Cornell University Library
Task Force on Academic Freedom

REPORT FOR THE ACADEMIC ASSEMBLY

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Introduction

Convened by the Academic Assembly Steering Committee, the Task Force on Academic Freedom (henceforth the "Task Force") has been charged with examining the current state of academic freedom at Cornell University Library, as well as reviewing, documenting, and recommending changes to the procedure for addressing challenges to an RTE faculty librarian's academic freedom. This charge is meant to clarify the scope and application of academic freedom for academic librarians and archivists as well as to ensure compliance with Cornell University Policy 6.2.10: Establishment of College-level Academic Employee Grievance Procedures.

This draft report covers the research undertaken by the Task Force to address tasks 1-5 of its charge. The Task Force's full charge can be found in Appendix A of this report and on Confluence. A summary of the Task Force's findings is listed under each task below.

1. Establish working definitions for *academic freedom*, *freedom of speech*, and *freedom of expression*.

1a. Definition of Academic Freedom at Cornell University

Academic freedom is generally a professional norm, not a legal right, and thus does not have a legal definition or test. However, the Supreme Court has often paid homage to the ideal of academic freedom, often in reference to the First Amendment.[1] The Supreme Court has made clear that academic freedom, in the constitutional sense, is of special concern to the First Amendment and involves freedom from government efforts "to control or direct the content of the speech engaged in by the university or those affiliated with it."[2] In other words, generally a state regulation or law limiting the content of speech on campus must be narrowly tailored to serve a compelling governmental interest. Academic freedom has been implicated in cases such as when a professor refused to answer questions about

[1] See, e.g. , Regents of the Univ. of Mich. v. Ewing, 474 U.S. 214, 226 & n.12, 88 L. Ed. 2d 523, 106 S. Ct. 507 (1985); Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 312-13, 57 L. Ed. 2d 750, 98 S. Ct. 2733 (1978) (opinion of Powell, J.); Keyishian v. Board of Regents, 385 U.S. 589, 603, 17 L. Ed. 2d 629, 87 S. Ct. 675 (1967); Sweezy v. New Hampshire, 354 U.S. 234, 250, 1 L. Ed. 2d 1311, 77 S. Ct. 1203 (1957) (plurality opinion); id. at 261-63 (Frankfurter, J., concurring in the result)

[2] U. of Pennsylvania v. E.E.O.C., 493 U.S. 182, 195–96 (1990); see also Keyishian v. Board of Regents of University of New York, 385 U.S. 589, 603, 87 S.Ct. 675, 683, 17 L.Ed.2d 629 (1967), see also Sweezy v. New Hampshire, 354 U.S. 234, 263, 77 S.Ct. 1203, 1218, 1 L.Ed.2d 1311 (1957), where the Justice recognized that one of "four essential freedoms" that a university possesses under the First Amendment is the right to "determine for itself on academic grounds who may teach ".

the content of his lectures[3], in a professor's refusal to certify that he was not a member of the Communist Party[4], in a university's selection of a diverse student body[5], and in the university's right to make its own rules concerning academic standards and discharges.[6] Because academic freedom is tied to the First Amendment and is not a standalone constitutional right, there must be some kind of state action in order for a court to get involved, which is often more difficult at a private institution like Cornell in comparison to public universities that are inherently state run.

Nonetheless, the Supreme Court has discussed at length in numerous cases the democratic importance of academic freedom. The Supreme Court in *Sweezy v. New Hampshire* defined the right to academic freedom as the right "to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study."[7] The Supreme Court has more frequently protected an institution's right to academic freedom by ensuring they can govern free from government intrusion than they have protected an individual faculty member's right to academic freedom free from institutional intrusion.

Academic Librarians have their academic freedom protected by various means that are not necessarily constitutional protections but can still be considered legal protections. Some librarians are protected by state regulations[8], but most are protected through either a faculty or employee code or a collective bargaining agreement. A faculty or employee handbook or code is often considered by courts to be a legally enforceable agreement. For example, in New York, faculty members have utilized Article 78 proceedings to challenge a universities' compliance with faculty handbook procedures.[9] If a university does not

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[3] Sweezy v. New Hampshire, 354 U.S. 234 (1957).
[4] Keyishian v. Board of Regents of University of New York, 385 U.S. 589 (1967)
[5] Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 312-13, 57 L. Ed. 2d 750, 98 S. Ct. 2733 (1978)
[6] Regents of the Univ. of Mich. v. Ewing, 474 U.S. 214, 226 & n.12, 88 L. Ed. 2d 523, 106 S. Ct. 507 (1985)
[7] Sweezy v. New Hampshire, 354 U.S. 234, 257 (1957).
[8] See Ohio, where Ohio Admin. Code 3344-62-06 applies to Cleveland State University and other public universities states that "The university recognizes the academic freedom of librarians in the performance of their academic responsibilities to select materials to create an appropriate library collection, to provide instructions in its use, and to create websites, displays, and other academic resources." Going further, OAC Ann. 3344-62-06 also states that "It is recognized that free speech is essential in a democratic society. As individuals or groups, librarians are permitted to demonstrate and protest on university property in opposition to university, city, state, national, or international policy provided they do not violate any applicable local, state, or federal law, and no acts are performed that . . ." generally cause damage to person or property or prevents anyone from attending class or entering or leaving a facility or program or prevents others from performing duties.
[9] NY CPLR Art. 78 is a special proceeding used to challenge the determinations of administrative agencies, public bodies, or officers and it has been interpreted to include determinations by universities. It is designed to provide a mechanism for judicial review of administrative actions and decisions. The proceeding is

substantially comply with their procedures in their employee or faculty handbook, a faculty member can argue that the university abused their discretion or made an arbitrary and capricious decision. However, an Article 78 proceeding can only be brought in court after all administrative appeals have been exhausted, meaning that a librarian in New York must first go through the internal university process and allow the university to reach a final decision (for example, appealing a university decision to discipline, fire, or promote to a higher administrator or hearing board) before bringing the matter to court within the four-month statute of limitations.[10]

The academic freedom rights of librarians are thus usually defined, protected, and enforced through either collective bargaining agreements, bylaws, or faculty or employee codes or contracts. The 1940 Statement of Principles on Academic Freedom and Tenure were promulgated by the AAUP and Association of American Colleges and has since been endorsed by every major higher education organization in the country through its adoption into bylaws, faculty contracts, and collective bargaining agreements.[11]

Academic freedom as defined by the American Association of University Professors (AAUP):

> Academic freedom is the freedom of a teacher or researcher in higher education to investigate and discuss the issues in his or her academic field, and to teach and publish findings without interference from administrators, boards of trustees, political figures, donors, or other entities. Academic freedom also protects the right of a faculty member to speak freely when participating in institutional governance, as well as to speak freely as a citizen.[12]

The standards laid out in AAUP's 1940 *Statement of Principles on Academic Freedom and Tenure* have served as the basis for academic freedom language in faculty handbooks

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typically brought in the Supreme Court in the county specified by law. Article 78 proceedings are subject to a four-month statute of limitations which begins to run when the determination to be reviewed becomes final and binding.

[10] See e.g. Matter of Shirazi v. N.Y. Univ., 143 A.D.3d 602, 40 N.Y.S.3d 65 (App. Div. 2016); O'Neill v. N.Y. Univ., 97 A.D.3d 199, 944 N.Y.S.2d 503 (App. Div 2012); Gray v. Canisius Coll. of Buffalo, 76 A.D.2d 30, 430 N.Y.S.2d 163 (App. Div. 1980); but see, Maas v. Cornell Univ., 94 N.Y.2d 87, 699 N.Y.S.2d 716, 721 N.E.2d 966 (1999) (holding that administrative decisions of educational institutions like Cornell are only entitled to article 78 review and that the campus code is not necessarily part of an employment contract so breach of contract cases are not necessarily appropriate).

[11] J. Peter Byrne, Academic Freedom: A "Special Concern of the First Amendment", 99 Yale L.J. 251, 253 (1989), see also Amy H. Candido, Comment, A Right to Talk Dirty?: Academic Freedom Values and Sexual Harassment in the University Classroom, 4 U. Chi. L. Sch. Roundtable 85, 86-87 (1996-97).

[12] "FAQs on Academic Freedom." AAUP. https://www.aaup.org/programs/academic-freedom/faqs-academic-freedom

nationwide. This definition is applicable to librarians and archivists in that we are teachers and researchers, and participate in shared governance, as well as being relevant to our rights to speak freely as individual citizens outside of our work.

Cornell University adopted a policy statement in 2021 affirming Cornell's commitment to academic freedom and rights of free speech and expression – for faculty, students and staff – as fundamental to the university's mission.[13] The policy explicitly endorses – for the first time by the administration and trustees – the 1960 Faculty Statement on Academic Freedom and Responsibility. The Cornell Board of Trustees approved the Policy Statement on Academic Freedom and Freedom of Speech and Expression on March 19, 2021, following its endorsement by the Faculty Senate through Resolution 157.[14]

Cornell's policy also extends the "values of free and open inquiry and expression and recognizes employees' right to communicate freely outside of the scope of their Cornell employment in their capacity as private citizens." Cornell's policy defines Academic Freedom for Faculty as:

> Freedom of expression in the classroom on matters relevant to the subject and the purpose of the course and of choice of methods in classroom teaching; from direction and restraint of scholarship, research, and creative expression and in the discussion and publication of the results thereof; to speak and write as a citizen without institutional censorship or discipline.

"The University recognizes that academic freedom also encompasses the freedom to address any matter of institutional policy or action whether or not as a member of any institutional governance body. The University further affirms that 'a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates that faculty member's fitness for continuing service."

Cornell's policy statement defining academic freedom and freedom of expression is the standard that faculty, including librarians, will be held by, and that librarians and archivists can hold Cornell accountable to. It is important to note that Cornell's policy statement goes beyond just protecting faculty, as it also states that employees have the right to community freely outside of their scope of employment as private citizens. For faculty, including librarians, expression and opinions as private citizens cannot constitute grounds for dismissal unless it demonstrates a lack of fitness. For faculty, including librarians, expressing ourselves within the scope of employment is protected by academic freedom if

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[13] Office of the Dean of Faculty, Cornell Policy Statement on Academic Freedom and Freedom of Speech and Expression, Policies & Procedures (12/01/2022).
[14] Faculty Governance Resolutions Archive, Resolution 157: Academic Freedom and Freedom of Speech and Expression (February 10, 2021).

it is relevant to the subject of the class. Academic freedom also covers the purpose and choice of methods of our teaching, the direction and research choices we make, discussions of our research, and our ability to address any matters of institutional policy or action, whether or not as a member of any institutional governance body.

1b. Definitions of Academic Freedom for Librarians

Given the unique position that librarians and archivists hold within the university, we require a more expansive definition of academic freedom. In addition to needing academic freedom in teaching and scholarship, librarians and archivists must also have the freedom to exercise our professional judgment and expertise in carrying out our core job responsibilities. As detailed in the Association for College and Research Librarians (ACRL) *Standards for Faculty Status for Academic Librarians*:

> Librarians perform a multifaceted role within the academy. It includes not only teaching credit courses but also providing access to information, whether by individual and group instruction, selecting and purchasing resources, digitizing collections, or organizing information…They are involved in the research function and conduct research in their own professional interests and in the discharge of their duties Their scholarly research contributes to the advancement of knowledge valuable to their discipline and institution.
>
> College and university librarians share the professional concerns of faculty members. Academic freedom is indispensable to librarians in their roles as teachers and researchers. Critically, they are trustees of knowledge with the responsibility of ensuring the intellectual freedom of the academic community through the availability of information and ideas, no matter how controversial, so that teachers may freely teach and students may freely learn. Moreover, as members of the academic community, librarians should have latitude in the exercise of their professional judgment within the library, a share in shaping policy within the institution, and adequate opportunities for professional development and appropriate reward.[15]

In certain professional schools, such as Cornell Law School, professional accreditation associations create resolutions concerning Academic Freedom. For example, the American Bar Association recently created Standard 208[16], which states that law schools

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[15] "ACRL Joint Statement on Faculty Status of College and University Librarians." Association of College and Research Libraries. https://www.ala.org/acrl/standards/jointstatementfaculty. (2012).

[16] American Bar Association Resolution 300, Standard 208. Academic Freedom and Freedom of Expression, Feb. 2024, HOD Resolution 300.

shall adopt academic freedom policies that apply to all full and part-time faculty as well as to all that teach law school courses, including librarians, and that academic freedom applies to "conducting research, publishing scholarship, engaging in law school governance, participating in law related public service activities, curating library collections and providing information services, and exercising teaching responsibilities, including those related to client representation in clinical programs." Standard 208 thus explicitly protects the work of law librarians at Cornell in their right to conduct research, publish scholarship, engage in governance, curate library collections, and provide information services.

Several universities have academic freedom policies or statements that define academic freedom for librarians and archivists. Some of the freedoms afforded to librarians and archivists include the freedom to:

- select and make available materials to support the learning and research functions of the academic community, including those that are controversial[17]
- provide reference assistance in response to controversial questions, to publish and conduct scholarly research, and the right to join and participate in professional organizations[18]
- the freedom to speak and write on matters of public concern, on matters related to professional duties, on the functioning of the University, and on University positions and policies as they relate to the library collections[19]
- express views on matters having to do with university policies and on issues of public interest[20]

[17] "Policies Intellectual Freedom Statement" University of Oregon Libraries. https://library.uoregon.edu/about-us/policies/policies-intellectual-freedom-statement (June 1, 2017).
[18] "Academic Freedom Statement" Pepperdine Libraries. https://library.pepperdine.edu/about/academic-freedom.htm
[19] "3.3.13 Academic Freedom" University Policies and Procedures, Illinois State University, https://policy.illinoisstate.edu/employee/faculty/3-3-13/ (April 2013).
[20] "ACA-32 Academic Freedom" University Policies, University of Indiana, https://policies.iu.edu/policies/aca-32-academic-freedom/index.html (April 2019).

2. Define what a challenge or threat to academic freedom is.

RTE within the library are academics who write, publish, and teach on several subjects, and use these outputs as part of the promotion process outlined in Procedure 13. As this process determines our ability to remain at Cornell, a clear understanding of and the right to academic freedom are essential to fulfilling these core responsibilities. Equally important is recognizing what constitutes challenges and threats to the academic freedom of librarians and archivists.

In November 2024, the Task Force distributed a survey to better understand librarians and archivists' experiences with academic freedom at Cornell University Library.[21] Respondents described various types of experiences, including what they believed to be challenges and threats to their academic freedom. Several of the challenges to academic freedom that respondents reported facing pertained to limits placed on their ability to pursue scholarly work, including instances when librarians and archivists were prohibited from speaking on or publicizing outcomes of their projects or work. Additionally, some respondents reported that witnessing such actions had a chilling effect on their own speech. Many respondents also reported feeling that the CUL External Funding Pre-Proposal Approval procedure hindered their ability to freely conduct research and undertake scholarly projects.[22] Another recurring concern involved respondents feeling hindered by fear when performing core job duties—such as teaching, purchasing materials, providing reference support, creating research guides, or describing collections—if the subject matter at hand could be considered controversial.

According to the AAUP definition of academic freedom, interference in a library worker's ability to research (investigate), discuss issues pertinent to their work, teach, and produce scholarship would constitute a threat to their academic freedom. However, there are questions and grey areas that emerge when considering the definitions of teaching and publishing for librarians and archivists. The scope of our instruction duties extends beyond teaching credit-bearing courses as we also teach one-shot instruction sessions and lead workshops. Similarly, the definition of scholarship for librarians and archivists is typically broader than publishing articles and presenting, as it could also include creating LibGuides and curating exhibitions. Much as a faculty member's core job duties require academic freedom, so too do the core job duties of a library worker. Other job duties unique to librarians and archivists involve selecting, curating, and describing collections, as well as providing information services.

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[21] A copy of this survey can be found in *Appendix B*.

[22] Librarians and archivists are asked to complete the Library External Funding Pre-Proposal Approval Form before pursuing funding from external sources. The form states that AUL and Senior Director of Finance and Administration approval is required to ensure that the request aligns with unit and Library goals and priorities. https://nextgen.ecm.cornell.edu/Submit/Form/Start/5eb03c9c-b387-4557-a38a-057943014397

3. Explore and document how various bodies on Cornell's campus protect academic freedom and how these bodies address challenges to academic freedom.

The procedures that a university must follow when there is a potential violation of academic freedom are equally as important as the definition of academic freedom set forth in their codes. The processes that are promised in a faculty handbook or bylaws are enforceable in New York through an Article 78 court proceeding if a university arbitrarily fails to substantially comply with its own procedures. Courts in New York are hesitant to involve themselves in decisions made by universities, stating that courts should "only rarely assume academic oversight, except with the greatest caution and restraint, in such sensitive areas as faculty appointment, promotion, and tenure, especially in institutions of higher learning," and "[i]n a professional or academic milieu subjective judgments necessarily have a proper and legitimate role".[23] However, courts are much more open to requiring universities to follow their own rules and will determine whether a university's action violated their handbook and determine whether the universities' actions were thus arbitrary and capricious. Courts will also construe or interpret the handbook's language strongly against the university.[24]

For example, in *Matter of Shirazi v New York Univ.*, 143 A.D. 3d 602, 40 N.Y.S. 3d 65 (App. Div. 2016), the court found that NYU acted arbitrarily and capriciously in failing to notify a professor of the renewal of her appointment as an Associate Arts Professor, and in failing to adhere to its own disciplinary procedures in the termination of her employment as laid out in the faculty handbook.

Courts in New York have also held that these protections apply to non-tenured faculty. In *O'Neill v. New York Univ.*, 97 A.D. 3d 199 (App. Div. 2012), a nontenured, full-time faculty member that was a research scientist at NYU and who had annual re-appointments was fired in retaliation for reporting concerns about suspected research misconduct. The court found that the NYU Code of Ethics, the Code of Conduct, the Non-Retaliation Policy, and

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[23] Matter of Pace Coll. v Commission on Human Rights, 38 NY2d 28, 38 (1975).

[24] For example, in Sackman v. Alfred Univ., 186 Misc. 2d 227 (Allegany County Supreme Court, 2000), the court determined that the university's action in denying tenure to a professor violated the university's handbook for faculty. Although the decision to deny tenure went through numerous committees and administrators, because a university draws up the Handbook, it is long settled that the language in the handbook must be construed most strongly against the university. The handbook stated that the chairperson of the tenure committee must make "classroom visitations" in their determination. The plural form of visitations meant that the chairperson had to visit two or more classes, and in the case, the chairperson had only visited one class. This was enough for the court to find that Alfred University failed to follow its own procedures.

the Research Misconduct Policies in combination created an express promise by NYU that it will protect employees from reprisal for reporting suspected research misconduct. The court also found that the researcher has sufficiently alleged that NYU's conduct was arbitrary and capricious because it violated its own rules and regulations by summarily dismissing him during his one-year, fixed term appointment without cause.

Review of Cornell Policies on Academic Freedom

The relevant Cornell policies on matters of academic freedom and the procedures for pursuing grievances against the university are listed below:

Cornell Policy Statement on Academic Freedom and Freedom of Speech and Expression *(2022, Office of the Dean of Faculty)*
When referred to in Cornell academic freedom grievance procedures, the term 'academic freedom' is defined by the *Cornell Policy Statement on Academic Freedom and Freedom of Speech and Expression*. In this statement the University, "affirms the importance of extending to **all students and employees** the core values of free and open inquiry and expression" (emphasis added by this author). It also endorses the **Faculty Statement on Academic Freedom and Responsibility**, adopted by the University Faculty in May 1960, and makes reference to the AAUP *1940 Statement of Principles on Academic Freedom and Tenure*.[25]

Cornell University Policy 6.2.10: Establishment of College-level Academic Employee Grievance Procedures *(Human Resources)*

This policy lays out a framework for each college or college-level unit, which is then charged with creating their own grievance policy. Copies of each grievance policy are held on the Office of the Dean of Faculty website. Individuals wishing to make a grievance must first work through unit-level means of redress, and then through their college-unit grievance policy.

This policy was last updated in November 2012, before the establishment of librarians and archivists as RTE Faculty. As such, though some RTE faculty titles are included in the list of titles covered by the policy (see p.3), there is no mention of librarian or archivist titles. However, an extended list of RTE titles, produced by Cornell HR and updated in 2023, can be found here: https://hr.cornell.edu/sites/default/files/2022-12/academic_titles_1.pdf Though the title of Senior Assistant Librarian is missing from the complete list on page 1, this appears to be a typo, as all librarian and archivist ranks are included on page 25.

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[25] *1940 Statement of Principles on Academic Freedom and Tenure*, AAUP, https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure

By extension, this would appear to support that Policy 6.2.10 does cover academic librarians and archivists of all ranks.

Grievance:

> An injustice or harm arising from a specific situation involving an act or acts of alleged unfairness which the individual regards as just cause for protest on his or her own behalf (or individuals on their own behalf).(p.3)

Grievance procedures can only be invoked once "direct discussions between the academic and any other parties to the dispute have been exhausted and left unresolved" (p.4). Similarly, "College-level grievance proceedings may be initiated only after unit-level recourse has been exhausted" (p.5). Grievance proceedings are "advisory in nature to the respective deans, and the President and Trustees of the University" (p.5) – i.e., not binding.

The grievance procedure for faculty/RTE faculty to follow when they feel their academic freedom has been compromised therefore consists of three steps:

1. Internal division/department complaint and direct discussion
2. College-level grievance procedure
3. University-level grievance procedure

- Cornell University Library Procedure #31: Grievance Procedure – Cornell University Library's Academic Staff *(Cornell University Library)*
- Academic Grievance Procedures for the Constituent Colleges of Cornell University *(CALS, A&S, AAP, CHE, Engineering, ILR, Law, Vet, Research Division)*
- Committee on Academic Freedom and Professional Status of the Faculty (AFPSF) *(Office of the Dean of Faculty)*

4. Examine Procedure 31 (CUL Grievance Procedure) to identify strengths and weaknesses for addressing major and minor challenges to academic freedom.

From the survey results, it appears that a key weakness of Procedure 31 is that members of Academic Assembly are unaware of its existence, and of the types of grievances that it applies to. Survey respondents who had grievances related to academic freedom did not mention Procedure 31: respondents spoke with the ombuds, with AASC and HR; some made Title IX reports; some made no attempt at resolution. No respondent reported feeling like their issue had been resolved.

Procedure 31 can be used to:

> [...] address the substantive and/or procedural aspects of any grievance arising from the academic's execution of his or her designated responsibilities [...] including, but not limited to: reward; academic freedom; work assignment; working conditions; legally prohibited discrimination involving, but not limited to such factors as race, color, creed, religion, national or ethnic origin, sex, sexual orientation, age, or disability; existence of, adequacy of, and adherence to equitable grievance procedures. (p. 5).

It is worth reiterating that Procedure 31 does not cover grievances relating to appointment, reappointment, promotion or tenure.

In its current form, Procedure 31 is not fit for purpose. There are several outdated references which mean that it no longer functions mechanically, and due to the fact that it has not been updated since the change in professional status (librarians and archivists becoming RTE Faculty), our status as faculty is not reflected.

Please see *Appendix C* for an annotated version of Procedure 31, highlighting areas where it is outdated.

5. Recommend revisions as needed to existing policies and/or establish new policies to address challenges to academic freedom.

The Task Force has four major recommendations. First, Academic Assembly should pass a resolution defining academic freedom as it applies to librarians and archivists at Cornell, and then the resolution should be passed at Faculty Senate. Second, Academic Assembly should update Procedure 31. Third, this report and an overview of Procedure 31 and grievance procedures at Cornell should be shared and included with all incoming librarians and archivists during onboarding. Fourth, Academic Assembly and librarians at CUL generally should bring policy and practice concerns and questions to the Committee on Academic Freedom and Professional Status of the Faculty, as well as the Dean of Faculty.

5a. Resolution defining Academic Freedom for CUL:

Academic Assembly should pass a resolution defining academic freedom as it applies to librarians and archivists at Cornell. As it currently stands, the policy statement at Cornell is quite strong and encompasses many of the things librarians and archivists do, such as teach, research, and publish. However, there are gaps and uncertainties in the important work that we do, including in decision-making in our collections, responding to inquiries in reference services, teaching in non-credit bearing spaces, and in cataloging.

Crucially, a clear definition of academic freedom passed by Academic Assembly would set the standard of what academic freedom protects in any grievances that may arise through Procedure 31. After passing a resolution at Academic Assembly, the resolution should be sent to the Committee on Academic Freedom and Professional Status of the Faculty, as well as the Dean of Faculty. The Committee on Academic Freedom and Professional Status of the Faculty can then sponsor the resolution at Faculty Senate. We believe it is important to pass this resolution at the Faculty Senate as well so that faculty members and university administrators also have a firm grasp on how academic freedom applies to librarians and archivists at Cornell. Furthermore, if any grievances concerning academic freedom go through Procedure 31 and remain unresolved by the University Librarian, the grievance can then be appealed to the Committee on Academic Freedom and Professional Status of the Faculty. It is thus important that the Committee on Academic Freedom and Professional Status of the Faculty understand and apply the resolution that is passed by Faculty Senate. While it is not necessary to pass the resolution in Faculty Senate after passing in Academic Assembly, we believe it will strengthen our protections and freedoms if there is university-wide buy-in and support.

As members of the academic community, librarians and archivists should be allowed latitude to exercise our professional judgement in the processes of selection and dissemination of knowledge and other functions of the library. To that end, we recommend that a resolution defining academic freedom as applied to librarians and archivists protect our freedom to select, describe, curate, research, reference, teach, publish, and participate in institutional governance.

5b. Updating Procedure 31.

Procedure 31 was written in 2007 and includes outdated language and committees that do not exist. Additionally, there are procedural weaknesses that do not comport with University Policy 6.2.10.

Academic Assembly should raise concerns and bring recommended edits with the Dean of Faculty and Academic HR to update Procedure 31 with best practices. The Dean of Faculty is currently working with Academic HR to create templates for the preliminary grievance procedures and giving policy 6.2.10 a new look. However, hearing concerns, questions, and recommendations from librarians and archivists will not only help in updating our own Procedure, but it may help in updating the templates and procedures that other colleges at Cornell have as well. After proposed edits and changes to Procedure 31 have been reviewed with the Dean of Faculty, those proposed changes should be brought to Academic Assembly. Academic Assembly can then vote to amend Procedure 31.

5c. Onboarding Librarians and Archivists

This report and an overview of Procedure 31 and grievance procedures at Cornell should be shared and included with all incoming librarians and archivists during onboarding. It is unclear how many current librarians and archivists know the current Cornell policy definitions of academic freedom, and it is unclear how many librarians and archivists know about Procedure 31 or University Policy 6.2.10 grievance procedures. Without knowing what our academic freedom rights are or what to do when we believe are rights are under threat, it is difficult to continue to exercise our rights.

In addition to sharing this report and Procedure 31 with new librarians and archivists – if Academic Assembly and Faculty Senate pass a resolution defining academic freedom for librarians and archivists – then the resolution should also be included in onboarding.

5d. Other Policy and Practice Concerns

Lastly, there were other policy and practice concerns that were raised in the survey that may or may not be under the umbrella of academic freedom but nonetheless are important concerns that may be related to the professional status of librarians and archivists at

Cornell. Concerns and questions such as these, including but not limited to academic freedom, should be raised to the Committee on Academic Freedom and Professional Status of the Faculty, as well as the Dean of Faculty. The Committee on Academic Freedom and Professional Status of the Faculty is not only concerned with academic freedom, but they also look at "policies and procedures relating to faculty appointments, promotion, retirement, separation, tenure, and other related matters." If librarians and archivists are being held to a different standard than other RTE faculty at Cornell, this is an issue of our professional status as faculty and should be raised to the Dean of Faculty and other Committees.

Appendix A. Task Force on Academic Freedom Charge

Convened by the Academic Assembly Steering Committee, the Task Force on Academic Freedom (henceforth the "Task Force") shall examine the current state of academic freedom at Cornell University Library, as well as document a procedure to address challenges to an RTE faculty librarian's academic freedom.

The Task Force has been charged by CUL's Academic Assembly Steering Committee to undertake the following tasks:

1. Establish working definitions for *academic freedom*, *freedom of speech*, and *freedom of expression* - terms which have been used interchangeably in the Resolution on Academic Freedom (passed by the Academic Assembly on 9/29/2023) and in Cornell's Faculty Handbook. These definitions should specifically relate to the work of librarianship and consider both expression as a Cornell professional and as a private citizen. For the purposes of this document, the term *academic freedom* will be used to describe all three instances.
2. Define what a challenge or threat to academic freedom is.
3. Explore and document how various bodies on Cornell's campus (Faculty Senate, Employee Assembly, other academic departments/units, AAUP) protect academic freedom and how these bodies address challenges to academic freedom. The Task Force may consider examining current literature on academic freedom in libraries and the procedures of peer academic research libraries.
4. Examine Procedure 31 (CUL Grievance Procedure) to identify strengths and weaknesses for addressing major and minor challenges to academic freedom.
5. Recommend revisions as needed to existing policies and/or establish new policies to address challenges to academic freedom.
6. Produce a document that outlines the steps a CUL RTE faculty librarian should take when their academic freedom is threatened. This document will describe:
    a. When to use Procedure 31 (CUL's Grievance Procedure)
    b. When to use a CUL-specific procedure for threats that do not rise to the level of formal grievance (should the Task Force decide such a procedure is necessary).
    c. When to go to the Faculty Senate

The Task Force will maintain communication with the AASC through a designated liaison.

The Task Force will deliver a final report that details its findings and recommendations. The report will be delivered to the Academic Assembly Steering Committee and the University Librarian, and then shared with the full Assembly and added to the agenda of the next Assembly meeting for discussion.

Appendix B. Cornell University Library Academic Freedom Survey

1. What does Academic Freedom mean to you?
2. How important is having academic freedom in your work at the Library?
3. Please share a recent example (within the last three years) of a time when you did or did not feel protected to freely express yourself in work activities such as your research or publishing, instruction activities, reference services, collection decisions, technical services, or programming decisions? If you do not have an experience to share, please write N/A.
4. Please share a recent example (within the last three years) of a time when you did or did not feel protected to freely express yourself when interacting with faculty, students, or library colleagues. If you do not have an experience to share, please write N/A.
5. Please share a recent example (within the last three years) of a time when you did or did not feel protected to freely express yourself when discussing workplace policies, procedures and decisions, or when participating in other on-campus activities and organizations. If you do not have an experience to share, please write N/A.
6. Please share a recent example (within the last three years) of a time where you felt silenced or you have self-censored at the Library. If you do not have an experience to share, please write N/A.
7. If you have experienced a time when your academic freedom was impacted, where did you go to find information or resolve the issue? How was it resolved?
8. How protected do you currently feel in your ability to exercise your academic freedom at the Library, on a scale of 1-10 (1 being least protected, 10 being most protected)?
9. What is your rank at the library?
    a. Staff
    b. Assistant librarian/archivist
    c. Senior assistant librarian/archivist
    d. Associate librarian/archivist
    e. Librarian/Archivist
9. If you are willing to share, please let us know how you identify or your demographic details. This information will be kept confidential and will be used to understand how experiences with academic freedom may differ based on identity.
9. Do you have other thoughts about academic freedom you'd like to share with the Academic Freedom Task Force?
10. OPTIONAL: If you feel comfortable sharing your netID or other contact information so we can follow up and hear more about your views and experiences, please do so here:

Appendix C. Procedure 31 (annotated)

Cornell University Library

GRIEVANCE PROCEDURE--CORNELL UNIVERSITY LIBRARY'S ACADEMIC STAFF

I. Scope

This grievance procedure has been established as specified by Cornell University Policy **6.2.10** -- Establishment of College Level Academic Employee Grievance Procedures. Through this grievance procedure, academic staff of the Cornell University Library have the right to seek redress of decisions made, actions taken, or conditions existing at the section, department, college and/or university level that the complainant alleges to be unfair. Grievance procedures may be invoked within six (6) months of the grievable action when direct discussions between the academic librarian/archivist and any other parties to the dispute end without resolution.

Academic grievances of librarians and archivists will normally fall under the Cornell University Library grievance procedure, rather than that of a college, school, or other university unit. No more than one university grievance procedure may be applied in resolving a single grievance.

This grievance process is not a legal hearing, but rather an internal process designed to resolve workplace disputes. Any grievance proceeding is advisory in nature to the University Librarian, respective deans, and the President and Trustees of the university.

II. Grievable Action

Grievable actions may apply to a number of separate or related instances of disagreements about an individual's designated responsibilities including (but not limited to) academic freedom, work assignments, and working conditions. In the event the grievance alleges any issues related to sexual harassment, or any other form of prohibited discrimination or harassment (for example, relating to age, color, creed, disability, ethnicity, marital status, national origin, race, religion, sex, sexual orientation, gender identity, gender expression and veteran status), the grievance will be immediately and confidentially referred to the Office of Workforce Diversity, Equity and Life Quality for investigation under the procedures established under Cornell University Policy 6.4, which governs all complaints of harassment and other forms of discrimination.

Cornell University Library Procedure #31 is not applicable to complaints about appointment, reappointment, or promotion decisions; **Cornell University Library Procedure #13, Appendix E** will be applied in such instances – needs updating and aligning with Procedures 11 and 12

III. Procedure

A. Submitting a Grievance

Failing informal resolution of differences, the complainant may submit a formal written grievance within six (6) months after the occurrence of the action(s) to be grieved. The formal written grievance should be submitted to the supervisor, the department head or college librarian, the Assistant/Associate University Librarian or CUL's Director of Human Resources as appropriate – needs updating. The grievant bears the burden of proof required to sustain the grievance.

B. Grievance Format

The written statement initiating a formal grievance should include:

1. The nature of the grievance
2. The person(s) against whom it is directed
3. Documentation of the efforts made to resolve the issue
4. Documentation of the responses to the complainant
5. A statement regarding other avenues of recourse available and efforts to utilize such avenues
6. The remedy or resolution sought.

C. Initiation of Grievance Process

Within fifteen (15) working days the recipient of the formal grievance shall reply, in writing, to the complainant. If the answer is considered unsatisfactory, the complainant shall notify the University Librarian in writing within fifteen (15) working days of receiving the reply that s/he wishes to proceed with the grievance. If the complainant fails to respond to the decision within the fifteen (15) day limit, then the issue will be presumed settled and the grievance will be closed. Otherwise, the grievance will proceed and be submitted to an ad hoc committee for consideration.

D. Ad Hoc Grievance Committee

The ad hoc committee will consist of three persons selected from the academic staff of Cornell University Library. The ad hoc committee is to be constituted by written directive from the University Librarian promptly after s/he receives the complainant's notification. One committee member is to be selected by the complainant, a second by the University Librarian, and a third, who shall serve as chair, by CUL Academic Personnel Policy Committee – this needs immediate update. Please also see end note for further details.

Persons directly affected by the grievance or parties to the grievance may not serve on the ad hoc committee. The complainant and the recipient of the formal grievance shall be notified in writing of the establishment of the committee.

E. Grievance Process

The directive establishing the committee will include the written grievance filed by the complainant. This committee, with the assistance of the CUL administration, shall request necessary documentation from all parties and determine if an investigation and/or hearing is required. Either or both of the parties may be assisted by other Cornell University employees; however, attorneys representing interested parties may not be present at the formal grievance hearing. All involved parties shall be allowed reasonable time to prepare for the grievance procedure without loss of pay.

The committee's recommendations shall be determined by majority vote, though there may be a minority report. Decisions made under this grievance procedure must conform to existing Cornell University Library and University policies. Such decisions may lead to the establishment of new policies, but they may not, in and of themselves, constitute new policies.

The committee shall submit its written recommendations, including any minority report, to the University Librarian within twenty (20) working days after receipt of all information or conclusion of the hearing(s). Any documentation created or collected by the committee or its members in the course of the grievance process shall be turned over to the University Librarian along with the recommendations.

F. Notification

The University Librarian shall notify all concerned parties and the University Provost of acceptance or rejection, with reasons, of the committee's recommendation. - needs updating At the request of any party to the grievance and with the concurrence of the ad hoc committee, a summary of the nature of the case and the resolution will be given to the academic staff members of the University Library.Otherwise, the case and the resolution will remain confidential on a need-to-know basis.

G. Appeal

When one of the interested parties to the grievance disagrees with the University Librarian's decision, s/he may ask for a University-level review of that decision. A written appeal should be submitted to the Provost, who shall initiate action as governed by the applicable University rules for appeals. -- needs updating to current procedure (referral to AFPSF, Provost not involved)

IV. Confidentiality

Confidentiality will be maintained regarding all matters relevant to individual grievances on a strict need-to-know basis. However, the University Librarian must provide for summary notice of the case, the issue, and the resolution at the request of a party to the issue and with the concurrence of the ad hoc committee. All parties, with the exception of the ad hoc committee, may preserve written records related to the grievance proceedings. Such retention does not relieve any party of the responsibility to maintain confidentiality on a need-to-know basis.

If a University-level review by the Provost is requested, the University Librarian will make available to the Provost all material submitted in evidence with recommendations of the ad hoc committee. If such a review by the Provost is not requested, all documentation on the grievance proceedings in possession of the University Librarian will be confidentially maintained for a period not to exceed seven (7) years. -- needs updating (see above)

While the Cornell University Library will make every reasonable effort to keep the evidence compiled in the grievance process confidential, it cannot guarantee confidentiality. Also, in some limited number of cases, it may be in the Library's or the University's interest to disclose certain facts regarding a grievance.

Note:

As well as updating this procedure to be in line with university policy, the Task Force recommends review of the way in which the ad-hoc committee is selected. Looking to the other college grievance policies provides several options for this that could give the person who the grievance is directed against more agency, as well as removing the need for further involvement of the UL (e.g., in AAP, Engineering, ILR

and Law, both parties involved in the dispute each select an ad-hoc committee member, and those two members together select a third to serve as Chair).

University Policy 6.2.10 also states that there should be provision in the grievance procedure for cases where the college dean – for our purposes, the UL - are themselves directly involved in the grievance. This is absent from Procedure 31 as it currently stands, making it out of line with university policy.