

RESOLUTION TO endorse CAFR response to UB's proposed Mutual Aid Policy

To: Faculty Senate

From: Faculty Senate Committee on Academic Freedom and Responsibility (CAFR)

Date approved by the Faculty Senate: February 18, 2025

RATIONALE:

Whereas, the University's proposed Mutual Aid Policy was written following concerns over the large-scale police action during a peaceful campus protest on May 1, 2024 that were expressed in a resolution approved by the Faculty Senate on May 14, 2024 explicitly opposing the use of outside law enforcement for peaceful campus protests and calling for a public review of its protocol for doing so,

Whereas, the CAFR has prepared the attached Memorandum explaining that the proposed Mutual Aid Policy should be rewritten to limit reliance on outside police agencies in situations that do not qualify as complex emergencies and to preclude the use of outside law enforcement in situations that do not constitute a threat to public safety,

Whereas, the Faculty Senate Executive Committee has endorsed the Memorandum from the CAFR urging the University to rewrite the proposed Mutual Aid Policy,

RESOLUTION:

Therefore, be it resolved that the Faculty Senate endorses the response to the proposed Mutual Aid Policy as articulated in the Memorandum from the Committee on Academic Freedom and Responsibility (CAFR) that was endorsed by the Faculty Senate Executive Committee (FSEC).

APPENDIX

Memo: Response to Mutual Aid Policy

To: Faculty Senate Executive Committee (FSEC)

From: Faculty Senate Committee on Academic Freedom and Responsibility (CAFR)

Date presented to FSEC: February 11, 2025

Date amended and endorsed by FSEC for transmittal to Faculty Senate: February 11, 2025

The proposed Mutual Aid Policy (“the proposed Policy”) was written in response to the large-scale police action on May 1, 2024 against a relatively small number of nonviolent protesters on campus. In a resolution approved on May 14, 2024, the Faculty Senate opposed the calling in of outside law enforcement to campus to police peaceful protests and called upon the University to undertake a review of “the protocol for calling in outside law enforcement to campus.” The Faculty Senate resolution shared the concerns of the UB Faculty Statement on Police Action on Campus, signed by 223 Faculty members as of May 7th, 2024. The Faculty Statement noted the dangerous precedent set by the University in its disproportionate response to the protesters, “demonstrat[ing] its intolerance towards free expression and flagrant disregard for student safety.” In [response](#), the University affirmed that it would “work with faculty leadership to clarify university protocol and policies for calling in outside law enforcement and for picketing and assembly.”

The proposed Policy, however, does nothing to address the faculty’s concerns with how the University chose to deploy law enforcement in response to the peaceful protest. In failing to do so, the University adds insult to injury as the administration has yet to acknowledge to the wider community the failures of its response to the peaceful student protest on May 1st. The Senate Committee on Academic Freedom and Responsibility (CAFR) thus urges the University to rewrite the policy with greater attention to the risk that outside law enforcement agencies pose to the safety of students and other members of our campus community. Consistent with its original purpose, any policy on mutual aid must ensure that outside police will not be called in to threaten, harass, or intimidate students engaged in nonviolent protest. The proposed Policy should also account for the risks that outside law enforcement agencies pose to noncitizens on campus and other vulnerable community members. CAFR recommends three major areas to be rewritten, and the addition of language to address concerns over outside law enforcement and noncitizens on campus.

First, the proposed Policy should be rewritten to limit the University’s authority to rely upon outside police agencies in situations that do not qualify as complex emergencies. As explained by Professor Athena Mutua in a separate set of comments, the proposed Policy authorizes the use of outside police agencies in situations that go well beyond those contemplated in the proposed Policy’s Background Section. To summarize, the Background Section explains that the proposed Policy is intended to clarify police operations in the event of “large-scale and complex incidents.” However, the proposed Policy does not define “large-scale and complex incidents” or even limit the use of outside law enforcement to situations that might qualify as such.

Instead, the proposed Policy appears to give the University Police Chief broad authority to request outside law enforcement assistance to bolster “its efforts to maintain law and order, ensure the continuity of campus operations, and preserve the peace and safety of the university community.” (While the preceding paragraph suggests that mutual aid agreements exist to provide a “robust and flexible response to emergencies,” the operative paragraph does not restrict the use of outside law enforcement to such emergencies.) As Professor Mutua explains, this definition appears to broadly authorize the University Police Chief to rely upon outside law enforcement for a host of core policing functions that are well within the University Police Department’s expertise and capacity.

Second, the proposed Policy should be rewritten to preclude the use of outside law enforcement to “maintain social order” in situations that do not constitute a threat to public safety. As currently written, the proposed Policy defines the “ability to maintain social order” as an “emergenc[y]”—an emergency distinct from “preventing violence”—which justifies the use of outside law enforcement. This language could be interpreted to allow outside police agencies on campus to suppress peaceful public protests that have little chance of turning violent. As the University’s May 1 police action demonstrated, there is an inherent risk when a university uses outside law enforcement to suppress public protests. Often, outside police agencies are poorly trained in the sort of de-escalation techniques that prevent a peaceful protest, including peaceful direct action, from turning into a potentially violent spectacle. At Columbia University, for example, an NYPD officer accidentally fired his gun when removing protesters from a building. This is the very type of fatal risk that UB’s administration created when it relied on outside law enforcement during the May 1 protest—and the type of risk that the proposed Policy should be re-written to prevent.

Third, the proposed Policy should be rewritten so it does not authorize the use of outside law enforcement agencies simply to “support the University Police Department (UPD) in its efforts to maintain law and order,” as a task distinct from addressing an imminent threat to public safety. As Professor Mutua explained in a separate set of comments, “law and order” is often used as a way to justify racialized and gendered forms of policing which harm vulnerable members of the community. The University Police Department should thus be careful when it engages in ordinary “law and order” actions. Fortunately, in ordinary situations, these actions are within the capacity and expertise of the University Police to perform with competence and sensitivity. The proposed Policy should therefore not permit the University to simply invoke “law and order” as a justification for calling upon outside law enforcement.

Fourth, the proposed Policy should ensure that the University Police Department does not rely upon outside law enforcement agencies that have a policy or practice of cooperating with federal immigration authorities. (To our knowledge, no local police agencies have such a policy at this time; but in the current political climate the University should anticipate the risk that this will change.) Under NYS Executive Order 170.1, which has been continued by Governor Hochul, “[c]ivil arrests by federal immigration authorities may only be executed within state facilities when accompanied by a judicial warrant,” as distinct from an administrative warrant, “or judicial order.” Furthermore, in a Faculty Senate Resolution signed by President Tripathi in

2018, the University agreed to “cooperate with” or “permit access to university property by” federal immigration officials “only to the extent required by law, judicial warrant, or court order,” or (for permitting access) “by consent of the person(s) affected.” These state and university policies are going to be increasingly important to the safety of the University’s students, as the Trump Administration has recently [reversed a longstanding policy](#) barring Immigration and Customs Enforcement and Customs and Border Patrol from conducting immigration raids on campus. The proposed Policy therefore should be rewritten to affirm the University’s commitment to noncitizens on campus by prohibiting cooperation with any police agency that has a policy of providing assistance to federal immigration authorities to a greater extent than legally obligated.

In conclusion, we urge the University to re-write the proposed Mutual Aid Policy to reflect the Faculty Senate’s express opposition, stated in its May 2024 resolution, “to calling in outside law enforcement to campus for peaceful protests.” The proposed Policy should also ensure that outside law enforcement is not called in where doing so would subject noncitizens to federal immigration enforcement that is not required by law, judicial warrant, or court order.