



A DCI Deliberation Guide

Free Expression at Davidson:

Rights and Responsibilities during an Uncertain Time

Format for Deliberation

Before the Deliberation

- I. Read this Deliberation Guide (required)

During the Deliberation

- I. Setting Expectations (5 min.)
- II. Getting to Know Each Other (5 min.)
- III. The Nature and Importance of Freedom of Expression (15 min.)
- IV. The Nature of Responsible Freedom of Expression (15 min)
- V. Davidson College's Approach to Freedom of Expression and the Student Code of Responsibility (15 min.)
- VI. Reflections (5 min.)

Background

Introduction

Members of the Davidson College community, like members of any institution, must grapple with timeless questions about how to ideally protect speech while ensuring that such protections are being used responsibly. Are free speech, mutual respect, and inclusion indeed in tension with one another? What benefits and harms do they each potentially entail? Can they be promoted and supported simultaneously? If so, how do we create campus communities that allow for academic freedom and freedom of expression while also being sensitive to efforts to promote mutual respect and belonging? If not, which of these values should we prioritize?

This Deliberation Guide is designed to help us address these questions. It first maps out some of the arguments for speech rights and speech regulations and then provides a description of two hypothetical options for how an institution might balance concerns about freedom of expression with concerns about student well-being and safety. These arguments and options can help us think through our own positions in these debates and identify our areas of agreement and disagreement with others.

To dive deeper into the underlying concerns about free speech and its possible effects on others, the guide then provides a description of different types of problematic speech, including hate speech, and the differences between harmful speech, morally wrong speech, and illegal speech. In doing so, it maps out a series of arguments for why, when thinking about how to respond to problematic speech, it is best to consider these categories of speech as both conceptually and normatively distinct, even though they may overlap in some instances.

The guide concludes with an overview of Davidson College's approach to these tensions, beginning with references to the College Constitution, Statement on Freedom of Expression, and the Student Code of Responsibility. In general terms, it explains how Davidson responds to concerns about the expression of controversial viewpoints on campus and provides the backdrop for participants' discussion of the importance of free expression and reasonable limits on such expression at institutions such as Davidson.

Arguments for Speech Rights and Speech Regulation

At institutions of higher learning across the country and around the world, many individuals and groups work hard to ensure that individual speech is protected and that such speech is expressed responsibly. Advocates who prioritize robust speech protections believe that limiting speech stifles intellectual rigor in important settings and insulates individuals from engaging with varying perspectives, which undermines the mission of the various institutions that make up civil society – including and especially higher education institutions – to fully consider all perspectives when addressing problems.

Advocates for protections from harmful speech argue we have a moral duty as a society to ensure institutions do their part to protect people, and in particular vulnerable minorities, from potentially dangerous forms of expression that may prevent them from full participation in civil society. Others argue both expanding protections for speech and protecting against harmful speech are reconcilable goals and are not in conflict.

Recent campus controversies have raised questions regarding the relationship between free speech and efforts to promote an inclusive community.¹ Students at colleges and universities throughout the country have protested when speakers and political groups with whom they disagree have been invited to speak or establish presences on college campuses. This dynamic has led to questions about whether students are being too coddled when presented with speech and expression they may find offensive, and whether they have unrealistic expectations of entitlement to safe, comfortable spaces, devoid of opportunity to experience diverse perspectives and deep disagreement essential to their intellectual development.²

Some scholars and students across the country assert that freedom of academic inquiry is being threatened by fears of ideologically motivated retaliation.³ Some see this as a shift away from

¹ [“And Campus for All: Diversity, Inclusion and Freedom of Speech at U.S. Universities.”](#) *Pen America*

² [“Obama Thinks Students Should stop Stifling Debate on Campus.”](#) *Huffington Post*

³ [“How Political Correctness Chills Speech on Campus.”](#) *The Atlantic*

“academia embracing the free exchange of ideas to shunning those with divergent opinions.”⁴ These trends raise questions regarding whether students have a right to “not be offended” by unpopular speech and whether institutions can achieve their goals in climates where ideological retaliation affects discourse. In response to concerns about speech limitations on college campuses, some higher education institutions have adopted or endorsed the University of Chicago’s statement on freedom of expression. This statement articulates an “overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.”⁵

Others argue that racism and bigotry on college campuses is a more pervasive, urgent problem than censorship,⁶ and that alt-right groups use free speech as an opportunity to spread hateful messages that intimidate targets in ways that ultimately exclude them from on-campus discourse.⁷ As college campuses work to increase diversity, some institutions have begun addressing inclusion by limiting speech viewed as racist and/or harmful to communal well-being.⁸ American University Professor Jon Gould states that “severe and pervasive racist expression not only creates a hostile learning environment, but it is actually incompatible with free and open dialogue.”⁹

Students have questioned why “people and institutions apparently committed to diversity, equity, and inclusion support a First Amendment that allows offensive or hateful speech against marginalized groups?”¹⁰ Questions also emerge regarding how universities and society can “foster the robust exchange of ideas that has been a central part of our democracy for more than 200 years, while protecting people disadvantaged by that history from the very real harm that expression causes?”¹¹ From this point of view, it is only through inclusion that a truly open intellectual atmosphere can be cultivated.

Examples of Institutional Priority Balancing

In thinking about the relationship between protecting freedom of expression and promoting student well-being, it might be helpful to consider the two hypothetical examples below of how an institution of higher education might prioritize these values. These examples build on options presented by the National Association of Student Personnel Administrators (NASPA) in its guide to [“Free Speech and the Inclusive Campus: How Do We Foster the Campus Community We Want?”](#)

⁴ [“Everything Is Political these Days. Even Commencement Speeches.”](#) The Washington Post

⁵ University of Chicago [“Report of the Committee on Freedom of Expression”](#)

⁶ [“The Battle Against ‘Hate Speech’ on College Campuses Gives Rise to a Generation that Hates Speech.”](#) Newsweek

⁷ Bohannon, Christina. “On the 50th Anniversary of Tinker v. Des Moines; Toward a Positive View of Free Speech on College Campuses.” Iowa Law Review. Iowa City. Vol. 105, Iss. 5. July 2020.

⁸ [“A Tale of Two Arguments about Free Speech on Campus.”](#) American Association of University Professors

⁹ [“Getting the Story Wrong on Campus Racism.”](#) The Hill

¹⁰ Bohannon, Christina. [“On the 50th Anniversary of Tinker v. Des Moines; Toward a Positive View of Free Speech on College Campuses.”](#) Iowa Law Review. Iowa City. Vol. 105, Iss. 5. July 2020.

¹¹ Ibid.

OPTION 1: Emphasis on Student Safety and Well-Being Before Speech Protections

This position prioritizes student safety and well-being, even if that means restricting some forms of expression. Institutions have a duty to protect their communities from forms of harassment, discrimination, and potential impacts of harmful speech. Above all, those who share this view argue that protecting both real and perceived forms of student safety and well-being is the most important concern for institutions designing speech policies. This includes both physical and psychological well-being no matter what has to be done to preserve these states for all community members.

Freedom of expression is still considered a value from this perspective, but its proponents prefer adjusting speech policies to ensure speech codes create boundaries to prevent and respond to harm within the community. Given that students do in fact harass each other, in multiple directions and that conflicts are inevitable among students, this view asserts that campus communities need some policies, processes, and guidelines to respond to these realities. From this view, this is the heart of Student Life's main function.

Some advocates of this approach also support administrators heavily weighing the impact of potentially harmful speech that disproportionately impacts certain groups and their ability to continually engage with a climate where expression targeting their identities is allowed. In this view, it is important to weigh the historical marginalization of various groups in considerations about the impact of potentially harmful speech, as institutions should ensure they are welcoming those traditionally excluded from higher education's intellectual spaces. This may require prioritizing certain demographics voices while avoiding creating new barriers for other groups. Policies should therefore be revised to increase equity with the input of a diverse array of community members with various perspectives and diverse forms of expert knowledge for the institution to consider.

OPTION 2: Emphasis on Speech Protections and Intellectual Diversity

From this perspective, the goal of higher education is to cultivate intellectual curiosity while increasing student capacities to engage in intellectual exchanges across differences. In this view, discomfort is considered a necessary part of each person's intellectual development and growth. By embracing discomfort, becoming familiar with trauma-informed pedagogy, and guiding students through difficult feelings and experiences, instructors can assist students in becoming increasingly able to handle disagreement on their own and be tolerant of differences they have with others.

This perspective assumes that exposure to diverse viewpoints can enable students to question assumptions and biases they may hold while deepening their sense of their own values and capacity to respond to those with different perspectives from their own. Advocates of this approach also believe that such engagement across differences is vital to achieving core civic learning outcomes and extending opportunities for critical thinking and reflection. In this view, educators should support students in processing, reflecting, and responding to ideas and speech

with which they disagree so they can develop critical reasoning skills and a sense of agency. Expanding diversity comes with a responsibility to ensure that students can engage in such learning free from a hostile learning environment in which they are harassed and discriminated against due to the views they have expressed.

From this viewpoint, no topic should be off limits if it contributes to student learning. Censoring offensive speech and disproven ideas or theories can narrow the inquisitive mind and limit opportunities for intellectual engagement and the development of critical reasoning skills. Students ought to be exposed to a wide array of theories and speech so they can learn to think critically and analyze ideas thoughtfully within the discomfort of an often unpredictable and complex world.

Examples of Problematic Speech

What do these two approaches suggest should be done when students have hurt or offended one another and submitted complaints to the administration as a result. To explore how these and other approaches should address the institutional regulation of speech on campuses, it may be helpful to examine different types of disputed speech and the competing suggestions popularly offered about how to best respond to them. These instances of speech may both result in legal repercussions and be restricted at private institutions.

- i. Speech intended to induce panic, such as yelling “Fire!” in a theater where there is none;
- ii. Defamatory speech, such as falsely asserting something as fact in order to damage someone’s professional reputation;
- iii. Fighting words, or speech that incites people to violent action, such as seriously insulting someone to instigate a physical altercation.

Another type of speech that is a major topic within discussions about speech regulation is hate speech. In some liberal democracies, hate speech is also forbidden by law. In places where it is not banned, many private institutions take measures to regulate instances of expression deemed hate speech. There is no universally accepted definition of hate speech, and the notion is defined differently by different nations. The UN defines hate speech as:

Any kind of communication in speech, writing or behavior, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.¹²

¹² [Hate Speech: Understanding Hate Speech](#). United Nations. September 2023.

Countries that place legal prohibitions against hate speech include Canada, Britain, France, Germany, the Netherlands, South Africa, Australia, and India.¹³ The United States does not have federal legislation prohibiting hate speech, and what some deem to be hate speech is legally protected by the First Amendment.

Some speech acts can also clearly fall under the category of other crimes. For example:

- iv. Speech may constitute *treason*, as when a person provides state secrets to an enemy state.
- v. Speech may constitute *fraud*, as when companies make false advertising claims about their products.
- vi. Speech may constitute *verbal abuse*, as when a pattern of abusive verbal behavior exists in the context of a domestic relationship.
- vii. Speech may constitute *sexual harassment*, as in the case of unwanted verbal advances by one colleague toward another in the workplace.

Then again, it is important to note harmful action and illegal action can come apart in the following sense. Not everything that is illegal is necessarily harmful, and not everything that causes harm is necessarily illegal. Different types of speech may be harmful without being illegal, and private institutions may or may not decide to regulate these types of speech. These include cases where:

- viii. A statement manifests or expresses a bigoted or otherwise morally bad attitude, as in the case of making a joke at someone else's expense about some aspect of their identity.
- ix. A statement constitutes what have come to be known as microaggressions, or everyday slights having to do with one's identity that are frequently emotionally painful but may not be intended to cause pain.
- x. A statement that puts others down by making them appear unskilled, talentless, or unintelligent.
- xi. A statement that insults someone personally.

Many institutions have policies related to speech that hurts and/or offends students that are framed and enforced in a variety of different ways.¹⁴ Some also have bias reporting systems that handle these complaints with a mutual resolution process, restorative conversation, or disciplinary action.¹⁵

¹³ Liptak, Adam. [Hate speech or free speech? What much of the West bans is protected in the U.S.](#) New York Times. June 2008.

¹⁴ Aichinger, Alex. [Campus Speech Codes](#). Free Speech Center, Middle Tennessee State University. 2024.

¹⁵ Smith, Carson. [Bias Response Teams: Designing for Free Speech and Conflict Resolution on the University Campus](#). Stanford Law Review. 2024.

And some types of speech may be morally wrong and not obviously or not necessarily harmful nor illegal or necessary to limit. This category includes examples like:

- xii. Lying to one's family and friends for one's own personal gain.
- xiii. Failing to apologize to someone after clearly wronging them (notice that this is an omission of speech).
- xiv. A statement that dishonors someone or a group they belong to such as their family, community, or social group.
- xv. A statement that insults someone "behind their back."
- xvi. Verbally blaming someone for something one knows she did not do.

The variety of examples above includes speech that is potentially seen as essential to limit, speech that is harmful, and speech that is morally wrong. These are three conceptually and normatively distinct categories, and what follows for one set of claims will not necessarily follow for another. The section below explores this idea further.

Harmful Speech, Wrongful Speech, and Speech that Should be Regulated

In the above section, we saw how harmful speech, wrongful speech, and speech that should be regulated are conceptually distinct. But they are also distinct in another sense—that is, how we should think about or respond to speech in one category may differ from how we should think about or respond to speech in another. How can we see that these categories are indeed normatively distinct, and that different kinds of things are true of speech that is illegal, speech that is harmful, and speech that is wrongful? Consider the following four examples:

I. Plausibly, not every harm constitutes a wrong. An entrepreneur may open a new shop on Main Street in her hometown. As her business grows, she ends up outcompeting a different, long-established local business in the same industry on the same block. The other owner is now out of business and has clearly been harmed. His interests have been set back as a result of having been outcompeted (after all, he wanted to keep his business running—we can suppose that he wanted to keep it running to support his family and to do what he loved). But it is not clear that the owner of the new shop has wronged the owner of the old (now closed) shop. And this is plausible even if the harms that come to the old shop owner are quite severe.

Insight: Since not every harm constitutes a wrong, plausibly, it is not the case that every harmful statement constitutes a wrong either. Therefore, we cannot conclude that all harmful statements are also wrong, or morally prohibited. That is, some harmful statements don't amount to moral wrongs and some do.

- II. Not every wrongful action ought to be restricted. Even widely agreed-upon wrongs, such as betraying a loved one or breaking a promise, ought to be allowed. In general, it is simply not an institution's business to regulate deeply private affairs, such as betrayals between friends. This does not mean that morality has no bearing whatsoever on what

ought to be allowed or regulated. The mere fact that something is morally wrong does not by itself entail that it ought to be restricted. Some ways of wronging others should not be regulated by any institutions.

Insight: Although something may be wrong, it is very possible that that action should be legally or institutionally permissible. So, although a statement may be wrong (i.e., morally prohibited) to make, it does not automatically follow that such a statement should be legally regulated. It likewise does not follow that it ought to be regulated by some other institution. It is true that living on a college campus can blur the line between public and private affairs, but this distinction should nevertheless be kept in mind when considering whether regulation is appropriate.

III. Not all things that cause harm ought to be regulated. Consider again the example of the new shop owner who (by way of fair practices) causes the neighboring shop to go out of business. That may very seriously harm the other shop owner, but intuitively it ought not be regulated (and one can hold at the same time that government should heavily regulate business activity).

Insight: A statement may cause harm but we can have reason not to regulate against such statements.

What is the conclusion we should draw? That we should not be too hasty to collapse the notions of harmful speech, wrongful speech, and speech that ought to be regulated. These are distinct categories that may overlap but are conceptually distinct.

Davidson College's Approach to Freedom of Expression and the Student Code of Responsibility

Davidson, like many leading institutions, has worked to balance these values where appropriate with consideration for all affected stakeholders. Davidson College, as a private liberal arts college, is not directly bound by the First Amendment. But, like many other private colleges, Davidson outlines freedom of speech and expression as important rights of community members in the [Davidson College Constitution](#), the [Code of Student Responsibility](#), and [Code of Faculty Evaluation](#). Below is a series of excerpts from governing college documents that show how free speech and inclusion are emphasized and balanced at the College. This section is meant to clarify the rights and responsibilities of members of the Davidson College community as you enter into discussion on the topic.

College Constitution

Article XII, 5(a) of the college constitution states that "The College may not infringe upon the rights of students, particularly those of freedom of speech, of peaceable assembly, and the right of petition." It also states that "the student is both a citizen and member of the College," and that "the student must remember that others may judge the College and its students by his or

her utterances and actions and that as a “citizen and member of the College. Furthermore, “the student has the obligation to exhibit accuracy, appropriate restraint, and respect for the opinions of others.”¹⁶

The Constitution also includes sections on Freedom of Expression in the Classroom, Assembly, Speakers, Student Responsibility, and Student Media, included below:

- ***“Freedom of Expression in the Classroom:*** *Students are responsible for learning thoroughly the content of any course of study, but are free to take reasoned exception to data or views offered. Only by protection of this freedom may productive discussion, inquiry, and expression serve as means toward learning.*
- ***Assembly.*** *Students and their organizations are free to examine and discuss all questions of interest and to express opinions publicly and privately. They are also free to support issues by orderly means which do not disrupt operations essential to the function of the College, which shall establish reasonable regulations, equitably applied, as to time, manner, and place of assembly.*
- ***Speakers.*** *Students and their organizations may invite and hear speakers, performers, and entertainers of their choice, utilizing procedures established as necessary to assure orderly scheduling of and preparation for campus events. Institutional control of campus facilities may not be used to prevent the appearance of a person or group which has been properly scheduled. Students have the responsibility of realizing that events on the campus affect the public image of the College and of its students, and should invite only those who may be seriously considered to have potential contributions to the exchange of ideas or to the quality of campus life. Sponsorship by student organizations should be clearly publicized.*
- ***Student Responsibility.*** *Students have the responsibility not to infringe upon the rights of others, particularly as concerning free speech and peaceable assembly.*
- ***Student Media:*** *The College affirms its commitment to the principles of free expression and free exchange of ideas. Exercised with responsibility and accountability, these freedoms are essential to maintain the campus as an open forum for the expression and examination of ideas however unpopular. The College encourages publications written and edited by students as vehicles for the transmission of information, community evaluation, and creative expression. Publications written and edited by students, but which may not be considered to have the College as publisher, are subject only to public law and to reasonable regulations concerning manner of on-campus distribution. Student editors of publications for which the College legally may be considered publisher are authorized to determine and are responsible for content and editorial policy, in accordance with the provisions of this Constitution and subject to Article V of the Bylaws of the Trustees of Davidson College. They must be removed only for proper and stated cause and are accorded due process in any removal proceedings, including notice of charges and the right to be heard by the body ruling upon them. Student managers of*

¹⁶ Davidson College. [College Constitution](#). Revised as of October 9, 2020.

electronic media staffed by students are accorded the same rights and responsibilities as editors of student publications.”¹⁷

Beyond student conduct, the College Constitution also outlines clear guidelines related to academic freedom and the employment for faculty and staff. It states that “Davidson College is fully committed to the principles of academic freedom as formulated in the [1940 Statement of Principles on Academic Freedom and Tenure](#) by the Association of American Colleges and the American Association of University Professors.” It also prohibits the dismissal of staff and faculty for their exercise of academic freedom as an “adequate cause” for dismissal. As Article X in the Code of Faculty Explanation explains, “Adequate cause for a dismissal will be related, directly and substantially, to the fitness of the faculty member in the faculty member’s professional capacity as a teacher-scholar or as an administrator, where applicable. Incompetence, neglect of duty, and misconduct involving moral turpitude are examples of adequate cause. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.”¹⁸

Commitment to Freedom of Expression

Additionally, a new [Commitment to Freedom of Expression](#) was drafted by a Davidson College working group appointed by President Carol Quillen. This statement was affirmed in 2023 by the Davidson Faculty and Board of Trustees as a clear aspiration for the type of campus community Davidson hopes to grow and sustain. The statement states, “Davidson College’s fundamental commitment is to the principle that debate, discussion and deliberation may not be suppressed because the ideas put forth are thought by some or even most members of the college community to be offensive or unwise. We have a solemn responsibility to promote the lively and fearless freedom of debate and deliberation and will also protect that freedom when others attempt to restrict it. It is not the proper role of the College to attempt to shield individuals from ideas and opinions they find uncomfortable, disagreeable, or offensive.”¹⁹

It also asserts that “Davidson College guarantees all members of the college community the broadest possible latitude to speak, write, listen, challenge, and learn, except when that expression violates the law, falsely defames a specific individual, constitutes a genuine threat or harassment, unjustifiably invades substantial privacy or confidentiality interests or is otherwise directly incompatible with the functioning of the College.”²⁰

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Davidson College. [Commitment to Freedom of Expression](#).

²⁰ Ibid.

Davidson College Student Code of Responsibility

The Code of Responsibility outlined in Section 6 of the Student Handbook describes five general values that students are expected to adopt and a series of prohibited behaviors that they pledge to refrain from upon entry to Davidson.²¹ These include:

1. **“We are a community of learners who value personal and intellectual honesty.”** Related prohibited behaviors include misuse of College information and/or technology, providing false information, and theft.
2. **“Our actions reflect maturity, social responsibility, and respect toward others.”** Related prohibited behaviors include disorderly conduct, invasion of privacy, property damage, and sports betting on sports competitions in which Davidson College athletes are competing.
3. **“We value diversity, equity, and inclusion, and will not tolerate harassment or discrimination of any kind.”** Related prohibited behaviors include bullying, discrimination, harassment, harm to person(s), hazing, retaliation, sex discrimination, sexual misconduct, dating and domestic violence, and stalking.
4. **“Our actions show respect for health and well-being.”** Related prohibited behaviors related to alcohol use, drug use, fire and life safety, and weapons.
5. **“We honor Davidson by upholding the policies that support our community standards and operations.”** Related prohibited behaviors relate to a failure to comply, obstruction or disruption of College activities, participation in deregistered student groups, risk management violations, unauthorized access, and violation of other College policies.²²

While each value has implications for how the institution balances protecting freedom of expression and promoting a culture of mutual respect, the section on harassment is perhaps particularly relevant to this tension. It defines harassment as “any conduct that has the purpose or effect of substantially interfering with a student's work or educational opportunity; creates an intimidating, hostile, or offensive work or educational environment; or otherwise negatively affects a student's work or educational opportunities (and that is not speech protected by a student's rights to expression as outlined in Article XII of the College Constitution).” The section provides several examples of harassment:

- *“Unwelcome verbal, written, or physical conduct that denigrates or shows hostility or aversion toward an individual because of that individual's race, color, gender, national origin, religion, age, sexual orientation, or disability (or that of an individual's relatives, friends, or associates);*
- *Unwelcome threats, derogatory comments, jokes, innuendoes, insults, slurs, epithets, negative stereotyping, and other similar conduct that relate to race, color, gender, national origin, religion, age, sexual orientation, or disability; or*
- *The placement, dissemination or circulation in the workplace or on campus of any unwelcome written or graphic material (in hard copy or electronic form) that denigrates*

²¹ Davidson College. [Student Handbook 2024-25](#). Updated August 1, 2024.

²² Ibid.

or shows hostility or aversion toward an individual or group because of race, color, gender, national origin, religion, age, sexual orientation, or disability.

- *Quid pro quo harassment involves abuse of one's power, authority, or position such that submission to or tolerance of such conduct is made either an explicit or implicit term or condition of an individual's employment or education.”²³*

Section 7 of the Student Handbook outlines the Code of Responsibility Procedures, which includes the process of filing a complaint alleging violations of the Code. When someone submits a complaint for any of our processes (e.g., honor code, code of responsibility, bias report, etc.), the electronic system creates a “case number” for the complaint. That number is used to identify the case for any of the parties involved whether the complaint progresses through every step of a process or not.

In reviewing each case, the Dean of Students Office will determine if an investigation is necessary and will decide between the resolution options outlined in the Student Handbook:

1. **No Action:** If there is no basis to file charges and no follow-up is warranted, the Dean of Students Office may close the case and take no action.
2. **Interim Action:** The College may authorize interim actions, which include but are not limited to no contact orders, housing relocation, and interim restrictions.
3. **Non-Disciplinary Responses:** If it is determined that disciplinary action is not warranted, the matter may be handled with a Warning Letter, College Directive Letter, Restorative Conference, Medical Amnesty, or an Accountability Conference with an Accountability Officer.
4. **Disciplinary Responses:** If it is determined that disciplinary action is warranted, the matter may be handled through a Mutual Resolution Conference, and if not resolved at the conference, will be resolved through a Code of Responsibility Council Hearing. This Council includes a representative of the Dean of Students Office, who will act as Chair, a faculty or staff member selected from the Student Conduct Council, and three students selected from the Honor Council.
5. **Withdrawal of Charges:** The Dean of Students Office has the authority to withdraw allegations once they have been made.²⁴

It is through this process that the College determines whether particular speech acts are protected or violate the Code of Responsibility and warrant either non-disciplinary or disciplinary action.

²³ Ibid.

²⁴

Setting Expectations (5 min.)

In this section, we will review the “Expected Outcomes,” “Deliberative Dispositions,” and “Conversation Agreements” below.

Expected Outcomes of the Conversation

The purpose of this deliberation is to listen to and share perspectives on rights and responsibilities related to freedom of expression, both generally and at Davidson College specifically. Over the course of our conversation, we will have the opportunity to listen to the perspectives of our fellow deliberators as well as share our own thoughts about the topic. Finally, we will have reflected on our conversation, our areas of agreement and disagreement, and what we have learned from our time together.

Deliberative Dispositions

The DCI has identified several “deliberative dispositions” as critical to the success of deliberative enterprises. When participants adopt these dispositions, they are much more likely to feel their deliberations are meaningful, respectful, and productive. Several of the Conversation Agreements recommended below directly reflect and reinforce these dispositions, which include a commitment to egalitarianism, open mindedness, empathy, charity, attentiveness, and anticipation, among others. A full list and description of these dispositions is available at <https://deliberativecitizenship.org/deliberative-dispositions/>.

Conversation Agreements

In entering into this discussion, to the best of our ability, we each agree to:

1. Be authentic and respectful
2. Be an attentive and active listener
3. Be a purposeful and concise speaker
4. Approach fellow deliberators’ stories, experiences, and arguments with curiosity, not hostility
5. Assume the best - and not the worst - about the intentions and values of others, and avoid snap judgements
6. Demonstrate intellectual humility, recognizing that no one has all the answers, by asking questions and making space for others to do the same
7. Critique the idea we disagree with, not the person expressing it, and remember to practice empathy
8. Note areas of both agreement and disagreement
9. Respect the confidentiality of the discussion
10. Avoid speaking in absolutes (e.g., “All people think this,” or “No educated people hold that view”)

Getting to Know Each Other (5 min.)

In this section, we will take less than a minute to share our names and 2-3 aspects of our identities that are important to us. These could be our gender pronouns, our occupation, our family status (e.g., husband, mother, etc.), our hometown, our favorite hobby, etc.

If you are online, while there is no pressure to do so, everyone is welcome to type in any, all, or none of these aspects of your identity into your Zoom nameplate after your name (just right-click on your own image and click “Rename”). If you haven’t already, we encourage you to turn on your video cameras to enable a more “face-to-face” conversation.

The Nature and Importance of Freedom of Expression (15 min.)

In this section, we will share our initial thoughts on the relationship between the nature and importance of freedom of expression. Feel free to draw on arguments and data from the guide, the panel, or your own experience. We will each take about one minute to answer one of the questions below (your choice which one) without interruption or crosstalk. After everyone has spoken once, the group is welcome to continue discussing these questions as time allows or move on to the next set of questions in this section.

1. Why is freedom of expression valued in a democratic society?
2. Why is freedom of expression valued in higher education?
3. Is there an example from your own life where you have seen the value of free expression?
4. Where should freedom of expression be ranked in relation to other democratic and institutional values?

The Nature of Responsible Freedom of Expression (15 min)

In this section, we will discuss what we view as responsible freedom of expression and what are reasonable limits to “free speech.” We can do so generally or in relation to concerns about particular types of speech. We will each take up to one minute in turn to address one of the questions below (without crosstalk) before we engage in open deliberation using the time we have remaining.

- How should institutions regulate speech that may be critical of (or perceived as critical of) other students’ personal identities (i.e. race, sexual identity, religious affiliation, nationality, etc.)?
- How should institutions regulate misinformation and/or disinformation?
- How should institutions regulate political speech (i.e. campaigning, hosting speakers, passing out political materials, creating art and physical displays with political messages)?

- What criteria should be used to determine when such instances of controversial speech violate norms and warrant an institutional response? Who should make such determinations?

Davidson College's Approach to Freedom of Expression and the Student Code of Responsibility (15 min.)

Davidson has developed its own approach to balancing the tensions around protecting freedom of expression and promoting belonging and mutual respect. In this section, we will have the opportunity to discuss the College's approach and share our thoughts and questions about it. Let us first each take one minute or so to respond to one of the two questions below, and then we will explore the topics further with each other as time allows.

1. What are the strengths and weaknesses of the College's approach to tensions around freedom of expression on campus?
2. Given its commitments outlined in the documents discussed in this guide, how should the College respond to concerns about the expression of particular viewpoints on campus?

The College Constitution states that "the student has the obligation to exhibit accuracy, appropriate restraint, and respect for the opinions of others."

3. What constitutes an appropriate response to speech that some view as inaccurate? What needs to be done to ensure such infractions are addressed in an appropriate manner?
4. What constitutes an appropriate response to speech that is reported as disrespectful? What needs to be done to ensure such infractions are addressed in an appropriate manner?

FROM THE STATEMENT ON FREEDOM OF EXPRESSION: Davidson College guarantees all members of the college community the broadest possible latitude to speak, write, listen, challenge, and learn, except when that expression violates the law, falsely defames a specific individual, constitutes a genuine threat or harassment, unjustifiably invades substantial privacy or confidentiality interests or is otherwise directly incompatible with the functioning of the College.

5. How can Davidson ensure a broad range of ideas and opinions are able to be shared while protecting the community and function of the school from obstructive speech?
6. What criteria, if any, should be established to determine what speech should be protected and what is restricted, in general terms?

Reflections (10 min.)

While today's conversation is an important step in the journey, effectively responding to the tensions between the rights and responsibilities involved in free expression is an ongoing effort. Please reflect on the insights from your discussion with your fellow participants today and then answer one of the questions below without interruption or crosstalk. After everyone has answered, the group is welcome to continue exploring additional questions as time allows.

1. What was most meaningful or valuable to you during this deliberation?
2. Where are the areas of both agreement and disagreement in your group?
3. Have any new ways to think about this issue occurred to you as we have talked today?
Any new ideas that might transcend our current way of conceiving of the problems and potential solutions?
4. Was there anything that was said or left out from the discussion that you think should be addressed with the group? Are there any perspectives missing from this conversation that you feel would be important to hear?
5. What did you hear that gives you hope for the future of conversations about freedom of expression at Davidson?
6. Is there a next step you would like to take based on the deliberation you just had?

Appendix: Glossary

(From the [Oxford English Dictionary](#))

Academic freedom: *(a)* (also **academic freedom of thought**) the freedom of a teacher to state personal opinions openly without censorship, or without the fear of professional disadvantage; *(b)* the freedom of students to choose their courses or influence the content of courses; *(c)* the freedom of an academic institution to control its own affairs.

Equality: The condition of having equal dignity, rank, or privileges with others; the fact of being on an equal footing.

Equity: The quality of being equal or fair; fairness, impartiality; even-handed dealing.

Freedom of expression: *(a)* frankness or openness in the expression of one's thoughts, feelings, etc.; cf. sense [8a](#); *(b)* the right to express oneself without interference or censorship;

Free speech: the freedom to express one's opinions without censorship, legal penalty, etc.; freedom of expression.

Hate speech: *(a)* a speech or address inciting hatred or intolerance, esp. towards a particular social group on the basis of ethnicity, religious beliefs, sexuality, etc.; *(b)* (as a mass noun) speech (or sometimes written material) inciting such hatred or intolerance.

Hate crime: A crime, usually violent, motivated by hatred or intolerance of a particular social group on the basis of ethnicity, religious beliefs, sexuality, etc.

Inclusion: The action, practice, or policy of including any person in an activity, system, organization, or process, irrespective of race, gender, religion, age, ability, etc.

Inquiry: The action of seeking, esp. (now always) for truth, knowledge, or information concerning something; search, research, investigation, examination.

About this Guide

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Note: This guide incorporates text published in previous DCI Deliberation Guides on *Free Speech and Inclusion* and *Speech, Harm and Offense*

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The Deliberative Citizenship Initiative

The Deliberative Citizenship Initiative (DCI) is dedicated to the creation of opportunities for Davidson students, faculty, staff, alumni, and members of the wider community to productively engage with one another on difficult and contentious issues facing our community and society. The DCI regularly hosts facilitated deliberations on a wide range of topics and organizes training workshops for deliberation facilitators. To learn more about these opportunities, visit www.deliberativecitizenship.org.

DCI Deliberation Guides

The DCI has launched this series of Deliberation Guides as a foundation for such conversations. They provide both important background information on the topics in question and a specific framework for engaging with these topics. The Guides are designed to be informative without being overwhelming and structured without being inflexible. They cover a range of topics and come in a variety of formats but share several common elements, including opportunities to commit to a shared set of Conversation Agreements, learn about diverse perspectives, and reflect together on the conversation and its yield. DCI staff, faculty, and students are the authors of these guides; generative AI is used to improve the clarity of the writing, identify errors, and provide background information, but all final text is confirmed by the authors. The DCI encourages conversations based on these guides to be moderated by a trained facilitator. After each conversation, the DCI also suggests that its associated Pathways Guide be distributed to the conversation's participants.

DCI Pathways Guides

For every Deliberation Guide, the DCI has also developed an associated Pathways Guide, which outlines opportunities for action that participants can consider that are related to the covered topic. These Pathways Guides reinforce the DCI's commitment to an action orientation, a key deliberative disposition. While dialogue and deliberation are themselves important contributors to a healthy democracy, they become even more valuable when they lead to individual or collective action on the key issues facing society. Such action can come in a range of forms and should be broadly understood. It might involve developing a better understanding of a topic, connecting with relevant local or national organizations, generating new approaches to an issue, or deciding to support a particular policy.

If you make use of this guide in a deliberation, please provide attribution to the Deliberative Citizenship Initiative, and email dc@deliberativecitizenship.org to tell us about your event. To access more of our growing library of Deliberation Guides, Pathways Guides and other resources, visit www.deliberativecitizenship.org/readings-and-resources.