

May 3, 2024

Cathryn Ellis
President, Faculty Senate; Professor Theatre
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Dear Kate,

Thank you for sharing the questions and concerns that faculty members have brought to your attention regarding the university's handling of recent protests on campus. In response, I offer the following clarifications, knowing that passions are high, emotions are raw, the situation is fluid, and anything I say at this time will be interpreted through a wide variety of perspectives and lived experiences.

The University's Support for Free Speech: As I indicated in [my email to the campus community on April 29](#), NAU is deeply committed to free speech, academic freedom, and freedom of inquiry and takes very seriously its responsibility to foster an environment in which these freedoms can thrive. To this end, we thoughtfully approach our legal responsibility to enforce reasonable time, manner, and place restrictions on expressive activity as deemed necessary to support public safety, as well as our fundamental mission of teaching and learning. Furthermore, we have sought to ensure that all members of our community are aware of the content-neutral restrictions in place so they can factor them in as they plan protests and demonstrations while balancing the university's need to secure public safety and university operations for all its members.

The Decision to Enforce Time, Manner, and Place Restrictions on Expressive Activity: In the last few weeks we have all witnessed how demonstrations using encampments are playing out on campuses across the country and how institutional efforts to balance expressive activity and safely educate students have, in many cases, been hugely unsuccessful. Informed by these events and situational awareness, NAU determined that it would not be well equipped to maintain a peaceful environment where teaching and learning could be advanced if overnight encampments were to take a foothold on our campus. As we have seen elsewhere, these encampments are peaceful until they are not, especially as they become magnets for protesters from outside the campus community and counter protesters from within and outside the university. Hence, NAU's choice to legally enforce reasonable time, manner, and place restrictions on temporary structures and overnight encampments—a decision that has unfortunately been characterized by some as a curfew on free speech rather than an earnest attempt to secure the foundation upon which free speech can thrive using the legal recourses available to the university.

Law Enforcement Approach on April 30: Allegations that law enforcement officers used excessive force when they moved to arrest protesters who decided to disregard multiple calls to disperse are inaccurate. As indicated in the university's [May 1 statement](#) regarding the events on April 30, no tear gas or chemical irritants were deployed and no tasers were used. Indeed, no physical injuries were reported by those arrested. The amount of force used was the minimum necessary to clear the encampment, even as tensions flared in response to antisemitic chants and verbal confrontations.

The University's Efforts to De-Escalate Conflict Prior to Arrests: There is a perception that the university did not work to de-escalate the situation or communicate potential actions that might be taken due to violations of the expressive activity and temporary structures guidelines. We would like to draw your attention to these points:

- On April 29, anticipating the possibility of protests on campus and informed by how these protests were playing out at universities across the country, [NAU communicated its time, manner, and place restrictions](#) clearly to the entire campus community. Having learned that an officially recognized NAU student club, Students for Justice in Palestine (SJP), would be meeting later that day to discuss a possible call to action, university leaders met with the organization's faculty advisors to discuss the restrictions and open lines of communication.
- On April 30, upon learning that SJP had issued a broad call to action and request for donations to establish a long-term encampment on campus (suggesting a willingness to defy state law and university policy), the university once again reached out to SJP's faculty advisors and asked for a meeting to again foster open lines of communication and work together to ensure that expressive activity was unimpeded and the safety and functioning of the campus uncompromised. A second meeting between university leaders and faculty advisors occurred that afternoon. The university summarized this set of events in a [campus update later that morning](#).
- Throughout the day on April 30, NAU leaders communicated frequently with protesters via their designated liaisons and engaged with demonstrators and bystanders alike, educating on free expression, and seeking to maintain civil discourse in the area. During the day, the protest was peaceful and in compliance with university guidelines.
- Beginning at 6:00pm on April 30, NAU used an amplified sound system to provide frequent (at least hourly) reminders of the need for them to disperse by 10:00pm to be in compliance with state law and university policy. Signage was also posted around the demonstration area with information about the potential for criminal trespass to be issued and that sanctions under the Student Code of Conduct may be applied to individuals who did not comply.
- At 10:00pm on April 30 as expected and broadly and thoroughly communicated, the NAU Police Department (NAU PD) issued an order that individuals must disperse from the area and remove temporary structures. Multiple additional announcements were made by NAU PD providing a direct order for dispersal.
- At approximately 10:20pm, NAU PD and law enforcement agency partners began taking steps to disperse the unauthorized gathering and remove prohibited temporary structures from university property. At this point, some participants chose to disperse in accordance with the direction provided, while others chose to stay and participate in civil disobedience, leading to several arrests.

Sanctions Faced by Students who were Arrested: A total of 21 NAU students were arrested on April 30 for failing to comply with law enforcement directives and NAU policy. These students were booked into the Coconino County jail and released on May 1 pending a trial date. Students arrested on April 30 are also subject to discipline pursuant to the Student Code of Conduct. As indicated in our May 1 statement, all students will be fully afforded their right to due process. Sanctions will be determined on a case-by-case basis commensurate with the findings made during the conduct process, and findings may be appealed in accordance with our policies.

The University's Commitment to Non-Retaliatory Practices: NAU does not tolerate retaliatory action against faculty, staff, or students. NAU has structures and processes in place to protect against any form of retaliation directed at students or employees for their actions or perspectives, and champions the rights of all to express themselves in our community. Individuals who violate state law or university policy will, of course, face appropriate disciplinary action, but such steps are taken with full transparency and due process. If anyone believes they have been singled out or are being retaliated against because of their support of the April 30 protests and/or for any other reason, they are highly encouraged to avail themselves of the following resources:

- [Equity and Access Office](#): for reporting discrimination or harassment
- [NAU Human Resources](#): for employees concerned about workplace environment or supervisor conduct.
- [Dean of Students](#): for students concerned about retaliation.
- [Office of the University Ombuds](#): for confidential consultation to faculty or graduate students.
- [Deans or Provost](#): for faculty who have concerns about conduct or communication from academic chairs or directors.

I am deeply saddened by the events on April 30 and take full responsibility for the institutional decisions made leading up to, during, and since that day. Likewise, as I have said before, securing the balance of expressive activity and public safety is everyone's responsibility and we all must remain committed to engaging in a manner consistent with our values and with mutual responsibility to our community's wellbeing.

As to next steps, we are working to re-establish of direct lines of communication. Today, I personally spoke with students who were peacefully exercising their right to free speech near the Union and asked that they join in considering how we can best convene and structure productive conversations among relevant parties to advance dialogue, broaden understanding, and seek resolution. I have also spoken with a trusted faculty member who I believe would do an excellent job as facilitator and discussant in these conversations. I am hopeful that these efforts will gain traction and look forward to how we can elevate our commitments and deliver on our mission through shared understanding, dialogue, and good-faith engagement.

The road ahead will be bumpy, the headwinds biting, and the destination seemingly out of reach. But I know that, together, we will emerge stronger as we continue to advance our university's educational mission.

Sincerely,



José Luis Cruz Rivera
President