



Effective Protest Response: Steps to Take Now

Institutions of higher education are facing previously unseen levels of scrutiny and criticism on an unprecedented number of high-profile issues. As intense emotions flare around both politically charged and highly personal issues such as reproductive rights, DEI, geopolitical conflicts, and domestic politics, we fully anticipate a continuing high level of activism and protest on campuses across the country. The following is a “checklist” of actions to consider to help your institution be as prepared as possible for the challenges that lie ahead.

KNOW WHERE YOU STAND

All universities, and particularly public ones, have an obligation to uphold and protect free speech rights and have highlighted free expression and academic freedom as being fundamental to their missions. However, as protests, building occupations, encampments, and other recent events have shown, there is insufficient understanding around or appreciation for the distinction between protecting free speech and tolerating civil disobedience. Moreover, lack of clarity in and/or unwillingness to enforce existing policies and laws is a significant source of confusion and can create serious legal and reputational risk.

- ✓ **Clarify Institutional Position:** Public universities, in particular, must be agnostic as to the underlying issue and should use a consistently applied approach to protests and civil disobedience whether resulting from a foreign policy issue, union activity, social issue, or an issue about the institution itself. As such, it is critical to separate discussion of the institution’s position on particular behavior from the prism of current events. Consider bringing together an internal team to discuss and work through the nuances of your university’s position.
- ✓ **Verify and Stress-Test:** With a larger team that includes institutional leadership and potentially select board members, explain and socialize your position, then stress-test and validate potential policy changes and anticipated institutional responses by exploring a variety of snapshot scenarios.

UPDATE AND ALIGN POLICIES

Policies are critical as the manifestation of institutional positions, providing direction and clarity regarding response. Many universities have fallen short, however, either due to failure to implement existing policies or because most universities are missing some aspects of policies or protocols necessary to effectively guide response during a protest. The following should be updated or developed, if not in place:

✓ **Demonstration Management Protocol:** Define and document the role of the administration and the president in demonstration response, including:

- the institution's actual tolerance for distinct types of civil disobedience and the associated, expected university response
- the authority of the "administrator in charge" at a particular event and/or thresholds for an administrative decision such as when to engage law enforcement
- use of neutral observers and guidance for recording of protests for subsequent litigation, student conduct processes, training, and/or other lawful purposes

✓ **Events Approval, Risk Assessment and Management Protocol:** As recent protests and disruptions at commencements and other events have shown, there needs to be a clear team and process responsible for managing high-profile and/or contentious events, to ensure:

- a defined and repeatable methodology that assesses risk, informs security measures, and supports planning
- the consideration and application of security options such as ticketing and ID check, clear/no bag policy, prohibited items lists, etc.

- Contingency planning to include alternate venues, truncated programs, de-escalation and intervention protocol, and removal of demonstrators or audience if necessary
- An on-site Event Management Team (often Student Affairs, Public Safety, Event Lead) to enable rapid response and decision-making—within agreed upon parameters—to unanticipated events

✓ **Update Time, Place and Manner:** This baseline policy—that defines expectations around acceptable behavior consistent with First Amendment obligations—may be in place but may not have been reviewed or updated in years.

Review the policy identifying and closing any gaps that may exist including ensuring it applies to the entire footprint of the institution and addresses important items such as:

- hours/times of campus and building closure, e.g. particularly sensitive locations, administrative offices, library, research labs, patient care areas, etc.
- when, how, and where overnight camping is allowed, if at all
- restrictions—if any—on face-coverings that prohibit identification
- key concepts such as heckler's veto, use of amplified sound, continuity of business operations, event approval processes
- clear consequences linked with or in addition to student conduct processes

STRENGTHEN RESPONSE CAPABILITY

Many universities have capable emergency operations teams and plans designed to manage physical emergencies while mitigating the incident's impact on life and property. However, most universities have only informal and inconsistent crisis management processes—the executive-level, strategic decision-making framework, and approach to allow for fast, coordinated decisions. Relying on an overly large cabinet, or conversely a narrow group of trusted advisors, is typically insufficient and leads to poor outcomes.

- ✓ **Establish a Crisis Management Team** with the authority to define strategy, assess institutional risk, and make clear decisions for the university at times when there is a significant threat—reputational and/or physical—to the institution. This team supercedes a broader leadership team when there is a sense of urgency that requires a streamlined decision-making process in complex and uncertain situations such as when “bad choice A” or “bad choice B” are your only options.

We strongly encourage that this team, its authority, and its processes be codified into a formal plan.

- ✓ **Define Board Coordination Expectations:** Board confidence can be increased by clearly defining and explaining the information flow, coordination, and authority to execute agreed protest management response. Without information, Trustees are likely to assume none is in place or it is out of step with their own perception of institutional values.
- ✓ **“Experience” Law Enforcement Response:** Administrative leaders and trustees who are aware of what a police intervention will entail, or what an arrest feels and looks like, are more likely to use this option judiciously. Request an orientation by your public safety, campus police or local law enforcement providers.
- ✓ **Conduct Exercises:** Tabletop exercises with realistic timeframes and information flows or more experiential functional exercises that engage and focus on the unique roles and challenges faced by leadership can improve response, team cohesion, and effective decision-making.



EDUCATE YOUR COMMUNITY

If it requires referencing eight different policies, developed at various points in time, and written in bureaucratic and legalistic language, to deduce what may apply to protests and civil disobedience, it is unlikely that students, faculty, or other stakeholders are going to understand, let alone follow them.

For the safety and sanity of everyone involved, policies defining free speech and the limits on that right should be communicated in a manner that is clear, consistent, and timely—and reinforced if, when, and as necessary.

✓ **Develop An Online Resource:** Develop a clear, straightforward microsite that articulates the institution's values, answers basic FAQs, and links to relevant policies. It must address and explain complex issues such as community expectations around free speech, hate speech, and disobedience. Publish and promote this resource widely to your community.

✓ **Increase Stakeholder Education:** Increase education and training by developing new modules for student orientation, faculty and staff onboarding, and board retreats/trustee education.

Depending on the degree to which there is alignment between stakeholders on the above and the experience with similar initiatives in the past, the institution could additionally update its Freedom of Expression Policy:

✓ **Establish Commission/Taskforce:** At many institutions, definitions of Freedom of Expression have not been updated since AAUP's Declaration of Principles in 1940 and few address specifically concepts around civil disobedience. Engage key internal stakeholders to review and update the institution's policy to align with the culture, history, and values of the institution.

PROTEST MANAGEMENT WORKSHOP

One of the biggest challenges colleges and universities face in responding to protests is the disconnect between policy implementation and stakeholder expectations. Through an institution-specific survey and a series of scenarios, we explore leadership tolerance thresholds and benchmark them against institutional policy, culture and best practice. In this tailored workshop, we help your leadership team align around a core set of operating principles that can guide decision-making in response to protest activities including encampments, event/speaker disruption, and building occupations.

Learn more here!



ABOUT BMCG

BMCG is a boutique consulting firm focused on higher education. We provide insight, counsel, and experience to help colleges and universities effectively manage real-time response to significant change, issues, and crisis events. We also help institutions mitigate issues and avoid crises altogether through the development of proactive crisis management, crisis communications, emergency management and business resiliency plans, and by conducting training, exercises, and leadership sessions.

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