



CAIR’s Protest Policy Guidance for Federally Funded Higher Ed. Institutions: Ensuring Safety, Inclusion, and Respect

Introduction

This guidance is for university administrators who stand with the American tradition of free speech and protest. Throughout history, when voices were silenced, when people felt unheard, they protested—and the world changed for the better. Without the right to protest, women would have been denied the vote, children would still be working in factories, the Vietnam War might have dragged on indefinitely, and students would not have pressured universities, businesses, and the government to act against apartheid South Africa. These victories were not inevitable; they were won by those who refused to be silenced. Today, the battleground for free speech is our universities. Will these spaces remain centers of learning, debate, and dissent—or will they become places where political speech is censored? University administrators must decide whether to uphold the freedoms that define academic inquiry and American progress—or risk adopting policies that could unintentionally suppress student expression.

This guidance aims to ensure that all students can express their viewpoints without disruption to their academic experience or broader campus life.¹ It incorporates guidance from the Foundation for Individual Rights and Expression (FIRE) on protesting in public

¹ Council on American-Islamic Relations. *University Administrator’s Guide to an Unhostile Campus*. Washington, D.C.: CAIR, January 2025. <https://islamophobia.org/wp-content/uploads/2025/01/Unhostile-Campus-1.pdf>.

spaces.² It acknowledges the principles outlined in the American Association of University Professors (AAUP) *Statement on Government of Colleges and Universities*, which asserts that faculty have “primary responsibility” over teaching content and methods, as well as “those aspects of student life which relate to the educational process.”³ This policy guidance highlights that the Fifth and Fourteenth Amendments grant all persons—regardless of citizenship—constitutional protections such as due process and equal protection under the law.⁴ It also highlights the First Amendment’s protections of political expression, religious freedoms, and assembly, along with the Fourth Amendment’s protections against unreasonable searches, seizures, and unlawful surveillance.⁵ This policy guidance provides university administrators with a framework to ensure that students, faculty, and staff can engage in peaceful protests and activism without fear of retaliation, censorship, or discrimination. University administrators should use this guidance to design, assess, and improve their policies on free expression, protest management, and institutional neutrality.

I. Institutional Commitment to Free Expression and Protest Rights

Public universities must uphold First Amendment protections for free speech and peaceful assembly, ensuring students from all backgrounds feel safe exercising their rights. While federal funding comes with its own anti-discrimination obligations, all public universities—regardless of funding—are constitutionally required to uphold First Amendment protections for free speech and peaceful assembly.⁶ Universities have a duty to foster an

² Foundation for Individual Rights and Expression (FIRE), *Protesting on Public Property: What You Need to Know*. Retrieved from: <https://www.thefire.org/research-learn/protesting-public-property-what-you-need-know>

³ American Association of University Professors (AAUP), *Statement on Government of Colleges and Universities*. Retrieved from: <https://www.aaup.org/report/statement-government-colleges-and-universities>

⁴ Cole, David. “Are Foreign Nationals Entitled to the Same Constitutional Rights as Citizens?” *Georgetown Law Faculty Publications and Other Works*, March 2010. <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1302&context=facpub>.

⁵ Cole, David. “Are Foreign Nationals Entitled to the Same Constitutional Rights as Citizens?” *Georgetown Law Faculty Publications and Other Works*, March 2010. <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1302&context=facpub>.

⁶ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969)

environment where all students can fully participate in academic life without harassment. Institutions should:

- Affirm that all students, regardless of political or religious views, have equal access to public forums, event spaces, and campus resources for protest activities.
- Ensure a transparent, consistent, and unbiased process for reserving rooms for events. Policies should be publicly available, applied fairly, and free from external pressures. Denying or obstructing access based on ideology is not free speech—it is censorship.
- Differentiate between political speech (advocating for Palestine, criticizing Israel, discussing U.S. policy) and harassment/discrimination.
- Universities should not selectively apply speech or safety policies in ways that disadvantage certain groups.
- Ensure that protest policies are content-neutral, avoiding discriminatory applications of rules that disproportionately affect Palestinian, Black, African, Arab, Middle Eastern, Muslim, South Asian, and other minority student groups.
- Prevent the criminalization of political speech, ensuring that activism on issues such as occupation, apartheid, genocide, and human rights violations is not unfairly labeled as dangerous or disruptive.
- Uphold institutional neutrality, refraining from actions that silence or punish students based on their political positions.
- Recognize, where applicable, that the U.S. Constitution protects noncitizen students' right to protest, as many fundamental constitutional rights—including those under the First, Fourth, Fifth, and Fourteenth Amendments—apply to “all persons,” not just citizens.⁷

⁷ U.S. Const. amends. I, IV, V, XIV.

II. Guidelines for University Administrators on Managing Protests

Ensuring Equitable Treatment of Protesters

Administrators should:

- Avoid policies that require pre-registration or limit demonstrations to a few designated areas, as these can chill student activism and disproportionately affect marginalized groups.
- Prevent doxxing, intimidation, and harassment of student activists, especially by external groups seeking to suppress political speech. This includes:
 - Paying for privacy protection plans for students who are doxed, covering services that scrub personal information from public databases.
 - Limiting access for harassing billboards or individuals—for example, restricting the ability of outside groups to put up defamatory billboards or posters targeting student activists.
 - Providing mental health and crisis support for students who experience harassment or retaliation.
 - Offering legal guidance and institutional backing for students facing job threats, immigration consequences, or legal actions due to their activism.
 - Publicly condemning doxxing and harassment campaigns, making it clear that the university will not tolerate intimidation tactics against its students.
 - Establishing a Student Protest Protection Fund to assist targeted students with privacy protections, legal support, and security services.
- Protect protesters from self-incrimination by ensuring that no student, faculty member, or activist is compelled to provide testimony or information that could be used against them in disciplinary or legal proceedings related to their participation in protests.

Ensure That Campus Security and Law Enforcement Do Not Use Excessive Force, Surveillance, or Intimidation Tactics Against Demonstrators

- **Prohibit Excessive Policing of Protests:** Universities must ensure that campus security and law enforcement officers do not escalate tensions by using excessive force (e.g., physical violence, mass arrests, or kettling) against peaceful

demonstrators. Clear policies should prohibit the use of riot gear, snipers, tear gas, and batons against students engaging in lawful protests.

- **End Targeted Surveillance of Activists:** Schools should not surveil or monitor student activists through undercover officers, social media tracking, or administrative investigations meant to suppress political expression. If institutions monitor protests, they must disclose this practice, justify it with clear criteria, and ensure it applies **equally** to all campus groups, not just Palestine solidarity activists or other marginalized movements.
- **Prevent Intimidation Tactics:** Universities and campus police must not use intimidation techniques—such as selective enforcement of vague “disruption” policies, threatening students with disciplinary action, or contacting families/employers—to discourage participation in protests. If campus security is deployed at an event, their role should be **strictly limited** to de-escalation and protection of demonstrators' rights.
- **Mandate Transparency & Accountability:** If law enforcement is involved in campus protest responses, the university must maintain full transparency, including:
 - Publicly disclosing agreements with local, state, or federal law enforcement agencies.
 - Providing clear avenues for students to report misconduct by security or police.
 - Ensuring that students have access to legal support if they face arrest or disciplinary action for protest participation.
- **Commit to Data Privacy & Surveillance Limits:** Universities must **not** share any surveillance footage, protest-related records, or student data with campus, local, state, or federal law enforcement **without a judicial warrant**. Additionally, institutions should implement a policy of **automatically deleting all protest-related surveillance footage and records within a set timeframe**, such as:
 - **Three months after the conclusion of any disciplinary proceedings** related to the protest, or
 - **Six months after the protest itself**, whichever comes first.
 - Ensure compliance with the Family Educational Rights and Privacy Act (FERPA)⁸, which prohibits the release of student education records—including protest participation records—without written consent or a lawful exception.

⁸ The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

Addressing Islamophobia, Racism, and Discrimination in Protest Policies

Universities should take proactive steps to prevent and address Islamophobic, racist, and politically motivated suppression of student activism by:

- Monitoring for bias in the enforcement of protest-related policies, ensuring that Muslim, Palestinian, and Arab students are not disproportionately disciplined or surveilled.
- Prohibiting racial or religious profiling in campus security practices, including the monitoring or infiltration of student groups based on their political or religious identity.
- Guaranteeing that student groups advocating for Palestinian rights and other political causes have access to the same institutional support as other student organizations.
- Avoiding the IHRA (International Holocaust Remembrance Alliance) definition of antisemitism or similar broad frameworks that conflate criticism of the Israeli government with antisemitism.⁹ Instead, adopting the Nexus Document offers a nuanced definition of antisemitism, aiming to distinguish between legitimate criticism of Israel and actions that are antisemitic.¹⁰

III. Protections for Faculty and Staff Engaged in Advocacy

Faculty play a critical role in shaping campus discourse and should be protected from retaliation for engaging in political expression, protest-related advocacy, or academic work that critiques policies related to occupation, apartheid, and genocide. Universities should:

- Refrain from censoring faculty speech or imposing disciplinary actions for their involvement in protests or political discourse.
- Ensure that faculty maintain full academic freedom in teaching about contested political issues in accordance with their expertise, free from administrative pressure or external interference, including protection from academic or

⁹ “Human Rights and Other Civil Society Groups Urge United Nations to Respect Human Rights in the Fight Against Antisemitism,” Human Rights Watch, April 4, 2023, <https://www.hrw.org/news/2023/04/04/human-rights-and-othercivil-society-groups-urge-united-nations-respect-human>.

¹⁰ Nexus Project, *The Nexus Document: Understanding Antisemitism in a Contextualized Way*, available at <https://nexusproject.us/nexus-resources/the-nexus-document/>.

professional consequences due to political expression opposing apartheid, genocide, or occupation.

- Involve expert faculty in drafting and revising protest policies to ensure they uphold First Amendment protections and do not disproportionately restrict certain forms of activism.
- Faculty governance bodies—such as faculty senates, academic freedom committees, and advisory councils—should be consulted before any changes to protest and disciplinary regulations are made.
- Universities must not restrict academic departments from making political or human rights statements. Banning department-wide statements—especially in response to Palestine solidarity—sets a dangerous precedent for suppressing collective academic speech.
- Institutions must not retaliate against faculty or students for affiliating with professional organizations, even when those groups support political actions like academic boycotts. Retaliation—such as withdrawing funding, revoking memberships, or influencing hiring and promotion decisions—undermines academic freedom.

IV. Protection for Students Regardless of Immigration Status

Universities must ensure that undocumented and visa-holding students are afforded the same protections in their right to protest and express political opinions. This includes:

- Guaranteeing that students will not face threats, intimidation, or disciplinary action based on their documentation status.
- Prohibiting cooperation with immigration enforcement agencies seeking to surveil or target student activists.
- Ensuring that campus police or administrators do not use immigration status as a pretext for deterring participation in protests.
- Training campus security personnel to avoid profiling, questioning, or reporting students based on their immigration status. They should refuse to cooperate with ICE or CBP without a warrant. Under sanctuary policies, direct any immigration inquiries to legal services and establish a confidential complaint process for students who experience harassment.

V. Time, Place, and Manner Policies: Ensuring Fair and Content-Neutral Regulations

Universities may impose reasonable time, place, and manner (TPM) restrictions on protests to ensure campus operations continue smoothly. As upheld by the United States Supreme Court in *Ward v. Rock Against Racism*, universities may regulate time, place, and manner of expression so long as restrictions are content-neutral, narrowly tailored, and leave open ample alternative channels.¹¹

- **No Targeting of Specific Causes:** TPM regulations must not be used to disproportionately impact specific student groups, such as those advocating for Palestinian rights or opposing Islamophobia.
- **No Overly Restrictive Free Speech Zones:** Protest spaces should not be unreasonably limited to small or remote areas of campus. Public spaces, including open lawns, courtyards, and student centers, should remain accessible for demonstrations.
- **Use of Amplified Sound:** Reasonable restrictions may be applied to amplified sound (e.g., microphones, megaphones), but they should not prohibit speech outright or impose selective enforcement.
- **Spontaneous Demonstrations:** Universities should allow students to gather for protests without requiring advance registration or permits, particularly in response to breaking events.
- **Access to High-Visibility Locations:** Students should be allowed to protest in locations where their message will reach the intended audience, such as near administrative buildings, student centers, and campus entrances.
- **Avoiding Arbitrary Time Limits:** Universities should not impose unreasonably short timeframes for protests that effectively prevent meaningful demonstrations.

VI. Implementation and Accountability Measures

To uphold the principles outlined in this guidance, universities should:

- Conduct regular policy reviews to assess whether protest regulations are applied fairly and without bias.

¹¹ *Ward v. Rock Against Racism*, 491 U.S. 781, 782–83 (1989)

- Establish clear reporting mechanisms for students and faculty to raise concerns about violations of free speech and protest rights.
- Facilitate access to legal resources and counseling services for students who face legal or disciplinary challenges.
- Provide training for campus security, faculty, and administrators to ensure a balanced, rights-respecting approach to managing protests.
- Delete and destroy disciplinary records immediately for those found not liable and 6 months after graduation for those found liable.
- Consult with student organizations, legal experts, and civil rights groups, such as CAIR to refine policies that protect protest rights while maintaining campus safety.

Distinguishing Anti-Genocide Protesters from Stalkers or Harassers

To ensure that universities and law enforcement do not conflate legitimate political protest with harassment or stalking, institutions should apply clear, objective criteria that distinguish between protected activism and harmful behavior.

Key Differences

Factor	Anti-Genocide Protester	Stalker/Harasser
Intent & Purpose	Advocates against violence, oppression, or government policies in a public, issue-based manner.	Targets individuals rather than systems or policies, often with personal or obsessive motives.
Target of Actions	Critiques institutions, public figures, or policies through protests, statements, or demonstrations.	Directs unwanted, repeated behavior toward specific individuals, often in a personal or intrusive way.
Location & Methods	Protests in public spaces, engages in rallies, petitions, or lawful civil disobedience.	Follows, tracks, or contacts a specific person repeatedly in a private or intimidating manner.
Consent & Boundaries	Engages in discourse with public officials or figures who have a platform to respond.	Ignores boundaries, continues unwanted contact despite clear rejections.
Legal & Ethical Conduct	Operates within the boundaries of free speech,	May violate laws on harassment, trespassing, or threats, causing fear or distress to an individual.

	often in groups, without targeting personal lives.	
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Policy Recommendations for Universities

- **Clearly Define Protest vs. Harassment:** Universities should establish written policies ensuring that political protest is not treated as harassment, unless it involves repeated, targeted, and personal intimidation. Legal definitions of harassment generally require conduct that is severe, pervasive, and objectionably offensive, creating a hostile environment that interferes with a person’s access to educational opportunities.
- **Require Evidence of Harassment:** Disciplinary actions should be based on **objective behaviors** (e.g., repeated personal contact, explicit threats) rather than vague claims that protest makes someone “uncomfortable.”
- **Protect Protest Rights:** Ensure that **students advocating against genocide** are not penalized under harassment or stalking policies **unless their actions meet legal definitions of harassment** (i.e., repeated, targeted, and unwanted personal contact).

VII. Commitment to an Unhostile Campus

University administrators must take proactive steps to prevent Islamophobic harassment on campus, including the doxxing of Muslim students, targeting of faculty for their political views, and external interference from organizations seeking to suppress student activism. This commitment includes ensuring that faculty and student activists who speak out against apartheid, genocide, or Islamophobia are not subjected to professional or academic retaliation.

By adhering to this policy guidance, the campus community ensures that protests remain a vibrant and constructive form of student expression. The university affirms its commitment to fostering an environment where all students—especially those advocating for justice and human rights—feel safe and empowered to exercise their rights without hostility, surveillance, or retaliation.