



## A Framework on the Right to Protest<sup>1</sup>

As an institution dedicated to learning for over 200 years, Colby College has embraced a deep and abiding commitment to the freedom to express ideas and viewpoints, as well as the freedom to inquire. This commitment is predicated on the understanding that the deep exploration and analysis of evidence can lead to new understandings, novel insights, and contrarian thinking that challenges conventional wisdom and convictions. Progress, in many forms, requires this combination of freedom of thought with rigorous, evidence-based arguments. It is also the cornerstone of creative work and expression that inspires, educates, and enlightens.

These freedoms and their centrality to our work are firmly established in the Colby Affirmation, the College's 2019 Statement of Principles on Freedom of Inquiry and Expression, as well as its celebration of those who dedicate their lives to the principles of freedom of expression embodied in the College's prestigious Elijah Parish Lovejoy Award.

Consistent with the principles which the award commemorates, the right to free expression includes the right to disagree with the very ideas, views, and opinions that naturally arise in Colby's rich and diverse living and learning environment. This includes the right to disagree through protest. And so it is that the College has expressly recognized the power of protest in its Statement. In particular, the Statement notes:

*We affirm the liberating power of protest. It is an essential tool in the hands of those seeking to dismantle injustices and transform institutions. The College supports the rights of all in the community to organize and to join political associations, convene and conduct public meetings, publicly demonstrate and picket, advocate and publicize opinion by print, sign, and voice.*

Colby College Statement of Principles on Freedom of Inquiry and Expression

Indeed, as noted in the Statement of Principles, protest can inspire important conversations, encourage meaningful dialogue and the pursuit of knowledge, and challenge and change existing traditions and notions. This is true at Colby; throughout the years, protest has led to meaningful change that has made the College a better place for education and scholarship. Thus, the right to peacefully protest as a way of expressing opposition - even vigorous opposition and fierce debate - to ideas, views and opinions of others, is a form of expression which Colby protects as a matter of principle.

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<sup>1</sup> This framework is the product of nearly four years of collaborations and meetings with over 20 different student committees and groups including in the Student Government Association and the Pugh Center, faculty committees and representatives from the four academic divisions, administrative divisions and departments, as well as the senior leadership of the College, and the Board of Trustees. The framework underwent over 40 revisions, and as it was revised, it was shared with a number of these groups again so that the final product captured the important themes, thoughts, and concerns aired during the process.

Yet, as with any fundamental societal right, the right to disagree through protest is not unlimited. This is true not only at Colby, but in American society more broadly. Consistent with this notion is the statement that follows the affirmation of the right to protest, above, which notes:

*However, the right to express oneself does not include a right to silence others, or to prevent other members of the college community from exercising their rights to speak, listen, conduct public meetings, demonstrate, and to advocate and publicize their opinions.<sup>2</sup>*

Colby has created this framework to provide guidance and direction about how our community balances its institutional commitment to freedom of expression, while honoring the important role that protest has played, and will continue to play, in shaping our community and society.



## The Right to Protest

As a matter of principle, the College will lean in the direction of protecting the rights of members in the Colby community to disagree, including disagreement through a peaceful demonstration, protest (or counter-protest), rally or similar event. **Thus, limits or restrictions on the right to protest are to be narrowly construed.** Likewise, limits and restrictions are to be content neutral; that is, they will not vary based on the content/topic of the protest or demonstration.

Consistent with this principle, limits on the right to protest will arise in instances where the protest activity:

- Constitutes harassment or intimidation, causes injury or threat of imminent harm, creates an unsafe environment, or shuts down the expression rights of others;
- Violates the law; or
- Substantially disrupts (this term is defined below) the educational, community or residential experience of students, staff, or faculty, including teaching, study, research, and the ongoing essential operations, work, or learning at the College (also defined below), to ensure a rich living and learning environment at the College.

Factors such as proximity and visibility to a College event or activity, maintenance of required ingress and egress, timing of a protest or demonstration, and the need to ensure a safe environment, including

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<sup>2</sup> Additionally, the Statement notes:

*Because the freedoms of inquiry and expression are justified by reference to the educational mission of the College, those freedoms are not unlimited. The College will not protect expression that: violates the law, falsely defames a specific individual, constitutes a genuine threat of imminent violence, unjustifiably interferes with substantial privacy or confidentiality interests, or constitutes harassment; expression rises to the point of harassment when it targets any individual or any group of persons, who are protected by federal or state law, in a manner that promotes or incites hatred or contempt such that it constitutes a threatening or hostile environment for that individual or group. Finally, the College may also enforce content-neutral rules concerning how, when, and where expression occurs to ensure that it does not significantly disrupt the educational, community, or residential experience of students, staff, or faculty.*

any necessary costs and other measures, are evaluated in determining the appropriateness of a particular location and level of activity for protests and demonstrations. (These factors are some examples of time, place, and manner conditions.) Moreover, it is important that demonstration organizers and participants comply with instructions from College officials. Not doing so may result in relocation of the demonstration, instructions to alter conduct to allow an event or activity to proceed without substantial disruption, and even sanctions.

Given the breadth of these descriptions, community members have asked for examples of types of activities which exceed the limits, described above. These are examples, only, and are tailored to Colby as a place dedicated to teaching, scholarship, and learning, versus a business, government or other type of institution.

### **Examples:**

- Activity involving violence or threats of imminent violence
- Activity constituting harassment or other violations identified in Colby's policies.
- Activity that jeopardizes the safety of those involved or present at the event, including the creation of a dangerous or hazardous environment
- Activity involving the destruction or defacement of College or personal property
- Activity that substantially disrupts the essential operations, work or learning at the College such as demonstrations in faculty or administrative offices, classrooms, libraries, study spaces, athletic venues, or similar locations that disrupt or interfere with teaching, research, or other essential operations, work, or learning
- Shutting down or substantially delaying a lecture, educational activity, or a Colby community event or activity
- Activity that violates federal, state or local laws (e.g. – fire/life safety codes, health codes, criminal laws, regulations on building occupancy limits) or Colby policies (e.g. - Student Code of Conduct, Sexual Harassment - Title IX)
- Blocking access to a campus event which prevents the event from occurring or standing in a location in a way that obstructs the view of those attempting to watch an event or speaker and/or blocking access routes
- Interrupting speakers in a manner that substantially disrupts their ability to be heard, such as continuous action that prevents the audience from seeing or hearing the event. Questioning a speaker or providing a dissenting view is permissible. Speakers invited to campus are strongly encouraged to accept questions and comments, and to engage respectfully with those in attendance
- Bullying, threatening or harassing persons attending an event, including the sponsor or speaker for the event
- Holding up signs that obstruct the view of those attempting to watch an event or speaker, regardless of the message expressed
- Speaking from a bullhorn, yelling or shouting, playing amplified music or noise from audio sources, or excessively talking over a speaker in a manner that interferes with or disrupts the speaker's ability to be heard, attendees' ability to listen, or community members' ability to participate in the event or activity – the so-called “heckler's veto”

### **Actions and Consequences**

Both at Colby and in every community across the United States, individuals can be subject to actions and consequences when their activities, including protests and demonstrations, jeopardize the safety of others or prevent others from participating in their own lawful activities and interests. This is true regardless of the “just” nature of the cause motivating a protest or demonstration. Colby has customarily utilized a tiered system of actions and consequences to help community members understand why the College must take particular action or direction. Please note that where possible, the College will provide education, guidance and direction – as well as warnings – both prior to and at a protest, demonstration, rally or similar event that might result in activity that exceed the limits in this framework. Through such interactions, community members can avoid sanctions.

If an activity does rise to the level where sanctions might be involved, the applicable conduct code or processes in the relevant handbook (student, faculty, staff) will be employed.

Colby has consistently recognized that some violations are more substantial than others. While it is not possible to identify every conceivable violation, activities that cause harm or create an unreasonable risk of harm to the person committing the violation or to those in our community are taken more seriously. The context of each violation matters. Some factors which determine the seriousness of a violation include:

1. The nature, severity of, and circumstances surrounding the violation, including the nature of the event (e.g. – class, extracurricular College event, private event, etc.)
2. The degree of flagrant, reckless, or intentional misconduct in committing the violation.
3. The harm or injury resulting from the violation and impact to the Colby or greater community. (Harm may be physical, psychological, and/or social.)
4. Whether the violation included acts of violence or injury to persons or damage to property.
5. The extent to which the person was warned about their violation of the policy and continued their conduct, and whether, how, and when the person terminated the conduct causing the violation. A violation is especially serious if campus safety personnel or the Waterville Police are called upon to assist in ending such conduct.
6. Disciplinary history.
7. Other aggravating or mitigating circumstances.
8. Precedents in cases involving similar conduct.

For general guidance:

- Minor violations could include unintended interference with quiet hours, or placing signs or placards in locations where signs or placards of any type are not permitted.
- More significant violations could include impeding people from attending a College community event or disrupting such an event following warnings, but not preventing it from occurring altogether; temporarily blocking emergency routes or doors despite warnings, or temporarily interrupting essential College operations, work or learning, despite warnings and instructions that the interruptions must stop.
- Serious violations typically involve activity that results in significant risk of, or actual harm or injury to members of the Colby community or which substantially disrupts or causes the ongoing suspension of essential operations, work or learning undertaken by faculty, staff and

students.

Similarly, it is not possible to identify every type of sanction and which sanction applies to what violation. However, for general guidance:

- Sanctions for minor violations may include, but not be limited to, a disciplinary warning, disciplinary probation, campus or community service, and apology letters.
- Sanctions for more significant violations may include, but not be limited to, loss of social privileges, such as attendance at or participation in campus or organization social or extracurricular events and activities, loss of opportunity for leadership positions, awards, campus employment, extracurricular activities, and/or off-campus study, loss of housing privileges or removal from housing.
- Sanctions for serious violations may include, but not be limited to, any of the sanctions, above, and in the most serious cases, suspension or expulsion.
- Sanctions can also include education and restorative practices *[insert link]* to address and repair harms caused by activities that exceed the limits described above. Such practices strive to create and sustain a community in which each member understands and develops a shared commitment that they are responsible for an environment that addresses harms resulting from activities that exceed the limits in this framework, the needs of those impacted by those activities, the obligations of those who created the harm, and where appropriate, engagement from community members impacted by the harm.



### **Helpful Guidance**

Every protest, demonstration, or similar event, including the activity that occurs at such events, the duration, the location, etc., can be quite different. As a result, here are some tips and guidance that will help ensure that a protest, demonstration, or similar event is conducted peacefully and safely, while offering information about conduct that could result in violations of the framework. These tips are offered as guidance, only.

- Meet with Campus Life to discuss details of the event. Staff members can provide advice and guidance to ensure the safety of students, faculty and staff, and where appropriate, develop some operational tips to ensure a demonstration or protest does not violate this framework. Tips may include discussion of time, place, and manner conditions, such as locations for a demonstration, timing, types of activity, associated costs and expenses to ensure the safety of those involved with demonstration and the activity giving rise to the demonstration. Campus Life can also provide examples where protest/demonstration activities at Colby were done well and effected change.
- Consult with others in the Colby community whom you respect, and share plans and ideas for the protest, demonstration, or event, and how they can accomplish your goals. There is no requirement that those whom you consult must report such discussions. However, that person

should report, if, after discussing such plans and ideas, the person determines that violence, damage, harm, injury, or other activity that creates an unsafe environment is likely to arise, despite urging caution or discouraging the protest, demonstration, event or rally.

- The College has processes and procedures consistent with this framework that address specific types of events (such as procedures that address protests at guest speaker events as well as time, place and manner conditions, etc.) You can meet with Campus Life to learn more about those processes and procedures.
- Because Colby is a private institution and its campus is private property, note that persons who are not Colby students, faculty or staff (“non-community members”) do not enjoy the same benefits and rights as those in our community. Non-community members are required to consult and cooperate with the College and receive prior approval from the College to participate in a demonstration, protest, or similar event. If non-community members will be invited to the event, meet with Campus Life to discuss details. Non-community members who violate approved terms for the event may be removed from campus in addition to other sanctions. Remember that you are responsible for any non-community members you invite to campus.
- Likewise, protests, demonstrations, and similar events that may be permitted on campus, may not be permitted on public property (roads, bridges, other city or state property) or property owned by others adjacent to campus facilities, including those in downtown Waterville.
- In addition to protest and demonstration activity, restorative practices are not only useful following such an event, but also a tool in lieu of a demonstration or protest, and likewise can effect changes sought by community members.

## Terminology

- “Substantially disrupts”: An activity is *substantially disruptive* when it is *continuous or persistent activity* that prevents members of the Colby community from enjoying their rights as a community member or denies them on an ongoing basis of the essential operations, work or learning undertaken by faculty, staff and students to be at Colby. Whether an activity is substantially disruptive is not governed by a universal time limit; context matters. Except in situations involving harm or imminent threat of harm, warnings, direction or guidance will be provided before determining that a protest, demonstration, or other event has become substantially disruptive.
- “Essential operations, work or learning”: Examples of essential operations or essential work or learning in any institution are numerous, and may involve experiences inside and outside of the classroom. They generally include activities which are critical to keeping the College open on a day to day basis to fulfill its educational mission. Examples include, classroom, lectures, and laboratory educational activity, important meetings with and among faculty and staff, daily food production for the campus, ensuring access to spaces for learning and research, access to campus medical and mental health resources, sustaining the financial operations of the College (payroll, paying bills, accounting, etc.), operations vital to maintaining the health and safety of the community, and activities critical to the ongoing governance of the College. If you are

concerned that a protest, demonstration, or other similar events might *substantially disrupt* an *essential operation, work or learning*, you may opt to meet with Campus Life.

*Effective Date: July 1, 2024*