

Hamilton College Strategic Planning Subcommittee Report, Summer 2008
Ethics and Academic Freedom

Vige Barrie
Randy Ericson
Kye Lippold
A. J. Massolo
Peter J. Rabinowitz (chair)
Yvonne Zylan

As its name suggests, the Subcommittee on Ethics and Academic Freedom is concerned with two important aspects of life and work at Hamilton College: ethical conduct and academic freedom. While ethics and academic freedom are closely related to one another, they are not identical. When we announce our ethical commitments, we say much about what we value as an institution, and we establish our expectations about how members of the campus community ought to treat one another and the College, and how we undertake the important work we do in pursuit of our academic mission.

Academic freedom may be conceived as an ethical value, and we embrace and uphold it as such. But apart from any normative judgments that might issue about the inherent value of academic freedom, we also recognize that academic freedom serves particularly important instrumental purposes in the life of a college or university. A campus that nurtures and protects spirited, reasoned intellectual discourse is a campus that equips itself to be actively engaged in cultivating knowledge, addressing the important issues that confront us on the Hill and in the world beyond, and cultivating the skills of intellectual engagement that are at the heart of Hamilton's educational mission.

At Hamilton, we seek to create, develop, and support a community that upholds and evinces the following core values: respect; inclusiveness of people, perspectives, and ideas; creativity; fairness; honesty; cultural, social, and intellectual diversity; open communication; institutional transparency; and integrity. Some of these values represent overarching ethical principles to guide interpersonal and professional interactions on our campus. Others are oriented more specifically toward developing the campus as a site of intellectual exchange and education in the liberal arts. In all cases, however, we believe the College has an important institutional role to play in creating an environment in which these values are cultivated and put into practice. To that end, we believe it is crucial that, over the next five years, the College embrace the following:

1. A commitment to creating the institutional conditions within which spirited debate, the free exchange of ideas, creativity, organizational self-examination, and innovation may flourish and therefore contribute to the life and growth of the College. Perhaps the most important of these conditions is the presence and faithful use of open, predictable, and well-developed channels of communication. Nearly every recent instance of conflict arising on our campus was exacerbated (if not created) by a failure of communication—particularly communication running from the administration to other constituencies on campus. While better communication alone might not have prevented or resolved these conflicts, it would have inspired greater confidence in the processes we are asked to rely upon in addressing the challenges that inevitably arise in an academic environment.

2. A commitment to creating, nurturing, and supporting a campus climate that invites and includes the widest possible range of perspectives, opinions, experiences, and people—a diverse student body, faculty, staff, and administration. To fulfill its academic mission and to prepare Hamilton students for active engagement in the intellectual, cultural, and civic life of their communities, the College must seek to create a campus community that reflects and supports genuine racial, ethnic, religious, sexual, socioeconomic, intellectual, and cultural diversity.
3. A commitment to procedural justice for all members of the Hamilton community, in the resolution of all grievances, disputes, and complaints that may arise in the life of the College, including (but not limited to) those pertaining to: employment and promotion decisions, conflicts between community members, allegations of wrongdoing, and disciplinary actions. Such a commitment would require, at a minimum, the creation and faithful observance of well publicized, appropriately staffed, and transparent systems of adjudication.

The deliberations of the subcommittee have been spirited and wide-ranging, and over the course of our time together, we have disagreed, often heatedly, on many issues. Even now, after months of discussion, we do not fully agree on how Hamilton can most productively frame discussions of Academic Freedom as we move into the future. Still, in the end, we found much that we could all agree upon. What follows is a consensus report, one that reflects some but not all of our differences. Although some of us would have liked to add more materials, and some of us would have preferred a different emphasis, except where noted we all do endorse the following.

1. **Academic Freedom:** Whatever the technical definitions of “academic freedom,” the subcommittee believes that there are three crucial areas in which members of the academic community should be free to speak their minds: in the classroom, on the campus, and in their research. In addition, as the American Association of University Professors puts it, “When [faculty members] speak or write as citizens, they should be free from institutional censorship or discipline.” The AAUP notes as well that “their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.” At the same time, the AAUP puts a very high bar on possible institutional retaliation for extramural comments: “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. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar.”

For members of the campus community to feel free to speak openly, they must also feel that they will be supported by the institution if, for instance, they include contentious materials in their syllabi or they bring provocative speakers to campus. They must also feel free from retaliation if they criticize the institution, either on or off campus. All members of the committee agree that Faculty should feel confident that the institution will not engage in censorship or inappropriate discipline. In keeping with existing College policy, as stated in the *Faculty Handbook*, the committee recognizes the College’s right to discipline a member of the faculty

(up to dismissal) when his or her actions amount to “unfitness of the faculty member in his or her professional capacity or in his or her behavior as a member of the Hamilton community.” There is a division of opinion on the committee, however, as to whether extramural expression—even highly contentious or critical expression—should ever be sufficient to sustain a finding of “unfitness.” A majority of the committee believes that such expression should never, standing on its own, lead to a finding of unfitness such that disciplinary action might be imposed. A minority of the committee believes there may be circumstances under which a given faculty member’s extramural expression might be so incompatible with that member’s “special obligations” arising by virtue of their position as a faculty member (as described by the AAUP), that disciplinary action (short of dismissal) might be warranted.

Moving forward, it is vital that the College consider this difficult question and decide—in advance of new challenges that may arise around expression in the future—exactly where it believes the outer limit of protected expression resides. Whatever the resolution of that question, however, the committee reaffirms the importance of following existing policies and procedures in determining specific responses to instances of intra- and extramural expression. It is crucially important that decisions and actions taken by the Administration are clearly articulated, explained, and justified so that they will not be perceived by members of the campus community as arbitrary, retaliatory or as imposing inappropriate discipline. The committee believes that the definition and communication of, and adherence to, a principled position on academic freedom are absolutely vital to the creation of an atmosphere of mutual trust on campus, without which members of the community cannot effectively pursue the academic mission of the College.

Recommendation: Over the next five years, the College should examine its practices and policies to find ways of ensuring confidence in its total commitment to the broadest notions of academic freedom.

2. Campus climate: The committee believes the College must nurture and protect a campus climate that invites and includes the widest possible range of perspectives, opinions, experiences, and people. To put it in different terms, a community where everyone feels enabled is stronger and more productive than a community in which people feel constrained. Thus, for instance, a hate-speech code may be, in the long run, less effective and desirable than a community in which people act with respect for difference—and in which the community support for racial, religious, political, ethnic, sexual, and intellectual diversity is so strong that particular instances of intolerance do not have a serious psychological impact on those toward whom they are directed and the community at large. The College needs to think of imaginative ways to create and promote such a community that reflects, to the extent possible, the world in which we are and will be living, encompassing differences of race, gender, age, religion and ideology.

Our sense of self: Hamilton is an intellectual community, not a for-profit corporation, and our behavior should reflect that difference. In our discussions, the effect of this distinction on our salary policies has become a source of spirited conversation. A majority of the committee believes that, when determining salaries and benefits for our lower-paid employees (including faculty adjuncts), the College should consider factors beyond market forces. In particular, a majority feels that, to the extent that faculty are paid so as to be competitive (in the top 95%) of a national market, and staff are paid to be more or less at the center of a local market, there is a built-in potential for inequity. A minority of the committee, however, believes that market

factors remain the only reliable and objective means of determining staff salaries. In any case, the committee believes that the choice of market/nonmarket criteria (and the particular markets and criteria chosen) in setting salaries is itself an ethical choice that the College must examine carefully.

Creating a community in which diverse perspectives are encouraged, supported, and valued is vital to the life of the College. *At a minimum*, such a community requires that everyone feel safe to express his or her views. “Safe” does not mean “safe from criticism” (quite the contrary)—but it does mean safe from humiliation and retaliation. If students are afraid to speak out in classrooms, if faculty are afraid to speak out at faculty meetings or to invite controversial speakers, if staff members feel silenced, then we have failed to create an intellectual community. In our work as a committee, we have heard from some members of the faculty, administration, and staff that they believe the climate on campus is chilly indeed; information collected by the student members of the strategic planning subcommittees suggest that, while students generally believe the college supports free academic discourse, some (both liberal and conservative) have expressed concern about a normalizing influence in classrooms that discourages points of view that depart from a perceived cultural mainstream. Unless we address this perceived chill, the College cannot reach its potential; to the extent that “incivility” inhibits discussion, we must find ways to eliminate it.

Beyond creating a safe climate for expression, the committee believes that the College must consider institutional means of cultivating positive modeling behavior among faculty, staff, and administrators. We all learn appropriate community behavior by watching the actions of others. Students, in particular, learn to act by watching faculty, staff, and administrators—but it is not only students who are harmed when others behave inappropriately (whatever that might mean). Therefore, when we (in particular, when adults here) act in anti-intellectual and anti-community ways, the community is doubly injured. The College’s awkward response to plagiarism is one of the more dramatic instances, but there are smaller instances every day, from careless treatment of College property to abusive emails on faccurr.

Finally, the committee believes that the College must find ways to creatively and actively encourage a genuinely inclusive campus. In our discussions—and in broader discussions on campus during 2007-2008—students, faculty, administrators, and staff have all evinced concerns about exclusion or marginalization of individuals in the community along gender, age, racial, class, and ideological lines. The presentations made to the faculty by the student-run Social Justice Initiative were especially powerful. Active efforts to enhance the openness of Hamilton’s community—to create an environment that values differences of individual backgrounds—are thus essential.

Recommendation: Over the next five years, the College should address the following questions: (1) Which criteria, chosen to reflect which ethical principle(s), ought to guide the College’s decision-making with respect to salaries and benefits for staff and administrators? (2) How might the College revise its policies and practices to ensure consistent, principled, and ethical modeling behavior on the part of faculty, staff, and administrators? (3) Should the College found a Cultural Education Center, as proposed by the SJI? (4) Should Hamilton’s curriculum require, or do more to encourage, students to take courses that focus on issues of diversity in particular? (5) What can the College do to ensure that programs aimed toward creating a more inclusive community apply to staff and administration as well as to students and faculty? (6) Can we put in place appropriate

and intellectually responsible programming that may engender more inclusive perspectives for members of the campus community around ethnicity, race, gender, age, religion, and ideological issues raised by students and other members of the community?

3. Fair Treatment and Adjudication: During our deliberations, we have looked at the whole range of adjudication and appeals procedures as they apply to all constituencies. We began with the assumption that, ideally

- (a) All constituents of the College should feel they have been treated fairly
- (b) There should be a mechanism for appeal should there be a dispute or grievance where any member of the community feels he or she has been wronged and
- (c) The mechanism(s) in place must be well understood, deemed fair, and be as predictable as possible.

On the basis of the mass open meeting, the letters that were sent to us, and our own experiences, we believe that some of the procedures seem to be doing very well (e.g., Judicial Board), while others are in need of serious attention. In particular:

The Staff Grievance Advisory Committee, although described in the Staff Handbook, does not exist. The college has evaluated staff attitudes at least twice in the past ten or fifteen years, and both studies have concluded that staff morale is lower than we would like it to be. Staff not only needs a better grievance structure, they also need a stronger voice in decisions about pay and benefits.

There does not seem to be any clearly articulated and communicated grievance procedure for administrators.

Many faculty are concerned about the procedures for determining faculty salaries—in particular, the relationship between merit raises and what is loosely called collegiality. The Academic Council has been asked to bring some proposals to the faculty to remedy this concern—we hope that the conversations will continue.

The Honor Court has hit a brick wall this semester. Two issues have emerged. First, a series of technical flaws in the Honor Court Constitution have made it difficult for the Court to function. Although revisions of the Constitution are underway, it may take some time before they are implemented and in place. Second, perception of significant cheating seems to have undermined confidence in the Honor Code. We point specifically to the new policy by the Economics Department, which involves proctoring of all departmental exams.

Additionally, systems of adjudication cannot function as they must without guarantees of transparency and open communication. Transparency and communication are essential to a successful community. We understand, of course, that no institution can work without a certain measure of confidentiality, both within the community and with respect to outside institutions. Personnel decisions are especially delicate in this regard. Nonetheless, at least some members of the community believe that Hamilton sometimes imposes confidentiality where it is not necessary, and that decisions are sometimes made without appropriate consultation and

communication. This perceived lack of transparency sometimes results in unnecessary speculation and negative assumptions, and may possibly have an impact on academic freedom and the ethical conduct of the work of the College.

Recommendation: Over the next five years, the College should put in place systems of consultation and communication through which it communicates clearly, widely, systematically, and expeditiously all material decisions made by the administration which affect the policies, procedures, objectives, and goals of the College to ensure transparency and to promote mutual trust among all campus constituencies. Among other changes, the College should: (1) Create, if they do not already exist, forums for various members of the Administration to regularly brief concerned elements of the community on such issues as compensation, budget, buildings and grounds, rules and regulations, curriculum and Board of Trustee decisions; (2) Provide greater access to select Administration members and perhaps Trustees if this will enhance communication. (3) Enable open communication between all members of the College community. This would include communication between the faculty and administration, junior faculty and senior faculty, students and professors and the like. (4) Consider the merits of creating a joint Faculty/Staff/Student/Board committee on relations between the Board and the on-campus members of the community.

Recommendation: Over the next five years, the college should create, faithfully adhere to, and clearly communicate a coherent system of adjudication and dispute resolution that ensures procedural justice, fairness, and transparency. Particular attention should be paid to establishing a Human Resource Dispute Resolution Process.

Concluding thoughts: Over the past five years our campus has experienced conflict over such issues such as who should be invited to speak on campus, governance of ad hoc projects, and plagiarism. Some members of our community, rightfully or wrongfully, have questioned the institution's response to these conflicts and concerns. We believe that there is little good to be gained by revisiting old situations in order to assess blame. At the same time, the College should be looking into ways in which we can learn from our past mistakes so that we do not repeat them in the future, and to heal some of the wounds that, while rarely discussed explicitly, continue to interfere with effective operation of the College. We believe that the College will be able to make great progress in implementing these goals if it embraces the commitments we have outlined in this report. A campus that embraces a strong commitment to academic freedom, an inclusive and respectful campus climate, and procedural justice is a campus well suited to pursue its academic mission. It is also a campus that staff, faculty, administrators, and students will find welcoming, nurturing, challenging, and fair.