

# **Report of the MIT Ad Hoc Working Group on Free Expression**

**June 24, 2022**

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# **Report of the MIT Ad Hoc Working Group on Free Expression June 24, 2022**

At the direction of the president, provost, and chancellor of MIT, along with the chair of the MIT faculty, the Ad Hoc Working Group on Free Expression was convened in February 2022. The Group was charged with reviewing MIT's statements on free expression, recommending changes as needed, reviewing input from MIT stakeholders, devising scenarios to illustrate our recommendations, and suggesting principles and processes for decision making. Those principles are described in the following statement, which precedes the Report. We recommend that the MIT Statement on Freedom of Expression and Academic Freedom be considered and adopted by the MIT faculty.

## **MIT Statement on Freedom of Expression and Academic Freedom**

*The influential 1949 Lewis Report observed that MIT's mission was "to encourage initiative, to promote the spirit of free and objective inquiry, to recognize and provide opportunities for unusual interests and aptitudes," and to develop "individuals who will contribute creatively to our society." With a tradition of celebrating provocative thinking, controversial views, and nonconformity, MIT unequivocally endorses the principles of freedom of expression and academic freedom.*

*Free expression is a necessary, though not sufficient, condition of a diverse and inclusive community. We cannot have a truly free community of expression if some perspectives can be heard and others cannot. Diversity of thought is an essential ingredient of academic excellence.*

*Free expression promotes creativity by affirming the ability to exchange ideas without constraints. It not only facilitates individual autonomy and self-fulfillment, it provides for participation in collective decision-making and is essential to the search for truth and justice. Free expression is enhanced by the doctrine of academic freedom, which protects both intramural and extramural expression without institutional censorship or discipline. Academic freedom promotes scholarly rigor and the testing of ideas by protecting research, publication, and teaching from interference.*

*MIT does not protect direct threats, harassment, plagiarism, or other speech that falls outside the boundaries of the First Amendment. Moreover, the time, place, and manner of protected expression, including organized protests, may be restrained so as not to disrupt the essential activities of the Institute.*

*At the intersection of the ideal of free expression and MIT community values lies the expectation of an affirming, respectful learning and working environment. We cannot prohibit speech that some experience as offensive or injurious. At the same time, MIT deeply values civility, mutual respect, and uninhibited, wide-open debate. Controversies over free expression are opportunities for learning rather than occasions for disciplinary action. This applies broadly. For example, when MIT leaders speak on matters of public interest, whether in their own voice or in the name of MIT, this should always be understood as being open to debate by the broader MIT community.*

*A commitment to free expression includes hearing and hosting speakers, including those whose views or opinions may not be shared by many members of the MIT community and may be harmful to some. This commitment includes the freedom to criticize and peacefully protest speakers to whom one may object, but it does not extend to suppressing or restricting such speakers from expressing their views. Debate and deliberation of controversial ideas are hallmarks of the Institute's educational and research missions and are essential to the pursuit of truth, knowledge, equity, and justice.*

*MIT has played a leading role in the continuing transformation of communication technology, and recent digital and networked modes of speech make our campus more accessible to all. At the same time, those technologies make our campus more disembodied and more vulnerable to the pull of ideological extremes. Although new modes of speech change the character of expression, such technologies need not and should not lessen our commitment to the values underlying free speech, even as we adapt creatively to meet the needs of our physical and virtual landscapes.*

## **Introduction**

Our Working Group met regularly from February through May 2022 after receiving a charge from the provost, chancellor, and chair of the faculty in late January 2022 (see Working Group Charge & Membership in Appendix A). Early in our process, we convened with the Partners of the Working Group who were assigned the role of representing the views on free expression of MIT students, staff, postdocs, and alumni. Input received from our Partners and their community constituents helped to inform the content of this report.

We decided at the outset to form three subgroups that would focus on particular sections of the Working Group's charge:

- review MIT's current statements on free expression and examine related scholarship as well as policies at peer institutions
- review extensive input available to the Working Group: notes from the faculty and staff fora on free expression held in fall 2021; reports from student leaders; and emails received by the Working Group from the extended MIT community who were responding to the initial announcement of the formation of the Working Group or who otherwise became aware of its existence
- develop principles and processes for addressing a range of possible free expression scenarios including those that may require guidance from the MIT central administration

Each subgroup included faculty from the Working Group and individuals from the Partners cohort. The subgroups met on their own and sometimes jointly and reported on their progress to the full Working Group.

This report is divided into seven topical sections:

- overview of freedom of expression and academic freedom
- account of how free expression is an integral component of MIT's educational mission
- summary of current MIT policies related to free expression

- summary of the Working Group’s consultation efforts and input provided to the Working Group
- description of the challenges for free expression on campus
- Working Group recommendations
- scenarios that illustrate various principles of free expression

## **Freedom of Expression and Academic Freedom**

*Key topics covered in this section:*

- legal background of freedom of expression and freedom of speech
- MIT institutional policies related to freedom of expression and academic freedom
- political speech and hate speech— special considerations
- academic freedom—roots and implications
- extramural expression—distinct protections

We articulate in our report two distinct though overlapping concepts—freedom of expression and academic freedom. Each has a distinct history that informs current policies and law. We also note that although the issues surrounding the 2021 Carlson Lecture<sup>1</sup> catalyzed the formation of the Working Group, the group was not charged with assessing that case.

### *Legal Background*

Freedom of expression embodies the values informing the U.S. Constitution’s First Amendment promise that Congress “shall make no law ... abridging the freedom of speech.” Later extended through the 14<sup>th</sup> Amendment to the United States Constitution, freedom of speech refers to the ability to express one’s ideas, especially political ideas, without government interference. Academic freedom refers to academics’ freedom to research and teach issues without undue institutional interference. Though the constitutional rights associated with freedom of expression are relatively clear, the social purposes of academic freedom are evolving in ways that compel us to think them through carefully.

From a legal point of view, freedom of speech (or as we will refer to it, freedom of expression) in the U.S. has never been absolute. Substantial case law articulates under what circumstances the government may impose content-neutral “time, place, and manner” restrictions such as requiring a permit to conduct a march. Content-based restrictions include, for example, limits on commercial speech (advertisement) or criminal penalties for producing or possessing child pornography.

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<sup>1</sup> See <https://eapsweb.mit.edu/events/carlson-lecture>.

Depending on the situation, the United States Supreme Court also employs a viewpoint neutrality test. Whereas content-based restrictions involve laws regulating a given subject matter, viewpoint discrimination pertains to regulations that prohibit or burden particular perspectives on a given subject matter. Together, these two tests stand for the proposition that the government may not distinguish among speakers based on the ideas that a person seeks to express, so long as the ideas themselves are protected by the First Amendment.<sup>2</sup>

Legally speaking, no right to freedom of expression exists in the sense that anyone has the right to speak anytime, anyplace. Rather, the First Amendment is a restriction on government interference (“Congress shall make no law...”). State universities are considered state actors within the meaning of the First Amendment, so they also are obligated to minimize restrictions on freedom of expression. Private actors generally are under no such legal compulsion, though in Massachusetts, the situation is not quite as simple as that.<sup>3</sup>

We note that certain forms of conduct can be regulated even though such conduct is performed primarily through acts of expression. Classic examples of non-protected speech include shouting “Fire!” falsely in a crowded theater or jesting to a bank teller “Give me your cash!” Direct threats, harassment, and incitement to imminent lawless action are examples of speech acts that are not protected forms of expression.<sup>4</sup>

### *MIT Institutional Policies*

As a private institution, MIT is not legally bound by the First Amendment. Even so, as a matter of institutional policy, MIT can and should assure members of the community that they have similar protection for freedom of expression as students do in state universities, and MIT has endorsed freedom of expression through stated policies regarding academic freedom. We believe that MIT should unequivocally endorse the principle of freedom of expression as essential to the Institute’s stated mission “to advance knowledge and educate students in science, technology, and other areas of scholarship that will best serve the nation and the world in the 21st century.” The purpose of freedom of expression at MIT is to affirm the ability to communicate and hear ideas publicly with minimal institutional constraints. The principle of free expression draws not

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<sup>2</sup> For example, content neutrality would prohibit a public library from banning any books related to the subject of religion. Though the Supreme Court has sometimes treated this same example as a violation of viewpoint neutrality, viewpoint discrimination more clearly applies to a ban on books expressing atheist ideas. (Substitute physics for religion and Newtonian for atheist and you have another example.) See Leslie Gielow Jacobs, “Clarifying the Content-Based/Content Neutral and Content/Viewpoint Determinations,” 34 *McGeorge Law Review* 595 (2003).

<sup>3</sup> In 1979, the Commonwealth passed the Massachusetts Civil Rights Act (see Title II, ch. 12, sec. 11H), which was interpreted on one occasion as extending protection from restrictions on freedom of expression to private institutions. In *Abramowitz v. Boston University* (CIV No. 82680 [Mass. Sup. Ct. Suffolk Div., Dec. 2, 1986]), a Massachusetts Superior Court ruled that Boston University, a private institution, could not punish a student for hanging a banner from his dorm window advocating that BU divest from firms doing business in South Africa. This decision has not been used as precedent in subsequent cases. See W. B. Harvey, “Private restraint of expressive freedom: A post-*PruneYard* assessment,” *Boston University Law Review* 69.5 (1989): 929-970. Though the absence of case law makes it difficult to make definitive statements, based on Harvey’s analysis, judicial relief is only conceivable if a private actor, such as MIT, used “threats, intimidation or coercion” to stop or punish expression.

<sup>4</sup> *Brandenburg v. Ohio*, 395 U.S. 444 (1969) held that the government cannot punish inflammatory speech unless that speech is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”

only on the constitutional doctrine of free speech but also on the larger ideal of freedom of conscience guaranteed by the First Amendment as a whole. MIT's community includes people from all parts of a diverse nation and from all over the world. Freedom of expression makes it possible for the members of such a diverse community to exercise individual and collective deliberative and communicative capacities. Free expression facilitates individual autonomy and self-fulfillment, provides for participation in collective decision-making, and enhances the search for truth and justice.

MIT has a long tradition of celebrating provocative thinking, controversial views, and nonconformity. As noted in the influential post-WW2 Lewis Report, the mission of the Institute should be “to encourage initiative, to promote the spirit of free and objective inquiry, to recognize and provide opportunities for unusual interests and aptitudes,” and, in short, to develop “individuals who will contribute creatively to our society.”<sup>5</sup> In this spirit, we continue to celebrate and encourage unconventional and controversial views. We believe that a commitment to freedom of expression is integral to our educational mission. As Nadine Strossen, former president of the A.C.L.U. puts it, “after all, the point of the educational process is hardly for students to fix on enduring answers to challenging, evolving, debatable questions. To the contrary, the goal is to help students develop habits of mind that will enable them to continue reexamining such questions in light of their ongoing quest for and analysis of additional information and insights.”<sup>6</sup>

### *Political Speech and Hate Speech*

Historically, the highest protection for freedom of expression is accorded to controversial political speech. That protection came quite late in the history of the United States given that the First Amendment dates back to 1791. It was not until 1925 that the speech clause of the First Amendment was “incorporated” into the due process clause of the Fourteenth Amendment and thereby made applicable to the states.<sup>7</sup> Most of the landmark free speech cases that came before the Supreme Court during the First World War and during the early decades of the Cold War were decided adversely to free expression interests. The anti-communist purges in government and higher education during the 1950s—an era characterized by the hearings of the House Un-American Activities Committee (HUAC), Director J. Edgar Hoover’s aggressive use of the FBI for political purposes, and loyalty oaths across a wide range of institutions—are recognized as a low point in the history of American free expression.<sup>8</sup> The distinctive libertarianism of American First Amendment law is in no small part a product of the reaction against anti-communist and white supremacist repression that occurred during the late 1950s and 1960s. That was the era when the Supreme Court, for example, granted First Amendment protection to the speech of African-American protesters who would otherwise have been vulnerable to anti-libel lawsuits brought by segregationist forces.

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<sup>5</sup> *Report of the Committee on Education Survey* (December, 1949), available at [https://facultygovernance.mit.edu/sites/default/files/reports/1949-12\\_Report\\_of\\_the\\_Committee\\_on\\_Educational\\_Survey.pdf](https://facultygovernance.mit.edu/sites/default/files/reports/1949-12_Report_of_the_Committee_on_Educational_Survey.pdf)

<sup>6</sup> Nadine Strossen, *Resisting Cancel Culture: Promoting Dialogue, Debate, and Free Speech in the College Classroom* (American Council of Trustees & Alumni, 2020), 12.

<sup>7</sup> *Gitlow v. New York*, 268 U.S. 652 (1925).

<sup>8</sup> See Geoffrey R. Stone, *Perilous Times: Free Speech in Wartime, from the Sedition Act of 1798 to the War on Terrorism* (W.W. Norton, 2004), 311-426.

Some of the most notorious examples of protected speech are expressions that many find offensive and hurtful: malicious anti-gay protests outside of private funerals; the salacious ad parody *Hustler* published depicting televangelist Jerry Falwell; burning the American flag as part of a political protest; and racist cross-burnings.<sup>9</sup> Though these expressions caused considerable distress, they all were protected under the First Amendment as political expressions.

The Working Group is mindful of lessons from the efforts on many college campuses in the 1990s to forbid hate speech. Such policies were well-intentioned responses to particularly hateful events. One of the most important contributions of critical race theory, as applied to the First Amendment, is to show that protecting hate speech benefits groups that are already in power.<sup>10</sup> Because the Supreme Court has ruled consistently that the government should not have the power to decide which speech is valuable and which is not, it has taken a content-neutral approach to protecting political speech, regardless of who the target of hate speech might be. This is why some of the most notorious free-speech cases have protected hate speech that is directed at politically vulnerable minority groups.

One problem of campus speech codes in the 1980s and 1990s was that content-neutral policies were sometimes put to unintended uses. As Erwin Chemerinsky, Dean of the U.C. Berkeley School of Law, and Howard Gillman, Chancellor of the University of California, Irvine, noted with respect to the speech code adopted by the University of Michigan, “[i]n practice, the code was used not against the kinds of purely hateful slurs that inspired its passage, but against people who expressed opinions that others objected to. Complaints were filed against a student who stated that Jewish people used the Holocaust to justify Israel’s policies toward the Palestinians. Another student found himself facing punishment for saying that he had heard that minorities had a difficult time in a particular course.”<sup>11</sup> As noted in the court decision that struck down the University of Michigan’s code as unconstitutional, “[o]n at least three separate occasions, students were disciplined or threatened with discipline for comments made in a classroom setting.”<sup>12</sup> Strossen summarizes the views of human rights activists from around the globe to argue that hate speech laws are at best ineffective and at worst counterproductive. She urges that we resist hate speech with free speech, not censorship.<sup>13</sup> The category of hate speech has been considered so subjective and hard to define that such campus speech codes have been consistently ruled legally unenforceable.<sup>14</sup> As a result, most institutions have shifted focus to conduct-based regulations.<sup>15</sup>

### *Academic Freedom*

Academic freedom, as well as the institutional practice of tenure, has its roots in the protection of academic researchers and teachers from undue influence based on religious or political factors.

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<sup>9</sup> Westboro Church decision = *Snyder v. Phelps* 562 U.S. 443 (2011); *Hustler Magazine v. Falwell* 485 U.S. 46 (1988); Flag burning = *Texas v. Johnson* 491 U.S. 397 (1989); Cross-burning = *R.A.V. v. St. Paul* 505 U.S. 377 (1992) and *Virginia v. Black* 538 U.S. 343 (2003).

<sup>10</sup> See especially Mari J. Matsuda, Charles R. Lawrence III, Richard Delgado, and Kimberlè Williams Crenshaw, *Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment* (Routledge, 1993).

<sup>11</sup> *Free Speech on Campus* (Yale U.P., 2017), p. 71.

<sup>12</sup> *Doe v. Univ. of Mich.*, 721 F. Supp. 852, 861 (E.D. Mich. 1989).

<sup>13</sup> Nadine Strossen, *Hate: Why We Should Resist It with Free Speech, Not Censorship* (Oxford U.P., 2018).

<sup>14</sup> See Franklyn S. Haiman, *Speech Acts and the First Amendment* (SIU Press, 1993).

<sup>15</sup> See Chemerinsky & Gillman, cited above.

As Michael W. McConnell has written, “[s]tandard principles of academic freedom forbid most interference with the right of faculty members to write, teach, or speak within the limits of their professional disciplines in accordance with their own opinions, no matter how pernicious or erroneous those opinions appear to others to be.”<sup>16</sup> Among the most egregious examples of the denial of academic freedom were the purges of the German professoriate of those unsupportive of Nazi ideology prior to World War II. In the United States, the anti-communist investigations, purges and loyalty oaths of the late 1940s and 1950s hit American higher education with special force and helped give rise to the sense that academic freedom is at once fragile and essential. Scientists and engineers were important targets of these campaigns. According to David Kaiser, “[m]ore theoretical physicists were called by HUAC...as (‘unfriendly’) witnesses between 1948 and 1953 than members of any other academic specialty.”<sup>17</sup>

We find it useful to distinguish among the following categories of academic freedom, following Matthew Finkin and Robert Post:

- freedom of research and publication
- freedom of teaching
- freedom of intramural expression
- freedom of extramural expression

Academic freedom is based on the value of disciplinary expertise and knowledge creation. To those ends, each of these four areas of academic freedom contextualizes freedom of expression somewhat differently. What faculty members can have published by scholarly outlets is protected by the first freedom (i.e., research and publication).<sup>18</sup>

Regarding freedom of teaching, faculty do not have total discretion over their course content. For example, a class titled “Beginning Chinese” cannot be taught as an advanced calculus class. And department heads would be within their rights to consider faculty members’ expertise in the process of making or adjusting teaching assignments. Working within our standard

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<sup>16</sup> “Academic Freedom in Religious Colleges and Universities,” *Law & Contemporary Problems* 53.3 (1990): 303.

<sup>17</sup> David Kaiser, “The Atomic Secret in Red Hands? American Suspicions of Theoretical Physicists During the Early Cold War,” *Representations* 90.1 (2005): 29. The (largely ineffective) reactions of the American scientific community to the federal loyalty program are discussed in Jessica Wang, *American Science in an Age of Anxiety* (U. of North Carolina Press, 1999), 183-218. Lawrence Badash argues that by the end of the 1950s, McCarthyism had forced American scientists “out of their academic ivory towers” and “into political controversy, issues of national security, matters of civil liberties, and self-reflection about the role of intellectual activity in a free society.” Lawrence Badash, “Science and McCarthyism,” 38.1 (2000): 79. On the impact of anti-communism on American universities, see Ellen W. Schrecker, *No Ivory Tower: McCarthyism and the Universities* (Oxford U.P., 1986) and Ellen Schrecker, “Political Tests for Professors: Academic Freedom during the McCarthy Years” (Oct. 7, 1999), The University Loyalty Oath: A 50th Anniversary Retrospective Symposium and Websource, at [https://www.lib.berkeley.edu/uchistory/archives\\_exhibits/loyaltyoath/symposium/schrecker.html](https://www.lib.berkeley.edu/uchistory/archives_exhibits/loyaltyoath/symposium/schrecker.html).

<sup>18</sup> For a thorough historical narrative of academic freedom, see Matthew W. Finkin and Robert C. Post, *For the Common Good: Principles of American Academic Freedom* (Yale University Press, 2009); and the “1940 Statement of Principles on Academic Freedom and Tenure” (updated in 1970) set forth by the American Association of University Professors and the Association of American Colleges, at [www.aaup.org/file/1940%20Statement.pdf](http://www.aaup.org/file/1940%20Statement.pdf). See also Henry Reichman, *Understanding Academic Freedom* (Johns Hopkins U.P., 2021); Richard Hofstadter and Walter P. Metzger, *The Development of Academic Freedom in the United States* (Columbia University Press, 1955); and Daniel Gordon, *What is Academic Freedom? A Century of Debate, 1915-Present* (Routledge, 2022).



administrative structures such as curriculum planning committees, faculty generally should be able to teach the scholarly content they wish. Academic freedom does not give faculty members the unfettered right to advocate political beliefs in their classrooms that are irrelevant to the course content. Such political expression should be grounded in the faculty member's expertise, relevant to the subject matter, and consistent with both sound pedagogical principles and the achievement of learning objectives.

The exercise of academic freedom with respect to research, publication, and teaching takes place in a context of scholarly rigor. Evaluating the strength of arguments and the quality of ideas is intrinsic to research and education processes. Aside from cases where evidence of invidious discrimination exists, faculty members cannot claim that the denial of tenure based on a professional assessment of the faculty member's scholarship constitutes censorship. Nor can a student receiving a less than desired grade in a class claim that wrong answers are a form of protected speech. Though faculty and researchers have a good deal of freedom, that freedom is exercised in an academic context in which disciplinary competence and professional judgment are crucial to knowledge production and education.<sup>19</sup>

Freedom of intramural expression means that faculty members should be able to speak their minds about their own institution and its policies. MIT strongly values this freedom.

#### *Extramural Expression*

The most complicated category is freedom of extramural expression. From an institutional aspect, the primary idea here is that faculty members should not be punished for extramural expressions except under extraordinary circumstances. In 1970, the American Association of University Professors and the Association of American Colleges amended (via interpretation) the "1940 Statement of Principles on Academic Freedom and Tenure" thusly: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position." Rather than adjudicate the meaning of "fitness" in such contexts, some institutions, such as the University of Illinois, adopted policies stating that faculty members should be able to exercise their freedom of expression in extramural contexts without institutional censorship or discipline, period.

The categories of academic freedom and freedom of expression may overlap when it comes to extramural expression. For example, during the Vietnam War, college campuses were a frequent venue for anti-war protests, and those protests often were joined or even led by faculty who spoke as citizens as well as professors. Sometimes, both principles are explicitly at work, such as when a faculty member offers a discipline-informed critique of a public policy. For example, the Union of Concerned Scientists was formed in 1969 by faculty concerned with nuclear weapons and war.<sup>20</sup> More recently, a number of faculty members have criticized contemporary political

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<sup>19</sup> On the limits to free expression necessitated by scholarly assessment, see Robert C. Post's important article "The Classic First Amendment Tradition under Stress: Freedom of Speech and the University" in Lee C. Bollinger & Geoffrey R. Stone, eds., *The Free Speech Century* (Oxford University Press, 2019), 106-122.

<sup>20</sup> For a history of the UCS, see: <https://www.ucsusa.org/about/history>.

practices.<sup>21</sup> Such expression thus would be protected both by the principles of academic freedom and freedom of expression.

## **Free Expression as an Integral Component of MIT's Educational Mission**

*Key topics covered in this section:*

- freedom of expression controversies as learning opportunities
- relationship between free expression and anti-racism
- dealing with offensive or harmful speech

Wherever possible we should treat freedom of expression controversies as opportunities for learning rather than occasions for disciplinary action or administrative oversight of some kind. To treat a dispute as a learning opportunity does not mean to ignore it or take it lightly; quite the opposite. Legal and institutional norms set limits to and even entail potential disciplinary consequences for certain forms of speech such as speech that rises to the level of sexual harassment in violation of Title IX. Short of situations that directly implicate these specific legal and institutional norms, free expression controversies are best handled in a learning community (be it a classroom, dorm, staff meeting, or other space) through dialogue among the individuals or groups involved (e.g., community fora), and/or in a spirit of seeking first to listen to and understand the other side.

We commend the efforts of MIT resources including the Division of Student Life, the Institute Discrimination and Harassment Response Office, and the Institute Community and Equity Office, to address cases of harmful but protected speech in just such a manner. MIT faculty and instructional staff have a no less important role in this respect, because the classroom is the core and quintessential educational space of our university—one that is big enough to address both the harms and the benefits of speech with sensitivity and nuance. To give free expression prominence not only in our policies but also in the life of the Institute means making it an integral part of our educational mission. While speech that is viewed as hateful may be permitted, it does not mean that it represents truth. All members of the community should be empowered to speak up in the face of hateful speech. In particular, peers, colleagues, and bystanders should understand their responsibility to maintain a respectful community in which all members can thrive. Resources and support, similar to what the Institute has made available to combat harassment, also should be available to empower responses to hateful speech.

### *Free Expression and Anti-Racism*

A good example of how MIT can lead on an educational, rather than an administrative, footing involves the relationship between free expression and anti-racism. Recent campus speech controversies have given rise to the appearance that these two values are in conflict at some foundational level. The historical reality is more complicated. Robust disagreements are bound to arise over any topic that reaches deep into the American past and elicits strongly held feelings. Only distortion can result, however, if we allow the headlines of the moment to shape our

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<sup>21</sup> Many examples exist of MIT faculty publicly criticizing government policies based on their expertise as administrators or subject-matter experts. In recent years, MIT's president publicly criticized the immigration policies of the Trump administration. See also the discussion, "What must the US do to sustain its democracy?" featuring MIT faculty (<https://news.mit.edu/2021/sustain-us-democracy-0120>). More examples at <https://bit.ly/35SaGw7>.

understanding of core elements of American history such as free expression and the movement for racial justice.<sup>22</sup>

Consider the Knight Foundation-Ipsos study of “College Student Views on Free Expression and Campus Speech 2022,” which finds that “[s]tudents of color believe their speech is less protected.” The study reports that “[w]hile a majority of college students express confidence that the First Amendment protects ‘people like them,’ Black students in particular feel much less protected, with a sharp decline from 2019 to 2021.” This deterioration—as much as twenty percentage points over the past two years—should be of concern to all who care about the First Amendment and free expression. It suggests that proponents of free expression have failed to make the case for open and uninhibited debate in terms that are informed by our nation’s history of racial subordination. It also has the consequence that African-American students are increasingly likely (36% in 2021 vs. 28% in 2019) to “favor a campus environment that protects students by prohibiting speech that they might find offensive or biased.” The Knight-Ipsos study found that in both 2019 and 2021, a majority of African-American students in the United States felt that colleges should restrict the use of offensive racial slurs on campus.<sup>23</sup>

Value statements and policy pronouncements are easy to offer but likely ineffective at addressing the growing sense that the First Amendment and principles of free expression protect some groups more than others. A better starting point is education and, more specifically, a deeper understanding of the history of the First Amendment. The history of so-called “group-libel” law is of special relevance here. Political speech that expresses hatred or contempt toward racial or religious groups raises one of the toughest questions for First Amendment law and for university communities. In contrast to Europe since the end of the Second World War, the United States has tended to grant constitutional protection to the expression of some of the worst forms of racial propaganda. The 1978 decision of the Illinois Supreme Court holding that Chicago-area Nazis had a right to march through the town of Skokie, Illinois (a town with a large Jewish population) and display the swastika is a familiar case in point.<sup>24</sup> Free speech often has been used in attempts at chilling or silencing the voices of politically marginalized minority groups. As we explain at some length later in this report, we believe the solution is not a hate speech code but empowering our students to be confident advocates who refuse to be silenced.

In that spirit of empowerment, we emphasize another chapter of American history, one that teaches a very different lesson about the relationship between free expression and racial justice. During the 1950s and 1960s, civil rights protesters did not seek to prohibit the expression of racial hatred, correctly perceiving that group libel laws could one day be turned against them.<sup>25</sup>

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<sup>22</sup> In any discussion of the contemporary relationship between race and freedom of expression, it is impossible to overlook recent state legislative bans on and other efforts to limit the teaching of critical race theory and systemic racism in public educational institutions. See Sarah Schwartz, “Map: Where Critical Race Theory Is Under Attack,” *Education Week* (June 11, 2021, updated May 18, 2022), at <https://www.edweek.org/policy-politics/map-where-critical-race-theory-is-under-attack/2021/06>.

<sup>23</sup> “College Student Views on Free Expression and Campus Speech 2022: A Look at Key Trends in Student Speech Views Since 2013,” Knight-Foundation-Ipsos study from the Knight Free Expression Research Series, Jan. 2022, at <https://knightfoundation.org/reports/college-student-views-on-free-expression-and-campus-speech-2022/>.

<sup>24</sup> *Village of Skokie v. National Socialist Party of America*, 69 Ill. 2d 605 (1978). See also David Goldberger, “The Skokie Case: How I Came to Represent the Free Speech Rights of Nazis” (March 2, 2020), ACLU100 History Series [www.aclu.org/issues/free-speech/rights-protesters/skokie-case-how-i-came-represent-free-speech-rights-nazis](http://www.aclu.org/issues/free-speech/rights-protesters/skokie-case-how-i-came-represent-free-speech-rights-nazis)

<sup>25</sup> Harry Kalven, *The Negro and the First Amendment* (University of Chicago Press, 1965), p. 12.

In significant part, an early 1960s African-American challenge to libel law led to today’s “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open” (*New York Times v. Sullivan*, 376 U.S. 254, 270 [1964]).<sup>26</sup>

This history makes clear that the First Amendment belongs to everyone: not only to those who seek outlets for the expression of racial hatred, but also to those who resist such hatred. As members of a diverse community—not only in racial, ethnic, gender, and religious terms but in political and ideological ones—we should always remember that free speech can cut both for and against the cause of racial justice. This means we also are free to embrace the strands of our past that have served to align these goals rather than set them in conflict with one another. MIT has a role to play in recovering that history and finding ways to build upon it. Although the Institute is renowned for science, engineering, and technology, MIT played an underappreciated role in the history of political protest and civil disobedience in twentieth-century America.<sup>27</sup> The eclectic interests of its faculty and students, as well as the wide range of libertarian subcultures that thrive on its campus, position the Institute to once again play an important role in the thoughtful protection of free expression.

### *Difficult Conversations and Offensive or Harmful Speech*

One strategy for dealing with offensive or harmful speech is more speech, even though more speech may compromise a collegial environment. We believe more expression can be an effective antidote in the context of a university community where the shared culture promotes active engagement, the advancement of learning, and the use of analysis to further knowledge. In helping to fulfill these goals, the MIT faculty has a special responsibility to equip the next generation with communication skills that elevate their personal confidence and professional effectiveness.

For MIT to perform this role well, we will need to provide the members of our community with support in handling difficult conversations and offensive or harmful speech. Based on surveys and what students report, we know that many students are reluctant to express themselves fully. This is a significant concern for students and a shortcoming in their education. Many students do not know how to present, to stand their ground, to change their opinions, and to advance an idea in domains where individuals express different, sometimes conflicting, opinions based on culture, power, passion, and other factors. Some students withdraw and avoid engagement. Beyond the knowledge and analytical skills they possess, MIT students must learn and practice the tools of expression that will enhance their competence and confidence.

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<sup>26</sup> In the *Sullivan* case, a Montgomery, Alabama city official sued (and won \$500,000 in damages against) *The New York Times* for publishing an advertisement denouncing Montgomery’s repression of civil rights protests. The Supreme Court unanimously reversed the jury verdict in an opinion that called into question the extent to which *Beauharnais v. Illinois*, 343 U.S. 250 (1952) (holding that libel is not within the area of constitutionally protected speech) is still good law. See Anthony Lewis, *Make No Law: The Sullivan Case and the First Amendment* (Vintage Books, 1992); Christopher W. Schmidt, “*New York Times v. Sullivan* and the Legal Attack on the Civil Rights Movement,” *Alabama Law Review* 66.2 (2014): 321-324; and Christopher W. Schmidt, “Divided by Law: The Sit-ins and the Role of the Courts in the Civil Rights Movement,” *Law and History Review* 33.1 (2015): 93-149.

<sup>27</sup> See, for example, these discussions of the 1969 “March 4” movement, which challenged MIT’s contributions to the American prosecution of the Vietnam War: Stuart W. Leslie, “‘Time of Troubles’ for the Special Laboratories,” in *Becoming MIT: Moments of Decision*, ed. David Kaiser (MIT Press, 2013), 123-143; and Murray Eden, “Historical Introduction,” in *March 4: Scientists, Students, and Society*, ed. Jonathan Allen and Kurt Gottfried (MIT Press, 2019) (unpaginated online edition).

This educational commitment is especially important in our community, which comprises students, faculty, and staff from a variety of cultural backgrounds, several dozen countries, and many passions, personal habits, and belief systems. A considerable number of our students come from backgrounds where the many styles of expression used in our community are not taught or practiced. We fail our students if they leave MIT afraid to speak up, to challenge, to defend, and otherwise to use expression respectfully as part of their personal and professional toolkits.

The challenge of integrating these pedagogical goals into the educational mission of MIT is analogous to the process MIT went through to make writing and communication an integral part of our undergraduate educational program. We can take a similar approach in developing the abilities of our students to express themselves effectively on controversial matters.

Making free expression a dynamic and integral component of our academic culture is not confined to pedagogical considerations and the needs of students. Our faculty and staff face challenges of their own in handling difficult conversations and offensive or harmful speech. They, too, speak of self-censorship and a reluctance to engage others on sensitive topics. And they, too, need support in developing effective strategies for meeting these challenges. Free expression concerns cut across all our schools and DLCs and addressing them should not be the special province of any one of our schools or subset of academic units. An Institute-wide commitment is needed.

We offer no easy answers in this area. Changes in an institution's educational culture hold more promise than statements on paper in addressing today's thorny intersection of race and free expression. Such changes are correspondingly more difficult to implement. In our recommendations, we offer a few modest suggestions aimed at addressing some of the misunderstandings that have arisen over the purpose and place of free expression on our campus. We also have developed a range of scenarios related to free expression (included at the end of this Report) that we hope will serve an educational purpose. That said, no single working group report or initiative can fix the problem. This will be an iterative process, requiring ongoing attention, engagement, adjustment, and—above all—education, inside and outside the classroom.

## **Current MIT Policies Related to Free Expression**

*Key topics covered in this section:*

- respectful workplaces and learning environments
- Technology and the changing landscape of expression

MIT's current statement (9.1) in the *Policies & Procedures* document is titled "Academic Freedom," but it also speaks to freedom of expression:

In an academic community, the free and open exchange of ideas and viewpoints reflected in the concept of academic freedom may sometimes prove disturbing or offensive to some. The examination and challenging of assumptions, beliefs or opinions is, however, intrinsic to the rigorous education that MIT strives to provide. The policies in Section 9.0, and in particular the personal conduct and harassment policies, are not intended to

compromise the Institute's traditional commitment to academic freedom or to education that encourages students to challenge their own views of themselves and the world.

MIT's *Mind & Hand Book* (section II [9]) published by the Division of Student Life, contains a more detailed statement:

Freedom of expression is essential to the mission of a university. So is freedom from unreasonable and disruptive offense. Members of this educational community are encouraged to avoid putting these essential elements of our university to a balancing test.

People who are offended by matters of speech or expression should consider speaking up promptly and in a civil fashion and should be able to ask others to help them in a professional fashion to express concern. People who learn they have offended others by their manner of expression should consider immediately stopping the offense and apologizing.

With respect to materials posted on bulletin boards, it is not appropriate to remove or deface signed posters, even if some people find such material offensive. If you are offended by a poster signed by a person or group in the MIT community, it is appropriate to convey your sense of offense to those who created the poster. It is not appropriate to remove or deface the poster.

It is usually easier to deal with issues of free expression and harassment when members of the community think in terms of interests rather than rights. It may be "legal" to do many things that are not in one's interests or in the interests of members of a diverse community. Most people intuitively recognize that there may be some difference between their rights and their interests. For example, most people do not insist on offending others once they have learned that their behavior is offensive, even in circumstances where they may have, or think that they have, a legal right to do so. Thus, anyone dealing with harassment concerns may find it useful to think about the interests on all sides as well as the rights.

As far as the Working Group could determine, these are the only MIT policy documents that explicitly address freedom of expression and academic freedom.

#### *A Respectful Workplace and Learning Environment*

At the intersection of the closely held ideal of free expression and other values that MIT espouses lies the expectation of a respectful learning environment and workplace.<sup>28</sup> MIT deeply values civility, common regard, and the robust exchange of views. Although we cannot prohibit any and all speech that some experience as offensive or even hurtful, our community values encourage us to maintain a standard of mutual respect.<sup>29</sup> MIT is committed to supporting an

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<sup>28</sup> To be clear, MIT has job-related expectations for faculty and staff to conduct themselves with professionalism, respect, and collegiality in the workplace. Certain conduct might warrant a disciplinary measure (e.g., progressive discipline, conversation with a supervisor, education), but such job-related expectations for professionalism in the workplace can be thought of as time, place, and manner restrictions rather than a restriction of expression, per se.

<sup>29</sup> <https://web.mit.edu/about/values-statement/>

inclusive educational and workplace environment where all can thrive. Accordingly, a commitment to freedom of expression and academic freedom does not grant license to behavior that is regulated by relevant MIT policies. Such conduct-oriented policies do not permit regulations designed to suppress controversial ideas that may make some people uncomfortable or upset. These conduct-oriented policies address racist conduct, harassment, protection against retaliation for expressing critical speech, and use of the Institute's campus-wide computer network (policies quoted at length in Appendix B).

It is a quality of all spaces—real and virtual—that they are governed by general agreements about their use. In practical terms, these can be interpreted as time, place, and manner restrictions on speech. What is generally appropriate behavior in a dorm room versus a lecture hall versus a cafeteria can differ without entailing restrictions on speech. What is true of real spaces is true of virtual ones, as well. In this regard, it is important to note that the architecture of MIT's virtual spaces and the agreements that govern their use can evolve even more rapidly than in the physical world.

We must account for this constant evolution when evaluating the appropriateness of speech restrictions within virtual spaces. In particular, when such spaces develop organically in the direction of broader communities of discourse than initially envisioned by their creators, it is appropriate for us to adopt a flexible approach to what may be relevant speech. Physical or virtual spaces created to discuss particular classes, for example, should allow participants to discuss class-related topics without undue distraction. When such fora evolve over time to serve a broader communication purpose, we may consider content restrictions to be less justified.

#### *Technology and the Changing Landscape of Expression*

The same concepts apply to use of communication technology that goes beyond the campus infrastructure. We can communicate to a public audience faster and easier than at any time in history. Digital modes of communication have significantly changed the landscape of expression that the MIT community is negotiating. In this environment, it is all the more important to declare and support our fundamental commitment to freedom of expression as well as to the social and institutional infrastructure necessary to support a space for free expression on campus. Nevertheless, technological affordances do not change the principles for which MIT stands. We protect the expression of ideas, regardless of the communication medium. We do not protect prohibited conduct carried out through technological means, including legally prohibited threats, harassment, stalking, and incitement to imminent lawless action.

## **Consultation**

*Key categories of input summarized in this section:*

- freedom of expression in general
- decisions related to the 2021 Carlson Lecture
- self-censorship
- difficult conversations

The events of fall 2021 regarding the Carlson Lecture invitation and its aftermath led to a great deal of discussion and debate across the MIT community on the topic of freedom of expression.

This widespread interest prompted community members to share a large volume of raw material, both solicited and unsolicited, that was relevant to the charge of the Working Group. We have considered these inputs (summarized in detail in Appendix C) to be key resources in creating this report.

#### *Input on Free Expression from the MIT Community*

The main sources of input are:

- Notes from three faculty fora held between October 27, 2021 and November 10, 2021 to foster discussion about freedom of expression in light of the Carlson Lecture decisions. A total of 116 faculty members participated, or about 10% of the total number of 1,064 faculty members. The participants were mainly tenured faculty (107) with very limited representation from untenured faculty members. A total of 98 men and 18 women faculty participated.
- Notes from three staff fora held between November 18, 2021 and December 1, 2021 to foster discussion about freedom of expression. A total of 125 staff members participated in these fora, including both administrative staff and research staff. This is a very small percentage of the total,<sup>30</sup> as there are on the order of 3,300 administrative staff, 1,600 research staff, and 3,400 other academic and support staff on campus. We also received input collected by a member of our Partners team from eight discussion sessions with staff members between February 24 and March 23 as well as individual conversations with key contributors.
- Inputs collected by the Values Statement Committee between October 2021 and January 2022. The Values Statement Committee collected extensive feedback on a draft version of its report then shared with the Working Group any feedback that related to freedom of expression.
- The report from the Undergraduate Association that summarized discussions among undergraduates about the Carlson Lecture event.
- A survey of 250 MIT undergraduates conducted by the Foundation for Individual Rights in Education (FIRE) as part of their College Free Speech Rankings.
- Input from the MIT Free Speech Alliance, a group of MIT alumni launched in reaction to the events surrounding the Carlson Lecture. We understand the Alliance to comprise several hundred MIT alumni and MIT faculty members.
- Alumni input collected by the MIT Alumni Association (MITAA). That input consists of survey responses from 310 alumni, interviews with 21 alumni leaders, focus group discussions with 25 members of the Alumni Association Board, and two virtual town halls (70 participants). MITAA also compiled and sent to MIT 626 emails from 496 alums related to the Carlson Lecture event.
- Additional input included relevant articles from faculty newsletters published after the decisions on the Carlson Lecture, notes from a discussion among the history faculty, a preliminary summary of inputs being collected from MIT lecturers, and approximately 30 messages sent directly to the Working Group (the majority coming from alumni).

In addition, members of the Working Group met with the following individuals to gain their perspective and guidance:

- Head of the MIT Department of Earth, Atmospheric, and Planetary Sciences

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<sup>30</sup> <https://facts.mit.edu/employees/>, accessed April 3, 2022., and Office of Institutional Research



- MIT Chair of the Faculty
- MIT Vice President and General Counsel
- Co-chairs of the MIT Values Statement Committee
- MIT Institute Community and Equity Officer
- MIT Vice Chancellor and Dean for Student Life
- Faculty directors of MIT residence halls (“heads of house”)
- MIT Bias Response Team

The Working Group also was given access to a recording of a small meeting of MIT alumni hosted by one of our alumni partners. A subset of the Working Group also attended Professor Malick Ghachem’s undergraduate class *Libertarianism in History* for a session devoted to the students’ discussion of free expression.

Despite being contacted by and receiving considerable input from many constituencies, the Working Group is aware that the extent of input from different sectors of the campus community—faculty, students, post-docs, alumni, and various categories of staff—varied widely. We hope that as the Institute moves forward, MIT will further engage all of these groups in the implementation of this report’s recommendations, especially with the underrepresented minority groups within our student community.

We highlight three themes that emerged from these inputs: the reactions to the decisions on the Carlson Lecture, the prevalence of self-censorship, and the desire for help with difficult conversations.

#### *Input Related to the 2021 Carlson Lecture*

The MIT community expressed a spectrum of reactions to the decisions related to the Carlson Lecture. At one extreme are the inputs from the undergraduates. Their general view, as summarized by the Undergraduate Association, was that the Carlson Lecture cancellation was never a freedom of expression issue because the speaker was provided an opportunity for another research seminar. The undergraduates generally supported the department’s decision to cancel the Carlson Lecture in light of how the speaker’s DEI views and comments would distract from the outreach objectives of the event. The students observed that (1) people, mainly from outside MIT, seized upon the Carlson affair as a restriction on freedom of expression, and (2) MIT, in its communications, did not counter this misperception.

At the other extreme were the inputs from alumni. The decisions surrounding the Carlson Lecture resulted in the formation of the MIT Free Speech Alliance, “an independent organization advocating for free expression, viewpoint diversity, and academic freedom at MIT.” MITAA estimated that 90% of the 626 emails sent by alumni expressed a negative response to the Carlson Lecture decisions. These emails were largely consistent in tone and message. Alumni

- were embarrassed and disappointed in MIT’s actions
- expressed their loss of pride in being associated with MIT
- stated that MIT had lost their trust and would no longer receive their donations

Many alumni also offered counter-arguments (see Appendix C) to the explanations provided by the administration on the Carlson Lecture decisions.

### *Input Related to Self-Censorship*

Another theme of input concerned self-censorship—the extent of one’s discomfort in expressing opinions in the present campus environment. Faculty, staff, and students acknowledged being subject to self-censorship but with somewhat different explanations or justifications. Faculty from the faculty fora expressed concerns about “saying the wrong thing” in the current environment, with particular emphasis on speech that relates in any way to DEI. Faculty also expressed fear of being canceled or attacked on social media. Staff members in the staff fora also noted their concerns with self-censorship. Staff identified MIT’s organizational power structure as a key factor that inhibits their freedom of expression as well as the current political climate (e.g., “The ability to speak freely varies depending on how secure people feel in their jobs.”). Some students reported self-censorship in their interactions with faculty. In a survey by the Foundation for Individual Rights in Education (FIRE), a majority of the 250 MIT students surveyed reported being “somewhat uncomfortable” or “very uncomfortable” publicly disagreeing with a professor about a controversial topic.<sup>31</sup> We address the issue of self-censorship in more detail in the next section of this report.

### *Input Related to Difficult Conversations*

Finally, we observed from the input we received that freedom of expression comes with a responsibility to respect others. Often, that entails having difficult exchanges that we may not be adequately trained to conduct. One comment from an MIT lecturer captures this well: “People are much more interested in talking about how to have difficult conversations in a civil and productive way than in the question of whether to cancel a controversial lecture.”

## **Challenges for Free Expression on Campus**

*Key topics covered in this section:*

- self-censorship at MIT
- expression by leaders at MIT

### *Self-censorship*

As just noted, a consistent finding in public fora and consultations at MIT related to free expression is that many members of our MIT community do not always feel comfortable expressing their views (often labeled “self-censorship”). It is impossible to make any headway in this debate without first defining the term and clearing some of the polemical ground that surrounds it. On its face, self-censorship is something that (mercifully) all of us do every day. For example, we do not always tell our partners that we don’t like the soufflé they just cooked because doing so is not good for the health of the relationship. Instead, it is better to smile and say (as Julia Child put it in her remarks accepting an honorary doctorate from Harvard some years ago) “may your soufflés always rise.” Teachers may soften the words they use to instruct students so as not to discourage them in their quest for more and better learning. We may choose to modulate how we express our opposition to certain political statements by conveying the sentiment that we are open to dialogue among people of opposing views. If this is self-censorship, we need more rather than less of it.

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<sup>31</sup> A post by FIRE’s Komi German, “To Train Leaders for the 21st Century, MIT must put free speech first.” <https://www.mitfreespeech.org/freespeechmit/to-train-leaders-for-the-21st-century-mit-must-put-free-speech-first>

Even on campus, research suggests that self-censorship is most often motivated not by fear of institutional retribution but by interpersonal disapproval. Thus, we should be cautious when interpreting data and claims about campus self-censorship. Although individuals on campus are reluctant to speak up in situations where it is important for them to do so, people also make legitimate, uncoerced decisions to self-edit. Understanding the different types of decisions people make in moderating their own expressions, along with what is driving those decisions, is important in determining how the Institute can and should respond.<sup>32</sup>

Critics of self-censorship seem to have in mind a campus climate in which certain voices (prototypically conservative ones) are forced into the closet for fear of the consequences of speaking out. In particular, some members of our community (and commentators outside it) argue that diversity, equity, and inclusion (DEI) programs—which seek to ensure that minorities are effectively incorporated into the life of an educational institution—have given rise to a censorial, even authoritarian culture that brooks no disagreement with the official policies of the university.

The analogy is not meaningful between authoritarianism and the movement in favor of institutionalizing DEI policies on college campuses generally—and certainly not at MIT. On the other hand, no policy or program of the Institute should be perceived as above criticism or debate. In what way might the Institute convey the perception that its policies are immune from criticism? A professor who criticizes DEI programs and is then dismissed from her role at the Institute would be a clear example of illegitimate punishment that is hostile to free expression. A professor who is denied a promotion (such as leading a department or assuming another leadership role) is a more complicated matter.

If the professor in question announces that she will refuse to apply MIT’s DEI policies, which seems no different from stating that she will refuse to apply any other MIT policy, we may reasonably question whether such a person should lead a DLC. If, on the other hand, the professor indicates that she has quite different ideas on how best to pursue the goals of DEI and would like the opportunity to persuade others of the merits of those ideas through normal Institute processes and mechanisms, this by itself should not be sufficient reason to oppose her appointment to a leadership role. Much depends on the manner in which she chooses to portray the policy choices at issue. A good-faith, collegial approach that recognizes the complexity of these choices should find willing interlocutors. A strident and polemical approach may lead colleagues and students to avoid contact with that professor. In such cases, the MIT president may very reasonably conclude that she would not make a good candidate for a deanship. The Institute has no legal or other obligation to protect MIT community members from the political consequences of their own speech. Free speech is not the same thing as speech that is free of consequences.<sup>33</sup>

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<sup>32</sup> See Lara Schwartz & Harsha Mudaliar, “Guest Post: Not So Fast on Campus Self-Censorship,” *Inside Higher Ed* (January 30, 2022). <https://www.insidehighered.com/blogs/just-visiting/guest-post-not-so-fast-campus-self-censorship>; Elizabeth Niehaus, *Self-censorship or just being nice? Understanding college students’ decisions about classroom speech*. (University of California National Center for Free Speech and Civic Engagement, 2021). <https://freespeechcenter.universityofcalifornia.edu/fellows-20-21/niehaus-research/>

<sup>33</sup> For further guidance on this issue, we refer readers to the Scenarios section below.

The problem of self-censorship is not limited to college campuses. A survey by Pew Research Center in 2018 found that 53% of Americans said that talking about politics to people with whom they disagree is generally stressful and frustrating. A separate survey conducted by the Cato Institute in collaboration with YouGov in 2020 found that 62% of those polled said they have political views they were afraid to share.<sup>34</sup> A 2022 study reports that only 34% of Americans believed that all Americans enjoy freedom of speech completely.<sup>35</sup> A working paper by James L. Gibson and Joseph L. Sutherland described self-censorship as “spiraling,” with the percentage of Americans not feeling free to express their views tripling since 1954, a phenomenon empirically investigated as the “spiral of silence.”<sup>36</sup>

### *Expression by MIT Leaders*

MIT leaders, both academic and administrative, have a special role in fostering a climate that encourages free expression. Leaders at all levels, from those with Institute-wide responsibilities to leaders of DLCs, should explicitly welcome the expression of a variety of viewpoints, including those that contradict their own. We draw special attention to the role of instructors in classes, faculty leaders, research directors, department heads and administrative officers in faculty and staff meetings, deans in school councils, as well as the president and provost in Academic Council and Institute-wide faculty meetings.

Democracy in general and scholarly knowledge creation in particular benefit from robust debate. When MIT leaders speak out on matters of public interest, whether in their own voices or in the name of MIT, such statements should always be understood as being open to dissent and debate by the broader MIT community. Beyond our recommendations, we all must work to ensure that, as an institution, we affirm the principles of freedom of expression and academic freedom so that prospective speakers know the Institute will protect their right to speak.

## **Responses to the Working Group’s Charge & Recommendations**

Our charge (see Appendix A) includes a list of four questions, which we quote here and pair with specific recommendations to address them.

Does MIT need to revise or update its statements regarding academic freedom, freedom of expression, and/or pluralism?

How should we define these and other related fundamental principles?

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<sup>34</sup> Pew Research Center, “More Now Say It’s ‘Stressful’ to Discuss Politics With People They Disagree With.” <https://www.pewresearch.org/politics/2018/11/05/>; Emily Ekins, “Poll: 62% of Americans say they have political views they’re afraid to share.”

<https://www.cato.org/survey-reports/poll-62-americans-say-they-have-political-views-theyre-afraid-share>

<sup>35</sup> Editorial Board, “America Has a Free Speech Problem,” *The New York Times* (March 18, 2022), reporting a national poll commissioned by the “Times Opinion” and Siena College.

<https://www.nytimes.com/2022/03/18/opinion/cancel-culture-free-speech-poll.html>

<sup>36</sup> James L. Gibson & Joseph L. Sutherland, “Keeping Your Mouth Shut: Spiraling Self-Censorship in the United States.” SSRN Working Paper (May 18, 2021). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3647099](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3647099). On the spiral-of-silence theory, see: Elisabeth Noelle-Neumann, “The spiral of silence: A theory of public opinion,” *Journal of Communication*, 24.2 (1974): 43–51; J. Matthes, J. Knoll, & C. von Sikorski, “The ‘Spiral of Silence’ Revisited: A Meta-Analysis on the Relationship Between Perceptions of Opinion Support and Political Opinion Expression,” *Communication Research*, 45.1 (2018): 3-33.

**Recommendation 1: MIT should issue its own *Statement on Freedom of Expression and Academic Freedom*, to be considered and potentially adopted by the faculty in the fall term of 2022.** A statement of MIT principles drafted by the Working Group appears on p. 1 of this report.

**Recommendation 2: Using the MIT *Statement on Freedom of Expression and Academic Freedom* as a basis, MIT should strengthen the commitment to freedom of expression and academic freedom in the MIT *Policies and Procedures* document and in the *Mind & Hand Book*.** As one specific example, the Working Group recommends avoiding use of the terms “offense” and “offensive” in the passage from MIT’s *Mind & Hand Book* section II [9], quoted above. It is difficult to adjudicate a line between one person’s offense and another person’s provocation, let alone the line between “reasonable” and “unreasonable” offense. Moreover, to characterize speech as “offensive” is often to underestimate or trivialize the very real harms that speech can inflict. We suggest replacing the term “offense” with “conduct” and the terms “offending” and “offensive” with “harmful.” Applying this to the first sentence of the relevant *Mind & Hand* section, for example, would read: “Freedom of expression is essential to the mission of a university. So is freedom from unreasonable and disruptive conduct.”

How can we give such statements prominence in our policies and the life of the Institute?

**Recommendation 3: All Institute faculty, especially those in leadership roles, should affirm and celebrate the Institute’s commitment to freedom of expression and academic freedom and seek to incorporate supportive efforts throughout the life of the Institute.**

Such measures could include:

- A. Adapt the Keyser Random Faculty Dinners to serve as informal occasions for faculty to gather and practice the art of discussing hard issues in a collegial manner.
- B. Invite the MIT Libraries and/or the Chancellor’s Office to organize a Friday lunch series similar in spirit to suggestion A but for undergraduates (possibly also for graduate students and postdocs) to be convened in the new Nexus space of Hayden Library.
- C. For the next few years, on a trial basis, dedicate MIT’s observation of Constitution Day each September 17 (or thereabouts) to exploring and/or celebrating an issue/case/controversy/historical episode related to free expression and the First Amendment, including episodes from MIT’s own history.
- D. Create a teaching award to be given each year to an instructor whose teaching, in the view of their students, best embodies the values and principles enunciated in the MIT Statement on Freedom of Expression.
- E. Invite the Center for Teaching and Learning to formalize and extend the October 26, 2020 workshop it held on “Teaching in a Tense Political Climate” by holding periodic seminars/workshops on how to make the classroom a space in which we enable robust freedom of expression and debate.
- F. Similar to departmental statements concerning our commitment to anti-racism and affirming diversity, encourage departments to post statements in support of freedom

of expression and academic freedom. Furthermore, encourage DLCs to hold workshops or discussion fora around important free speech issues that affect them.

**Recommendation 4: MIT should create an FAQ webpage that succinctly addresses common questions about freedom of expression and academic freedom and refers readers to relevant MIT policies and offices.** Such a webpage should be the responsibility of the president's, provost's, and chancellor's offices and could reinforce and clarify policies concerning different constituencies (faculty, student, staff, etc.) as well as practical questions involving such issues as dress codes, posting, demonstrations, conversations on MIT email lists, and social media.

What are processes for negotiating disagreements and making decisions on these and related issues so that we can accept the outcome even when we disagree with the decision?

**Recommendation 5: The chair of the MIT faculty should explore how to develop a faculty-governed resource for the MIT community when contested matters of speech arise.**

The Working Group believes it would be useful to make available to the community a freedom of expression resource that MIT community members could consult at times of need. A department head, for example, might reach out to this resource when they are uncertain about how to handle a contentious arrangement within their unit involving an invited speaker. The chair of the faculty might initiate a pilot by asking an existing standing committee or office (such as Student Life) to serve as a resource. Alternatively, the chair might appoint an ad hoc group to assume this role. Such a committee or office would have no adjudicatory responsibilities—it would be a resource, not a court of appeal. In addition, this committee or office might serve as a repository of relevant information, develop additional educational scenarios to complement those we offer below, and monitor the climate of freedom of expression on campus.<sup>37</sup>

**Recommendation 6: Rescinding an invitation to deliver protected speech, as defined and explained in this report, conflicts with freedom of expression.** In situations when it becomes absolutely necessary to reconsider a campus event for reasons unrelated to the speaker's viewpoint, responsible parties should pursue content-neutral time, place, or manner changes before contemplating cancellation.

**Recommendation 7: We recommend that the faculty explore ways of infusing into the curriculum in all departments and for all students opportunities to advance expression (i.e., present and defend ideas, active listening, etc.).** We must recognize that learning to engage in dialogue concerning controversial matters is a developmental skill that can be taught, improved, and encouraged. We should not assume that all students arrive on campus equally prepared to

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<sup>37</sup> The Working Group acknowledges that MIT historically has had an informal Protests and Demonstrations Working Group to support the MIT community when certain issues of free expression arise, especially situations involving protests and controversial speakers that give rise to the possibility of conflict. At the moment, that group includes one faculty member and representatives from the chancellor's office, DSL, the MIT Police, Institute Events, and the General Counsel's office. Other stakeholders participate as necessary. As the membership of this group suggests, it seems to be oriented primarily towards conflict avoidance and risk management rather than providing resources to inform decision making.

engage in productive dialogue about controversial issues.<sup>38</sup> It is certainly part of MIT’s mission to prepare our students to develop such skills. To advance this goal, the Subcommittee on the Communication Requirement could be asked to identify and encourage pedagogical practices that enhance student skills involving the exchange of challenging ideas.

**Recommendation 8:** We recognize that students, faculty, and other members of the community may be harmed by speech or by responses to their own speech via social media or otherwise. **We recommend that relevant Institute personnel actively convey and reinforce information about community values, existing laws, and Institute policies related to harassment and discrimination. We further recommend that the Institute continue to offer community members support in dealing with such harm.** To this end, the Working Group commends the recent decision of MIT’s Division of Student Life to implement the principles and practices of the Sustained Dialogue Institute, which promotes dialogue as a tool for mutual understanding and conflict resolution.<sup>39</sup>

**Recommendation 9:** Because the technological landscape is continually changing with a concomitant proliferation of digital platforms on campus, we recommend periodic review of relevant Institute policies to ensure consistency with the MIT Statement on Freedom of Expression.

**Recommendation 10:** We recommend that campus leaders undertake a promotional and educational program to advance free expression. The message should place a high value on the importance of free expression, specifically including the discussion of diverse points of view and the importance of voice as a component of education. The promotional initiative should present free expression as an important campus value. Expression should be promoted and advanced and not be viewed as a potential irritation or distraction. Various parties should be supported in advancing dialogue on critical and controversial issues.

## Scenarios

As part of our charge to develop strategies for giving free expression greater “prominence ... in the life of the Institute,” we offer twelve scenarios that illustrate potential controversies and principles involving free expression at MIT. The members of the Working Group are also in broad agreement that the case studies in the PEN America “Campus Free Speech Guide”<sup>40</sup> provide sound guidance, and we recommend those case studies to anyone interested in additional examples of how we see our principles fitting into an educational as opposed to an administrative program.

The phenomenon of the canceled lecture or the speaker who is shouted down by others plays a politically cathected role in American public culture at the moment. It conjures up warring sides and organizes our allegiances into symbolic parties arranged on either end of the free-speech debate. Such labels and phenomena describe only a narrow subset of what actually goes on under the rubric of speech and self-expression at MIT. The scenarios we have developed should give

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<sup>38</sup> See Elizabeth Niehaus, cited above.

<sup>39</sup> See [sustaineddialogue.org](http://sustaineddialogue.org).

<sup>40</sup> See <https://campusfreespeechguide.pen.org/>.

some sense of the diverse configurations that the abstract issue of free expression can assume. We urge the reader not to isolate one of these configurations as more urgent than the others or to view the many postures of free speech as disconnected. Free expression pervades almost every aspect of teaching, research, and administration at the Institute, implicating everything from fundraising to the classroom curriculum.

While we have designed our scenarios to be realistic, none of them holds up a precise mirror to any actual MIT case or controversy, past or present. If these scenarios illustrate any one principle, it is that where controversies over free expression are concerned, context always matters.

Our goal has been to identify the issues at stake rather than to suggest fixed rules for decision-making. We specifically designed some of the scenarios to help inform the work of faculty members serving in an administrative capacity as DLC leaders. We hope that the scenarios will be useful to MIT community members regardless of their roles at the Institute. No scenario should be applied in a hard and fast manner to any real-world situation that may arise at the Institute. Our intention is that these scenarios will serve an educational rather than a mechanical, administrative, or disciplinary purpose.

In that spirit, following each scenario, readers will find one or two perspectives that provide guidance for thinking about the fact pattern in question. In some cases, Working Group members were unable to agree on how best to analyze the issues raised by the scenario. In other cases, one or more members wished to highlight additional issues not raised by a perspective. We have, therefore, included multiple perspectives for many of the scenarios. Where only one perspective appears, Working Group members were in broad agreement that the commentary provides a valid, though not necessarily definitive, approach to the issue(s) at hand. In short, these perspectives reflect the discussions of the working group and are not meant to exclude a range of other perspectives or outcomes.

We have classified each scenario with reference to the below list of issues, some of which are intertwined:

1. Invited Speakers
2. Conflict over Student Speech
3. Political Bias, Academic Freedom, and Curricular Decisions
4. Fostering Open Discussion of Difficult Issues
5. Academic Freedom and Diverse Political Viewpoints
6. Pedagogical Strategies for Teaching Sensitive Matter
7. Speech related to Civil Disobedience
8. Speech by MIT staff
9. Student and Faculty Protest
10. The Institute's Role in Political and Social Action
11. Personal Beliefs and Course Content
12. Time, Place, and Manner Changes



## 1. Invited Speakers

The Legal Studies program at a U.S. university is organizing a panel to introduce students to the legal profession and the process for applying to law school. Legal Studies decides to invite a well-known and controversial criminal defense lawyer to participate in the panel on the grounds that his willingness to represent controversial, even morally offensive clients—as well as challenge legal orthodoxies—represents an important ideal in the practice of the law. The lawyer makes a point of defending the most unpopular defendants in the land, including persons convicted of sexual assault. The program argues further that the lawyer’s participation represents an important principle of free expression.

Shortly before the Legal Studies Program announces its invitation, this same defense lawyer is retained by a former professor of the university who was recently convicted in state court for the sexual assault of his department’s administrative assistant. The appalling offense has traumatized many women at the university. Although the professor was dismissed from the faculty upon conviction, he is appealing his conviction. The atmosphere surrounding the invitation is heightened by the lawyer’s latest book *Should Rape be a Crime?* In it, the lawyer advances a skeptical reading of the common law of rape informed by critical legal studies.

In response to the invitation, a group of undergraduate women petitions the university’s president to ban the lawyer from the campus and prohibit his participation in the Legal Studies panel. The group asserts that his presence will trigger traumatic reminders of the felony assault of the administrative assistant. The students’ petition is accompanied by a notarized statement from a mental health clinician at the local health alliance attesting that concerns about the impact of the lawyer’s participation on students’ mental health are medically and scientifically sound. After weighing the competing interests, the president informs the lawyer that he will not be allowed to set foot on the university’s campus.

### *Perspective #1*

This scenario represents a situation where the exercise of free speech could create psychological consequences for a subset of students. The lawyer’s representation of potential criminals, even in heinous cases, is legal and an important constitutional right. The lawyer appearing on the university campus and discussing this function of the law is an example of the Legal Studies Program sponsoring an event that respects the right to free speech. The university should not prohibit the lawyer’s participation.

At the same time, the university president must consider how this event may affect the mental health of students. Her actions could include holding a set of townhall meetings prior to the panel discussion to explain her decision to allow the lawyer to participate in the panel—especially to students, staff, and faculty who are affected by the lawyer’s appearance. She should point out the legality and importance of the work the lawyer does for ensuring a fair legal process and stress that the lawyer does not present any physical harm to anyone on campus. The president should clarify that the panel discussion will be by invitation only, and that the entrance to the venue will be monitored so that students are not able to attend the discussion without having been properly informed about its nature and the participants.

### *Perspective #2*

Although the invited speaker in this scenario is not himself a criminal defendant or convict, we think it is useful to ask how the analysis would differ if he were. Clearly, the lawyer's client (the former professor) would not be welcome to return to campus, whether to speak or for any other purpose. Should the university consider instituting a generally applied neutral rule that persons convicted of a crime should not be allowed to speak at the university? Such a rule would be problematic. Consider the possibility that a scholar pursuing research on criminal justice reform at the university wants to host a conference on this topic. Hearing from someone who has spent time in the prison system might well provide a valuable perspective for students and faculty to hear in this context. If the rule suggested above were in place, such a person could not be invited.

## **2. Conflict over Student Speech**

At a renowned private U.S. university, first-year residence halls use the Slack app as the primary means of hall-wide communications. A male resident of Russian origin posts on a residence-hall Slack channel some messages related to an ongoing Russian invasion of Ukraine. He believes that the residence-hall community, which has a significant number of students of Ukrainian origin, is biased against people of Russian background. He believes this group of people has failed to understand what he regards as Russia's legitimate grievances against the government of Ukraine. His first message reads: "Glory to Russia." His second post reads: "Ukraine is a fake nation that has no right to exist." His third post reads: "President Putin is a hero who will go down in history as the man who saved the world from the Ukrainian neo-Nazi scourge. May his special military operation against the people and government of Ukraine continue until the people of Ukraine have been brought to their knees!"

A female resident of the house, who is of Ukrainian origin, reads these posts on Slack and approaches the head of house with a demand that the student responsible for the posts be banned from the house Slack channel on the grounds that his posts constitute hate speech and advocacy of genocide. Called to a meeting with the head of house, the first student defends his posts on the grounds of free expression and insists that any effort to sanction him would amount to discrimination against people of Russian background. He threatens that if school officials take any official action against him, he will bring a case of race-based discrimination against the head of house.

### *Perspective #1*

The heart of this scenario is the student of Ukrainian origin's demand that the pro-Russian student be banned from the residence-hall Slack channel, asserting that the posted speech amounts to hate speech against Ukrainians. The posted comments certainly are steeped in Russian state propaganda that many people and governments view as deplorable. It is not difficult to understand how a person of Ukrainian origin could find that the posts cross a line separating provocative political speech from outright support of crimes against humanity—especially in the context of an ongoing conflict. The question is what sort of collective response is appropriate.

As we consider this scenario in the MIT context, we recommend [a passage from the \*Mind & Hand Book\*](#) as relevant and useful: "Freedom of expression is essential to the mission of a

university. So is freedom from unreasonable and disruptive offense. Members of this educational community are encouraged to avoid putting these essential elements of our university to a balancing test.” Calling for the student responsible for the posts to be banned from the house Slack channel requires the head of house to undertake just such a balancing test. Banning the student would deprive the living community of the opportunity to counter the posted propaganda with reasoned arguments demonstrating the extent to which his comments are misinformed. We recommend that the head of house explain these principles to the student who made the complaint, express understanding of her perspective, and invite and encourage her to make clear her objections on the Slack channel—including, if she chooses, her position that the posts amount to hate speech. In this situation, she is a protester, and her protest should be given as wide a scope as possible. It also would be entirely within the head of house’s prerogative to express personal opposition to the postings on the Slack channel. Doing so would not amount to taking sides in a political battle among students.

### *Perspective #2*

Unmoderated mailing lists/message boards/fora, especially those that allow for anonymous postings, run a risk of turning into soap boxes for people with strong opinions in ways that detract from the original purpose of such digital venues. It is highly advisable that such fora have clear and explicit purposes that allow moderators to shut down discussions that deviate from those purposes in a viewpoint-neutral way. In this scenario, we can acknowledge much value in students learning the pro-Russian arguments for the Ukraine invasion—and in practicing how to refute them. A Slack channel generally used to coordinate the use of shared spaces in a dorm may not be the most productive place to have such a discussion. Time, place, and manner restrictions have a long tradition in First Amendment case law, and this scenario illustrates an application of that tradition.

## **3. Political Bias, Academic Freedom, and Curricular Decisions**

A professor with a joint appointment in management and engineering is a well-known advocate of socially responsible investing (SRI). She appears frequently on TV to argue for divestment from fossil fuels. She believes that her university should divest from fossil fuels and that the university’s environment is openly hostile to those who share her social and political concerns. One day, she calls the dean of the management school and shares with him her perceived all-too-frequent experience of marginalization, microaggressions, and worse. People who advocate openly and emphatically for the university to divest from fossil fuels, she explains, are shunned and stigmatized as socialists. The dean responds dismissively that nothing prevents her from freely speaking her mind. “The way to defeat speech is with more speech.” he tells her. “You are simply imagining the negative consequences for speaking out.”

Two months later, the management school faculty meets to finalize its plans for a new online master’s degree program on investment strategy. The school’s curriculum committee responsible for crafting the proposal has decided that sound pedagogical principles support the inclusion of the professor’s course Socially Responsible Investing as one of the required courses for the new program. At the faculty meeting, the dean announces his intention to modify the program by excluding this course from the prescribed curriculum. “I have nothing against SRI,” he explains, “but we’ve received feedback from prospective students indicating that nobody will apply to a

program that includes a required course on SRI. Sorry, it's out of my hands.” The dean suggests that the committee instead include a different professor's advanced seminar Bitcoin and Blockchain as an alternative to the SRI offering. The SRI professor protests to the university provost, claiming that the dean has violated her academic freedom in excising her course from the new master's program.

#### *Perspective #1*

The dean acted irresponsibly in dismissing as unimportant and imagined the professor's concerns about the marginalization of her views. This likely had the effect of reinforcing the professor's belief that her views on the subject matter taught in her school are not taken seriously or considered fairly. At the very least, the dean could have listened more carefully to the professor's concerns and discussed how these concerns might be addressed within the school, perhaps through consultation with other faculty.

The question of whether to include the SRI course in the new master's degree program is a separate issue. Standard procedure would be for the curriculum committee and the dean to determine the program's subject content, so we think it is debatable whether a decision to exclude the SRI course represents a violation of the professor's academic freedom. Presumably, she could still teach the course as an elective subject in the new program, and she would be free to teach whatever content she believes to be appropriate to the subject. Nevertheless, the dean's rationale in excluding it as a required subject—that doing so would cause a lack of student interest in the program—appears arbitrary. The decision deserves more discussion with the curriculum committee (which voted to include the SRI course as a required subject) to arrive at a more thoughtful decision on the course's place in the new program. In this scenario, the dean didn't follow his own advice that more speech is often the best approach to resolving a disagreement.

At many universities, the higher administration could play a role by directing all parties in the scenario to have an open discussion about possible inclusion of the SRI course in the new master's program. This would ensure that the decision-making process follows the school's policy regarding curricular decisions. Such discussions would have the added benefit of providing the SRI professor with some assurance that her views were being heard and fairly considered.

#### *Perspective #2*

To put this scenario into the context of MIT, we recommend [Section 9.2 of MIT's Policies and Procedures](#), which would require the dean to “conduct [himself] with professionalism, personal integrity, and respect for the rights, differences, and dignity of others.” We note that while the dean may insist that protecting academic freedom does not require his school to lose business, MIT should not allow the educational marketplace to have a veto over what our faculty teach, write, and say. If this scenario were to occur at MIT, we would urge the professor's colleagues to join forces and support her. Failing that, the provost should become involved.

#### 4. Fostering Open Discussion of Difficult Issues

The newly-appointed head of the Department of Food Engineering decides that more effort is needed to increase diversity in his department. With the support of the chair of the visiting committee and several community members in the department, he proposes a new staff title of “Assistant Department Head” to oversee diversity, equity, and inclusion (DEI) efforts. His plan is to hire one assistant department head each for the faculty, graduate students, and staff. These new staff-level employees would oversee DEI activities in their respective groups, and they would sit on the respective admissions/hiring committees in the department.

The department head wants to get the support of his full faculty before asking the dean for permission to make these three hires. Knowing that he may get faculty push-back, he first discusses the plan with his department council. The council comprises nine faculty members, two chosen by each of the department’s three divisions and three chosen by the department head. For his three choices, the head has picked three like-minded, well-spoken friends to serve on the council. He is aware that two of the nine council members probably would have reservations about the plan, but he wants unanimous council support to gain the support of his faculty.

When the department head presents his plan to the council, he engineers the meeting so that only his like-minded friends are called on to speak. All three support his plan, and the department head concludes the meeting without further discussion or objection. At the faculty meeting the following day, the head reports that the department council has discussed the plan at length and has unanimously endorsed it. The faculty meeting proceeded similarly, with the head’s friends doing most of the talking. Many of the faculty present at that meeting felt privately that the conversation had been one-sided.

Months later, the three new assistant department heads are in place. They complain, however, that many of the faculty don’t seem to be enthusiastic about their efforts.

##### *Perspective*

This scenario raises several issues:

- The responsibility of a DLC leader in determining a group’s decision processes: Many people feel uncomfortable to varying degrees with speaking out in group discussions, thus depriving the group of their input. This discomfort is magnified when the individual disagrees with the prevailing or majority view or the view of the group’s leader. Yet, it is precisely this dissenting perspective that may be most valuable to hear. For a healthy discussion to occur, it is essential that DLC leaders enable all participants to share their input and avoid self-censorship. In this case, the department head sought to suppress any views among his faculty that he feared might be contrary to his intended plan.

Leaders should encourage the members of their group to express minority viewpoints as well as viewpoints that contradict their own. At MIT, leaders in this category include: class instructors; department heads; administrative officers in faculty and staff meetings; deans in school councils; presidents and provosts in Academic Council and school-wide

faculty meetings; and other administrative leaders such as vice presidents and the executive vice president and treasurer. In some cases, leaders might consider allowing group members to express their opinions anonymously on issues that may be sensitive or contentious.

- The relationship of DEI to free expression at MIT: In the various fora, many MIT community members have provided input to our Working Group that they feel constrained from openly discussing DEI issues. We hope this scenario will advance the discussion about how we can achieve greater openness while making further progress on DEI.

## **5. Academic Freedom and Diverse Political Viewpoints**

A university political science department decides to host a series of endowed lectures on the upcoming presidential election. The head of the department is a staunch progressive and supporter of the Democratic candidate in the upcoming election. She decides, consistent with her authority as department head and with the support of her departmental colleagues, to reserve all ten slots in the series to sworn enemies of the Republican Party. A group of conservative political science graduate students learns of the proposed list of speakers. They approach the university president to convey their belief that the series, as structured, risks damaging the school's reputation as a preeminent institution of higher learning open to a diverse range of political viewpoints. The president responds by directing the department head to respect the principle of ideological balance by inviting exactly five speakers who represent the viewpoint of the Republican Party and five speakers who represent the viewpoints of the Democratic Party. The department head resigns from the university on the grounds that her academic freedom has been violated.

### *Perspective #1*

This scenario highlights a situation where the university administration appears to interfere with the academic freedom of a department by imposing a directive on a departmental program. The situation is precipitated by the department head's choice to invite an ideologically narrow set of speakers to campus. The guiding principle here should be that the administration not interfere with the freedom of the department to invite whomever it wants to lecture in the department. The choice of an apparently narrow set of speakers could be driven by different pedagogical objectives. The imposition by the president of a strict quota of speakers who represent the two major political parties is a violation of the department's academic freedom and thus inappropriate.

We also think it is important to consider whether it is in the university's best interest to limit the exposure of students and other audiences to a very narrow and potentially biased set of views in the lecture series. Instead of insisting on a specific profile of speakers, the president could have emphasized the value of increasing the diversity of views at such an event. Alternatively, the president could offer support for a separate lecture series on a similar topic organized by the group of concerned graduate students. In any case, the preference should be to encourage diverse views at such events as a speaker series. The president, in the alternative, could support dissenting groups with funds to invite an additional set of speakers.

### *Perspective #2*

If the political science head were a political running mate or direct advisor to the candidate, this scenario would be different. In that case, the head stands to gain personally from promoting the candidate and is using the campus to improve the candidate's chances for election. This would be a case of personal conflict of interest that would require the department head to recuse herself from the invitation committee and ask disinterested faculty in her department to determine the list of speakers.

More broadly, this situation exposes possible shortcomings in how the leaders are making departmental decisions. This scenario may indicate that a biased set of viewpoints has undue influence over the expression of ideas. Given that subjectivity is always a factor in making such choices, a collegial discussion among department colleagues is always desirable. The speaker list may be an indication that a small group with strong views has taken over the resources of the department and is not allowing dissenting voices even in the faculty.

## **6. Pedagogical Strategies for Teaching Sensitive Matter**

An untenured literature professor regularly teaches a course titled "Revolutionary Drama." The required readings for the course include the 1963 play *The Tragedy of King Christophe* by Aimé Césaire. The story is set during the early nineteenth-century aftermath of Haiti's war for independence. The professor decides that he would like his class to enact the play and assigns each of the students a role to play. The class uses the Northwestern University Press edition (2015), which translates Césaire's use of the French word "nègre"—traditionally used to mean a Black person as well as to denote a slave—with the N-word. An African-American woman in the class has been assigned the role of Hugonin. In one of the play's final scenes, the character Hugonin intones:

Attention, all of you! While soldiers hang some tuft of foliage on their shakos; while barons and dukes switch sides for their own advantage; while amid the ruins of their dances and the debris of their orchestras, the dancing master, embodying an outraged civilization, proclaims to all the winds of history that there's nothing to be done with these n\*\*\*\*\*s.

The student is offended by the translator's use of the notorious "N-word." She approaches her professor and asks if it would be okay for her to replace the offensive word in her enactment of the text with the word "Africans." The professor responds that college is an opportunity to challenge and stretch the mind, and that the purpose of the assignment is to live out this challenge by embodying the mindset and language of another character. The professor goes on to explain that his job is not to shield students from the harsh realities of the modern world, and that safe spaces are for people who lack intellectual and political courage. He asks the student again to please read the text as it appears in the book. When the time comes to enact the play, however, the student declines to use the N-word and substitutes the word "African."

The student receives a B+ grade for the play-enactment assignment. The professor annotates the grade: "You would have received an A if you had followed instructions about the use of the term

n\*\*\*\*r.” Incensed, the student appeals her grade to the chair of the literature section, arguing that the professor is effectively seeking to coerce her speech in violation of free expression principles.

### *Perspective*

This scenario highlights the question of whether students in a classroom should be forced to use expressions that they find personally uncomfortable or psychologically harmful. We note that the reading of the N-word, especially if it is in the context of a pedagogical objective, is protected under free speech, and thus cannot be prohibited in class. To further the pedagogical objectives, however, the instructor could discuss with the class in advance his reasons for having the offensive term read aloud.

Of equal importance in this scenario is the fact that the student did not ask for the text not to be read. She simply asserted that she was uncomfortable pronouncing the word herself. The question is whether for pedagogical purposes the professor has the right to force the student to read out the N-word. The professor could have reassigned the reading of this passage to a different student—or he could have read it himself—if he felt that it was pedagogically important for the class to hear the N-word read in class. Unfortunately, the professor did not make any accommodations for a student who expressed personal discomfort with reading the text. The professor had several tools at his disposal to achieve the same educational goals without hurting or coercing a particular student.

At MIT, we typically would err on the side of allowing teachers to set the teaching methods and educational goals for their own classes. In this circumstance, however, it was not important that this particular student read the passage including the N-word. The grade change also is inappropriate. It is unclear why not pronouncing the N-word in a class play is a detriment to the overall class performance. If the student had refused to work on the class assignments or not answered exam questions that involved the text with the N-word, this might justify a lower grade. But the change in the one word should not prompt the professor to set her grade from an A to a B+. That decision seems punitive and an abuse of the professor’s power.

## **7. Speech Related to Civil Disobedience**

The U.S. Supreme Court has just issued a decision that the diversity, equity, and inclusion (DEI) initiatives common among many public universities across the nation are unconstitutional. The ruling identifies such initiatives as a form of reverse discrimination based on race in violation of the equal protection clause of the 14<sup>th</sup> Amendment to the U.S. Constitution. In response to the court’s decision, the university’s board of trustees directs the president to begin dismantling the school’s DEI infrastructure and policies. Prescribed steps include abolishing the Community and Equity Office and dismissing the various DEI officers employed by the school’s academic units, research centers, and laboratories.

A tenured professor currently serving as the head of her department believes that DEI programs are necessary to the school’s success as an institution. She submits an essay to the university’s faculty newsletter arguing that the Supreme Court decision is wrong as a matter of constitutional law and is also immoral. The essay argues that the school should refuse to abide by the court’s



ruling. The newsletter’s editorial board rejects the submission on the grounds that articles encouraging the school to violate federal law should not be published in an official publication.

*Perspective*

If this situation arose at MIT, our stated values would be in conflict with U.S. law. The decision of the newsletter’s editorial board to reject a professor’s dissenting opinion piece violates the basic principles of freedom of expression and academic freedom as understood at the Institute. If the editorial board is guided and bound by the MIT Statement on Freedom of Expression and Academic Freedom, it would immediately reverse its decision and publish the article. If the delayed publication diminished or affected the potential impact of the article, the editorial board should attempt to alleviate the damage.

## **8. Speech by MIT Staff**

After a period of declining infection rates and loosened restrictions related to COVID-19, a new variant in the region of a world-renowned American university is causing a surge in cases. The university and surrounding communities have reinstated restrictive protocols, including the requirement to wear a mask indoors. In the school’s admissions office, a key staff member is happy to comply with the mask mandate and decides to use his mask as a platform for criticizing the former U.S. president (who was in office when the global pandemic first appeared in the country). The mask displays the name of the former president preceded by an obscenity.

The staff member is the first representative prospective applicants meet when they walk into the admissions office. His job is to greet those visitors and explain the university’s admissions process. When a visiting student and her family enter the admissions office and see the staff member’s explicit mask, they immediately turn around and leave the office and the university. The student and her family are supporters of the former president, and they send a written complaint to the university president. In their letter, they state their refusal to even consider applying for admission unless and until the staff member is forced to replace his face mask with something they find inoffensive. After receiving a steady stream of similar letters and emails during the ensuing weeks, the university president instructs the admissions director to require the staff member to replace his mask with a non-controversial option or have his employment terminated. The staff member immediately responds with a preemptive complaint to the university ombudsperson alleging that his threatened termination would violate the school’s principles of free expression.

*Perspective #1:*

Although staff members are not protected by academic freedom, they do have free speech rights on the MIT campus. They are essential members of the MIT community who enable our community of scholars and students to function. When a staff member engages in speech that interferes with a key function of the Institute, however, that speech can be regulated consistent with the type of “time, place, and manner” restrictions that the U.S. Supreme Court has upheld where public fora such as courtrooms are concerned.<sup>41</sup> The admissions office is one of MIT’s

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<sup>41</sup> For further discussion of this doctrine, see the section of the above report on “Freedom of Expression and Academic Freedom: Legal Background.”

most public fora, and people whose jobs require them to represent MIT to the world can reasonably be asked to curtail their speech so as not to present MIT in light of a partisan political message to prospective applicants and their families. Threatening the staff member with termination following the first infraction, however, seems unnecessary. The admissions director could first explore whether there is a less public space in the Admissions Office where the staff member can work before moving on to other steps in accordance with MIT's employment policies.

*Perspective #2:*

This scenario raises the issue of whether the analysis would be different in the case of a faculty member wearing the same mask in a classroom (whether physical or virtual). While MIT faculty are also employees of the Institute, some of their expression is protected by the conventions of academic freedom: namely, intramural and extramural expression (as defined earlier in this report). Academic freedom protects faculty expression only to the extent that such expression is related to and grounded in their scholarly expertise. In this case, it is hard to see how wearing such a mask could be considered relevant expertise in any particular subject matter, with the possible exception of a course focused narrowly on partisan presidential politics. Even in that case, however, the faculty member has a duty to follow sound pedagogical principles and to serve students' learning needs. When faculty members' political expression unrelated to scholarly expertise interferes unduly with those learning needs, they can be asked (by a department head, ideally) to find other outlets for that expression. There are no hard and fast rules for defining undue interference in this context. Every situation exists on a continuum. Sidetracking a technical course on particle physics for two weeks to pontificate continuously about the outcome of the presidential election is not protected by academic freedom. Occasional political expression, however, about the role of physicists in the military-industrial complex would be. It all depends on context.

At the same time, we must remember that faculty members, like staff, also are protected by generally applicable principles of freedom of expression in their capacities as non-expert citizens—as distinct from the canons of academic freedom that protect intramural and extramural expression grounded in expertise.<sup>42</sup> For that reason, it would be unreasonable to discipline any employee—whether faculty or staff—for a first offense of this kind. To terminate a professor for such conduct is inconsistent with free expression.

## **9. Student and Faculty Protest**

A former high-ranking government official who served as a presidential advisor on international affairs has been invited to deliver a university commencement address. The official served during a period of U.S. involvement in controversial overseas military operations. The university president is a close friend of the former official and admires him for what she regards as his distinguished contributions to diplomatic history, American national security, and world peace.

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<sup>42</sup> Here we follow the analysis of the legal historian David Rabban, who is writing a study of the history of academic freedom. See Keith Whittington's interview with Rabban in "Protecting Controversial Speech On and Off Campus," *The Academic Freedom Podcast* (April 18, 2022), at <https://www.podbean.com/ew/pb-syptu-12020cf>.

The chair of the university's faculty has a different opinion of the official. He organizes a campaign of faculty and students to protest the invitation on the grounds that the former official bears criminal responsibility for his role in designing military operations and other aspects of foreign policy that the chair views as exceedingly unethical.

The faculty chair's plan calls for students and faculty to interrupt the commencement proceedings in two ways. While attendees are being seated, faculty members recruited by the chair will pass out flyers to everyone in the audience entitled "Secretary of Genocide" that list the allegedly offensive activities carried out under the auspices of the former official. When the featured speaker begins his address, an elite squad of electrical engineering students will cut the electrical cables running to the speaker's podium on the commencement stage.

Unbeknownst to the protestors, the university president has learned of the plans in advance of the ceremony. She directs the university's chief of police to carefully monitor the area around the commencement stage as well as the aisles between the rows of attendees' seats before and during the ceremony. Her goal is to prevent both planned forms of protest.

On commencement morning, a university police officer observes an undergraduate approaching one of the cables leading to the commencement stage with a pair of pruning shears. The student ignores the officer's warning to back away from the cable, and the officer physically restrains the student from cutting the cable. The chief of campus police, meanwhile, instructs her officers to do nothing about the faculty handing out flyers, and the commencement ceremony concludes without further incident. After the ceremony, the president calls for a formal censure of the chair of the faculty for his role in the events of commencement day. The undergraduate is brought before the university's disciplinary committee.

### *Perspective*

Inviting the former government official to give a commencement address may have been ill-advised owing to its potential divisiveness. However, once an invitation is made, the university should make every reasonable effort to allow that speaker to deliver their message without obstruction. The university should make efforts to prepare in advance for managing reactions to a potentially contentious speaker on campus. This could include giving those who object to the speaker an opportunity to express their opposition in the campus newspaper or through other venues—including at the commencement event itself in a non-disruptive manner. The goal should be to allow open dissent in ways that make disruptive or covert action at the time of an event unnecessary.

In this scenario, the student's attempt to cut the electrical cables at commencement does not match the definition of protected speech. We conclude that intervention by campus police and formal disciplinary action are justified. At the same time, the peaceful distribution of protest material by faculty members is protected, and allowing them to do so is appropriate.

## 10. The Institute’s Role in Political and Social Action

The U.S. House of Representatives has recently passed a bill known as [the CROWN Act](#), which bans race-based hair discrimination at work and in federal programs and public accommodations. The director of the Washington office of a high-profile private university—whose job is to advocate for federal policies that support the school’s mission—has reviewed the proposed legislation, and she is persuaded by the [NAACP’s argument in favor of the law](#): “Hair discrimination is rooted in systemic racism, and its purpose is to preserve white spaces. Policies that prohibit natural hairstyles, like afros, braids, bantu knots, and locs, have been used to justify the removal of Black children from classrooms and Black adults from their employment.”

The U.S. House vote followed party lines, and the bill appears to be headed towards a narrow defeat in the U.S. Senate. The university’s Black Students’ Union (BSU) and Black Graduate Student Association (BGSA) have jointly urged the school’s Washington director to lobby moderate senators from both political parties to support the bill. The BSU and BGSA argue that the university has an interest in the statute on two grounds. First, hair-based discrimination has played an insidious historical role in American education generally and the school—as one of the world’s leading centers of knowledge—has a responsibility to set the moral tone for American higher education. Second, the BSU and BGSA cite several instances where students at the university have themselves been slighted or insulted on campus because of their hairstyles, in most cases by other students but occasionally by professors and staff.

The school’s general counsel advises the Washington office director that taking a position on a specific piece of legislation such as this could undermine “the conditions for its existence and effectiveness.” The university defines itself as “the home and sponsor of critics; it is not itself the critic.” The school has “no mechanism by which it can reach a collective position without inhibiting the full freedom of dissent on which it thrives.”<sup>43</sup>

### *Perspective #1*

If the university is committed to maintaining its role as a neutral sponsor of political and other debate, it should abstain from taking partisan political positions. If this set of circumstances occurs at MIT, the administration should consider stating publicly that students, faculty, and staff on the MIT campus have the right to wear any hairstyles or adornment they like. The Institute could reinforce this commitment by featuring a wide range of hairstyles in recruiting and promotional material and encouraging student clubs to showcase a variety of hairstyles in activities and events.

### *Perspective #2*

The recommended action in this case hinges on the extent to which the university judges the intent of the legislation to be relevant to the values of free inquiry and the mission of the school. In this circumstance, the university may have the obligation and freedom to speak up. The NAACP and the student groups have identified a plausible nexus between the bill and the school’s mission of promoting an inclusive learning environment open to all based upon merit.

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<sup>43</sup> University of Chicago Kalven Committee, “Report on the University’s Role in Political and Social Action” (1967), [https://provost.uchicago.edu/sites/default/files/documents/reports/KalvenRprt\\_0.pdf](https://provost.uchicago.edu/sites/default/files/documents/reports/KalvenRprt_0.pdf).

This course of action is further recommended by the fact that hair discrimination is being reported on the university's campus.

## 11. Personal Beliefs and Course Content

A tenured professor of Aeronautics and Astronautics at a research-intensive university is teaching a first-year exploratory seminar for students wishing to learn more about aero-astro and climate studies at the school. The professor is a devout Roman Catholic and a parishioner at a local Catholic church. Midway through the semester, she decides that her students have had sufficient exposure to secular, rationalist interpretations of climate change. She wants to open up the conversation to theological and spiritual perspectives on global warming. She tells the students that in two weeks, on Earth Day, the class will connect to a Zoom webinar that her parish is organizing to discuss Catholic perspectives on climate change and ecological justice. The webinar is open to the general public, and it coincides with the time/day of the professor's class. She also assigns Pope Francis's encyclical on ecology, *Laudato Si*, as required reading for the next session of the seminar. The professor is aware that the students in her seminar affiliate with a variety of faith traditions and suspects that some have no affiliations. After the webinar, some class members use social media to criticize the session—and the professor—for forcing a specific religious faith on students.

### *Perspective #1*

Examining this scenario in the MIT context, the professor has the right to mention her religious beliefs, but she should not make her beliefs the reference framework for analyzing a scientific topic. Although a discussion about how religion has understood and conceptualized climate change can be a legitimate subject of academic discussion, teaching students the Catholic Church's view on climate change seems non-scientific in this instance. Doing so without providing references to other religious or philosophical views on the subject also seems too specific to her personal faith. This is of particular concern because the professor wants students to attend a webinar conducted by her church.

### *Perspective #2*

Teaching a non-scientific perspective about a scientific subject is not inherently wrong. On some topics, the Catholic Church's views are informed by scientific findings. Some Jesuits are themselves scientific and astronomical researchers in the conventional sense, in addition to being members of the Society of Jesus. In that respect, they are distinguishable from climate change denialists. The Catholic perspective does entail a particular theological/ethical framework, but an intellectual discussion of *Laudato Si* can draw out the limitations and possibilities of that perspective. We do not view the *Laudato Si* discussion to be out of bounds, even if that was the only religious, non-scientific perspective the professor offers her students.

## 12. Time, Place, and Manner Changes

The undergraduate chess club at a liberal arts college invites an internationally renowned chess grandmaster to play an exhibition match against the combined talent of the club's best players. The club secretary opposes the decision to invite the grandmaster because he consulted for a TV series that they believe conveys a misogynist image of women chess players. The secretary

begins to organize a group of students to protest the grandmaster’s appearance at the scene of the event by standing with their backs to the stage wearing pink t-shirts that read “Say No to Sexism, Chess is Groovy.”

The club president hears of the planned protest a few days before the exhibition and calls an emergency club meeting. At that meeting, the secretary proposes to move the location of the exhibition to a larger MIT auditorium to accommodate the anticipated increase in the size of the audience. Another club member, who dislikes the grandmaster and does not like the prospect of drawing attention to him, counters with a recommendation to move the exhibition to a small seminar room in order to minimize the audience for the grandmaster. The club president throws his support behind this second motion on the grounds that it will prevent the discomfort that the grandmaster (one of his heroes) would feel if he were to be exposed to a large protest.

### *Perspective*

The motion to change to a larger auditorium is an example of a time, place, or manner change that is consistent with and even encouraged by principles of free expression. Strictly speaking, the change is viewpoint- and content-neutral as to the grandmaster’s speech/performance because it relates to the need for a larger space rather than to the invited speech per se. The anticipated protest of the grandmaster’s presence—not the grandmaster himself—is what gives rise to the need for that larger space. But the move to a larger space is not required if the club concludes that it simply does not want to go to the trouble of changing the location. The motion to change to a small seminar room is clearly not viewpoint-neutral and is inconsistent with free expression because it specifically targets the speech that consists of the grandmaster’s presence on campus. The club president supports that motion for a different reason but his approach would conflict no less with free expression because it would inhibit peaceful protest, which is protected speech no less than the grandmaster’s participation in the chess match.

This scenario also demonstrates that expression can take many forms—not just verbal speech per se, but also artistic, musical, athletic, and other kinds of performances and appearances. That said, it remains important to distinguish between expression and conduct.

## **Conclusion and Acknowledgements**

We hope that this report provides practical and enduring guidance concerning freedom of expression for the MIT community based on fundamental principles that have guided the Institute and the nation. The principles embodied in our proposed statement and recommendations will require constant iteration, engagement, and trial and error on the part of everyone in the MIT community if we are to continue to make progress towards a better MIT.

We are most grateful to the individuals and groups throughout the MIT community—and especially our Partners, who represented the views of the various sectors, including students, staff, and alumni—for providing thoughtful input throughout our process. The concerns, insights,

and wisdom they provided gave us confidence that the Institute's commitment to free expression reflects an engaged community that cares deeply about this issue.<sup>44</sup>

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<sup>44</sup> We also wish to express thanks for the input of Dean Erwin Chemerinsky and Professors Aaron Caplan, Noah Feldman, Amna Khalid, Laura E. Little, Ken Mack, Robert C. Post, Christopher Schmidt, Nadine Strossen, Lawrence Tribe, and Rebecca Tushnet on specific aspects of the report.

## Appendix A Working Group Charge & Membership<sup>1</sup>

*At the direction of President Reif, Provost Martin A. Schmidt, Chancellor Melissa Nobles and Chair of the Faculty Lily L. Tsai launched the Ad Hoc Working Group on Free Expression with the following charge:*

MIT is a community of people from a remarkable range of backgrounds united in a mission of research, education, and innovation for the betterment of humankind. To advance that mission, we rely on a longstanding commitment to open inquiry and the free exchange of ideas, and we strive to be a community grounded in an expectation of mutual respect where talented people of every background can feel welcome and thrive.

Sometimes, however, members of our community do not agree on how these principles should be balanced or interpreted. The most recent example is the ongoing debate that followed a decision by MIT's Department of Earth, Atmospheric, and Planetary Sciences (EAPS) regarding an invited speaker for a public outreach event known as the Carlson Lecture. The subsequent controversy has brought to the surface a wide range of views within our community.

In response, we are charging the Ad Hoc Working Group on Free Expression to help chart a constructive path forward.

We charge the working group to:

- Review MIT's [current statement](#) on the free and open exchange of ideas and the equivalent section on free expression and responsibility in our [Mind & Hand Book](#) for students.
- Consider related scholarship, cases, and statements on these and related issues, particularly in the context of institutions of higher education. Examples include the [Chicago Principles](#), a "[Letter on Justice and Open Debate](#)" published in 2020 by a group of prominent writers in the magazine *Harper's*, and the PEN America [Campus Free Speech Guide](#).
- Review and reflect on the extensive input already gathered from faculty, alumni, staff, students, and Corporation members through incoming email, reports from student leaders, and organized forums for faculty, staff, and alumni.
- Coordinate and align its work with the Values Statement Committee and draw on relevant input the committee has received from the community over the past year.
- Address the following questions:
  1. Does MIT need to revise or update its statements regarding academic freedom, freedom of expression, and/or pluralism?
  2. How should we define these and other related fundamental principles?
  3. How can we give such statements prominence in our policies and the life of the Institute?

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<sup>1</sup> Available at <https://facultygovernance.mit.edu/committee/ad-hoc-working-group-free-expression>



4. What are processes for negotiating disagreements and making decisions on these and related issues so that we can accept the outcome even when we disagree with the decision?
  - Based on this research and review, recommend any changes needed to existing Institute statements or guidance
  - Suggest principles and processes for decision-making, particularly with respect to how and when issues should be brought to or decided by the central administration, and illustrate how these principles and processes might provide practical guidance in a range of possible scenarios

We ask that the working group present its preliminary findings to us by the end of the 2022 spring semester.

## **Ad Hoc Working Group on Free Expression**

### *Members*

Sallie “Penny” Chisholm, Institute Professor, Co-Chair  
 Phillip Clay PhD ’75, Professor Post-Tenure of Urban Studies and Planning, Co-Chair  
 Nicholas de Monchaux, Professor of Architecture; Head, Department of Architecture  
 Nicholas Fang, Professor of Mechanical Engineering  
 Malick Ghachem, Associate Professor of History  
 Stephen Graves, Abraham J. Siegel Professor of Management  
 Amy Keating, Professor of Biology  
 Katharina Ribbeck, Professor of Biological Engineering  
 Edward Schiappa, John E. Burchard Professor of Humanities  
 Antoinette Schoar, Stewart C. Myers-Horn Family Professor of Finance  
 Michael Sipser, Donner Professor of Mathematics  
 Armando Solar-Lezama, Professor of Electrical Engineering and Computer Science  
 Douglas Pfeiffer, Assistant Provost for Administration, Staff to the Working Group

### *Partners*

Stephen Baker ’84, MArch ’84, President-Elect, MIT Alumni Association  
 Robin Elices, Executive Director of the Office of the Executive Vice President and Treasurer  
 Abigail Lytton-Jean, Scientific Director, Nanotechnology Materials Lab, Koch Institute for Integrative Cancer Research  
 AJ Miller, Graduate Student, Department of Electrical Engineering and Computer Science; President, MIT Graduate Student Council  
 Nader Nikbakht, Postdoctoral Associate, McGovern Institute for Brain Research; President, MIT Postdoctoral Association  
 David Spicer ’23, Chair, Undergraduate Association Committee on Community and Diversity; Leader, Undergraduate Association Carlson Lecture Working Group  
 Andrea Walsh, Lecturer II, Comparative Media Studies/Writing  
 Annalisa Weigel ’94, ’95, SM ’00, PhD ’02, President, MIT Alumni Association; Member, MIT Corporation

## **Appendix B**

### **MIT Policies Relevant to Free Expression**

MIT's current statement (9.1) in the *Policies & Procedures* document is titled "Academic Freedom" but also speaks to freedom of expression:

In an academic community, the free and open exchange of ideas and viewpoints reflected in the concept of academic freedom may sometimes prove disturbing or offensive to some. The examination and challenging of assumptions, beliefs, or opinions is, however, intrinsic to the rigorous education that MIT strives to provide. The policies in Section 9.0, and in particular the personal conduct and harassment policies, are not intended to compromise the Institute's traditional commitment to academic freedom or to education that encourages students to challenge their own views of themselves and the world.

MIT's *Mind & Hand Book* (section II [9]) published by the Division of Student Life, contains a more detailed statement:

Freedom of expression is essential to the mission of a university. So is freedom from unreasonable and disruptive offense. Members of this educational community are encouraged to avoid putting these essential elements of our university to a balancing test.

People who are offended by matters of speech or expression should consider speaking up promptly and in a civil fashion and should be able to ask others to help them in a professional fashion to express concern. People who learn they have offended others by their manner of expression should consider immediately stopping the offense and apologizing.

With respect to materials posted on bulletin boards, it is not appropriate to remove or deface signed posters, even if some people find such material offensive. If you are offended by a poster signed by a person or group in the MIT community, it is appropriate to convey your sense of offense to those who created the poster. It is not appropriate to remove or deface the poster.

It is usually easier to deal with issues of free expression and harassment when members of the community think in terms of interests rather than rights. It may be "legal" to do many things that are not in one's interests or in the interests of members of a diverse community. Most people intuitively recognize that there may be some difference between their rights and their interests. For example, most people do not insist on offending others once they have learned that their behavior is offensive, even in circumstances where they may have, or think that they have, a legal right to do so. Thus, anyone dealing with harassment concerns may find it useful to think about the interests on all sides as well as the rights.

As noted in our report, these are the only MIT policy documents that explicitly address freedom of expression and academic freedom.

MIT *Policies and Procedures* section 9.4 forbids racist conduct:

As is stated in Sections 9.3 [Nondiscrimination] and 9.5 [Harassment], harassment or discrimination against individuals on the basis of race, whether intentional or not, is unacceptable at MIT. Racism and racist conduct may undermine a person's wellbeing and interfere with their work and academic progress or performance; such violations may also taint the work or educational climate for others and may undermine the Institute's ability to achieve its mission.

The Institute is committed to the elimination of racism and racist conduct. In any investigation of allegations of racist conduct, the Institute strives to protect the rights of all individuals involved and to safeguard the welfare of everyone in the MIT community.

Section 9.5 prohibits harassment. We quote the introductory portion of section 9.5:

In order to create a respectful, welcoming and productive community, the Institute is committed to providing a living, working, and learning environment that is free from harassment.

Harassment is defined as unwelcome conduct of a verbal, nonverbal, or physical nature that is sufficiently severe or pervasive to create a work or academic environment that a reasonable person would consider intimidating, hostile, or abusive and that adversely affects an individual's educational, work, or living environment.

In determining whether unwelcome conduct is harassing, the Institute will examine the totality of the circumstances surrounding the conduct, including its frequency, nature, and severity, the relationship between the parties, and the context in which the conduct occurred. Below is a partial list of examples of conduct that would likely be considered harassing, followed by a partial list of examples that would likely not constitute harassment:

- **Examples of possibly harassing conduct:** Public and personal tirades; deliberate and repeated humiliation; deliberate interference with the life or work of another person; the use of certain racial epithets; deliberate desecration of religious articles or places; repeated insults about loss of personal and professional competence based on age.
- **Examples of conduct that is likely not harassment:** Administrative actions like performance reviews (including negative performance reviews) and making work assignments; other work-related decisions like moving work areas or changing work colleagues; and isolated incidents (unless, as noted above, they are very severe, such as the use of certain racial epithets).

Information on different ways to raise concerns about harassment can be found on the Complaint Process and Resolution website.

Conduct that does not rise to the level of harassment may still violate Section 9.2 [Personal Conduct and Responsibilities Towards Students and Employees]. Even conduct that does not violate an MIT policy may be inappropriate and any inappropriate conduct should be addressed by the supervisor or department head.

While MIT's harassment policy is not limited to harassment based on the protected categories listed in Section 9.3 [Nondiscrimination], the Institute is particularly committed to eliminating harassment based on those categories. Harassment that is based on an individual's race, color, sex, sexual orientation, gender identity, pregnancy, religion, disability, age, genetic information, veteran status, or national or ethnic origin is not only a violation of MIT policy but may also violate federal and state law, including Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, and Mass. General Laws Chapter 151B.

Some policies in the student handbook regarding harassment (section II [12]) largely duplicate the language of the Policies and Procedures document. The Institute Discrimination and Harassment Response Office also offers the option of anonymous reporting (<https://idhr.mit.edu/submitincidentreport>). In addition to Institute policies, Massachusetts law criminalizes harassment, including online harassment and stalking.<sup>2</sup>

It is also important to recognize that MIT has policies in place designed to protect members of the MIT community against retaliation for expressing critical speech. An anonymous reporting hotline for “whistleblower or other complaints about suspected wrongdoing, violations of Institute policy, or troubling practices on campus” is available at [hotline.mit.edu](https://hotline.mit.edu). Such nonretaliation policies are noteworthy because they function to protect free expression.

Section 9.7 of the *Policies and Procedures* document reads as follows (similar wording is in the student handbook):

MIT prohibits any member of the community from retaliating against any person who, in good faith,:

- raises concerns about a possible violation of MIT policy or other wrongdoing; or
- participates in any Institute complaint resolution process.

This non-retaliation policy applies to those who report an incident, file a complaint, or otherwise raise a concern about a policy violation or other wrongdoing; these individuals are sometimes called whistleblowers. The non-retaliation policy also protects those who review or investigate a complaint or concern, serve as a witness or provide background about the complaint or concern, or who make decisions or recommendations about sanctions in any of the Institute's complaint resolution procedures.

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<sup>2</sup> Commonwealth of Massachusetts General Laws, Part IV, Title I, Chapter 265, Section 43A.

Retaliation is any adverse action, harassment, threats, or other conduct that would discourage a reasonable person from making a report or participating in a complaint review process.

MIT also has policies in place concerning the use of the Institute's campus-wide computer network. These are known as the "MITnet Rules of Use," and the posted policy includes this note: "Laws that apply in 'the real world' also apply in the 'virtual' networked computer world (including MITnet). Laws about libel, harassment, privacy, copyright, stealing, threats, etc. are not suspended for computer users, but apply to all members of society whatever medium they happen to be using: face-to-face, phone, or computer. Furthermore, law-enforcement officials are more computer-savvy than ever, and violations of the law in 'cyberspace' are vigorously prosecuted."<sup>3</sup>

We describe these various categories of regulated conduct because, in a sense, all communicative behavior can be described as a form of conduct—it is act-like and expresses ideas and sentiments. At the same time, we must recognize that robust freedom of expression requires us to exercise caution when applying such categories to conduct. Collectively, these policies articulate a rationale and defense for freedom of expression as well as limitations on speech-acts that constitute prohibited conduct.

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<sup>3</sup> MITnet Rules of Service. <https://ist.mit.edu/network/rules>

## **Appendix C**

### **Consultation/Input from the MIT Community**

As described in the main body of the report, the decisions related to the Carlson Lecture in fall 2021 elicited many reactions. Indeed, these decisions stimulated much discussion and debate among MIT communities about freedom of expression and academic freedom. These activities generated many inputs: summary notes from MIT faculty and staff discussion forums, survey results, newsletter articles, and targeted messages to the MIT administration and to the Working Group. The Working Group did its best to collect these inputs and review them as relevant to its charge. In addition, the Working Group actively solicited input from the Partners who represented various MIT communities.

The Working Group received comparatively limited input from MIT students. A key input from undergraduates is a report from the Undergraduate Association that summarized discussions amongst the undergraduates about the Carlson Lecture cancellation. The fourteen students in Professor Malick Ghachem’s seminar, 21H.181: Libertarianism in History, prepared their own reports in response to the Working Group’s charge for their final paper assignment. We provide a brief summary of those reports below.

The Working Group was contacted by and received information from the Coalition Against Apartheid, a group of Palestinian activists at MIT, who submitted a report on free-speech related incidents experienced by current and past Palestinian activist leaders on campus. We also received a summary report of anti-Israel or antisemitic incidents provided by MIT Hillel Rabbi Michelle Fisher. Both of these reports describe what students characterized as offensive and harmful speech incidents, as well as efforts to limit or constrain their speech rights. Both have been shared with the Division of Student Life, the Institute Community Equity Office, and the Institute Discrimination and Harassment Office.

We received little substantive input from graduate students (three email messages to the Working Group). However, graduate students were vocally active in their resistance to the invitation to Abbott in fall 2021. It also should be acknowledged that, during the fall, the main topic of concern for the graduate students was the ongoing unionization process.

Nevertheless, free speech on campus remains a hot topic for discussion and debate in many universities and colleges. The Knight Foundation Survey of college students in 2022 concludes that “most college students in America strongly value free speech and recognize its importance to democracy, even as high-profile incidents continue to fuel debate about allowing problematic speech on campus. However, the percentage of students who say free speech in America is secure today has fallen sharply, along with the share of students of color who feel the First Amendment protects them.”<sup>4</sup>

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<sup>4</sup> See: [knightfoundation.org/press/releases/knight-ipsos-poll-college-students-covet-free-speech-rights-but-view-them-as-increasingly-fragile/](https://knightfoundation.org/press/releases/knight-ipsos-poll-college-students-covet-free-speech-rights-but-view-them-as-increasingly-fragile/)

The Carlson Lecture decisions triggered a very vocal response from a limited number of alumni and resulted in the launch of the MIT Free Speech Alliance (FSA). The MIT Alumni Association (MITAA) shared with the Working Group a compilation of email correspondence from alumni to MIT related to the Carlson Lecture. As of the end of March 2022, MIT had received a total of 626 correspondences from 494 alumni. We estimate that more than 95% of the correspondences are negative (as classified by the MITAA) in content and intent. These negative correspondences are consistent in tone and message—they criticize the Carlson decision and offer many counter-arguments to the explanations provided by the administration.

We are not exhaustively representing these correspondences here (16 pages of positive/neutral correspondences and 238 pages of negative correspondences). Instead, we are highlighting some clear themes that emerge from this body of correspondence. A number of alumni express:

- great disappointment and embarrassment with the decision to cancel the Carlson Lecture
- strong disagreement with the explanation for the decision, and a regard of the cancelation as a violation of MIT’s commitment to freedom of expression
- a call for MIT to admit its mistake and to make an apology
- an assessment that MIT gave in to ‘cancel culture’ and ‘wokeness’ along with an overemphasis on DEI initiatives
- a call to withhold financial support for MIT
- a recommendation to adopt the Chicago Principles or something similar

The MITAA, along with our alumni Partners, undertook special efforts to get a representative voice of the alumni.

In November 2021, the MITAA sent out a survey to a representative sample of more than 1,700 alumni and obtained 310 responses. From this survey, 59% of the 310 respondents thought MIT is great or average at addressing matters related to freedom of expression, 22% were disappointed, and 19% felt inadequately informed to comment.

The MITAA collected input from alumni leadership (a total of 21 in November 2021) and from the alumni association board (another 25 in December 2021 and March 2022). This input was consistent with that from the alumni survey—strong support for freedom of expression with a range of opinions on limits.

In November 2021, the MITAA conducted two 'alumni town halls,' open to all with 70 attendees. The MITAA’s summary for these events is “these town hall sessions largely reiterated the opinions of the MIT Free Speech Alliance group and similar views already expressed by alumni from the classes of the 1960s and 1970s who had proactively shared their views via email.”

In March 2022, the MIT Alumni Association issued a call to alumni to provide their inputs on the four specific questions contained in the Working Group charge. Among the 137 alumni who responded to the call, 84% affirmed that MIT should revise or update its statements regarding academic freedom, freedom of expression, and/or pluralism. The responses to the open-ended

questions were wide-ranging, though reasonably consistent with the themes that had already been expressed by alumni through previous input mechanisms.

Our alumni Partners conclude from these multiple sentiment-gathering mechanisms:

While the early view into alumni sentiment provided by proactive email to the Institute suggested a relatively uniform negative response, additional inputs from these sentiment gathering activities illustrate that alumni sentiment on the Carlson issue turns out to be more varied and diverse. The minority of alumni aligned around the primacy of freedom of expression above all else have a focused set of concerns. The majority of alumni, while also believing in the importance of freedom of expression, have a heterogeneous sense of how it should be upheld and tend to have a more context-based view of how decision making can be conducted.

Working Group Partner Robin Elices, Executive Director, Office of the Executive Vice President and Treasurer, organized a series of meetings with campus staff between Feb. 24, 2022 and March 23, 2022 in order to discuss their experiences and perspectives on freedom of expression on campus and to get their inputs for our Working Group. A summary of those discussions was provided to the Working Group and is available [online](#).

Working Group Partner Andrea Walsh, Lecturer II, CMS/Writing, sent an email in March 2022 to approximately 500 MIT lecturers to solicit their input on broad questions of academic freedom and freedom of expression at MIT. She received 10 responses, and she conversed with 15 lecturer colleagues in SHASS to collect their input. A summary of these discussions was provided to the Working Group and are available [online](#).

When MIT conducted its bi-annual Quality of Life survey in 2022, it included a question about freedom of expression. It asked participants about the extent of their agreement with the statement: “MIT provides an environment for the free and open expression of ideas, opinions, and beliefs.” The following table shows the results for various community categories.<sup>5</sup>

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<sup>5</sup> Data reported in the campus climate section of MIT Institutional Research’s Quality of Life Survey (<https://ir.mit.edu/qol-2022>)



Role	Strongly agree	Somewhat Agree	Neither agree nor disagree	Somewhat Disagree	Strongly disagree	Number
Faculty	25%	35%	14%	16%	10%	469
Undergraduates	24%	47%	15%	11%	3%	1,483
Graduate	23%	43%	19%	10%	5%	2,137
Post Doc	27%	42%	16%	11%	3%	431
Instructional	34%	34%	14%	12%	5%	265
Admin	32%	38%	16%	10%	4%	3,025
Support	36%	32%	19%	9%	5%	1,005
Research	38%	35%	16%	7%	4%	1,535
Service	38%	28%	19%	9%	6%	247

The survey shows that a substantial majority of the MIT community does not feel seriously constrained with respect to speech. Indeed, 71% of undergraduate students and 66% of graduate students agree with the statement, “MIT provides an environment for the free and open expression of ideas, opinions, and beliefs.” The other inputs from students in our consultation show no broad disagreement with this assessment of the MIT climate on expression or MIT policies. We also find it noteworthy that the faculty are more critical about the current climate. A much larger fraction disagrees with the statement—26% compared to between 11% and 15% for the other groups.

Despite this general positive feeling about our campus climate for expression, there have been and are significant tensions around free speech at MIT. Indeed, the inputs received from both Palestinian students and Israeli students provide evidence of this tension. Students from a variety of communities on campus have felt offended by the speech of others—sometimes their peers/colleagues, sometimes on public issues and in the media, and sometimes on Institute policy. Students from racial, religious, gender-identity, or national-origin minorities as well as women generally have particularly strong feelings about the need for intervention or protection even as they express some comfort with the overall level of free expression on campus.

In the following paragraphs, we summarize the input in five categories. Inevitably, some overlap and redundancy occurs across these categories.

- understanding of freedom of expression
- challenges from freedom of expression
- limits on freedom of expression
- self-censorship
- recommendations for MIT

#### *Understanding of Freedom of Expression: Differences in How Freedom of Speech is Understood or Interpreted*

##### **Faculty**

The Faculty Forum includes an extensive discussion of the differences between freedom of expression and academic freedom. The general consensus seems to be that freedom of expression is a broader social freedom and indeed is a constitutional right. In contrast, academic freedom is typically limited by one's area of expertise. One implication is that owing to its breadth, freedom of expression comes with more responsibility and perhaps more constraints.

##### **Staff**

The Staff Forum includes a discussion of where the boundaries exist for acceptable behavior and speech and how these are set or controlled. This discussion also notes differences between theory and practice. In particular, the administrative staff noted the lack of a written statement or guiding principles for freedom of expression. Some representative, paraphrased quotes:

- Even though there are explicit policies protecting against retaliation, there is fear of covert retaliation.
- A dichotomy exists between MIT values, as written, and what happens in reality.
- Unspoken limitations exist on expression as to what is appropriate and how much to say.
- We need help handling situations where the exercise of free speech upsets or harms members of our community. We must equip community members with skills to navigate this.

##### **Values Committee**

The inputs collected from this group provide a spectrum of perspectives on freedom of expression. The following points illustrate the range of views:

- A distinction exists between speaking as a member of an educational institution and speaking as a member of the public. MIT can limit some faculty speech on campus.

- MIT's commitment is not about protecting free speech or free expression per se. Rather, it is to protect free inquiry, speech, and expression that advances human knowledge. MIT should protect free and open debate for educational purposes as well as free and open inquiry for research purposes. MIT may or may not want to protect other types of speech.
- MIT needs to take great care with any restrictions on free speech and open dialogue because it may be offensive to some or even many. Such restrictions have no place in an open university where ideas should be celebrated for their diversity and for creating conversations among folks with different points of view. We all learn from one another.

*Challenges from Freedom of Expression: Responsibilities and Tensions that Come with Protection of Freedom of Speech*

Overall, the input did not speak directly to challenges such as the tension between DEI values and freedom of speech on DEI topics. It also did not grapple much with how to deal with offensive speech. Many asserted that conversations should be respectful and that more training/practice is required for this. Some commented that speech comes with responsibilities and is not without consequences. A few suggestions were raised of countering speech with more speech (e.g., a parallel event), or of MIT providing an associated statement when a view expressed by a speaker goes against MIT values.

Many commented that DEI is a particularly thorny topic but largely did not get into the details of how this should intersect with free speech. A minority of individuals indicated that they felt speech should be limited if it caused harm to community members, and that there are costs/values that have to be weighed against the rights of speakers (especially with respect to DEI). Staff raised the point that cultural diversity leads to ambiguity about what is offensive and what the standards of civility should be. Staff also frequently commented on power imbalances and that the consequences of free speech might depend on who is talking. The Working Group did not get much student input on this topic, but students felt that discussion of free expression (following the Carlson cancellation) should have been accompanied by discussions of MIT's values around DEI. Students who provided input felt that MIT is free to decide who to invite to campus or recognize with an award.

**Paraphrased Quotes from Faculty and Staff**

The faculty and staff forums highlight many of the challenges that accompany a commitment to freedom of expression. Here are some examples:

- Many ideas can be considered rude, offensive, or harmful. Whereas these may be allowed, they should be accompanied by MIT statements disclaiming or opposing them.
- DEI at MIT should reinforce core MIT values and not be used to undermine them. Free expression celebrates diverse opinions and is at the heart of DEI.
- Freedom of expression does not allow hate speech. Yet, it is not always clear how hate speech is defined, and by whom. The boundaries seem to be changing.
- Your freedom of expression may be hurtful to me. Should this be allowed or tolerated? At what point does one's right to free speech supersede another's right to not be subjected to harmful speech in their place of work or study?
- MIT has a duty of care towards the students, which might constrain free expression at times.
- MIT should ensure that those we invite to our campus reflect our values and do no harm.

- Impact of offensive speech is not evenly distributed across all members of the community. Our principles should account for the very real damage that speech can do to some.

A summary from conversations with MIT lecturers provides additional perspectives on challenges related to freedom of expression. There was greater interest and energy for talking about how to have difficult conversations in a civil and productive way rather than about the question of whether to cancel a controversial lecture. This prompted further discussion on various approaches in facilitating civic and respectful dialogue. A report on lecturer input is available [here](#).

*Limits on Freedom of Expression: Extent to Which There Should Be Limits on Freedom of Expression by Members of the MIT Community*

**Faculty**

From the Faculty Forum, the main theme is that speech should not be limited in any way, unless the speech violates law, incites violence, or is deliberately misinformative or insulting.

Nevertheless, the faculty noted that with such lack of restrictions comes responsibility to exercise this freedom in ways that are respectful of others within our community.

Some paraphrased quotes from faculty fora:

- We all should be able to voice our opinions, but we should do so in a civilized and respectful manner.
- Speech that is gratuitously insulting, making criminal statements, or deliberately misinformative is not protected.
- MIT should protect the speech of those with opinions and views that we disagree with. We should allow them to make reasoned arguments, question our convictions, and make sure we have strong arguments to support our convictions with equally reasoned arguments. No topic should be off-limits for reasoned conversation, including efforts to enhance diversity, equity, and inclusion of underrepresented groups on campus.
- MIT should welcome everyone who is willing to share their ideas and to debate them in an academic way, as long as they are not directly inciting violence in any way.
- MIT should not limit faculty speech to their areas of expertise; however, faculty then have a responsibility when exercising this freedom (e.g., provide a caveat that they are not an expert, that they are not representing the Institute).

The Working Group received a related proposal by Professor Yoel Fink that MIT faculty develop an independent, anonymous polling service to provide a “Voice of the Faculty.” The goal of the program is to provide a venue to encourage questions and discussion that some faculty feel inhibited from sharing publicly.

**Staff**

The input from the staff is similar to the faculty as it relates to any limits on the campus community. The staff also highlighted the tension between the idea of free expression and the expectation of a respectful workplace. Relative to the faculty input, the staff had more to say about invited guests to campus on whom we may apply a higher threshold.

Some paraphrased quotes from the staff fora follow.

With regard to MIT community:

- Free speech is not free of consequences. Free speech can include offensive speech that leads to friction and feedback from people who are offended or disagree.
- There may be limits on free speech to avoid off-limit topics.
- With the right of free speech comes responsibilities. In developing a statement on freedom of expression, we also need to address these responsibilities.

With regard to outside speakers:

- MIT should protect freedom of expression on our campus for people from outside our community, unless the speaker is expressing hatred or threats of violence towards members of our community.
- It is important for MIT to foster freedom of speech; however, it is not our responsibility to provide a platform for anyone from outside the university. No one has a constitutional right to speak at MIT. The MIT community gets to decide.
- MIT may well want to limit or restrict any expression from outside speakers that is hurtful or harmful to members of the MIT community.

### **Input from the Values Committee**

The inputs include a discussion about a perceived shortcoming in the Chicago Principles, in that the Chicago Principles makes a distinction between defamatory speech about individuals and defamatory speech about groups. The discussion asserts that both types of speech should be subject to limits.

### *Self-Censorship and the Extent of Discomfort in Expressing Opinions in the Current Campus Environment*

#### **Faculty**

Faculty from the faculty fora expressed concerns about the extent of self-censorship in the current environment, with particular emphasis on speech that relates in any way to DEI.

Some paraphrased quotes from the faculty fora:

- Faculty are careful in what they say and are afraid of consequences from sharing opinions on controversial subjects. Faculty worry that they might say the wrong thing.
- Faculty are aware that other colleagues express the fear that they will be canceled.
- MIT is not a welcoming environment for colleagues with conservative views.
- The DEI initiatives are a particularly sensitive subject on which it is very difficult to have a civilized exchange of ideas and views. Many are inhibited/silenced from any discussion.

#### **Staff**

Staff from the staff fora also expressed concerns with self-censorship. Staff identified the organizational power structure as a key factor that inhibits their freedom of expression, as well as the current political climate. In a poll, 47% of participants responded “yes” to the question, “Do you feel on an everyday basis that your voice, or the voices of your colleagues, are constrained at MIT?” And 65% of participants said “yes” to the question, “Are you worried, given the current atmosphere in society, that your voice or your colleagues’ voices are increasingly in jeopardy?”

Some paraphrased quotes from the staff fora:

- One's ability to speak freely depends on how secure one feels in one's job.
- Faculty with tenure are the only ones who have true freedom of expression.
- Power imbalances determine who can speak freely. Whomever has power can influence the dynamics that allow people to speak freely.
- The Carlson Lecture decision showed that MIT is not comfortable with dissent or controversial opinions. This was viewed as being counter to MIT's commitment to freedom of speech.

### Students

From a post by the MIT Free Speech Alliance,<sup>6</sup> we have some indication of student self-censorship as reported to FIRE as part of a survey for their College Free Speech Rankings. We quote directly from the blog post:

- 70% of MIT students feel somewhat or very uncomfortable publicly disagreeing with a professor about a controversial topic.
- 54% of MIT students feel somewhat or very uncomfortable expressing disagreement with a professor in a written assignment.
- 84% of MIT students felt unable to "express your opinion on a subject because of how students, a professor, or the administration would respond," and 17% of that group said they felt this way often.
- MIT students who self-identified as conservative were nearly four times more likely than their liberal peers to report that they have felt this way often.

### *Community-Offered Recommendations*

We heard many, many calls from faculty, staff, and alumni to adopt the Chicago Principles (there were some calls for something even stronger, and calls to the Values Committee for something more substantive and nuanced). This was part of a general wish for clearer policies, and repeated suggestion that this include not disinviting speakers. The feedback included cautions about writing policies too restrictively as well as comments that MIT policies tend to be written very broadly such that they are open to a lot of interpretation. Some people thought this was good, others not. Some felt there should be guidelines around topics such as inviting controversial speakers, hanging divisive posters, and organizing planned protests.

The faculty felt the administration should have peoples' backs with regard to free speech and stand up for people whose views may not be popular. There was a general wish for more

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<sup>6</sup> <https://www.mitfreespeech.org/freespeechmit/to-train-leaders-for-the-21st-century-mit-must-put-free-speech-first>, accessed March 31, 2022. The data from F.I.R.E. should be used with caution, as the survey questions posed do not distinguish the causes for students to refrain from commenting in class. Research by Elizabeth Niehaus finds it is more complicated than a perceived campus climate of free expression or not. See her analysis of the F.I.R.E survey in *Self-censorship or just being nice? Understanding college students' decisions about classroom speech* (University of California National Center for Free Speech and Civic Engagement, 2021), pp. 2-3. <https://freespeechcenter.universityofcalifornia.edu/fellows-20-21/niehaus-research/>

transparency around principles-guided decision making. There were also many calls for education that would normalize civil discussions of difficult topics. Faculty tended to write about this in the context of the classroom (e.g., the university offering debate or discourse classes).

Staff recommended training to establish norms, especially for those who supervise others. Many people encouraged more discussion of free expression principles in the community. Quite a few respondents wanted to increase viewpoint diversity (e.g., through inviting a broader range of speakers). We received some interesting, but non-specific, suggestions that MIT should explore technological approaches/solutions (e.g., to counteract social media influences). The MIT Free Speech Alliance feels strongly that actions, not just words, are required, and provided a long list of possible actions to consider. Their ideas include establishment of a Free Speech Committee, a Free Speech Dean, or a Nonconformism in Science course. They also feel apologies are in order in relation to the circumstances of the 2021 Carlson Lecture.

### **Paraphrased Quotes from Faculty and Staff**

- We do not need an elaborate policy on this matter. This might be counter-productive, in that it would encourage us to split hairs on matters that should be relatively straightforward.
- I am not in favor of a centralized process for vetting speakers. It would seem better to have any decision process begin with the department, given the shared understanding of discipline, then follow with a school-wide review, if warranted.
- At present, I see no guarantee that the Institute will protect the free speech of faculty, especially those with controversial views.
- MIT should regularly invite and host speakers with diverse points of view. We should protect their freedom to make reasoned arguments, question our convictions, and make sure we have strong arguments to support our convictions with equally reasoned arguments.
- Faculty have an obligation to model productive conversation around controversial issues, not just in class but in all faculty-related roles.
- MIT should create guidelines on ways to have constructive and civil conversations, with an emphasis on the importance of listening to one another.
- A major challenge in developing such guidelines and training is that MIT has so many different cultures of people from different backgrounds. What is acceptable to one community may be offensive to another.
- We lack a shared understanding that promotes productive discussion about free speech and related issues. We must have opportunities for structured discussions around what free speech actually is. For this to happen, Institute leadership needs to set the expectation to DLC leadership that they will make space for their staff to attend such discussion.
- MIT should introduce mandatory free expression training for all, in parallel with sexual harassment and other trainings, to educate everyone who works at MIT about the value of free expression. This would explain various channels and best practices to express dissatisfaction with speakers.

Regarding the Chicago Principles (which many were in favor of adopting, although some comments addressed this topic with more nuance):

- An MIT declaration should be a more nuanced and substantial statement than the Chicago Principles. It is essential that we not conflate experiencing consequences for one's speech with having one's rights infringed upon.
- The Chicago Principles acknowledge that speech that "falsely defames a specific individual" is contrary to the values of the institution yet fails to object to speech that falsely defames a broad category of individuals. Speech that defames a group can be just as—or even more—corrosive to the ability of the community and its individual members to function.
- It is not clear where the line would get drawn between offensive and defamatory speech against groups. This could lead to contentious disagreement as to what's appropriate for our campus and its values.
- The Chicago Principles is constructed in such a way that it can be used to suppress the voices of those without institutional power and to protect bigots.
- Support for Clark University's version of Chicago Principles: MIT is committed to guaranteeing the rights of speech, inquiry, and expression to all members of our community. Yet the right to free speech must coexist alongside other rights described in our university policies and afforded under state, federal, and local laws. The commitment to freedom of speech must work hand-in-hand with policies that actively and categorically reject violence, harassment, discrimination, and intimidation.

*Paraphrased Material from Student Reports in 21H.181: Libertarianism in History*

For their final paper assignment, the fourteen students in Professor Malick Ghachem's seminar 21H.181: Libertarianism in History prepared their own 10 – 12 page reports in response to the Working Group's charge. The seminar looks broadly at the evolution of the concept of freedom from ancient times to the contemporary era, through readings in history, sociology, political theory, constitutional law, and public policy. The instructions for the final paper assignment called upon the students to interview at least three other MIT undergraduates of varying political persuasions about their views on free expression and to connect these interviews to an analysis of the climate of free expression on the MIT campus. The students had free rein to pick the specific issues of greatest concern to them (and, by extension, their interlocutors). We have space here to summarize only a few of their many insightful contributions.

One student argued that making free expression central to the life of the Institute requires a curricular commitment to dialogue and discursive practice rather than a reactive approach driven by scandals over so-called "cancel culture." Another student argued that the Carlson Lecture controversy reflected a lack of transparency and minimalism in MIT policies and recommended the creation of an official, anonymous, online town square experiment to address the problem of self-censorship. A third student proposed a set of rules governing invitations to outside speakers that would allow cancellation only when the speaker has harassed, threatened, or acted violently against another person, or where the response to a speaker created a credible security risk for the MIT campus. Finally, some students criticized the *MIT Mind & Hand Book* for failing to distinguish between harassment and discomforting but useful speech, as well as for relying on the term "offensive" to characterize certain types of speech.