

May 3, 2024

Dear University of Vermont, Middlebury College, and Sterling College Leadership,

We write in response to reports of escalating police presence at the University of Vermont, and possibly other Vermont campuses, stemming from recent student demonstrations. The ACLU of Vermont is closely following these developments and writes to emphasize the important academic freedom and free speech principles present when students exercise their First Amendment rights on campus. We strongly urge campus administrators across the state to exercise restraint in responding to student protests and encampments -- specifically by addressing any issues chiefly through traditional educational disciplinary tools and refraining from resorting to law enforcement confrontation or criminal penalties unless absolutely necessary for public safety.



PO Box 277
Montpelier, VT 05601
(802) 223-6304
acluvt.org

As you know, colleges and universities lie at the center of our intellectual and political tradition, and Vermont students have a rich and long history of exemplifying this tradition through campus protest. Engaging with student activism and grappling with different, even painful, ideas and world views is an essential part of the learning experience, and college and university administrators have a responsibility to allow students to openly express their political views—especially when those views are critical of them.

Of course, all students deserve equal access to education, free from discrimination based on religion, race, and ethnicity. Schools also have a responsibility to keep students protected from violence and discrimination as well as from censorship.

To assist you in balancing these sometimes-competing imperatives, we wish to call your attention to this Open Letter to College and University Presidents on Student Protests prepared by our colleagues at the National ACLU: <https://www.aclu.org/news/free-speech/open-letter-to-college-and-university-presidents-on-student-protests>.

As we receive reports of escalating responses, including increased police presence, we emphasize two points:

First, responding to student demonstrations with armed police is often counter-productive and should be a measure of last resort. As the letter from our colleagues at the National ACLU explains, “[i]nvolving armed police into a campus protest environment, even a volatile one, can create unacceptable risks for all students and staff. University officials must also be cognizant of the history of law enforcement using inappropriate and excessive force on communities of color, including Black, Brown, and immigrant students. Moreover, arresting peaceful protestors is also likely to escalate, not calm, the tensions on campus — as events of the past week have made abundantly clear.” We urge campus leadership to consider and exhaust all tools for resolution before resorting to direct confrontation between police and students. We note, for example, that several

campuses outside Vermont have successfully reached resolutions to student protests through dialogue and negotiation, without the need for criminalization or confrontation.

Second, while campuses may of course enforce content-neutral codes of conduct and campus policies, they must do so consistently and uniformly, without singling out particular protests or causes for punishment or sanctions. As the letter from our colleagues also notes, any rules the college or university seeks to enforce “must not only be content neutral on their face; they must also be applied in a content-neutral manner. If a university has routinely tolerated violations of its rules, and suddenly enforces them harshly in a specific context, singling out particular views for punishment, the fact that the policy is formally neutral on its face does not make viewpoint-based enforcement permissible.” Leadership may not respond disproportionately to the present demonstrations because of their content or messaging, or due to outside pressure—whatever the source.

We are in a challenging moment of ongoing nationwide debate about the crisis in Israel and Palestine and witnessing rising incidents of both Islamophobia and antisemitism; we understand the extraordinarily difficult position facing campus leadership, in Vermont and nationwide. In these moments, however, the responsibility of universities and colleges to protect students’ speech, even speech that is disruptive, is at its apex, and we urge you to respond to these incidents in ways that further free speech and academic inquiry and center student growth, rather than criminalize students for civic engagement and political protest—traditions entrenched in our history and the First Amendment.

Please do not hesitate to reach out if we can help you do so or you would like to discuss this further.

Sincerely,



Lia Ernst
Legal Director



Harrison Stark
Senior Staff Attorney