



May 31, 2024

Report of the Committee on the Question of Institutional Neutrality (COMQUIN)

President David Fithian established COMQUIN in January 2024. He asked us to review precedents and related practices at other institutions, solicit input from members of our own community, and, if possible, reach consensus within our committee on a set of recommendations regarding whether or not Clark University should adopt a policy of institutional neutrality.

During the past four months, we have examined a host of relevant materials, including the University of Chicago's 1967 Kalven Report and Vanderbilt University's statement on their Commitment to Free Expression, both of which affirm a policy of institutional neutrality. We have also looked at Princeton University's policy on public statements that upholds a policy of "institutional restraint." In addition, we have reviewed online feedback from the Clark community, we have held forums with undergraduate and graduate students, we have met with the Staff Assembly Steering Committee, and we have made a presentation at Faculty Assembly.

After much discussion, we have reached consensus regarding an approach that we believe will work here at Clark. Although we agree with the basic principles of the Kalven Report, we recommend that our university adopt a policy of "institutional restraint" rather than "institutional neutrality" regarding public statements on matters that do not have a direct impact on Clark's core mission. Why are we recommending a policy of *restraint* rather than *neutrality*? After all, many discussions of institutional neutrality have contended that the two terms are, in effect, synonyms.¹ We see, however, two significant differences:

- First, we recognize that Clark University does have a set of values, including commitments to social justice and freedom of expression. A policy of restraint suggests that the university will not normally announce official positions on contemporary events that do not directly involve the university, not that it does not have a position. We believe neutrality is a problematic term that is often misunderstood either as an effort to avoid complicated issues or, even worse, as endorsing false equivalence. A commitment to restraint suggests that the core mission of the university involves encouraging debate and

¹ See, for instance, Angel Eduardo, "Whether you Call it Neutrality or Restraint, the Kalven Report is the Best Way Forward," Foundation for Individual Rights and Expression (FIRE), February 13, 2024. <https://www.thefire.org/news/whether-you-call-it-institutional-neutrality-or-restraint-kalven-report-best-way-forward>.

discussion on issues.² It is not taking a position of neutrality. Instead, the university is restraining itself from limiting debate, and, consequently, chilling the speech of dissenters, by placing its imprimatur on one side of a controversial discussion.

- Second, some have argued that a policy of neutrality would prohibit boards of trustees from making ethical choices about investments, including divestment from firms that engage in objectionable political or environmental practices.³ These arguments have made reference to the section of the Kalven Report which states that there should be a “presumption against the university . . . modifying its corporate activities to foster social or political values.”⁴ COMQUIN takes no position on whether it is appropriate for the university to make ethical decisions about investments. We merely note that our committee was asked to limit its recommendations to matters related to public statements by the university, and our recommendations are not intended to (and in any case, could not) constrain the actions of the Clark Board of Trustees.

In our consideration of faculty, student, staff, and alumni responses to the president’s charge to our committee, we have noted a wide range of perceptions of what a policy of restraint would entail. We recommend that the president frame this decision as a matter of encouraging speech, discussion, and inquiry – in accordance with the university’s free speech policy. We see a commitment to restraint as a means of encouraging free speech and robust discussion.⁵ By *not* expressing a position on a particular matter, the university will, we believe, encourage faculty, students, and staff to speak openly about the views that they, as individuals, hold. Restraint does not mean abdicating responsibility for speaking on political matters. Rather, it signals a reluctance to silence members of our community, including those who may be subject to marginalization or discrimination because the majority holds a point of view that is different from theirs. Restraint is also an exercise in intellectual humility—a reluctance to conclude that the university has the right answers to any particular question or that it has the authority to take a position that might marginalize dissenting members of the community.

We also note that a policy of restraint would still grant Clark’s president, as the chief executive officer of the university, considerable latitude in speaking about matters that affect the campus, and it would give the president much discretion in determining what such matters are. As the

² See Christopher Eisgruber, “Princeton’s Tradition of Institutional Restraint,” *Princeton Alumni Weekly*, November 7, 2022. <https://paw.princeton.edu/article/princeton-president-christopher-eisgruber-tradition-institutional-restraint>.

³ For discussion of this point see Thomas Ginsburg, “A Constitutional Perspective on Institutional Neutrality” and Robert Post, “The Kalven Report, Institutional Neutrality, and Academic Freedom,” both in *Revisiting the Kalven Report: The University’s Role in Social and Political Action*, ed. Keith Whittington and John Tomasi. Baltimore, MD: Johns Hopkins University Press, forthcoming.

⁴ Kalven Committee, Report on the University’s Role in Political and Social Action. University of Chicago, 1967. <https://provost.uchicago.edu/reports/report-universitys-role-political-and-social-action>.

⁵ Clark University Statement on Freedom of Expression and Community Values, http://www.clarku.edu/offices/human-resources/wp-content/blogs.dir/3/files/sites/90/2020/02/Clark-University-Statement-on-Freedom-of-Expression-and-Community-Values_Feb-2019.pdf.

Kalven Report states, “From time to time instances will arise in which the society, or segments of it, threaten the very mission of the university and its values of free inquiry. In such a crisis, it becomes the obligation of the university as an institution to oppose such measures and actively to defend its interests and its values.” In instances where discretion has come into play at Clark in the past, the president has typically considered the climate on campus and conferred with senior university leaders. We do not want to speculate at length about future instances of this nature, but we note that many contemporary political debates regarding the purpose of higher education, the role of government in encouraging equal access to education, and the rights of our students of different nationalities, religions, sexual orientations, political viewpoints or ethnic backgrounds to equal treatment in their capacity as Clark students might prompt a decision to issue such a public statement. We expect, however, that such a decision would be made in keeping with the spirit of the Kalven Report. And our recommendation should not be interpreted as precluding official pronouncements about the creation of spaces for dialogue and discussion for members of our community.

Although COMQUIN was asked only to develop recommendations regarding official university statements, our discussions have led us to consider whether such a policy should also pertain to academic departments, research centers, and other administrative subunits of the university. We concur with most recent scholarship on the Kalven Report in our understanding that, in most instances, a policy of restraint would apply to statements made on behalf of such subunits.⁶

Finally, we wish to emphasize that our recommendations should not be construed as suggesting that Clark’s president or other university leaders are obliged to demonstrate restraint of the kind described above in communications that are unambiguously of a private nature. Nor are they obliged to refrain from expressing their unambiguously personal opinions, or their academic expertise, on controversial topics at a range of venues, including, but not limited to, public statements, ordinary speech, and published work. All university leaders may make private or personal statements based on reasonable considerations provided they make it clear that they are not speaking in their official capacity and that their statements are not intended to represent the university.

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⁶ Ginsburg, “A Constitutional Perspective on Institutional Neutrality.”