in our students. I believe that they are mature enough to recognize their responsibilities to other individuals, to the University, and to the community. I feel certain that they will conduct their meetings with dignity and with sincere educational objectives in mind.

I believe it would be a disservice to our students and a rebuke to the intelligence and maturity of our community if, as president of a respected university, I did not defend the right of student organizations to invite speakers of their choice. A university cannot proclaim its belief in the concept of freedom of expression, and then deny individuals with whom it disagrees a chance to express their views.

Some people may fear that this posture could expose our students to dangerous manipulators and radical demagogues and that they would be persuaded to join causes disloyal to the United States. We disagree because we have deep faith that our students have the ability to challenge effectively unsound principles and deceptive ideologies. Furthermore, exposure to various streams of thought and experience in testing ideas and debating issues will reinforce confidence in the values which have preserved freedom in America.

It should be made clear that the appearance of a speaker on our campus does not represent our endorsement of that individual or his views. Obviously, if I as president permit some speakers to express their views on campus and denied the right to others who have been invited, I would appear to be placing the University in the position of endorsing those speakers who are given permission to speak.

The genius of free men has made our society the greatest known to recorded history. The right of free speech has been an essential part of this greatness. We cannot for a moment in our educational institutions give students cause to believe that we fear exposure to alien ideas. Any individual with a deep and abiding faith in freedom is not afraid to test his ideas and his beliefs against others.

President Vernon R. Alden

Subsequent to President Alden's progressive stand, various political and social issues sparked a series of protests on campus. As a result, University policies began to pay specific attention to regulating such activities. For example, the 1964 *OU Men's Handbook* stated, "The participation in, incitement of, and/or aiding and abetting of a riot or demonstration may result in immediate suspension of the student from the University." The 1966-67 Student Handbook devoted an entire page to the University's positions on "Demonstrations." The Handbook admonished, "Public displays should not interfere with the rights and privileges of others or

with the orderly conduct of university affairs.” The 1969-70 student handbook stipulated several time, place, and manner restrictions for the display of posters, banners, handouts, and painting of the kissing circle. In 1970, state police and National Guardsmen were brought to campus to manage protests against the Vietnam War and the killing of four students at Kent State University. In the wake of the Kent State shootings, reflecting student activities and Universities' reactions throughout the country, Ohio University closed on May 15, 1970, before the semester ended, and did not re-open until August. More recently, in the early 2000s, Ohio University mimicked the trend at many other American universities and established “free speech zones,” a policy that was widely criticized because those designated “zones” were often in out-of-the-way places; court rulings, not directly involving Ohio University, have generally ruled that those zones are unconstitutional.

In short, the history of free speech and free speech policies at Ohio University is complex. Although Ohio University students and faculty always have exercised their right to free speech, the manner of their behavior has varied greatly. Likewise, the policies of the University have shifted over time. Today, once again, the University community is grappling with the changing nature of activism, free speech, and free expression and the University's related policies and practices.

## Analysis of Public Comments

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Between August 14, 2017 and October 30, 2017, students, faculty, and staff submitted 94 public comments to the Office of Legal Affairs on the Freedom of Expression Policy and 31 comments on the Interim Use of Outdoor Space policy.

The Advisory Group analyzed more than 120 unique public comments (some comments were duplicate statements from internal and external organizations/units) on both interim policies. Prior to the December 15, 2017 meeting of the group, all members reviewed a subset of 10 comments on the *Interim Freedom of Expression Policy* to develop preliminary themes that characterized the comments. The 10 comments (comments 84-94) selected for this task were the final 10 submitted by the University community. This group of comments allowed members of the advisory group to share a common experience reading, analyzing, and thematically organizing the same unstructured, qualitative data. For the following meeting (January 3, 2018), Advisory Group membership divided into three sub-groups, each tasked with analyzing and thematizing a different section of the remaining comments on both policies. At that meeting, sub-groups discussed individual observations before developing, through consensus, a list of themes and sub-themes for the comments assigned to each sub-group. Then, in the latter half of the meeting, the three sub-groups came together to compare themes and develop a master set of themes and sub-themes that captured both the breadth and specificity of the public comments.

Our inductive analysis yielded eight primary themes with 41 sub-themes. All themes and sub-themes, with representative statements from the public comments, are included in **Appendix A** of this report. For convenience, the primary themes are listed here:

- **Theme 1: Reactions to the process for developing the interim policy.** This theme included comments challenging both the process through which the interim policies were developed as well as underlying principles of that process.
- **Theme 2: Opposition to the Interim Policy.** Comments in this theme stated that the interim policy was overly restrictive, had vague language, and should be abolished.
- **Theme 3: Unnecessary limits on speech/expression are harmful.** Sub-themes here observed that limits on free expression are harmful to marginalized groups, often legitimize dominant voices/views, risk creating a slippery-slope of progressively restrictive actions that erode freedom, and generally chill expression.
- **Theme 4: Free expression is an essential right.** Comments in this theme argued for the general principle that freedom of expression and speech is a fundamental right and that, in general, protest and disruption are sometimes necessary to ensure progress.
- **Theme 5: Free expression is vital to our university.** Various comments pointed to the legacy of free speech and expression at Ohio University. Comments related to this theme observed that free speech has been a core value of our university, and that going forward that value must be reaffirmed to foster a vibrant, inclusive campus. One respondent argued that Baker Center was a symbolic space for expression.
- **Theme 6: Positive impressions of aspects of interim policy.** Comments related to this theme pointed out that the interim policy attempted to balance public safety and the rights of non-protestors with the right to free speech. Respondents who articulated this theme noted that the interim policy was consistent with other institutions' policies and that national free speech organizations evaluated the policy positively.
- **Theme 7: Suggestions for revised policy.** This theme had multiple sub-themes that provided both general and very specific recommendations for the content of new policies. This theme had more sub-themes than any other.
- **Theme 8: Support for reviewing other universities' policies.** Some respondents identified two other universities, the University of Georgia and the University of Chicago, as institutions with freedom of speech policies that should be reviewed as new policies are created at Ohio University.

These themes, Ohio University's history of free expression and activism, along with outside resources such as *Free Speech on Campus* and policies from other universities all informed the formulation of considerations presented to the campus community.

## Considerations Not Supported

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Subsequent to the open forum, the Advisory Group voted on each of the considerations presented to the campus community prior to the forum. The following three considerations were deliberated upon, but not supported by the Advisory Group.

Consideration 1: The university should have no policy on freedom of expression.

**Vote: 9\*-0 against**

(\* One voting member was absent during this vote)

Rationale: Many observed that the university does not need a policy regarding free expression on campus.

We debated whether any such policy is necessary, and we concluded that it is. The university community has been engaged in a public conversation about the meaning of free expression on our campus, its importance to our mission and instances in which it is appropriate to regulate speech. The institution should express its views on these subjects and codify them in a policy statement of principles.

It also should codify rules for expressive activity on campus. Doing so will provide fair notice to the community about what is and is not permissible and will avoid arbitrary, case-by-case decisions. It also will provide the university with tools to manage large events safely.

Consideration 2: Write a single policy addressing general principles for use of campus space at a very high level. It should begin with a preamble that clearly establishes the University's commitment to free speech and expression as a foundational principle upon which the subsequent time, place, and manner guidance is based.

**Vote: 7-3 against**

Rationale: The interim Freedom of Expression policy has been perceived as controversial and confusing in its current state. Creating a single policy, underpinned by the foundational principle of free expression, should reduce that confusion.

Additionally, the preamble should be foundational and create a framework that underpins the whole policy, thus providing "fall back guidance" for situations that fall between the cracks of the more detailed sections of the policy.

Comment: This consideration is substantively consistent with Recommendation 6 (below) but differs in how the content is structured. This variant emphasizes a single policy framework that begins with a firm preamble championing free speech and expression. In deliberating on both options, the majority of the group was in favor of Recommendation 6.

Consideration 3: In cases of inclement weather, alternative indoor spaces should be provided for protests and demonstrations.

**Vote: 10-0 against**



Rationale: A few public comments suggested that the university must provide indoor spaces for protests, in order to avoid "chilling" their expression in cold or inclement weather.

Many court opinions vividly describe the "chilling" of free expression, but those courts are not referring to literal temperature. Rather, courts have used this phrase for decades to refer to the deterring effect that unconstitutionally broad or ambiguous policies have on the exercise of free expression. There is no constitutional right to climate-controlled protest.

## Recommendations of the Advisory Group

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The Advisory Group used information gained from the thematic analysis of public comments, as well as the other resources described above, to develop a draft set of considerations. The group created these considerations under the premise that all core issues should be on the table for debate and eventual endorsement or non-endorsement by the group. The set of considerations was released to the campus community on Friday, March 9, 2018, in preparation for the March 21st Public Forum. The Advisory Group then met on March 22 and March 30 to discuss the comments they heard at (and after) the public forum and to discuss, rewrite, and vote on each of the considerations they released on March 9, effectively turning those "considerations" into recommendations for the Executive Staff Policy Committee. The Advisory Group met for the final time on March 30 to finalize its recommendations. The recommendations fall under four broad categories: future policy should align with core institutional values, the current policies should be fundamentally re-structured, specific locations should be addressed positively in a new policy, and new policies should clarify key issues.

### **New Policy/Policies Should More Effectively Articulate Core Institutional Values**

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Several public comments criticized the title of the interim policy and specific language in the policy as being overly restrictive. The following recommendations address those concerns by suggesting that core values supporting free expression be emphasized first and foremost, and that policies focus on the value of free speech at Ohio University.

**Recommendation 1:** A freedom of expression policy/policies should contain a preamble articulating support for the core value of free speech and expression.

**Vote:** 10-0 in favor

**Rationale:** The university policy should make it explicitly clear that, for Ohio University, free expression is a core value. Our interim policy lacked such context. The new policy should articulate our broad and resolute commitment to free speech and expression while at the same time observing the need for reasonable time, place, and manner restrictions to protect our core mission and related activities.

**Recommendation 2:** The policy language and tone should affirm what is permissible rather than focusing primarily on what is prohibited.

**Vote:** 10-0 in favor

**Rationale:** Rather than focusing on what is forbidden, the new policy should focus on what is permissible. According to public comments, the interim policy was perceived as overly restrictive. By focusing on what is permissible with respect to expression and speech acts, a new policy can be more affirming of our commitment to free expression.

**Recommendation 3:** A new policy should follow the University of Chicago framework, with appropriate contextualization for Ohio University.

**Vote:** 10-0 in favor

**Rationale:** Amidst nationwide events that began to test their institutional values, the University of Chicago conducted a review of Freedom of Expression in 2014. Having reviewed the history of their university, benchmarked other institutions, and consulted legal precedent they released a statement on Freedom of Expression. This statement highlights the importance of freedom of expression, "*...the University's fundamental commitment is to the principle that debate or deliberation may not be suppressed.*" Additionally, they recognized the role that institutions of higher education play in protecting this freedom, "*the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.*" A new policy should adopt that statement in principle, both recognizing the work the University of Chicago did and highlighting the historical context of both Ohio University and the Athens Community.

**Recommendation 4:** The final policy/policies must be consistent with the United States Constitution and other applicable laws.

**Vote:** 10-0 in favor

**Rationale:** As a state institution, the university must comply with the United States Constitution, including its First Amendment, and other applicable federal and state laws.

### **Changing the Structure of the Policy/Policies**

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This set of considerations suggests alternatives for how to structure one or more policies related to freedom of speech/expression and use of space on campus. These suggestions emphasize the articulation of a vigorous commitment to free speech in one policy, while also specifying how the right to free speech may have reasonable time, place, and manner restrictions in another policy. The recommendations in this section are more generally about

the structure of the policy/policies; the recommendations in subsequent sections could dovetail with these suggestions (e.g., use of specific spaces on campus, having a preamble, etc.).

**Recommendation 5:** The university should establish a permanent policy/policies affirming its commitment to free expression while also articulating appropriate rules regulating time, place, and manner of expression.

**Vote:** 10-0 in favor

**Rationale:** The Advisory Group recommends that the university adopt an affirmative policy statement on free expression and rules regarding use of campus space. In particular, the use of appropriate time, place, and manner rules is a common practice at other universities and complies with court opinions on this subject.

At Ohio University, such rules may address legitimate concerns about safety and material disruption while remaining true to our institution's commitment to free expression and constitutional requirements described in case law.

**Recommendation 6:** Following the University of Chicago model, write two or more companion policies that (1) explicitly codify our commitment to free speech rights, guaranteed by the Constitution, in a university setting; and (2) separately articulate time, place, and manner restrictions, which should be few. These policies should be brief and to the point.

**Vote:** 8-2 in favor

**Rationale:** Keeping both policies simple and to the point will provide clarity for the community and be more effective than the current multi-page documents. Simplicity means flexibility. We want a document that will be timeless and not simply a reaction to an era and/or specific incidents on campus or nationally.

**Comment:** This recommendation emphasizes an approach creating multiple policies. The first policy in this structure would be substantively similar to the "Preamble" in Consideration 2 (above). Other policies would address specific issues as necessary in light of the other recommendations. In essence, Consideration 2 and Recommendation 6 do not differ in substance but do differ in how the policies are structured.

### **Recommendations Related to Specific Locations**

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These recommendations provide specific suggestions about the use of particular spaces on campus. The intent of these suggestions is to avoid broad statements that are perceived to restrict speech across campus, opting instead to identify and provide rationale for specific spaces that may or may not be used for protests and demonstrations.

**Recommendation 7:** The policy should acknowledge that spaces not designed for assembly should not be used for that purpose.

**Vote:** 10-0 in favor

**Rationale:** Areas not designed for assembly lack the infrastructure to minimize disruption to adjacent spaces. Thus, allowing assembly in places not so designed would be somewhat disingenuous as it would encourage people to gather with almost certainty that their event would be disruptive. In addition, hallways and lobbies lack the ability to effectively manage occupancy load, thus making it very difficult to prevent an assembly from creating an evacuation hazard. Finally, spaces such as these are often adjacent to stairwells or are confined in ways that make managing crowds difficult and unsafe. Keeping opposing groups of protestors safely separated in a lobby or hallway would be nearly impossible. Once again, allowing assembly in such spaces, knowing the hazards that such an assembly creates, would be very unwise.

**Policy makers need to ensure, however, that restrictions around assemblies in such spaces do not restrict other forms of expression and free speech, such as individuals engaging in debate, people moving through these spaces while wearing clothing or symbols representing political views, etc. Furthermore, the new policy should ensure it is clear that expression—especially dissenting expression—at public events in reservable spaces is entirely permissible, provided it does not prevent the event from continuing (e.g., holding signs or wearing shirts expressing an alternate view at a public lecture is permissible, but exercising a “heckler’s veto” is not).**

**Recommendation 8:** The interior of Cutler Hall should not be a place where protest and demonstrations are allowed.

**Vote:** 6-4 in favor

**Rationale:** Protests or demonstrations inside Cutler Hall could impede administrative functions that are essential to campus safety and normal operations. There is no constitutional right to “sit-in” or occupy administrative offices, and groups have ample ways to convey concerns other than by assembling within office suites. Those alternatives include gathering just outside Cutler Hall, on College Green and other adjacent outdoor spaces.

**Dissenting Opinion:** The committee voted 10-0 in favor of emphasizing what is permissible in a free speech policy rather than what is forbidden. The committee also voted 10-0 in favor of stating that spaces not designed for assembly should not be used for that purpose. To counter those votes

by explicitly singling out only a handful of places as off limits to protest would create an unnecessarily contradictory and divisive message and dilute the effectiveness of a policy on free expression. Singling out Cutler in particular (an understandable and justifiable magnet for protest given that protestors often want to deliver a message to the University President and Provost) would taint the University's endorsement of free speech.

**Recommendation 9:** The Baker Center rotunda (4<sup>th</sup> floor entryway) is not an appropriate or safe venue for protests, demonstrations, or similar activities. Accordingly, a final policy may prohibit those activities in the rotunda. If feasible, however, the final policy should identify alternative indoor spaces inside Baker Center that are available for those activities.

**Vote:** 8-2 in favor

**Rationale:** The Baker Center rotunda has become a focus of campus-wide discussions about protests. The campus community wants clarity regarding what is and is not permitted within Baker Center. For that reason, it should be addressed specifically in these recommendations and in any final policy.

The university must ensure that people can pass safely through lobbies, hallways and similar spaces. The Baker Center rotunda is a major thoroughfare and crossroads for pedestrians on campus, with a high volume of foot traffic along multiple paths of travel in a confined space. Gatherings there may easily impede pedestrians moving in and out of the building as well as use of the escalators. Also, protests and hostile counter-protests may quickly become dangerous, raising the prospect of physical confrontations next to a four-floor-high ledge, in a space where safely separating competing groups is difficult. Past gatherings in the rotunda generally have been peaceful. Given the risks in that area, the University cannot assume that will always be the case.

The university should, however, identify alternative spaces in Baker Center that can accommodate both spontaneous and scheduled assemblies. Such spaces may include the third, fourth or fifth floor atrium spaces, located on the south end of the building overlooking the escalators. These indoor spaces would be supplemented by the outdoor patio spaces outside the first and fourth floors.

Dissenting Opinion: The committee voted 10-0 in favor of emphasizing what is permissible in a free speech policy rather than what is forbidden. The committee also voted 10-0 in favor of stating that spaces not designed for assembly should not be used for that purpose. To counter those votes by explicitly singling out only a handful of places as off limits to protest would create an unnecessarily contradictory and divisive message and dilute the effectiveness of a University policy on free expression. Singling out the Baker Center rotunda is particularly ill-advised; the space has become a lightning rod for controversy due to the arrests of 70 students there in February 2017.

**Recommendation 10:** The final policy/policies should reflect thoughtful consideration to the titles of the policy/policies to make the intent and purpose clear.

**Vote:** 10-0 in favor

**Rationale:** The title of the interim policy suggests that it will outline the university's stance on Freedom of Expression, and while it does that in some places, it is a policy more about procedure and the operations of facilities. Names and titles for any new policy/policies should accurately reflect their core substance. Additionally, the subject coding of new policies should be considered. Issues related to campus space use, freedom of expression, demonstrations, and protests affect everyone and may be more appropriate in the "General Subject" category.

**Recommendation 11:** Outdoor spaces should be available for expressive activity, except in cases where specific spaces have been officially reserved by others.

**Vote:** 10-0 in favor

**Rationale:** Outdoor spaces are given wide protections by the courts. Outdoor spaces on Ohio University's campuses should provide general accessibility for those exercising free speech/expression provided that such activities do not create substantial interference to the university's operations, destroy university property, or violate other federal, state, or local laws/ordinances, and recognizing that some outdoor space is reservable.

### **New Policy Should Clarify Key Issues**

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A common criticism in public comments about the interim policy was that vague language led to the perception that the policy was sweeping in restrictions. Considerations in this final section assumed that a new policy would be re-written to avoid such vagueness and then provided specific areas in which precision and clarity were necessary.

**Recommendation 12:** A new policy should distinguish free speech/expression from civil disobedience. It should note that speech and expression are protected rights, but civil disobedience is not. There is no right to civil disobedience without consequences.

**Vote:** 10-0 in favor

**Rationale:** Civil disobedience theorists and practitioners, from Thoreau to Gandhi, Martin Luther King, Jr. to Nelson Mandela, have all recognized and promoted the idea that persons who break the law as an act of protest should be willing to accept the consequences of their actions. In fact, these leaders themselves willingly accepted such consequences—including time in jail—as an inherent aspect of civil disobedience. Accepting the consequences of their disobedience demonstrated their dedication to the causes they promoted and weakened the institutions they were protesting by causing those institutions to expend valuable time and resources in meting out punishment to civil disobedience protesters. Bottom line: Historically, civil disobedience has only produced long-term change if its practitioners have accepted the consequences of their actions.

**Recommendation 13:** The new policy should allow Ohio University stakeholders to engage freely in vibrant discussion and debate without impeding the university's educational mission.

**Vote:** 10-0 in favor

**Rationale:** The university's primary function is the education of its students. Free discussion and debate are essential to the institution's core mission, but such activities should not impair students' access to classrooms or other facilities that support their ability to obtain a university education.

**Recommendation 14:** The new policy should emphasize the content neutral use of time, place, and manner to manage assemblies and should be structured in such a way as to minimize the need for reliance on disruption as a criterion for managing assemblies.

**Vote:** 10-0 in favor

**Rationale:** Time, place, and manner are the easiest, most objective terms for regulating assembly. Not permitting assembly in places that would make it difficult to be non-disruptive is preferable to allowing assembly, knowing that almost any gathering would be disruptive. Time, place, and manner can easily be regulated in advance, when there is almost no opportunity for decision-making based on content. Disruption should be used as infrequently as possible as a criterion

for managing assemblies, because it is very subjective, hard to define, and has to be determined on a case-by-case basis after the assembly is underway, thus creating greater opportunity for improper influence in the decision-making process, as noted by many public comments.

**Recommendation 15:** Policy needs to establish clear expectations and eliminate vague language.

**Vote:** 10-0 in favor

**Rationale:** There was much concern about the language used in the interim policy being vague or the entire interim policy being ambiguous (e.g., “substantial interference”). It will be very important that the policy writers balance the need to not be so specific that they are implying the policy language is all-encompassing versus being so vague that reasonable individuals still question what is meant and what the policy covers.

**Recommendation 16:** A new policy should direct appropriate university officials to maintain protocols for responding to public protests, demonstrations, and acts of civil disobedience.

**Vote:** 10-0 in favor

**Rationale:** The policy need not articulate the exact protocol to be followed, but it should specify a need for identifying what university academic and administrative officials should be involved and that a general protocol should be developed, if possible.

**Recommendation 17:** The free expression statement should explain that a university cannot censor or punish speech because someone considers it to be offensive or hateful.

**Vote:** 10-0 in favor

**Rationale:** A core mission of the University is to protect the airing of all views. The First Amendment protects so-called hate speech because hate speech is in the eye of the beholder. In the 1960s, as just one example, many Americans characterized Martin Luther King’s words as hateful and threatening. Speech viewed as offensive by some is constitutionally protected because public discourse in a democracy is of no value without the airing and consideration of multiple views. Democracies function well only when citizens know, and have considered, all perspectives. If community members judge speech to be offensive, they should meet the offensive speech with additional speech, not censorship.



**Recommendation 18:** The new policy should disallow speech that incites violence and that is contrary to anti-discrimination law.

**Vote:** 10-0 in favor

**Rationale:** Universities are increasingly diverse, with individuals from all walks of life, students of all abilities, and from all over the world, making it a global community in the truest sense. The university has a responsibility to protect its community members from physical harm and discrimination.

**Recommendation 19:** The freedom of expression policy should state that the University cannot separate protestors, or anyone seeking to make their voice heard, from the audience they seek by restricting their protest to out-of-the-way areas.

**Vote:** 10-0 in favor

**Rationale:** Marginalizing protestors, forcing them to protest where few will hear or see them, effectively strips them of their free speech rights.

**Recommendation 20:** A new policy should preserve and memorialize the principle of academic freedom.

**Vote:** 10-0 in favor

**Rationale:** The policy should ensure that faculty members can teach and communicate ideas or facts without the fear of retaliation.

**Recommendation 21:** The university should not attempt to create "safe spaces" from controversial or unpopular ideas or opinions.

**Vote:** 10-0 in favor

**Rationale:** To achieve our shared mission of learning and discovery, we must sometimes feel intellectually uncomfortable. Disagreement, challenging questions and expression of competing views bring us closer to truth and the qualities of mind we seek to cultivate in our students and ourselves. Members of our university community will encounter ideas and opinions with which they disagree or find repugnant. The university must not attempt to shield students and others on our campus from these intellectually uncomfortable experiences.

This does not mean that we must tolerate illegal or discriminatory conduct. University community members have the right to learn, teach and work in an environment that is free from harassment, intimidation and violence. The final policy must ensure that the university can prohibit and punish such conduct.

Recommendation 22: A person's or group's exercise of free speech cannot limit another person's or group's exercise of free speech; in other words, free speech does not give anyone the right to disrupt the speech of others.

**Vote: 10-0 in favor**

Rationale: Everyone has free speech rights, whether or not a competing individual or group agrees with what is being said.

Recommendation 23: The final policy must be drafted in a way that can be consistently applied, regardless of the content of the message.

**Vote: 10-0 in favor**

Rationale: The law requires that the University's rules for use of campus spaces be content neutral – that is, that the rules apply equally to all speakers regardless of the content of their message. The University is not permitted to enact one set of rules for groups or messages that are sympathetic and popular (*e.g.*, cancer awareness) and another set for those that are unpopular, disfavored or abhorrent. Whether the rules are relatively permissive or restrictive, they must apply equally regardless of the content of the speech.

The final policy must contain rules that the institution is able and willing to enforce equally.

Recommendation 24: The policy should recognize that law enforcement personnel are held to both a criminal and civil standard that transcends university policy. Furthermore, failing to meet those obligations—even if that failure is a result of complying with policy—can lead to personal consequences for the officer(s) involved. As such, the policy should not impair the ability of law enforcement to protect the safety of the public and comply with their legal obligations.

**Vote: 10-0 in favor**

Rationale: It would be extremely unwise for a policy to create a circumstance that could force a police officer to have to choose between complying with the law or avoiding adverse personnel action by his/her employer. Likewise, a policy should not be so cumbersome that it makes swift decision-making in the interest of safety difficult or impossible. Police officers are experts in crowd management and public order; a policy should not strip those experts of their ability to exercise their judgment in handling assemblies.

## Appendix A: Themes from Public Comments

Members of the Presidential Policy Advisory Group reviewed all electronically submitted comments about the Interim Policy on Freedom of Expression and the Interim Policy on Use of Outdoor Space. During December of 2017 and January of 2018, the advisory group thematically analyzed those public comments to develop a list of observed themes. The list below identifies the themes and sub-themes and provides example statements from the reviewed comments. Those themes, as well as other resources reviewed by the group, provided a foundation upon which considerations for policy revision were drafted.

### **THEME 1: Reactions to Process for Developing Interim Policy**

Comments related to this theme addressed the perceived motivations for the interim policy as well as concerns regarding how the policy was developed.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Perceived Violation of Shared Governance</b>	“Furthermore, the process by which the policy was approved and implemented inappropriately subverted OU’s established processes and violated the basic democratic principle of shared governance.” (Comment 88)
<b>Interim Policy a Reaction to Recent Local and National Events</b>	“The policy seems to be a knee-jerk reaction to the Athens city judge’s decision in the Baker 70 cases. He pointed to the traditional use of Baker Center as a designated public forum in dismissing charges against the first student brought to court. The February event on campus was in no way similar to the riot in Charlottesville and to suggest so with implementation of this policy is an insult to our students. Further, this policy is an unconstitutional overreach.” (Comment 40)
<b>Policy Inappropriately Defines use of Space</b>	“Any policy regulating the exercise of free speech must therefore start with the assumption that indoor and outdoor facilities be generally open to public use, unless actually used otherwise, as in the case of classrooms.” (Comment 36)
<b>The Privileged Should Not Regulate Speech</b>	“Freedom of speech should never be regulated by those with power and privilege (administration and student affairs professionals).” (Comment 37)

## **THEME 2: Opposition to the Interim Policy**

Sub-themes related to this overall theme advanced specific reasons for opposing the interim policy. Various sub-themes addressed perceived vague wording of parts of the policies and other specific reasons why the interim policies were undesirable. One sub-theme also advances the position that there should be no policies to limit speech and expression.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Interim Policy Places Undesirable Restrictions</b>	<p>“Although these new rules do not prima facie violate principles of academic freedom they nevertheless impose undue restrictions on the capacity of students and faculty to express themselves freely.” (Comment 1)</p> <p>“We are at our best when it is read to encourage vigorous debate in a lively marketplace of ideas, with the faith that the end result will be a furtherance of democratic ideals and policies. I believe the interim policy fails to achieve a good balance in this regard, potentially drowning out dissent for the sake of order.” (Comment 60)</p>
<b>Regardless of Intent, the Outcome is Problematic</b>	<p>“A university campus should be a place where people are welcomed and encouraged to share diverse opinions other than just in classrooms. In fact, that is a necessary and vital role of the university experience. In the Sept. 18 statement from President Duane Nellis and Interim Executive Vice President David Descutner, they said the purpose of the policy is not intended to constrain free expression. The intent is not what matters or what courts use in determining whether an attempt to regulate speech is unconstitutional. It’s the traditional use of the property and the effect of the policy or law. The effect of this policy is to stifle vital public participation on this campus, on which students have a tradition of speaking out or sitting down for social justice issues.” (Comment 40)</p>
<b>Section C/4 Language Overly Restrictive</b>	<p>“The interim policy that has been enacted fails this test of ensuring maximal expression. It is too broad in its prohibitions. For example, it institutes a complete interdiction on any type of protest action—“demonstrations, rallies, public speech-making, picketing, sit-ins, marches, protests, and similar assemblies [...]”—inside university buildings even in cases when the action is non-violent and does not disrupt other ongoing and educational activities. It also bans any action that would “deter” passersby.” (Comment 1)</p>
<b>Section D has Vague Language</b>	<p>“These concerns arise in part from the policies’ ambiguous rhetoric. As these documents undergo revision, we would like to see more clarity surrounding the question of who will decide whether a protest “substantially interferes” with university operations (24.014 section D), how the university will counteract the potential for bias on the part of these decision-makers, and what the consequences of producing a substantial interference will be.” (Comment 38)</p>

<p><b>Key Issues Need Definition</b></p>	<p>“After reviewing the recently approved conduct policy 24.014, I found myself with some concerns and confusion. Would it be possible for the institution to elaborate upon the circumstantial definition of “material disruption”? In the absence of elaboration upon the definition of material disruption, the policy seems to be too broad.” (Comment 3)</p> <p>“Respondents frequently quoted the ambiguous nature of the policy and the power the University had in making the distinctions in such cases. Several terms that are ambiguous are listed [below] ... a. Use of “disruption”, “substantially interferes”, “reasonable risk”, “similar assemblies” b. What constitutes “safety” and when will action be taken?” (Comment 87)</p>
<p><b>Interim Policy Should be Abolished/Not Replaced</b></p>	<p>“There should be NO policy of Freedom of Expression in place at all at a public institution. It violates the basic human rights of students, faculty, staff, and community members.” (Comment 4, Pg. 49)</p>
<p><b>Enforce Existing Local/State Requirements Rather Than Making New Policy</b></p>	<p>“The Constitution allows for diverse viewpoints to be expressed. However, it does not include a right for people to commit crimes in the name of protests. That’s why the City of Athens and the State of Ohio have ordinances and laws in place to govern disorderly conduct, creating a public nuisance, vandalism, assault and other infractions caused by rioting. The university should enforce those instead of narrowing free expression on campus.” (Comment 41)</p>

### **THEME 3: Unnecessary Limits on Speech/Expression are Harmful**

This overall theme included multiple sub-themes advancing the general position that limitations on free speech and expression are harmful. Specific warrants included in the sub-themes are varied. For instance, some are rather specific, such as the sub-theme arguing against limitations to expression/speech in residence halls (more personal spaces for students), and another set of comments argued that limitations on free speech/expression has a disproportionate effect on marginalized groups. Other sub-themes were more general, such as the chilling effect sub-theme and the general fear that limitations on speech/expression could be used to serve only administrators' interests.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Limitations to Speech are a Slippery Slope</b>	"The new policy that you are considering to have is a step backward, and I believe it is taking the baby step toward silencing every voice of opposition. I can clearly see the perspective of this, more restrictions could come and soon no protest will be allowed." (Comment 45)
<b>Policies may Restrict Ideas Counter to University Leadership</b>	"Several individuals feel like such a policy restricts constitutional right to free speech and the method of expression. Concerns that the university administration would control the type, content, and medium of expression and avenues to express was a commonly addressed theme. The idea that protests and public engagement through sit-ins, rallies, marches, etc. are by its nature meant to be spontaneous and should not need prior approval was brought up frequently. Individuals fear that the University would control the messages that were expressed by limiting those that did not align to that of the University." (Comment 87)  "It does not take much imagination to envision how controversial or critical (of the university) protests could be refused under a number of the policies' points." (Comment 37)
<b>Speech Limits Chill Expression</b>	"Limiting student demonstrations to outdoor venues during the winter months will have chilling effect on free expression on campus." (Comment 4)
<b>Opposition to Residence Hall Restrictions</b>	"Banning peaceful protest in dormitories, which many students are mandated to reside in for 2 years, strikes a blow to self expression in the most personal of spaces." (Comment 2)

<p><b>Harmful to Marginalized Groups</b></p>	<p>“It is silencing, unfair and discriminates against minority students who are at the highest need for free speech use on campus.” (Comment 37)</p> <p>“Protest allows all groups to express their dissent—this is especially important for minority groups. The majority voice, that of the straight, white, male, heterosexual population is inherently represented everywhere—in the news, in politics, at Ohio University. Students who fall into these groups should also have full freedom of speech, but minority groups <i>need</i> this freedom—in a time when they are especially marginalized, when they may feel alone and hopeless because of hate groups and the current political climate, minority groups need to be able to express their opinions and dissent without limitations.” (Comment 65)</p>
<p><b>Restrictions Legitimize Dominant Repressive Views</b></p>	<p>“Of course education comes first and disruptive behavior should be minimized, but disruptive behavior against rape, queerphobia, and xenophobia should be taken very seriously and allowed to have their messages heard. An administration that blindly silences minority protests gives the message to the majority that they will be supported, even if their actions are unethical and illegal.” (Comment 59)</p>
<p><b>Limitations Discouraging and Harmful to International Students</b></p>	<p>“Last year, when we were protesting the immigration bans, my fellow Iranian friends were worried about being arrested for just holding a sign, or showing a disagreement with the system. I have told those people that one of the bases of this country is the freedom of expression and we can have peaceful protests. Now those illusions of fears are becoming real. I can assure you, having these policies will affect the international students much more, since we are terrified and these types of policies scare us more. Thus I highly oppose having the policy, and I am looking forward toward having more freedom of expression not less!” (Comment 45)</p>

#### **THEME 4: Free Expression is an Essential Right**

Many statements spoke to the general necessity of vibrant free speech in a democratic society. These comments tended to take on value propositions related to the necessity of free speech and expression and were often connected (implicitly or explicitly) to the next theme stressing the importance of free speech/expression on a college campus.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Free Speech is a Fundamental Right</b>	“The ability to speak freely is a fundamental right in The United States Constitution. Speaking freely allows students, professors, faculty members, and the Athens community to debate the merits of ideas and beliefs. The current political climate seems to breed an animosity towards “the other” and undermines the reality that a fundamental way to understand our common humanity and humanize one another is through open interaction and dialogue. Regulating free speech is a slippery slope and can lead to an arms race to grab as much power as possible when discussion and consensus is truly what is needed. Infringing on the free speech rights of others does nothing to improve the lot of anyone in society, instead it will further increase a divide that seems to be ever-growing.” (Comment 57)
<b>Protest and Disruption are Sometimes Necessary</b>	“Sometimes, the most effective protests are disruptive because this disruption captures attention.” (Comment 37)
<b>Some Disruption is an Acceptable Trade for Free Speech</b>	“Instead, a certain level of disruption should be understood as an acceptable price we pay for the freedom of speech and protest.” (Comment 36)



**THEME 5: Free Expression is Vital to Our University**

This overall theme included sub-themes/statements arguing for the value of free speech and expression as part of the University’s educational mission. These sub-themes pointed out the critical nature of open debate and dialogue to promote critical thinking and citizenship—necessary values for an institution of higher education. One set of comments also noted that public disruption through protest should be part of a university culture.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Ohio University has a Vibrant Legacy of Free Speech</b>	“OU has long provided important leadership in embracing those who were unwelcome at other universities, such as John Templeton in 1824, Margaret Boyd in 1869, and Martha Blackburn in 1912. It was in this spirit that the students protested the travel ban last year. We need a policy that boldly embraces this tradition, not one that runs from it when it may be needed most. Please let me know if there is anything I can do to help support that effort.” (Comment 60)
<b>Open Expression Should be a Value on which we Lead</b>	“What [a new policy] could do is create a campus that invites expressions of citizenship, not limits or regulates them. Is that not a vital function for a public university campus in this age when most other spaces have become corporatized, privatized, and policed? Why not take this opportunity as our new president to facilitate, to mobilize, and to proliferate acts of expression on campus – expressions that are creative, public, communal, socially-minded, and productive? Why not write a Freedom of Expression policy declaring Ohio University’s historic campus a place for public art and performance, for community engagement, for more “rallies, public speech-making, picketing, sit-ins, marches, protests, and similar assemblies”? Why not commission artists, writers, filmmakers, designers, planners, engineers, geographers, and other creative Bobcats to use our beautiful greens and brick-paved paths for the very actions you seek to restrict? Our campus is not an industrial park, nor a corporate headquarters, nor a sports field, nor a landscape intended only for recruiting brochures – this is a place for higher learning, for the creation and dissemination of knowledge. Set it free as such!” (Comment 39)

<p><b>Free Speech is Vital to the University</b></p>	<p>“The public speech and protest of students and faculty are central to the mission of universities to cultivate the values and practices of democratic citizenship. They are also critical to instigating institutional change in situations of injustice. As a university we need to ensure the maximum capacity for free expression, including public assembly and protest, while guaranteeing such actions do not impinge on the rights of others to speak or protest in public and to be secured against physical harm.” (Comment 1)</p> <p>“A new free speech policy should be carved out that takes into account the important role that dissent has played in the development of our country and university. I hope that the new policy will return the university to its previous stance of encouraging peaceful dissent and critical thinking, as they are vital parts of the lifeblood of our democracy and university.” (Comment 60)</p>
<p><b>Protests Draw Attention to Students' Concerns</b></p>	<p>“When it comes to peaceful yet disruptive protests like this – they should be allowed to utilize the spaces in the university without fear or being arrested. In order to get attention, in order to be heard – causing a disruption, a peaceful disruption – is the only way to make sure you cannot be ignored as students typically are.” (Comment 4, Pg. 48)</p>
<p><b>Preference for Maximally Open Campus</b></p>	<p>“I think Ohio University should go out of its way to allow students to speak out and protest in any manner and place that does not present an imminent threat of significant bodily injury or property damage.” (Comment 93)</p>
<p><b>Baker Center is a Symbolic Space for Expression</b></p>	<p>“I understand where y'all are coming from trying to keep demonstrations safe and peaceful. However, it seems like Baker is a sacred place for public forum and universities are sacred places for discussion and demonstration in this country. Thus, perhaps you would think of keeping that indoor place protected for public gathering and demonstrations. The First Amendment implores you!” (Comment 55)</p>

### **THEME 6: Positive Impressions of Aspects of Interim Policy**

Some comments pointed out that the interim policy was trying to balance free speech and expression against (1) the need for unhindered university functions, and (2) the need for civil disobedience to have consequences in order to be effective. There were also comments analyzing the interim policy against those at similar institutions.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Policy Balances Free Expression with Open University Functions</b>	<p>“I wanted to express my support for your Freedom of Expression Policy. I appreciate that you do not limit free speech on campus. And, I also appreciate that you consider student/faculty safety, crowd safety, etc for indoor spaces. The university has a right to ensure ongoing operations, access to buildings for university functions, etc.” (Comment 54)</p> <p>“I do want my ability to work and conduct my University business unimpeded, and with expectation of safety on campus.” (Comment 53)</p>
<b>Policy Strikes Balance Between Protest and Civil Disobedience</b>	<p>“Another student brought up that there is a difference between protest and civil disobedience, and that the university is not wrong in trying to inhibit civil disobedience because it is illegal, but they are wrong if they are trying to inhibit protest that is not civil disobedience.” (Comment 6, Pg. 63)</p>
<b>Policy Consistent with Similar Institutions</b>	<p>“[Interim policy] is not incredibly over reaching, other universities around Ohio have similar or stricter policies.” (Comment 37)</p>
<b>Policy Evaluated Positively by National Organizations</b>	<p>“Several respondents [to a survey administered by Graduate Student Senate] wrote in favor of the policy and expressed that such a policy maintained some level of safety and accessibility at the University. One response even quoted the FIRE ranking of this policy and pointed out that having such a policy put the university at a better place. Another respondent pointed out events at the University in the past few years and that safety and openness of all opinions should be valued on this campus.” (Comment 87)</p>

### **THEME 7: Suggestions for Revised Policy**

Many comments offered specific suggestions for what should be reflected in a revised policy. Those comments, reflected in the following sub-themes, are quite varied. Rather than trying to characterize each in this summary, the following themes are ordered from more general sentiments to very specific ideas.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>Limitations Must be Reasonable and Specific</b>	“There is a need for reasonable limits on expression primarily to ensure the right of speech and assembly of others and to safeguard the right to security for all—for example, through the prohibition against “fighting words” and hate speech that provokes violence. But, these restrictions must be specific and they must conduce toward the creation of conditions for the maximal expression of speech.” (Comment 4)
<b>New Policy Should Set Appropriate Tone</b>	“I’ve given a lot of thought to how best to revise the university policy on “Freedom of Expression” at OHIO. My primary concern is tone: the interim policy currently in force emphasizes what could be termed an adversarial tone rather than the central principle of the role of a public university to foster an environment where differing views may be freely expressed and debated in a civil, peaceful manner. As a public university, OHIO is and must be a bastion for the free exchange of ideas and cannot abridge the freedom of speech or the right of the people to peaceably assemble.” (Comment 47)
<b>University Administration Must Better Manage Protests</b>	<p>“The police need to respect the need for free expression, too. They must deal with violence when it occurs, not when they are afraid it might potentially occur. The mass arrest by armed police this spring was a fine example of poor university policing! And finally, there is a fourth player: the OU Administration. The administration must always monitor potentially contentious meetings and demonstrations. The administration can never (as was done this spring) wash their hands of the situation and leave it to the police. I hope this is helpful. (Comment 14)</p> <p>“The procedures that will be followed by the university in response to future protests, whether scheduled or spontaneous. Such procedures should detail which university officials will respond and require the university to make a good faith effort to negotiate and de-escalate situations of conflict.” (Comment 36)</p>
<b>University Should React to Hate Speech</b> This comment urged the university to take a stance against hate speech acts.	<p>“Hate speech should be limited with strict guidelines and repercussions.” (Comment 27)</p> <p>“In my reading, the text of the policy is generally fine, however I think the procedure responding to violations of this policy needs consideration. Take graffiti put on OU’s wall yesterday, in which constituted what I believe to be not only highly inflammatory but also unprotected expression appeared. Whether this is regarded as “hate speech” or simply</p>

	<p>“defamation/libel” and “obscenity” is less important than the clear indication that this goes against the grain of the University’s goal for positive discourse. Please refer to the attached photo – specifically the statements “Blue ‘lives’ murder”; “F**k [redacted for this email] CPD/APD/OUPD”. What is more troubling is that even a day later, this message still remained (as of noon 9/18) with no recourse from the University officials (i.e., no removal of the expression or response to the University community that has occurred in other cases of unprotected expression on that wall). I believe that hate speech, regardless of its source or the intended audience, shall not be promoted or allowed as determined by the US Constitution and its current interpretation.” (Comment 8)</p>
<p><b>New Policy Should Not Impose Financial Barriers on Speech</b></p>	<p>“Students cannot – unless they are affiliated with registered student organizations – reserve space for free. I urge the university to not charge students for reserving space . . . .” (Comment 37)</p> <p>“As an organization of graduate employees that is not registered as a student organization through the Campus Involvement Center, we are also concerned about a policy that requires us to pay money in order to reserve an indoor space for an event. Requiring groups of students and employees like ours to pay money to exercise our right to free speech seemingly contradicts the Freedom of Expression’s stated purpose, “to promote the free exchange of ideas” (Section A. 1). We encourage university administrators to make reservations of spaces free to all students and employees, particularly if reservations are mandatory for events that take place indoors.” (Comment 38)</p>
<p><b>New Policy Should Not Impose Barriers to Spontaneous Acts</b></p>	<p>“There will be provisions to accommodate spontaneous demonstrations outdoors and indoors.” (Comment 36)</p> <p>“This decision of making students/individuals rent out spaces in order to speak limits the purpose of protest. The idea is to speak against an issue freely and timely, in order to invoke conversation. In the time that individuals are renting spaces or waiting for spaces to open up, the velocity of the conversation has dwindled and the message is not powerful. For example, organizations I am involved in have to request a space far in advance to rent a large room in Baker. A powerful speech is created within its most powerful timeframe; if you cannot express concerns timely, the moment is gone and the freedom of expression becomes meaningless.” (Comment 48)</p>
<p><b>University Should Protect Protesters During Inclement Weather</b></p>	<p>“I believe that we as students should contact administration and request that shelters should be constructed outside of the Baker Center’s 1st and 4th floor entrances, and outside of Cutler Hall, so that students can reserve them for protest and be protected from the elements of weather.” (Comment 4, Pg. 7)</p>

**Engagement at Tables in Baker should be  
Balanced**

“I believe that people should not be harassed or kept from passing, but there is a middle ground of reasonableness between ‘you must sit passively’ and shouting obscenities at people. Actively engaging people as they walk past the table and asking them to stop is good marketing practice, while still giving passersby the ability to choose whether they stop or not.” (Comment 4, Pg. 9)

**THEME 8: Support for Reviewing Other University Policies**

A few comments pointed to potentially good models at other universities.

<b>Sub-Themes</b>	<b>Example Statement</b>
<b>University of Chicago</b>	<p>“The [University of Chicago] policy also achieves what our current interim policy is lacking: It treats students as adults who may exercise their right to free speech without having to ask for prior permission. As I said before, the ability to gather for spontaneous protest is of particular importance in a university environment that claims to support transformative learning, critical thinking, and civic engagement. We need to make sure that we create welcoming structures rather than a prohibitive and punitive environment.” (Comment 13)</p> <p>“I support the adoption of the ‘Chicago Rules,’ which provide clear and concise language that the university is a neutral party in terms of both what speech is delivered and how it is delivered. It limits the university’s ability to limit speech except for in extreme cases of the inhibition of the university and its employees to function normally.” (Comment 37)</p>
<b>University of Georgia</b>	<p>“In searching for a model policy from a public institution, one that sets the kind of tone I wish to suggest is from the University of Georgia. It is reprinted below in its entirety.” (Comment 47)</p>