

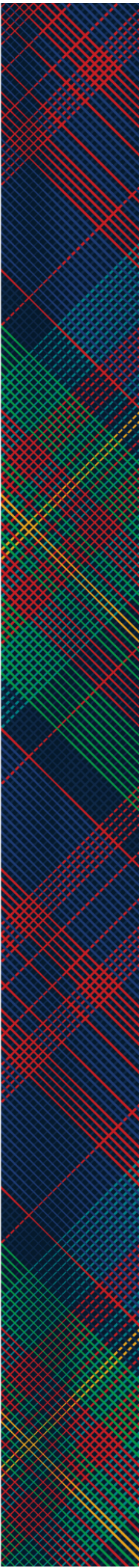
**Carnegie  
Mellon  
University**

# **Final Report of the Fence Working Group**

*May 2026*

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Submitted to President Farnam Jahanian



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# Summary of Recommendations for the University Administration

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On Sept. 4, 2025, Carnegie Mellon University President Farnam Jahanian constituted “a working group dedicated to advancing conversations about the role of the Fence in campus life today and in the future.” The working group announcement further clarified that “This group will bring forward recommendations that preserve the spirit of the tradition while addressing the realities of modern society and the needs of our diverse campus community.”

The following report generated by the **Fence Working Group (FWG)** contains significant context in the form of history, analysis, synthesis of feedback, presentation of findings, and detailed recommendations per our charge. The FWG respectfully invites all interested members of the CMU community to dedicate the time to read and thoughtfully digest the full report. In the interest of clarity, and recognizing intense interest in the specific recommendations, the FWG has provided this brief executive summary as the full report is read and discussed.

## **Our summarized recommendations for the university administration (UA) include:**

1. The UA should celebrate the Fence proactively, and in that celebration make clear that the Fence is a medium through which *individual students, small groups of students and student organizations* can express their *personal* views on diverse topics, formally subject only to the restrictions that are common to all on-campus speech.
2. While the UA should acknowledge that the Fence is a student-centered institution, it should exercise care in its language to avoid creating unrealistic expectations on the part of students as to what rights do and do not accompany being student-centered.
3. The UA should, in collaboration with Student Government (StuGov), refine and publicize shared governance processes concerning the Fence. Explicit guidelines are needed when the course of response to paintings is ambiguous.
4. The UA should support StuGov efforts to (i) establish traditions concerning messaging during Family Weekend, Carnival and Commencement that parallel those already operating during Orientation, and (ii) communicate to all observers that messages on the Fence reflect only the private beliefs of those students who actively took part in painting it.
5. The UA should only unilaterally exercise its legal right to paint over the Fence in rare, extreme cases. Its role is not to enforce norms of reasonable conduct on the Fence, but to prevent legal liability and uphold the university’s fiduciary duty to the institution as a whole

when student messages create risk. The aim is not to suppress speech, but to redirect it to alternate forms that avoid such liability. Anonymous messaging, while not precluded, may contribute to liability risk and on that basis may increase the likelihood of removal.

6. The UA should clarify that the Fence Instagram account (and any other public media identified with the Fence) is not in any way a part of the university.

These recommendations flow from a vision of bilateral restraint (see Section 6.2) that is rooted in the university's commitment to fostering civil discourse. Just as the FWG urges the UA to exercise its authority to impose content-based restrictions only in rare and extreme circumstances, it calls on Fence painters to be mindful of how exercising their rights to the maximum permissible limits might cause undue distress to others. Even with restraint, at times some will be troubled by actions of the UA or painters. In such times, the FWG notes that the university's [Freedom of Expression Guidance](#) recognizes our community as "a place of patience, grace and forgiveness" where the goals of responses to "isolated violations of norms should be reconciliation, learning and non-recurrence." Bilateral restraint should be complemented by bilateral grace.

# Full Report

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## Section 1: Introduction and Overview

On Sept. 4, 2025, Carnegie Mellon University President Farnam Jahanian constituted “a working group dedicated to advancing conversations about the role of the Fence in campus life today and in the future. This group will bring forward recommendations that preserve the spirit of the tradition while addressing the realities of modern society and the needs of our diverse campus community.” President Jahanian charged “this working group with considering how the Fence can continue to serve as a meaningful campus tradition while ensuring clarity, accountability and respect for its roles, and the boundaries of its roles, within our diverse community.” The full text of the charge and the working group membership are provided in [Appendix A](#).

This report is the response of the **Fence Working Group (FWG)**. It is submitted to President Jahanian in his role as convener of the FWG, but is written with the expectation that it will be circulated more broadly. The FWG hopes it will serve as a resource to all interested parties, particularly to members of [Student Government](#) (StuGov) and the university administration (UA), who share responsibility for governance of this cherished campus institution and tradition.

**Section 2** provides historical context on the evolution of practices and the (mostly informal) rules surrounding the Fence. The Fence has hosted messages of romance, social invitations, group affirmations and political opinion. It is clear that the Fence means many things to various stakeholder groups, and that the mix of those meanings and roles has evolved over time and should be expected to continue to evolve.

**Section 3** summarizes key lessons the FWG took from the various formal and less-formal listening sessions held with a range of stakeholders. As documented there, opinions were diverse, but four common themes emerged:

1. Operation of the Fence should be centered on the students and their representatives.
2. Freedom of expression (FoE) for those who paint the Fence should not be unduly abridged.
3. The rights and interests of listeners (viewers) of that expression must be considered.
4. It is important that none of the many treasured and diverse roles and meanings of the Fence be lost.

**Section 4** discusses issues of ownership and control over the Fence. As a matter of law, the Fence is physically part of the campus, and, like the rest of the campus, the authority over its use is ultimately overseen by the trustees, who have delegated that day-to-day responsibility to the president — subject to university policies and practices, which traditionally have dictated that only students may paint the Fence and that student government is the natural arbiter of Fence-painting issues.

Originally, that student governance was ad hoc and informal, but for some time it has been formalized under StuGov, specifically its [Graffiti and Poster Policy](#), and often in collaboration with the UA via shared governance. The procedures, roles and authorities of StuGov and UA within this shared governance have never been written down. The absence of any written “constitution” governing this shared arrangement has contributed to widespread misunderstanding regarding which parties hold which rights and powers.

A related observation is that neither StuGov nor UA have endeavored to describe any content-based limits on FoE on the Fence, or what if any consequences might follow from violations of those limits. “Time, manner and place” rules are generally well understood (e.g., it can only be painted by hand and at night), but matters of content are less well defined, beyond a recognition that any content-based restrictions must be viewpoint neutral.

**Section 5** examines how the principles of FoE and academic freedom (AF) apply to the Fence as one specific communications medium that has a unique profile of attributes. To give one example, unlike most other media of expression such as newspaper op-eds or community bulletin boards, the Fence accommodates only one speaker at a time, and that speaker effectively captures the forum for a period of time to the exclusion of other speakers. Furthermore, in practice, the “bandwidth” of the Fence is limited to about 100 relatively brief messages per year, even though the university welcomes approximately 5,000 new students each year, all of whom have a right and many of whom have an interest in participating in the tradition of expression via the Fence.

**Section 6** offers the FWG’s suggestions for the campus community moving forward. There is no broad consensus across campus concerning many specific recommendations, so Section 6.1 begins with a series of “findings.” The FWG intends these findings to be accepted by all parties as descriptive statements about realities of the law, the history of the Fence, current policies (informal and formal), and/or messages the FWG heard from the campus community. Findings are not the same as recommendations about the process of regulating the Fence or guidelines for its content, for which consensus is more difficult to achieve. Articulating findings can help reduce tensions when disagreement stems in part from one or both parties misunderstanding certain facts about the Fence and/or FoE regarding speech on campus.

There is also near-consensus concerning a broad vision for how tensions regarding FoE on the Fence can be reduced, and that vision is described in Section 6.2. The first component of that vision is captured in the phrase “bilateral restraint.” While messages on the Fence are subject to restrictions that apply to all on campus speech, the FWG recognizes and affirms that the university is strongly committed to protecting freedom of expression and academic freedom to the greatest extent possible, including speech that may cause discomfort to others. As an institution of discovery and ideas, it is essential that speech be protected, including speech that offends. However, as many wise commentators over the years have observed, one way for a community to protect its freedom of expression rights is to choose voluntarily not to exercise them to their maximum permissible limits, or without regard to the rights of listeners and the harm that unbridled speech can create.

Section 6.2.3 describes potential norms regarding what content might be better expressed via other media rather than on the Fence. That list includes avoiding use of the Fence to advertise commercial products or services; to attack private individuals; to target groups defined by race, ethnicity, religion, sex, gender identity, age, disability or national origin; or to explicitly or implicitly speak on behalf of the community as a whole.

“Bilateral restraint” implies restraint by the UA as well as by painters. The FWG likewise urges the UA to exercise its authority to impose content-based restrictions only in the rarest and most extreme circumstances. The desire to protect observers from discomfort would not, in the FWG’s view, be an extreme circumstance. Protecting the university collectively from suffering financial harm from lawsuits triggered by the words of a few individual painters, particularly anonymous painters, is a grey area.

The second core component of the FWG’s vision for a healthy future for the Fence is bilateral grace. To quote the university’s [Freedom of Expression Guidance](#): “The university is a place of learning, growth and development. It is also a place of patience, grace and forgiveness. The goals of the university’s response to uncharacteristic and isolated violations of norms should be reconciliation, learning and non-recurrence.” When a message posted on the Fence causes discomfort and complaint, the UA should recognize that such messages often arise from deeply felt concerns that prompt self-expression. Likewise, however rare intervention by the UA may be, those acts should be recognized as arising from its responsibility for the welfare of the institution as a whole. Accordingly, the goals of the broader community’s response to uncharacteristic and isolated violations of norms by the UA should also be reconciliation, learning and non-recurrence. Grace must flow in both directions. Difficult decisions, requiring the balancing of multiple interests and stakeholders under time pressure, are just that: difficult. Those who, with the benefit of hindsight, believe they could have acted differently might temper condemnation with appreciation for the difficulty of responsibilities they do not shoulder.

Section 6.3 continues with certain specific recommendations, primarily for President Jahanian as convener of this FWG, and of present and future UAs more generally. The principal recommendations are summarized at the beginning of this document.

The FWG was constituted by the president. It has no standing with StuGov and thus no basis for making recommendations to StuGov. Nonetheless, the FWG is the only body that has brought together representatives of all five principal communities of stakeholders (students, UA, alumni, staff and faculty) that StuGov has a duty to consider in its exercise of governance over the Fence, so Section 6.4 offers some observations that current and future StuGov bodies are free to consider or reject.

## Section 2: An Exploration of the Tradition of the Fence

The Fence is a 100+ year-old structure situated in the center of Carnegie Mellon University's Pittsburgh campus. It has changed significantly over its lifetime, both in its physical structure and the purpose that it serves on campus. Some tenets, however, remain enduring: it was built for students, by students, and is deeply regarded for its cultural significance across campus. CMU's University Archives, The Tartan student newspaper, social media, campus speeches, community emails and local news allowed us to piece together the following history of this beloved artifact.

### 2.1 Early History of the Fence

The "Senior Fence" was dedicated on May 24, 1923. It was inspired by certain customs of other schools that identified distinctions between the different classes and the desire to energize similar traditions at Carnegie Institute of Technology. Funding for the Senior Fence was provided by Student Council, and as it grew in significance across campus, a set of norms developed, including that any freshman passing the Senior Fence had to doff his hat, regardless of whether a senior was sitting on it.

There is no exact record of when the custom of painting the Fence began, but photos in yearbooks indicate painting as early as 1946. By 1953, use of the Senior Fence had strayed from its original purpose of being a reminder of the distinctions between seniors and underclassmen. In fact, it was simply referred to as the "Fence." Student guidebooks dating to the early 1980s described the Fence as a student sounding board and event advertising medium, as well as a unique opportunity for students and organizations to announce their personal messages to the whole campus.

### 2.2 The Fence's Evolving Role

In spring of 1988, an article on the Fence written by a university librarian for Carnegie Mellon Magazine gave a window into how the university administration interacted with its messaging. It stated:

*"The Fence is not often used for political or controversial messages and is seldom censored by the administration ... campus regulars can only recall a couple of incidents when university painters came by in daylight to delete an obscene message or a derogatory line about Francois Mitterrand, the president of France, the day he dropped by."*

In the years that followed, there were incidents where the Fence became a lightning rod for controversy. One of the first times this occurred was in 1988, when a group of Black students demanded that the administration provide more education and awareness of insensitivity towards ethnic groups on campus. The students mentioned specific examples of insensitivity, including words painted on the Fence.

In March 1989, CMU President Richard Cyert appointed a Human Relations Commission for relationships on campus. President Cyert also delivered a speech, "Striving for Mutual Respect in the Pluralistic Society of Carnegie Mellon University," in which he stated:

*"We must make Carnegie Mellon into a campus that encourages mutual respect, where each individual behaves responsibly and where such behavior furthers the cause of humanity rather than return it to a less enlightened period ... All of us are committed to making democracy work; therefore, we must dedicate ourselves to behavior toward others that is consistent with our objective of mutual respect. We must spread abroad our understanding of the significance of a campus and society where mutual respect is foremost. We have no alternative if we are to insure the viability of Carnegie Mellon and America. To contribute by our own behavior to the understanding and realizing of such a campus and a nation is one of the greatest contributions that we can make."*

In March of 1989 and 1990, the Fence was a focal point of discussion on campus related to LGBTQ+ rights. In one year there were instances of vandalism of Fence paintings promoting National Coming Out Day and, in the next, anti-LGBTQ+ sentiments painted in full. Among the letters to the editors to The Tartan related to the series of paintings, one person opined that:

*"Everyone has a right to freedom of speech, but we must consider the consequences of this right when publicly making comments that further the oppression of minorities and women who are fighting to enjoy the same benefits most people take for granted."*

Through the early 2000s, the Fence continued to be a place where the campus community — and others from outside of CMU — came together. There were gatherings related to 9/11, peace marches that originated at the Fence, and rallies to aid refugees in Afghanistan. Students used the Fence to gather, raise awareness and communicate their values.

Students display active self-governance as they pass the traditions for painting the Fence seamlessly among one another. The campus community culture and respect for the Fence is displayed by a commitment to teaching first-year students to paint it during Orientation week. As of the writing of this report, the head orientation counselor team orchestrates a multi-evening painting sequence that other students have embraced as a part of the tradition and do not attempt to interfere or compete with in order to post their own messaging. Similar conversations occur between student organizations to support the timing of painting the Fence on international holidays and days of remembrance.

### **2.3 The Fence Today**

The years 2009 and 2010 marked the first times student government put in writing some of the expectations related to the Fence, along with other rules for chalking and posterizing across campus. Early language framed the Fence as an event or organization promotional medium for students and focused on the relationship between the Fence and graffiti. These served as the only formal written

rules of the Fence for many years, leaving the traditions — including requirements to paint the entirety of the Fence between midnight and 6 a.m. with hand brushes alone — to be communicated primarily through word of mouth.

In September 2019, a @cmufence Instagram account was created that documents the daily paintings of the Fence. Painters can fill out a form, upload their own photos and share any information for posting. This extension of the messaging on the Fence allowed for context and attribution to appear increasingly via this medium; however, while the account is followed by thousands, it is not university-managed or even known to exist by many within the CMU community. This external public account also broadened the reach of the content posted on the Fence to the world outside of the CMU community.

It is also around this time period when community-wide concerns related to content on the Fence grew sharply. Between 2007 and 2025 there were no fewer than 20 episodes when the community was challenged by polarizing messaging, vandalism of messages, public paintings of obscenity, vitriolic engagement on social media and community harm. Emails, social media commentary and other communications to both administrators and student government reflected frustration when specific messaging on the Fence was not removed by CMU, and also when it was. Each episode led university leadership, including the dean of students, Office of Student Involvement and Traditions, and sometimes the university president, to engage with StuGov leaders to discuss communication with the populations affected and whether or not re-painting/painting over specific messages was appropriate.

In October 2023, after the Fence carried messages related to the ongoing conflict in Israel and Gaza, Provost Jim Garrett and Dean of Students Gina Casalegno wrote to the campus community. Acknowledging that the conflict reflects both the diverse perspectives of the student body and the raw emotions of the time, they pointed out that the Fence has an important role in supporting free expression and respectful engagement within the campus. The letter cited President Jahanian's [Commission on Academic Freedom and Freedom of Expression's report](#), which stated that the only limits on academic freedom and freedom of expression "are those dictated by law and those necessary to protect the rights of other members of the university community and to ensure the normal functioning of the university."

March 2024 concluded a yearlong discussion within StuGov related to how to clarify the "rules of the Fence," in hopes of mediating some of the campus discourse. This resulted in modest amendments to StuGov's [Graffiti and Poster Policy](#) that clarified posted information, specified the ability of students to correct vandalism, and provided for a paid position that would serve as an arbiter for Fence-related concerns. Students also voted to approve a new permanent installation in the ground on the Doherty side of the Fence, referred to as the "Fence Tenets," which were designed to communicate the enduring values of the Fence. They read as follows:

*The Fence est. 1923*

*The Fence was built for students, by students. That student-centered foundation continues to be the bedrock of its existence today.*

*CMU students have the privilege to paint The Fence and express themselves. Our community's belief in the right to free expression parallels our expectation that we respect one another and consider the weight of our words.*

*Respect for The Fence and the ground that surrounds it is a requirement to ensure the tradition of The Fence endures.*

*The Fence is governed by the Carnegie Mellon Student Government's Graffiti and Poster Policy, which contains the current rules, expectations, and process for reporting concerns.*

Despite these efforts, events at the Fence continued to demand a substantial amount of time from an increasing number of StuGov leaders and university officials. The campus unease was brought to a flashpoint on July 15, 2025, as U.S. President Donald Trump was scheduled to speak on campus at the Pennsylvania Energy and Innovation Summit. President Jahanian ordered an unattributed painting of the Fence that read "No Rapists on Our Campus" to be painted over, and the Fence was taken offline for less than a week until further conversations with governance groups could occur. Following this event, President Jahanian convened this working group of students, faculty, staff and alumni to consider tools and mechanisms to support the goals of the Fence, while aligning with commitments to free expression and fostering a supportive community.

### **Section 3: Key Lessons from Listening**

#### **3.1 Fall 2025**

During the fall 2025 semester, data collection and listening took five primary forms:

1. As noted in our report to the community in December 2025, "With the aid of archival records, we revisited the Fence's century-long history and the ways it has helped build connection and belonging at CMU, which is central to the university's Strategic Framework."
2. We reviewed minutes, notes and documents related to various public forums held before the FWG formed, including (1) a Faculty Senate call on July 25, 2025, (2) an undergraduate town hall hosted by the Undergraduate Student Senate on Aug. 30, 2025, (3) a town hall for staff held on Sept. 4, 2025, and (4) a graduate student town hall hosted by the Graduate Student Assembly on Sept. 6, 2025.

3. We reviewed excerpts from and AI-generated syntheses of emails regarding the Fence that had been sent to the Office of the President by students, staff, faculty and alumni.
4. We solicited and responded to emails from interested parties via the Fence Working Group email account.
5. The co-chairs met with various individuals and groups that wished to share their views. All of these meetings were with people within the CMU community, except for one with a representative from the Foundation for Individual Rights and Expression (FIRE), pursuant to a letter sent by FIRE to President Jahanian urging the FWG to “adopt policies that protect students’ freedom of expression.”

In a series of internal meetings, we spent time understanding the distinctive characteristics of the Fence as a medium of communication and considering how the university’s academic freedom and freedom of expression policies and practices apply to this unique medium.

### ***3.2 Spring 2026***

During the spring 2026 semester, we continued informal meetings and extended our work to a series of formal public listening sessions. The meeting schedule is attached as [Appendix B](#). In brief, we held two all-community forums, two student-specific sessions (one general and one reserved for undergraduates), a staff-specific forum, two faculty-specific office hours, and two remote alumni sessions. Meeting size varied from two individuals to more than 45 at the staff forum.

Notes from these meetings reflect interactions that were generally vigorous, reflective and productive. Here we highlight some of the key points that we identified:

- What the Fence represents for the campus is not captured by any single view. It plays diverse roles, even among students. One prominently expressed view is that the Fence is the most important, if not sole, vehicle for students’ free expression. But others view it as an essential means of promoting social events, building community or conveying a personal message.
- We heard from all constituent groups that students should be the center for operation of the Fence. Many acknowledged that student-centrism could lead to negative reactions by observers and formal messages of disapproval to the administration. We heard statements such as “Let them [students] learn from their errors,” “universities are meant to hold tension” and “comfort is not a right.”
- We received mixed messages about content restrictions on the Fence. We heard from students, faculty and staff who advocated for no restrictions whatsoever beyond those demanded by law. We also heard from many people who took offense at content and wished that guidelines for civility were enforced. It seems clear that beyond obscenity and incitement to violence, there is no content restriction that would be universally endorsed.

- In multiple sessions, attendees pointed to the need for guidelines that would apply to the administration as well as guidelines for students. We also heard the sentiment that the administration should provide greater public acknowledgement of the unique and treasured role that the Fence plays at Carnegie Mellon.
- We heard from students, alumni and others that they value not only the physical Fence but its associated Instagram account. One student commented that when they were away from campus, looking at the Fence on Instagram provided a sense of connection to the campus.
- Students acknowledged that the Fence is neither sufficient nor fully representative of free expression on campus. We heard calls for more venues for posting content.
- Of course, there were topics on which we heard broadly mixed messages. Three such themes were whether anonymous messages should be allowed, whether passers-by who take offense at postings should be accommodated and treated as “captive” in the sense of freedom of expression (as discussed in Section 5.4.4), and whether further messaging might be used at the Fence or elsewhere in CMU communications to make its student-centered “authority” more prominent.
- There was sentiment supporting making distinctions based on context, particularly with regard to when there would be many visitors on campus. For example, there were suggestions that Fence norms and practices could be different around Family Weekend, Carnival and Commencement, as they already are (albeit for different reasons) during Orientation.
- In some listening sessions, the recent updates to the Expressive Activity Policy and the summer 2025 incident of over-painting the Fence together were cited as indicators of a general tendency toward limiting freedom of expression on campus. Reaction to the latter incident was likely fueled by the broader civil and political context within which it occurred.

## **Section 4: The Fence: Ownership and Control**

The FWG is charged with considering how to preserve the important role of the Fence in student life and to maintain rights guaranteed by freedom of expression, within the context of an inclusive and welcoming culture. This charge appropriately places students at the center of those who have a strong interest in the Fence's institutional role and the activities associated with it — in other words, the stakeholders. Students are the painters and guardians of the Fence. Through StuGov, students share governance of the Fence with UA, as described in detail in Section 6.1.7.

In addition to students, there are other groups of stakeholders who feel a strong commitment to maintaining the Fence's role in the campus community. They may be passers-by who view it on daily or occasional campus visits, or they may follow its content on social media or through campus archives. They may be former students with fond memories of the Fence. This section of the report,

accordingly, broadly identifies stakeholder groups with differing interests and activities. We begin with those most passionate and directly involved: the students.

#### **4.1 Stakeholder Groups**

##### Group 1: Painters

- By regulation, this group is restricted to current Carnegie Mellon students. The process of painting the Fence is largely governed by the students themselves, as formal policy is limited to the StuGov [Graffiti and Poster Policy](#). The students' own rules are found on [the Student Government webpage for the Fence](#).

##### Group 2: Content Communicators and Commentators

- The Fence has an unofficial conduit to its content by virtue of an Instagram account. This allows content to be distributed beyond campus and generates related content through comments. This group includes the owners of the account (whose identity is not generally known), viewers of the account (including many former and present students) and those who post comments on the account.

##### Group 3: Custodians

- This group includes multiple levels of administrative authority over the Fence, from the President's Office, to those in a direct "line of sight," to its users.
  - The CMU president, who has principal authority over all of the internal operations of the university, has overarching responsibility.
  - The president is supported by an administrative staff and the Office of General Counsel, who deal with legal issues arising in relation to the Fence.
  - Student Government bodies, undergraduate and graduate, represent student interests and provide explicit guidance and regulation.
  - The Student Government Graffiti and Poster Policy has a formal role in regulating activities related to use of the Fence.

##### Group 4: Board of Trustees

- The Board of Trustees is the ultimate authority with regard to the Fence, as it governs the physical plant and the activities of the university.

##### Group 5: Other Interested Parties

- This last group is diverse. It encompasses members of the campus community — students at large, faculty, alumni and staff — along with visitors and those who observe from a distance. It also includes research sponsors and funders, as well as government agencies who evaluate the university environment.
- Observers are stakeholders; they are affected by messages on the Fence. But many have no direct voice in the operation of the Fence, as they are neither permitted to express themselves via the Fence nor given any role as custodians. It is a duty of the custodians to manage the Fence in a manner that is respectful of these parties' interests. That duty stems from both moral obligation and, in certain cases, a legal requirement, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.

#### ***4.2 Current Practices of Stakeholder Groups***

The level of involvement of each stakeholder group with matters pertaining to the Fence depends on their particular role. Here we briefly review the current practices of each group.

##### Group 1: Painters

- The current practice of this group is, of course, to provide content by painting the Fence. As noted above, policies and rules posted by StuGov are intended to regulate the time, manner and place dimensions of painting. Informal customs also exist; for example, holding the Fence in person to maintain the content on it.

##### Group 2: Content Communicators and Commentators

- The Instagram account owners are purveyors of content. Although their evident intent is to provide a conduit for publicity and dialogue about that content, they may, on rare occasions, provide an editorial comment.
- We note that while the Fence Instagram account is not officially associated with the university, website links to the account such as those from StuGov and the Libraries may suggest a formal affiliation.

##### Group 3: Custodians

- On rare occasions (four, between 2010 and 2025), the president or other university leadership has ordered the Fence to be repainted. This may be triggered by content that is illegal, such as profanity (including thinly disguised forms), or that is judged by the president to compromise the welfare of the CMU community.
- Administrative staff have also, on occasion, intervened with Fence content. Their principal role has been to monitor how activities at the Fence conform to CMU's policies and

guidelines and to negotiate with students about how to apply those policies and guidelines. These staff members also conduct informal meetings with students in relation to Fence activities, particularly when controversies arise.

- Student Government shares governance of the Fence with the university administration, and together they monitor compliance with regulations and norms by a process described in Section 6.1.7. Formal policy regarding the Fence resides with StuGov's [Graffiti and Poster Policy](#), first formulated in 2010 and adjusted in 2024. In addition to policy-level regulations, the StuGov website has posted [guidelines for the process of painting the Fence](#). In 2024, a set of "tenets" for use of the Fence were physically placed in its proximity, stressing a culture of respect and outlining students' privileges and responsibilities. Everyday regulation of these rules and practices by students has generally fallen more to the undergraduate legislative branch of government than to the graduate legislative branch, whose constituency tends to be less engaged in the Fence.
- As described in Section 2.3, the student poster policy arbiter position was created in 2024 to provide the most direct connection between content creators of the Fence and StuGov. However, as noted in Section 6.1.7, this role has not been fully integrated into the everyday operation of the Fence.

#### Group 4: Board of Trustees

- While the Board of Trustees has ultimate authority over the Fence as part of its governance of the university, in practice its formal role has been minimal. Although formal intervention has not been practiced, the board has been in direct communication with university administrators when disruptions related to the Fence occur.

#### Group 5: Other Interested Parties

- There is no consistent practice among other stakeholders. Some students may be profoundly engaged with the Fence without actively painting it or commenting on social media; others may be disengaged. Alumni, too, vary in involvement, but some are clearly concerned with the Fence and how it is used and regulated.
- Faculty and staff who work on campus often pass the Fence and read its content. Although they may not explicitly comment, what is painted on the Fence can impact their work environment, potentially in positive or negative ways.
- The role of visitors and outsiders is, more often than not, to provide feedback about content, which may be positive or negative. At Commencement, for example, families often take pictures at the Fence. However, in the past, parents who arrived for Commencement to find negative statements about their religion or ethnicity registered disapproval.

### ***4.3 Meeting Stakeholder Interests***

Section 6.1, which describes findings, describes further how well the concerns and needs of stakeholders are being met. By way of summary, no one group has felt entirely satisfied, nor is that possible given such a diversity of interests. Painters may feel that FoE is not being granted, students who wish to paint may feel deprived of opportunities due to limited bandwidth or hesitancy about eradicating controversial content, UA has faced difficult decisions and student protest, and visitors may feel discomfort about content that is deemed legitimate to post. The increasing number of occasions on which such concerns arose is what led to the formation of this working group.

Nonetheless, it is important to keep in mind that with current practice, the Fence works; that is, it is used as intended most of the time. It provides a forum for self-expression. Its messaging is often used to build a sense of community. Importantly, most posts follow the explicit protocols regarding practice. There has been minimal intervention by administrative groups. The following sections of this document describe further efforts by the FWG to meet its charge of reinforcing the positive role of the Fence while affirming community norms and inclusive culture, to the advantage of all stakeholders.

### ***4.4 Fence Ownership and Control During Orientation***

The preceding text described Fence ownership and control during typical periods throughout the year; this section addresses the particular customs, traditions and practices associated with First-Year Orientation Week.

As a prelude, it is important to note that there is no formal mechanism outlined in the StuGov Graffiti and Poster Policy for reserving the Fence or handing off ownership to another group. Any such processes exist only at the individual level. For example, it is common practice for prospective painters of the Fence to reach out to the current owners to negotiate a handoff, but there are no formal rules governing handoffs. From time to time, groups are perceived to violate the spirit of norms governing handoffs, and StuGov has on occasion stepped in to help negotiate an amicable resolution, while making clear that it has no formal authority to enforce any norm.

For many years during First-Year Orientation (FYO), Fence painting has been informally reserved for first-year students as an enrichment activity. The origins of this custom are unclear, but the current practice is widely understood to operate as follows:

During the week prior to FYO, the head orientation counselors (HOCs) determine which days will be de facto reserved for particular housing communities. It is common for multiple housing communities to collaborate on a single Fence layer, and the paint and supplies are provided by the FYO staff. This reservation of Fence access exists solely by custom; StuGov rules do not recognize FYO HOCs or any other group as having the authority to reserve nights for Fence painting. Nonetheless, the tradition is widely respected among students to the point that students report that

“no one else would dare paint the Fence at that time.” The custom is maintained through effort and leadership of influential students operating outside formal StuGov processes.

In addition to the FYO Fence painting, another respected tradition is that the incoming CMU class Discord server will organize a group to paint the Fence on the night following move-in, so that incoming students see a welcome message on the Fence for their first official day. It is understood that this night also is de facto reserved for members of the Discord server group to paint the Fence.

## **Section 5: How Principles of Academic Freedom and Freedom of Expression Apply to the Fence**

### ***5.1 Introduction***

The resolution of conflicting rights and interests regarding expression of ideas that potentially violate observers’ rights and sense of personal security is rarely clear cut, nor is it clear for most people vis-a-vis the Fence. The discussion in this section is not intended to be dispositive. It may, though, provide frameworks and terminology that help clarify thinking and provide a basis for mutual understanding. Note that mutual understanding does not imply agreement. Two people can both understand one of the principles discussed below, and use the associated terminology in a consistent manner, but nonetheless still reach different conclusions about the proper balancing of considerations, because as individuals we are entitled to our own values and, hence, our own weighting of conflicting considerations.

The FWG’s conclusions and recommendations concerning the path forward that may best honor the spirit and principles of AF/FoE are discussed later, in Section 6.

### ***5.2 Brief Primer on AF/FoE Concepts Used in This Report***

#### ***5.2.1 Content-based vs. viewpoint-neutral restrictions***

Policies and principles regarding both academic freedom (AF) and freedom of expression (FoE) seek to balance the interests of speakers<sup>1</sup> and the broader community that has interests in what is being said, or not said. The general approach is to defend the right of the speaker unless there is some compelling reason why an exception should be made. U.S. law and culture generally supports the right of individuals to express their views — even views that are repugnant, factually incorrect or harmful — except in certain cases. A classic example of such an exception is that although a person is generally free to say the word “fire,” they may not shout it in a crowded theater, because the crowd has a competing interest in not being trampled in a panic.

AF/FoE principles do not preclude the university from placing reasonable (i.e., not unduly burdensome) restrictions on the “time, place and manner” of speech, so long as those restrictions

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<sup>1</sup> Within this document, the terms “speech” and “speaking” should be construed broadly to include a full range of forms of expression, including writing, art and performance, social media, etc.

are “viewpoint neutral.” For example, restricting loud, public gatherings to certain hours (e.g., not after 11 p.m.) could be consistent with FoE principles. However, it would not be consistent with those principles to say “marches supporting Democratic candidates must conclude before 11 p.m., but those supporting Republican candidates can go on all night.”

Time, place and manner restrictions are common. Indeed, they are baked into the Fence traditions. Students are permitted to express their views by painting them in public, but only on the Fence (not on surrounding buildings), only with brushes, and only at night.

Note there is a distinction between viewpoint neutrality and content neutrality. Reasonable restrictions can be based on the content of the speech as long as they are applied evenly to all speakers and all ideas. For example, banning all profanity is content-based but can be consistent with FoE, whereas banning only profanity directed at some groups or causes would not be. Similarly, Carnegie Mellon’s [FoE guidance](#) notes that “Unlawful activity or other conduct prohibited by university policy will not be permitted, even if done in connection with an expressive activity. Such conduct includes harassment and threats of bodily injury or damage to property (hereafter ‘threats’).” Those restrictions are content-based, but they should be applied in a viewpoint-neutral manner.

Few ideas related to AF/FoE are uncomplicated, and that is also true of what constitutes a “reasonable” restriction. Some language commonly associated with the reasonableness test in the U.S. includes whether restrictions “serve a significant interest,” whether they are “narrowly tailored,” and whether there are sufficient “alternative channels” through which speakers can communicate their message.

A classic example involving physical bulletin boards may help clarify. It is uncontroversial for there to be restrictions on what can be posted on a given bulletin board, e.g., a career services office could have a physical bulletin board outside its door whose use is restricted to career and job search-related posts. The office staff would be free to remove from that bulletin board a poster promoting a campus party, presuming the university provides adequate other bulletin boards elsewhere on campus via which that party could be advertised.

A current and controversial instance on our own campus is whether the new (as of June 2025) policies on [scheduling expressive activity](#) meet the test of being “narrowly tailored.” That might appear to be a wholly separate question, unrelated to the charge of this working group. However, it is germane inasmuch as it bears on the question of whether the university provides sufficient alternative channels of expression. Although rarely stated this clearly, a common argument the FWG heard for not restricting expression on the Fence is that 2025 was a year with losses of other channels, because of both local actions (new university policies) and national actions. Conversely, many favoring restrictions on certain types of speech on the Fence often argue that there are other channels more appropriate for that sort of speech.

One important observation is that the existing written policies concerning the Fence are almost all of the “time, place and manner” variety (e.g., “only paintbrushes may be used”). They are essentially silent on whether, when and how restrictions may be content-based.

Despite the absence of written rules, there is general understanding of the need for at least some content-based restrictions. For example, it is generally accepted that messages painted on the Fence should not include obscenities. That may be consistent with the Pittsburgh City Code [Chapter 613](#) ban on certain “obscene and sexual materials,” but it is not only because of the City Code. In fall 2024 and spring 2025, StuGov painted over the obscenity in the message “Fuck Trump” and, because students were away for winter break, supported the UA painting over the obscenity “Fuck You Kevin It’s Cold.” The reluctance to paint over “F-[fist]-C-K Trump” stemmed from disagreement over whether or not “F-[fist]-C-K” was obscenity, not whether obscenities could or should be painted over.

It is probably also generally accepted that illegal statements can and/or should be painted over by StuGov and/or UA, although so far as we know, that has not yet been acknowledged explicitly in any Fence-specific guidance documents.

There is, though, as much disagreement as agreement beyond the relatively easy edge cases of obscenity and incitement to violence. Put differently, content on the Fence has been governed by norms and practices, not written policies, and the last decade has revealed that those norms are not universally shared.

### *5.2.2 Academic freedom vs. freedom of expression*

The previous section pertained to freedom of expression (FoE). Some participants in FWG listening sessions sought to also invoke academic freedom (AF) to defend Fence painters’ rights. Clarifying the differences between FoE and AF helps explain why speech issues pertaining to the Fence mostly concern FoE, not AF.

FoE is a constitutional right enjoyed by all citizens that confers protection against punishments by the government. Because FoE protects against actions by the government, and Carnegie Mellon is a private institution, members of the Carnegie Mellon community have no *constitutional* FoE protection against being punished by the university. However, it is Carnegie Mellon’s policy to extend substantial FoE rights to its faculty and other employees, so employees punished for their speech may be able to sue the university for breach of employment law.

It is important to note that the university policies regarding FoE are not identical to the U.S. court rulings regarding FoE, with deviations described in those policies. For example, CMU’s [AF/FoE Commission](#) recommended (1) greater deference to reasoned arguments vs. angry outburst, (2) greater recognition of captive audience doctrine (further discussed below), and (3) less tolerance of advocating violence against groups.

AF is very different. It is a set of rights asserted by faculty, most famously via the AAUP's 1940 statement, and then voluntarily adopted by many universities.<sup>2</sup> The courts have recognized the importance of AF, and AF has been extended to certain other members of the campus community to varying degrees.

Discussions of AF often distinguish four types of speech: (1) classroom/teaching, (2) research/intellectual, (3) "intramural"<sup>3</sup> and (4) "extramural." At least the first two, and arguably the third, clearly would not pertain to the Fence even if AF rights were extended beyond faculty to students. The fourth mostly does not either for reasons discussed below in Section 5.4.1. Or, put differently, if hypothetically, faculty were permitted to paint on the Fence, their messages would generally not qualify for extramural speech AF protection.

### ***5.3 Distinctive Attributes of the Fence as a Medium of Expression***

The Fence is a medium of expression, or perhaps a forum for expression, and it is useful to note some of its distinctive properties. Both the law and university policy make distinctions about the nature and extent of rights and restrictions on expression based on the medium or forum. For example, the university broadly protects faculty's freedom to express personal political views in "extramural speech" (meaning private speech outside of their university role), but it does not grant the same protection to speech within the classroom.

Hence, this section describes special attributes of the Fence as a medium or forum of expression. The following statements pertain to the *physical* Fence:

1. Access to the Fence as a medium of expression is restricted to Carnegie Mellon students. Staff, faculty and people outside of the university community have no right or access to the Fence as a medium of expression.
2. The Fence is one of many forums or media of expression available to students. Others include social media, The Tartan, other student publications, public gatherings or protests, etc. Policies and practices specific to the Fence have no bearing on those other forums or media, and the scope of this working group is restricted to this one medium of expression.
3. The Fence is a "low-bandwidth" medium of expression. It is generally used to express ideas that are developed to a level of detail more reminiscent of a Twitter/X post than a full-length article in The Tartan.

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<sup>2</sup> Per the university's Freedom of Expression Guidance: "Academic freedom is rooted primarily in employment contracts and university policy. It protects faculty against actions by others within the academic community, notably by the university itself."

<sup>3</sup> Intramural speech pertains to faculty and other employees' rights to criticize their senior management. By custom, professors can say things about university presidents that would lead to prompt dismissal if uttered by employees at most non-academic organizations.

4. The Fence is a “rival good,” in the sense economists use that term. When one party is speaking through the Fence, no one else has access to the Fence until the previous speaker has relinquished the floor (stopped guarding the Fence). That partially encumbers dialogue or give-and-take as compared with, say, social media. If one person posts to a social media account, it in no way blocks or delays the ability of someone else to post to that same medium.
5. Statements made via the Fence are often unsigned or anonymous. That implies anyone wishing to rebut has limited ability to direct their rebuttal to the speaker of the original message.
6. It is unclear who has custodial ownership of the Fence for purposes of content moderation, and even less clear who possesses that authority regarding the Fence Instagram account. Legally, the Board of Trustees has ultimate responsibility for the Fence and everything else on campus. Practically speaking, StuGov enforces time, manner and place rules concerning the Fence, but neither it nor the UA have published guidelines regarding what content might be unacceptable. Community consensus regarding what is acceptable has broken down, and there is no explicit guidance regarding who should do what via what process to resolve questions about content that might not be acceptable or what to do about it.
7. The Fence occupies a prominent place on campus that many see in the course of their everyday activities. As is discussed further below, this gives the Fence elements of a “captive audience” dimension, although there is disagreement about the extent to which that is true.<sup>4</sup>
8. The Fence is visible to people outside the university community physically (e.g., it can be seen from Forbes Ave. and by members of the public on campus), via social media (the Fence Instagram account), and indirectly via media coverage.
9. Historically some messages on the Fence purported to speak for the entire community. For example, one message was “CMU Community Says Stop the Summit.” Other times there have been concerns that some people would mistakenly presume that the Fence represents a collective community sentiment, even when the message itself does not imply that. It can be problematic if people who do not subscribe to a sentiment painted on the Fence feel they are being involuntarily associated with that view. FoE principles include not only allowing

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<sup>4</sup> U.S. law generally expects a listener to avert their eyes and ears, rather than to silence the speaker, but exceptions are made for “captive audiences” for whom it would be difficult to avert their eyes and ears. The university policy on AF/FoE recognizes this principle and applies it in more contexts than does U.S. law. For example, it would recognize that it is difficult for students in a required core course to avert their eyes or ears from required readings whose mastery is necessary to earn a good grade in that course.

speakers to say what they personally believe, but also not forcing others to be associated with beliefs they do not hold.<sup>5</sup>

10. Speakers expressing unpopular views via a *guarded* Fence are exposed to various forms of retribution by their peers, and the history of the Fence includes instances of bullying people for expressing those views. To the extent that becomes a type of “heckler’s veto,” it is a form of speech suppression wholly distinct from scenarios in which StuGov or the UA orders the Fence to be painted over. Hence, even if the official policy is never to paint over a message, that may not be sufficient to protect FoE via the Fence, if bullying of painters guarding the Fence were to persist.

#### ***5.4 The Fence Presents Unique Issues With Regard to Freedom of Expression***

The FWG heard various arguments for why there should or should not be restraints on what content should be permitted on the Fence. Advocates of those positions often held different views on the extent to which the following four ideas or arguments merit consideration. Here we summarize questions raised about FoE in the context of the Fence without in all cases “taking sides”.

##### *5.4.1 Does speech on the Fence qualify as extramural speech?*

University policy grants strong and broad protections to extramural speech, i.e., statements made as a private individual in contrast to speaking as a representative of a formal affiliation. Most members of the Carnegie Mellon community are entitled to private lives where they can express their personal views “off campus” — including on matters of public interest — without fear of retribution from the university. So an important question is the extent to which Fence speech might qualify as extramural speech and so be entitled to a presumption of correspondingly strong free speech protection.

Expressions on the Fence share several characteristics with extramural speech. Fence paintings are generally unrelated to classroom or professional activities, the “utterance” (painting) is specifically restricted to be made between midnight and 6 a.m. after normal working hours, and because many students live on campus, it is often expression made “at home.”

On the other hand, that speech persists into working hours within a physical space that is also part of the work/professional environment of campus. Fence statements are literally “on campus,” and they are in a general or public space. They are not limited to space that is associated with an individual (as would be, say, a private office or dorm room) or even a well-defined subset of the broader community (as when a statement is made by or associated with one particular student club).

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<sup>5</sup> As Justice Robert H. Jackson wrote in the 1943 *West Virginia Board of Education v. Barnette* ruling, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”

Additionally, to qualify for extramural speech protection, the speaker should not invoke an association with the university and, if there is ambiguity, bears some responsibility for clarifying that there is not an association. For example, for a faculty member's social media post or op-ed to be construed as extramural, it should either not be signed "Joe Smith, professor of X at university Y" or it should include a disclaimer such as "The views expressed herein are those of the author alone, and do not reflect the policies or positions of the university or any other employer."

The FWG recognizes both sets of arguments and concludes that Fence speech is not literally extramural speech, but the overlap in characteristics is a relevant consideration when balancing interests concerning expression via this medium.

#### *5.4.2 To what extent do statements on the Fence get attributed to the community as a whole?*

This is essentially an empirical question for which the FWG is aware of no high-quality objective data. One argument for considering some content-based restrictions is that messages on the Fence are generally not explicitly signed or otherwise directly associated with the specific individual painters. That, plus the fact that physically the medium is university-owned property, creates in some people's view a risk that some observers may associate sentiments expressed on the Fence with the broader community, not just with the individual painters.

Adding to this argument, occasionally messages do directly invoke "CMU" or some other collective as the subject of the sentence painted on the Fence, as in the example given above: "CMU Community Says Stop the Summit."

A distinct but related concern is that even if observers know that the original message was authored by only a few individuals, the UA allowing the message to remain may be construed as signaling university support or at least tolerance for those sentiments.

The primary counterargument offered is that anyone familiar with the Fence and Fence traditions should understand that messages are painted by individuals or small groups of individuals.

Note there are alternatives to content-based restrictions for ameliorating this problem, such as making more prominent statements that any sentiment expressed on the Fence should be presumed to be those only of the individual painters. For example, a sign could be posted next to the Fence making that clarification, and situated so that any external media attempting to photograph the Fence message would also end up photographing the disclaimer.

The FWG does not take sides on this matter, but does note that various stakeholders we heard from can be very far apart, with sentiments ranging from "Of course it would reflect badly on the institution as a whole if some reporter photographed a hateful message on the Fence" (that the UA chose not to paint over) to "Everybody knows messages are written by individuals and cannot be presumed to reflect community sentiment" (even in the instance of reporters publishing photos of the Fence in national media).

If FoE matters related to the Fence continue to divide the community, it might at some point be worth collecting objective data on whether and the extent to which external parties might associate statements on the Fence with the institution as opposed to presuming they reflect only the views of certain individuals.

*5.4.3 To what extent is the Fence just one of many forums available to students, vs. it having unique attributes that cannot be replicated via other means?*

On this question there also can be sharply contrasting views. Here we will expand on those contrasting viewpoints without endorsing either. Those who hold the view that not all content is acceptable as Fence expression often note that there are many other available channels for students to express their views (social media, The Tartan, outside newspapers and media, public gatherings, etc.). Content-based restrictions for the Fence would be restricting that content only from one communications medium, not restricting such content entirely. As such, even content-based restrictions for the Fence could be viewed as being “time, manner and place” restrictions in a broader sense. The restrictions would not be saying “You cannot say X” but only “You cannot say X on the Fence, but you are welcome to express those same ideas in other ways, including on campus.”

The counterarguments come in several flavors. Perhaps the most common is that 2025-2026 is a time of sharply reduced opportunities to express ideas via other channels. Evidence cited includes actions that are CMU-specific, notably the recent changes adding requirements for [scheduling expressive activity](#). And also changes beyond campus, such as the weakening of conventional print media and the deportation of people for expressing certain political views. The latter is particularly relevant for the sizable minority of Carnegie Mellon students who are not U.S. citizens.

Another counterargument is that the physical aspects of the Fence are uniquely valuable. This is sometimes expressed as “the Fence is art” but can be stated more generally as believing that painting a message on the Fence is qualitatively different than printing those same words in an op-ed, social media post or placard carried in a public protest. By this line of reasoning, even if other media exist, they are not adequate substitutes for expressing those same ideas on the Fence.

A third argument we heard, but whose merits are less widely held, is that the Fence is a last-resort, high-visibility resource to push for change. On certain issues, some believe it is the only way students can get the attention of Carnegie Mellon’s president or other members of the university administration.<sup>6</sup>

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<sup>6</sup> To the extent that such frustrations are a motivation for painting certain things on the Fence, an alternative, less restrictive option for reducing the frequency of such statements may be expanding alternate ways of students bringing issues before the administration.

#### *5.4.4 To what extent should the campus community be viewed as a “captive audience” of statements on the Fence?*

FoE seeks to balance the interests of the speaker and the audience. If the listener does not wish to hear what the speaker wants to say, then who gets what they want and who is frustrated? Under U.S. law, in almost all circumstances the speaker’s rights prevail, and the listener is expected to avert their eyes and ears if they do not wish to hear what the speaker is saying.

One exception goes under the name “captive audience doctrine.” In certain circumstances, the courts view it as too burdensome for the listener to avert their eyes and ears, and so the speaker must hold back. Two specific examples are: (1) People within their own homes do not have to listen to messages they do not want to hear,<sup>7</sup> so citizens protesting outside a mayor’s private residence may stand on the sidewalk holding billboards but may not shout their protests with a bullhorn; and (2) Patients approaching an abortion clinic have a right not to be confronted by abortion protesters, so those protesters must stay a certain minimum distance back from the clinic’s doors.

Carnegie Mellon’s AF/FoE policies recognize this principle and apply it in places beyond where U.S. law does. For example, Carnegie Mellon recognizes that, to a degree, students in courses, particularly required courses, are a captive audience for speech that is presented in that course, including by the professor. The students’ rights under captive audience doctrine do not necessarily trump the faculty member’s AF rights to speech related to the course content, but it is a pertinent consideration in the balancing of interests. Likewise, it is appropriate to recognize that whereas campus is a workplace for faculty and staff, it is also a home for residential students, particularly the dormitory areas.

With that background, the question can be asked: How burdensome is avoidance for people who do not wish to “hear” speech painted on the Fence? Or, put differently, just as students may wish for teachers not to use the classroom to communicate offensive speech that is not relevant to the course content because students constitute a captive audience, can the rest of the campus community wish for students not to use the Fence to communicate certain things because the campus community is a captive audience to speech on the Fence?

On the one hand, the Fence is not in the residential part of campus, and excepting perhaps facilities staff who must remove snow, cut grass, etc. near the Fence, no one is forced by any course or work requirement to approach or pass near the Fence. On the other hand, the Fence is close to the Cohon University Center, which is an important part of the health, wellness and community engagement components of residential student life (the students’ living area even if not their bedrooms), and the Fence is quite central to heavily trafficked pathways on the main campus, so routine activity brings many people by the Fence, including faculty and staff. Avoiding walking near the Fence would be of some inconvenience.

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<sup>7</sup> C.f., e.g., *Rowan v. U.S. Post Office* (1970) and *Frisby v. Schultz* (1988).

Again, there was no consensus within the community as to how burdensome it is for someone to avoid seeing a message on the Fence. However, it is useful to add this frame to discussions about whether and when content-based restrictions on Fence expression are appropriate. It helps people who disagree about such restrictions to see their differences as stemming, in part, from differences on this particular point, not necessarily differences in whether the parties support FoE or care about the people who might be offended by that expression.

## **Section 6: Moving Forward**

### ***6.0 Organization of this Section***

As stated previously, under current governance practices the Fence works most of the time as intended. The Fence Working Group was convened because the "most of the time" successful operation has been increasingly punctuated by significant issues.

This section summarizes the FWG's forward-thinking suggestions, divided into four parts: (1) findings; (2) vision for the campus community writ large regarding Fence norms and practices (without being specific as to who would implement or how to resolve shared governance questions); (3) recommendations to the university administration; and (4) suggestions to Student Government.

### ***6.1 Findings***

The findings stated here represent the FWG's understanding of facts or realities that pertain to the Fence. They are not recommendations or aspirations. We do not favor or oppose, celebrate or condemn these findings. They are just observations that we believe all involved should accept, although we recognize that some parties do not at present in certain cases.

#### ***6.1.1 The Fence is a wonderful, student-centered institution.***

The Fence is a beloved Carnegie Mellon tradition of which we can all be justifiably proud. Without belittling certain challenges, it is important to remember that there is far more that is wonderful about the Fence than is problematic. The Fence has been governed by students for over 100 years, at first entirely informally but over time increasingly by Student Government. StuGov has codified in writing the traditional rules governing the time and manner of expression via the Fence.<sup>8</sup> From time to time these rules have been violated, and various remedies have been applied. The FWG has nothing but high praise for how StuGov and the student body more generally have handled matters related to time and manner rules.

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<sup>8</sup> For example, paint must be applied by brush between the hours of midnight and 6 AM, and the entire Fence must be painted at once.

### *6.1.2 Carnegie Mellon has generally supported FoE on the Fence.*

Rules related to what content is or is not permitted on the Fence are neither written nor, as our listening efforts made clear, universally agreed upon — although we found that most parties agree that messages that contain obscenities or incitement to violence can be painted over before the next night. There is also increasing, but perhaps not yet universal, understanding that when a painting that follows all pertinent rules is altered in a manner that does not follow those rules (e.g., is painted over only partially or before the next night), that new painting is not protected and the original painters are entitled to restore their original message. From an FoE lens, this parallels the idea that FoE does not protect a “heckler’s veto” that drowns out others’ legitimate free speech.

Beyond this, little is written and there is little agreement as to what might “cross a line” and so be best not painted and/or warrant removal if it is painted. Indeed, there is not even always universal agreement as to what constitutes an obscenity, as illustrated by the UA but not StuGov concluding that “F-[fist]-C-K” constitutes an obscenity.

Nonetheless, the general pattern and culture has been to refrain from censoring or altering messages painted on the Fence. Indeed, notwithstanding one highly visible event in the summer of 2025, the glass of FoE regarding the Fence is much more than half-full. In only a very few instances has the UA suppressed expression on the Fence because of its content, even though in recent years the Fence has often been used to express intense and/or polarizing messages.<sup>9</sup> Furthermore, even in the summer of 2025, no painter was punished for expressing their views, and there was no effort to prevent the same statements from being made via other channels (e.g., in *The Tartan*).

### *6.1.3 Incidents concerning FoE on the Fence have increasingly led to discomfort.*

Dissatisfaction concerning FoE on the Fence is abundant and diverse. There are people who are angry that, in their view, FoE on the Fence is inadequate, and there are also many people who are deeply troubled by what has been expressed on the Fence. Opinions as to what should be expressed or what, if anything, should be suppressed vary widely. For example, in May 2025 during Commencement weekend, there was outrage that the UA didn’t paint over the Fence, and outrage in the summer of 2025 that it did. Various people involved in governance of the Fence, both in StuGov and the UA, note that it occupies a considerable amount of their time, energy and attention, so there is also an opportunity cost in that their talents and time are not available for other concerns.

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<sup>9</sup> As Section 2 notes, in 1988 it was observed that “campus regulars can only recall a couple of incidents when university painters came by in daylight to delete an obscene message or a derogatory line about Francois Mitterrand, the president of France.” Regarding events since 1988, which are better documented, the FWG could only identify a handful of instances of the UA painting over a Fence because of the content of its message.

All or almost all parties agree that: (1) the “rules” regarding permitted content are not clear or transparent; (2) actions, practices and positions have not been consistent over time, so one cannot infer such rules from the pattern of past events; and (3) there is a serious lack of trust.

In a diverse community, diversity of viewpoints and reactions is inevitable, but at the same time, a hallmark of a healthy community is a group who comes together to understand their differences and come to acceptance, if not unity. The FWG hopes that the CMU community collectively will be able to move on with forgiveness, rather than thinking of any past errors, hurts or instances of poor judgment as being so severe that they necessitate drastic changes in what fundamentally is a working — albeit human and flawed — system.

#### *6.1.4 The Fence is like an overloaded circuit that has limited bandwidth for communication relative to students' needs for expression.*

During one of the FWG listening sessions, a student likened the Fence to an overloaded circuit. The FWG finds that to be an apt and useful metaphor. Indeed, the Fence is a low-bandwidth medium. It supports expression of only a relatively small number of words or ideas per “posting.” Since it can only be painted at night, it can transmit a maximum of 365 posts per year, and in recent years the actual numbers have been closer to 100 per year. With roughly 5,000 new students entering the community each year, that means most students will never get to express their personal views via the Fence even once during their time at Carnegie Mellon.

Furthermore, as was previously noted, the Fence is a “rival good” in the sense that if one person or group is currently using it to express their view, that blocks expression via the Fence for everyone else. If one person or group paints the Fence frequently, that displaces opportunities for others to express themselves. Also, for contentious topics, only one “side” at a time gets to express their views. And the more the Fence gets used for one type of “post,” the less it is available for other purposes.

To be concrete, the FWG heard that many students are reluctant to paint a “light” message over the top of a serious/political message, even when the latter message is not guarded and repainting at night per the usual rules is permitted.

Put simply, Carnegie Mellon students have far more that they might wish to express than can possibly be communicated via this one overloaded communications medium.

#### *6.1.5 What the history of the Fence means for its future*

Fence practice and culture have evolved over time. That is plain from the fact that in its earliest incarnation, the Fence was available only to seniors and painting was not part — or at least not a central part — of its culture.

Recognition that the Fence's rules and roles have evolved counters two commonly heard but misguided sentiments. One is that the Fence has always been commonly used to express controversial or "political" speech. That is simply untrue. While there were instances in every decade back to the 1960s of the Fence being used to express such ideas, the frequency with which the Fence is used in that way has increased markedly since 2016, and particularly in recent years. Indeed, in one of the listening sessions, one alum noted that even during the Vietnam War, when students were frequently protesting, they mostly did not involve messaging on the Fence in such protests.

The increasing frequency with which the Fence is now being used to express such speech is, in the FWG's view, one of the sources of current tensions. The traditions governing the Fence emerged over decades when its messages were mostly practical and benign (e.g., announcing parties) or whimsical. Informal, unwritten understandings sufficed then. Unless Fence painting practice were to revert to those past patterns, there is need for more formality and clarity than was necessary in the past.

A second view that the FWG heard is that because the Fence had a certain special character in the past, the Fence must continue to be used and managed in only that way. The Fence's role and culture have always been changing, and it is unrealistic to demand stasis in some idealized past state. One can mourn what has been lost, but at the same time embrace what is gained by this evolution. That is not to say that the Fence in coming years needs to cause as much hurt as it has in recent times, but it is a caution against seeking to make a messy present match idealized memories.

The reality of change is as much an opportunity as a burden. Even the recent past is now in the past. Student bodies turnover quickly. The student body of AY26-27 can take the Fence forward in directions different from where it has been in recent years, and find ways to preserve all of the pride, whimsy and meaning with less of the hurt and conflict.

#### *6.1.6 What student-centeredness does and does not mean*

Almost all parties recognize that the Fence is a student-centered enterprise and wish it to continue to be so. However, there is disagreement and misunderstanding as to what that means.

The students do not own the Fence in a legal sense. Legally, the Fence is part of the campus and so is effectively governed by the trustees, who delegate authority over all aspects of the campus to the president and the president's administration. More appropriate language would be that the university has always granted the exclusive right to paint the Fence to students, subject to the rules developed with students, and of course subject to the law.

As a comparison, a professor might view their office as being "their" room, and that is true in an informal sense, but the university literally owns the building and all its rooms. That legal ownership confers certain rights and responsibilities. For example, the university could and should intervene if

a professor conducted illegal activities in their office or created conditions that jeopardized the safety of others (e.g., created a fire hazard by storing flammable materials there). Likewise, the university retains certain rights and responsibilities over the Fence.

The FWG also heard statements that because the students own the Fence, they can do with it whatever they want, subject only to their own restraints. However, ownership — even legal ownership — does not imply unfettered use. People who own cars may not drive in excess of the speed limit or without insurance.

Also, as reviewed above, even though the Fence is student-centered and largely student-governed, students are not its only stakeholders with interests in how the Fence is used and managed. Faculty, staff, alumni and, to a degree, the general public who see Fence messages, are all also interested parties.

#### *6.1.7 How shared governance of the Fence is operating*

Many facets of university activity are characterized by shared governance, and the Fence is no exception. In many respects, shared governance of the Fence works well most of the time. The Fence provides a forum for self-expression. Its messaging is often used to build a sense of community. Importantly, most posts follow the explicit protocols regarding practice. There has been minimal intervention by administrative groups. As discussed below, when difficult cases have arisen, StuGov has generally been in active, even intense, dialogue with members of the UA regarding how to handle various edge cases.

There are many good reasons for continuing with a shared governance model, including that StuGov does not have access to legal expertise comparable to that which the UA enjoys, the UA has a longer institutional memory to draw upon, and employees in the UA are full-time professional staff, whereas members of StuGov have to also juggle taking courses, working other jobs and/or being off-campus during certain parts of the year.

However, in many areas of shared governance, there are written rules delineating the roles and responsibilities of the various parties. For example, the roles played by the various parties involved in the granting of tenure are described in formal written policies. To the best of our knowledge, there are simply no written policies delineating how the UA and StuGov are supposed to function in complementary and reinforcing ways regarding shared decision-making concerning the Fence. Neither the limits of authority, nor the processes or procedures for resolving disagreements are established in writing.

An analysis of current practice indicates that challenging or "edge" postings on the Fence follow a general pattern:

1. The post is noted, either by a member of the UA who observes it, by a student who alerts StuGov via direct communication or online, or by another observer who contacts the

President's Office or another UA venue.

2. Communication is established between the UA and StuGov regarding the post by means of established contacts (presidents of the Undergraduate Student Senate and Graduate Student Assembly, StuGov chief of staff, designated UA administrators).
3. Discussion is initiated to reach an appropriate action.

Some cases that follow this pattern are straightforward to deal with, even with the current absence of written rules:

- If the problem is vandalism of a legitimate post, this is typically handled directly by StuGov representatives, who communicate with the initial painter and, if known, the vandalizing party. Overpainting usually ensues with minimal delay.
- If the post is recognized as prohibited (e.g., obscenity), a work order for overpainting by Facilities Management is initiated by either StuGov or, if needed, UA. This is a case where the lack of formal proceedings may result in delays, but a solution is generally reached.
- If the post is problematic but the content is legitimate, the matter is typically dealt with by the students themselves; for example, it may be overpainted by offended parties as soon as practice permits. Ideally, these cases provide an opportunity for students to engage in dialogue and reach mutual understanding. Such opportunities would be enhanced if the process had a more formal structure and provided forums for students to debate and discuss beyond the immediate context of the offending event.

Cases where problematic content is viewed as a matter of urgency do not fall within these categories, and here is where the lack of formal process has become increasingly problematic. When an urgent problem arises, the well-meaning and hard-working parties from UA and StuGov are stuck trying to work out on the fly not only the particulars regarding that Fence content but also their relative roles within shared governance. Within the UA, the Office of General Counsel devotes ever more time to Fence-related issues, and the situation is similarly so for StuGov officers. If there were common understanding and agreement on what should or should not be done, senior-level decision-makers would not need to be drawn in repeatedly on a case-by-case basis, and decisions would be more readily accommodated.

Another important concern is that the pathways set up for custodial care of the Fence have been circumvented. Rather than communicating with the designated poster policy arbiter, students have vaulted to the leaders of the Undergraduate Student Senate or Graduate Student Assembly — and sometimes directly to the university president. This degrades the role of the arbiter and undermines their power as student custodian.

### *6.1.8 Threats to freedoms beyond censorship by the UA*

The FWG was constituted in the aftermath of an unusual event in which the UA painted over a Fence message because of its content and context, not because of violations of time, manner or place restrictions. Such episodes are of course of great import, even if rare, and so merit serious deliberation. They motivate much of this report. It is important to note, though, that the FWG heard of several other Fence-related challenges to FoE that should be noted:

- Some students reported that at times students guarding a Fence message have been subject to verbal harassment because of the content of their statements on the Fence. The FWG notes that university policy on FoE does not permit a “heckler’s veto.” Counterprotest is allowed, but harassing those who speak through the Fence to a degree that they are fearful of expressing their views would violate university policy.
- Students at times reported reluctance to paint over certain messages and so refrained from expressing themselves. At least two scenarios were cited. One was when the existing message was seen as engaging on some serious debate or topic. The other was when the message was a memorial or tribute to someone who had died.
- A third situation is when messages on the Fence chill expression via other media. This is easiest to imagine when the message on the Fence is construed to be threatening or “hate speech” in some respect, and it makes the observer feel like an unwelcome minority on campus.

The considerations and concerns surrounding these situations do not appear to be sufficiently severe or pervasive so as to warrant constitution of a body such as this working group, and the recommendations that follow are not motivated by them. However, the FWG notes these considerations for completeness, and for the various parties that will be involved in shared governance of the Fence moving forward.

## ***6.2 Vision for Norms and Practices Concerning the Fence***

### *6.2.1 Vision*

As noted above, the Fence is many things to many people and serves many purposes, all with a very limited bandwidth. The FWG hopes the Fence can continue to serve all of those purposes, and that no purpose or role gets lost. As a practical matter, the Fence supports only about 100 messages per year, and it would be a shame if any one or two purposes sucked up most of that limited bandwidth to the exclusion of other purposes.

It is worth making that sentiment concrete. Even though no simple typology can do justice to the full range of purposes that the Fence performs, some people distinguish between the Fence being used for practical, political and whimsical purposes. Practical includes announcing events. Political (with a

small p) includes both commenting on events in the broader world and commenting on events and issues on campus. Whimsical includes messages that make passersby smile, laugh and/or feel affection and bonds to this wonderful community that we all share.

The FWG heard concerns that in recent years the Fence has lost some of the whimsical magic that has endeared it to generations. The FWG will not comment on whether or the degree to which that may be true. That seems impossible to quantify. However, the FWG will affirm that in its view, messages that bring joy and that celebrate the quirky and creative are not somehow less important than messages that comment on grave events. Indeed, there are arguably many outlets for participating in the global discussion about external events, but no comparable outlet or medium besides the Fence for expressing ideas that celebrate what is uniquely Carnegie Mellon.

Turning to the question of boundaries on that subset of Fence messages that might — for lack of a better word — be labeled as “small-p” political:

The FWG’s vision for an ideal outcome would include both maximum rights to FoE and considerable restraint such that not everything that could be expressed on the Fence actually gets expressed via the Fence. This is not an original idea. Many of the world’s great thinkers past and present have expressed versions of this sentiment, including:

*Edmund Burke: “[People] are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetite.”*

*John Stuart Mill: “The liberty of the individual must be thus far limited, he must not make himself a nuisance to other people.”*

*Barack Obama: “Just because you have the right to say something doesn’t mean it is the right thing to say.”*

*Ruth Bader Ginsburg: “Freedom of speech does not mean freedom from responsibility.”*

What the FWG would add is to apply to the UA a parallel distinction between what one has the right to do and what one should do regarding attempts to control or restrain speech on the Fence. The FWG would say to students “Just because you have a right to paint something on the Fence, doesn’t mean you should paint that statement,” and the FWG equally says to the UA “Just because you have a legal right to take action against something painted on the Fence, doesn’t mean you should do so.”

Surely one can conjure statements so extreme or ill-timed as to warrant immediate intervention by the UA. But just as surely, we would urge that the UA should consider restraining itself from taking actions even when the law and university policies permit it to do so.

Note that it is precisely restraint by one party (students or UA on the one hand) that makes it easier for the other party to act in a restrained manner (UA or students on the other hand, respectively).

One can imagine two spirals. An unhealthy spiral would involve students repeatedly probing the limits of FoE, painting things that threaten other norms enough that various observers pressure the UA to do something in response. Then if the UA does react, that angers students enough to motivate further limit-testing messages. A healthy spiral involves messages that are respectful of all community norms, not just FoE norms. That then avoids creating pressures for UA to defend those other norms, and so place them in a balancing test against FoE norms.

In the eyes of at least some observers, there was something of an unhealthy spiral in AY23-24 and AY24-25. That by and large has not continued in AY25-26. The FWG is cautiously optimistic that this healthier spiral may continue, and so the number of formal changes and rules required at this time is modest. However, that is not a foregone conclusion. An unhealthy spiral could return.

The remainder of this section can be construed as FWG commentary reflecting the perspectives of all stakeholders represented — students, faculty, staff, alumni and, via ex officio participation, the UA — that is intended to reduce the risk of a reversion towards an unhealthy spiral.

#### *6.2.2 The varying boundaries for extramural, on-campus/off-Fence and Fence speech*

The balancing of interests between speakers and the broader community, or alternately between FoE and other values, can play out differently in different contexts and on different communications media. It is useful to distinguish in this regard speech that is: (1) extramural, (2) on campus but not on the Fence, and (3) on the Fence.

Extramural refers to speech by members of the university community that is uttered in their private lives, unrelated to the university. Before the age of social media, this might have been labeled “off-campus” speech. The AF/FoE Commission affirmed, and this FWG concurs, that most members of the campus community have effectively unlimited freedom from UA interference with extramural speech as long as appropriate steps are taken to avoid associating that speech with the university. For example, almost all members of the campus community, including all students, are free to say whatever they wish on their private social media accounts, or in op-eds or other essays, though they are encouraged to include a disclaimer.<sup>10</sup> Per the university’s FoE Guidance: “When it might be unclear whether one is speaking in an official capacity or as a private individual, an appropriate disclaimer should be included”.

However, the Fence is quite literally on campus, so messages on the Fence do not qualify as extramural speech.

Furthermore, there are already some constraints on on-campus speech. FoE guidance observes that “Freedom of expression does not protect speech that constitutes prohibited discrimination or harassment. Speech that violates the university’s policies regarding discrimination and harassment

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<sup>10</sup> The exceptions are that certain officers of the university — roughly speaking, deans and above — are understood not to be able to separate themselves from their offices, and so must exercise more restraint.

may be subject to disciplinary action in accordance with such policies. Such policies include the [Statement of Assurance](#), [Discriminatory and Sexual Misconduct Policy](#) and [Community Standards](#).” The Community Standards policy lists the following as examples of violations: harassment, hazing, threats of physical violence and violations of a no contact agreement/order. The discriminatory and sexual misconduct policy states that “It is the responsibility of every member of the university community to foster an environment free of discriminatory and sexual misconduct. All members of the university community are encouraged to take reasonable and prudent actions to prevent or stop such behavior.”<sup>11</sup>

As a matter of formal policy, speech on the Fence is not at present any more constrained in content than is other on-campus speech. However, the FWG believes that as a matter of norms and practice, there are reasons why speech on the Fence should, as a general matter, weigh the interests of the viewer and the broader community to a greater degree than on-campus speech in other forums must. Among those reasons are:

1. Statements on the Fence are often anonymous, creating ambiguity on the part of at least some observers as to who or how widely held the views are.
2. It may be harder to avert eyes from statements on the Fence than some other forums.<sup>12</sup>
3. Messages on the Fence generally are and to a degree necessarily must be brief declarative statements, not reasoned exploration of nuances around ideas.<sup>13</sup>

Hence, although university policies do not at this time create any formal distinction between rules governing speech on the Fence as opposed to other on-campus speech, the FWG suggests that as a matter of norms and practice the university community could make such a distinction.

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<sup>11</sup> Discriminatory harassment is further defined to mean “unwelcome conduct of a verbal, nonverbal, or physical nature, including electronic communication, on the basis of actual or perceived Protected Class, when such conduct, based on the totality of the circumstances, evaluated subjectively and objectively, is sufficiently severe or pervasive that it limits or denies a person’s ability to participate in or benefit from any University Program or Activity through the creation of a Hostile Environment.”

<sup>12</sup> Per the university’s FoE guidance: “The university gives greater deference to speech that is presented in a way that is easy to avoid by audiences who would be offended by it. For example, if a book’s text is offensive, those who would be offended by it can choose not to read it.”

<sup>13</sup> Per the AF/FoE Commission’s final report: “The university can give greater consideration to the form of expression, permitting almost all ideas that are advanced in a reasoned scholarly manner in a forum that can be avoided by those who wish to avoid those ideas, but drawing different lines for angry outbursts or speech that cannot easily be avoided.”

### 6.2.3 Examples of potential norms regarding what content may be better expressed via media other than the Fence

The FWG was not charged with setting or guiding norms regarding speech on the Fence. That responsibility would presumably fall on StuGov as custodian of the Fence. Indeed, some FWG members believe that this subsection should not have been included in this report at all. However, other members believed that it was insufficient to merely express a vague hope that there be informal norms that restrain behavior that formal policy permits. That subset of the FWG thought it would be useful to illustrate by example what some such norms might be.

Of course, even those who favor articulating norms recognize that norms are not absolutes; they are merely considerations that may help with judgments as to what messages may be inappropriate or in poor taste, even if they are not formally prohibited. Recognizing that, these potential norms are presented as a simple unranked list of candidates for consideration by the community:

- Messages on the Fence should not be commercial, in the sense of advertising or promoting any commercial product or service.
- Painters should not accept any monetary compensation or more than token non-monetary compensation for painting a message on behalf of any other party. Nor should those who currently hold the Fence sell or auction the transfer of that ownership to any other party.
- Avoid explicitly or implicitly speaking on behalf of any larger group or community. For example, avoid messages that begin “CMU thinks” or “CMU hates.” This avoids putting words in others’ mouths.<sup>14</sup>
- Avoid personal attacks, particularly for private individuals as opposed to public officials. This norm does not discourage speaking out against policies or actions, but rather suggests doing so by something other than *ad hominem* attacks.
- Do not attack or paint slurs against any class of individuals defined by race, ethnicity, religion, sex, gender identity, age, disability or national origin.
- The Fence is not an appropriate place to make allegations of individual misconduct. American norms of justice imply that the accused deserves due process, and various

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<sup>14</sup> The logic for not putting words in others’ mouths is that FoE encompasses not only the right to say what one believes but also the right not to be forced to say things with which one disagrees (“compelled speech”). This norm is more relevant for commentary on divided and divisive topics. For example, painting that “CMU stands with A” in a conflict between groups A and B would be inappropriate if some of the thousands of diverse people who make up the CMU community side with group B or wish to remain neutral. This norm need not be invoked regarding banal messages such as “CMU welcomes spring” after a particularly cold winter.

practical aspects of the Fence make it difficult for someone accused via the Fence to defend themselves.

- Since every year there are approximately 5,000 new students and only 365 nights (and effectively closer to 100 painting opportunities per year), no individual or group of individuals should monopolize a disproportionate share of those limited painting opportunities. Doing so could deny others the opportunity to express themselves via the Fence.
- Honor the tradition/value of being welcoming and hospitable to guests by adjusting expression at times when there are many visitors on campus (Family Weekend, Carnival and Commencement).

#### *6.2.4 Response to disappointments regarding messaging on the Fence*

A second core component of the FWG's vision for a healthy future for the Fence is bilateral grace. To quote from the university's [FoE guidance](#): "The university is a place of learning, growth and development. It is also a place of patience, grace and forgiveness. The goals of the university's response to uncharacteristic and isolated violations of norms should be reconciliation, learning and non-recurrence."

When a message posted on the Fence causes discomfort and complaint, the UA should recognize that such messages often arise from deeply felt concerns that prompt self-expression. Its response should be focused on restoration of norms, not punishment. Likewise, however rare intervention by the UA may be, those acts should be recognized as arising from its responsibility for the welfare of the institution as a whole. Accordingly, the goals of the broader community's response to uncharacteristic and isolated violations of norms by the UA should also be reconciliation, learning and non-recurrence. Grace must flow in both directions. Difficult decisions, requiring the balancing of multiple interests and stakeholders under time pressure, are just that: difficult. Those who, with the benefit of hindsight, believe they could have acted differently might temper condemnation with appreciation for the difficulty of responsibilities they do not shoulder.

#### *6.3 Recommendations to the University Administration*

In addition to supporting generally the vision of bilateral restraint and bilateral grace just described, the FWG makes the following specific suggestions to the UA.

1. **The UA should celebrate the Fence proactively, and in that celebration make clear that the Fence is a medium through which *individual students, small groups of students and student organizations* can express their *personal* views on diverse topics, formally subject only to the restrictions that are common to all on-campus speech.** The UA should embrace the Fence as it does Buggy and other Carnegie Mellon traditions. If the Fence is only discussed when there are controversial messages, then it will shrink into something that is

only associated with controversial speech, rather than embodying the full and wonderful range of purposes that it has historically served.

2. **While the UA should acknowledge and celebrate that the Fence is a student-centered institution, it should exercise care in its language to avoid creating unrealistic expectations on the part of students as to what rights do and do not accompany being student-centered.** The Fence should not be described as student “owned” — it is not. The Fence should not be described as student “governed,” except within contexts that make clear that governance is shared with the UA, in the same sense that much governance on university campuses is shared. In particular, it is important that no one comes to believe that the UA has no legal authority to paint over a message on the Fence. There may be times when painting over a message is the “least bad” option available to the UA, but exercise of that option will always be resented by at least a subset of the students. If those students believe the UA action is not only morally wrong but also a violation of rights, their hurt will be unnecessarily magnified.
3. **The UA should, in collaboration with StuGov, refine and publicize the processes of shared governance concerning the Fence.** While that shared governance (described in Section 6.1.7) has largely been operating successfully, some amendments are in order. In particular, explicit guidelines are needed to facilitate calls for a work order when posts are seen as frankly illegal by both parties, but the course of response is ambiguous. Lines of communication should also be established to handle those rare cases where the UA is confronted with an urgent need to overpaint. Further, a lack of transparency about the processes of shared governance concerning the Fence has contributed to problematic episodes. In collaboration with StuGov, the UA should make clearer to the broader community how these processes operate, particularly with respect to responses to the content of Fence messages.
4. **The UA should support StuGov efforts to establish traditions concerning messaging during Family Weekend, Carnival and Commencement that parallel those already operating during Orientation** (see Section 4.4). It could enhance the Fence tradition if messages at those times were cognizant of and welcoming toward our guests at those times (alumni at Homecoming, families at Commencement) and handoffs were coordinated to ensure access for certain groups (e.g., graduating students have a chance to paint a farewell message at Commencement). Creation of new traditions must necessarily be led by students, not UA, but the UA should offer whatever support it can in that regard.

**Likewise, the UA should support StuGov efforts to communicate to all observers that messages on the Fence reflect only the private beliefs of those students who actively took part in painting it.** The UA can take some constructive steps in that direction, but others must come from StuGov. For example, signage parallel to the bronze Fence tenets

could be added physically near the Fence. Primary responsibility for that falls on StuGov, but the UA can offer reasonable support, e.g., paying for such signage.

5. **The UA should only unilaterally exercise its legal right to paint over the Fence in rare, extreme cases.**<sup>15</sup> The UA's role is not to enforce norms of reasonable conduct on the Fence. That burden lies on the students, unless and until they pass that responsibility back to the UA. Norms are not irrelevant, of course. In the delicate balancing of the rights of speaker and community, all of the considerations discussed in the previous section and throughout Carnegie Mellon's FoE and policy guidance are pertinent. However, the principal justification of the UA unilaterally painting over a message on the Fence should normally be to prevent legal liability and uphold the university's fiduciary duty to the institution as a whole when student messages create risk. Thus, the UA should not paint over a message merely because it makes some community members "uncomfortable." There is no right on this campus to not be confronted by "uncomfortable" ideas. However, if messages on the Fence were, for example, to trigger a successful Title VI or Title IX lawsuit, the harm from such a suit would not fall only or even primarily on the speakers. Nor do students have a right to use the (university-owned) Fence to paint messages whose expression violates a law; that would involuntarily co-opt university assets into an illegal act. The principle is not that speakers do not have a right to speak, but rather that third parties, including the institution collectively, have a right not to be involuntarily made to suffer penalties triggered by those individuals' speech.

**A corollary is that the UA may be justified in painting over words that appear to invoke the institution,** whereas the UA would not feel compelled to paint over the same content if it were clearly attributable to and affiliated with a particular and limited set of individual painters. While the FWG clearly heard during its listening sessions the view that anonymous authorship should not in itself lead to painting over the Fence, authorial ambiguity may contribute to an interpretation that the institution is complicit in its messaging, which would justify removal of the message. In short, controversial Fence messages are likely to be more secure if they are signed, guarded and clearly associated with their authors.

**Another corollary is that the UA's principal interest is in removing its liability, not in punishing the speaker.** The goal is not to suppress the speech content, but rather to redirect it to alternate mediums of expression that do not expose the institution to liability. To be concrete, the FWG believes that generally there should be no disciplinary action for content expressed via the Fence above and beyond any that would follow from expressing

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<sup>15</sup> There may be practical circumstances in which it makes sense for UA painters to be the ones who physically paint over a message that StuGov wishes to have painted over, but for practical reasons cannot — e.g., if the message is painted during a holiday when StuGov members are not physically present on campus.

those same things via other forms of on-campus speech that are comparably public.

6. **The UA should clarify that the Fence Instagram account (and any other public media identified with the Fence) is not in any way a part of the university.** Neither the University Archives, Libraries nor any other part of the university should cross-post with the Fence Instagram account. (Background archiving of the Instagram account to document campus history is fine.) The account is not a university-sanctioned medium of expression, and the university has no control over what is expressed there. It should be treated as extramural speech by (unknown) parties who do not declare their affiliation with the University.

#### ***6.4 Suggestions for Student Government***

The FWG was constituted by the president, and its duty is to make recommendations to the president and the UA. The FWG has no standing with respect to StuGov, and so has no basis for making recommendations to StuGov. Nonetheless, the FWG is the only body that has brought together representatives of all five principal stakeholder communities (students, UA, alumni, staff and faculty) that StuGov has a duty to consider in its exercise of governance over the Fence, so we offer the following observations that current and future StuGovs are free to consider or reject.

As discussed in the previous section, the FWG believes it would be in the Carnegie Mellon community's interests if (1) further steps were taken to clarify that messages on the Fence are attributable only to individual students or groups of students, and (2) traditions be developed around Family Weekend, Carnival and Commencement that broadly parallel those already operating during Orientation.

To date, StuGov's rules and guidelines regarding the Fence are almost entirely of the time, manner and place variety — that is, they restrict process but not content. There are some viewpoint-neutral but content-based restrictions, e.g., against obscenity and statements that violate a law, as well as restrictions that pertain to any other form of on-campus speech. Some misunderstanding and resentment could be averted if the reality of those (very limited) content-based restrictions were acknowledged.

Similarly, StuGov's statements regarding the Fence pertain more to proscribing things (e.g., partial painting) than to encouraging the collective maintenance of positive norms and traditions, including those mentioned in Section 6.2. For example, we heard students say they were reluctant to paint over controversial or offensive content with new, apolitical messages, because they felt the new messages would be somehow less important. StuGov could use its influence to cultivate a positive norm that it is good for the community when messages that are ugly but legal get replaced soon, perhaps the very next night, even if they do not warrant being painted over during the first day.

It is the FWG's understanding that the Fence Instagram account includes a list of the Fence rules and tenets. That may contribute to confusion amongst some observers as to whether the Instagram

account is somehow affiliated with the university. It would be better, in the FWG's eyes, if the Instagram account merely referred readers to the rules maintained on StuGov's website. The FWG understands that StuGov has no more power over the Instagram account than does the UA, but the Instagram account owners may respond positively to a simple request from StuGov that they not themselves list the Fence rules. StuGov does have control over its own messaging about the Instagram account, and they may wish to review how the account is treated on their web pages. Whether or not the account owners wish to clarify that they operate independently from the university, the students can make clear that the account runs independently and that the authority for Fence procedures resides with StuGov.

# Appendices

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## Appendix A: Fence Working Group Charge and Membership

*On Sept. 4, 2025, President Farnam Jahanian sent the following email to students, faculty and staff:*

Dear Members of the Carnegie Mellon Community,

The Fence has long stood at the heart of our campus as a dynamic tradition that has embodied creativity, expression and connection for generations of CMU students. What started as an iconic gathering place exclusively for seniors more than 100 years ago has continued to evolve over time to serve our students in different eras. It has been a place to gather, to celebrate, to share personal and political views, and to give voice to moments throughout our history.

While our community is proud of this legacy, messages on the Fence — especially over the past several years — have increasingly caused hurt among our community and, in some cases, have given observers the impression that the university endorses the messages that are painted on the Fence.

To ensure that this tradition continues to thrive, I am convening a working group dedicated to advancing conversations about the role of the Fence in campus life today and in the future. This group will bring forward recommendations that preserve the spirit of the tradition while addressing the realities of modern society and the needs of our diverse campus community. The goal of this effort is to establish sustainable, consensus-driven approaches that honor the Fence's legacy and ensure that it continues to serve our community well in 2025 and beyond.

This new effort builds on work already completed by the [Commission on Academic Freedom and Freedom of Expression](#), which I charged in December 2020 to explore and clarify the university's commitment to academic freedom and freedom of expression in a contemporary context. That commission created vital forums for students, faculty and staff to explore the meaning of this commitment, and it produced a comprehensive [final report](#) with recommendations that were shared with the community in October 2022. I am deeply grateful to professors Jon Caulkins and Bobby Klatzky, who served as vice chairs of the Commission and who have generously agreed to co-chair this new working group on the Fence. Their experience and leadership will be invaluable as we take up this work.

I especially wish to acknowledge Student Government for their partnership and leadership. Their continued engagement, along with the contributions of students across campus, will be essential to shaping the future of this tradition. This effort will listen attentively to the voices of students, alumni, faculty and staff, each of whom has an interest in the Fence, while preserving its student-centered legacy.

## Charge to the Working Group

I charge [this working group](#) with considering how the Fence can continue to serve as a meaningful campus tradition while ensuring clarity, accountability and respect for its roles, and the boundaries of its roles, within our diverse community. The working group will consider the history of the Fence as well as CMU's commitments to academic freedom and freedom of expression as they take on this important assignment.

The group is charged with considering the following questions as it makes its recommendations:

- What are the primary purposes of the Fence? Are the right tools and mechanisms in place to support its goals?
- How do, and how should, CMU's Freedom of Expression Policy and Guidelines apply to the Fence? For example, if the Fence is used to express contested viewpoints, should people with opposing views be assured access to an equivalent forum, and, if so, how might this be accomplished?
- How can this working group build on the recommendations of the Commission to ensure alignment with the university's broader commitments to freedom of expression and academic freedom?
- How can we reduce confusion, especially for external audiences, as to whether messages on the Fence reflect CMU's views as an institution, or are endorsed by communities within CMU? What is the role and impact of social media on the Fence tradition?
- How can the Fence tradition continue to foster student expression and engagement while recognizing that words in certain contexts can cause harm, confusion or hurt in our community?
- Are there expectations around attribution, governance and use that can be better communicated, particularly during moments of increased visibility, such as campus celebrations, high-profile events or times of intense public discourse?

In addition, the working group has been asked to conceive and launch forums to solicit input from the campus community — whether through interviews, town halls, roundtables or other forums. These opportunities for dialogue will ensure that a broad cross-section of the CMU community can contribute to shaping the future of this tradition.

The working group includes students, faculty, staff and alumni who have been nominated by the Student Government, Faculty Senate, Alumni Association Board and Staff Council. I am grateful to all those who have agreed to serve:

- Jon Caulkins, *Co-Chair*, H. Guyford Stever University Professor of Operations Research and Public Policy, Heinz College
- Bobby Klatzky, *Co-Chair*, Charles J. Queenan, Jr. University Professor of Psychology and Human-Computer Interaction, Dietrich College of Humanities and Social Sciences

- Rebekah Adams, Ph.D. Student, Mechanical Engineering
- Julius Arolovich, Undergraduate Student, Electrical and Computer Engineering (ECE) and Robotics
- Creighton Arrington (DC '25), Master's Student, Languages, Cultures and Applied Linguistics
- Francesca Cain, Undergraduate Student, ECE and Biomedical Engineering; President of Undergraduate Student Senate
- Alex DiClaudio (DC '09, HNZ '11), Managing Director and EVP, Bedford Management Partners
- Brit Farmer (DC '08), Digital Producer at "60 Minutes," CBS
- Christina Fong, Senior Research Scientist, Department of Social and Decision Sciences, Dietrich College
- Ryan Freytag (CFA '01), Director of Alumni and Constituent Engagement; Chair of Staff Council
- Elizabeth Koch, Director of Student Involvement and Traditions
- Joanna Lovering (CMU '04), Founder of Copper + Rise; Chair of the Alumni Association Board (AAB)
- Wes Pegden, Professor of Mathematics, Mellon College of Science
- Aleena Siddiqui, Undergraduate Student, Materials Science and Engineering
- Stephen Sudia, Ph.D. Student, English; President of Graduate Student Assembly
- Tendai Ushendibaba, Housefellow and Coordinator, Office of Community Standards and Integrity
- Laurie Weingart, Richard M. and Margaret S. Cyert Professor of Organizational Behavior and Theory, Tepper School of Business

I have also asked Mary Jo Dively, vice president and general counsel, and Gina Casalegno, vice president for student affairs and dean of students, to support the working group as advisors.

Once the group shares its final report and recommendations by the end of this academic year, I communicate any next steps with the broader community. You have my assurance that we will preserve the cherished legacy of the Fence and the role it plays in the life of our student community every day. And through this working group, we will strengthen this tradition, honor its history and ensure it remains a source of pride, creativity and connection for all who are part of CMU.

Sincerely,

Farnam Jahanian  
 President  
 Henry L. Hillman President's Chair

## **Appendix B: Schedule of Listening Sessions**

*(All times Eastern)*

**Tuesday, Feb. 3, noon-1 p.m.**

Staff-only panel Q&A with faculty/alumni/staff members of the Fence Working Group

**Monday, Feb. 9, 11:30 a.m.-1 p.m.**

All-CMU community (including alumni) discussion forum with members of the Fence Working Group

**Wednesday, Feb. 11, 5-6 p.m.**

Undergraduate-only small group roundtable discussion with members of the Fence Working Group

**Monday, Feb. 16, 5-6:30 p.m.**

Student-only panel Q&A and discussion: an opportunity for undergraduate and graduate students to ask questions of student members of the Fence Working Group

**Wednesday, Feb. 18, 11 a.m.-noon**

Faculty-only drop-in office hours with faculty members of the Fence Working Group

**Wednesday, Feb. 18, noon**

Virtual sessions for invited alumni leaders with alumni members of the Fence Working Group

**Wednesday, Feb. 18, 8 p.m.**

Virtual sessions for invited alumni leaders with alumni members of the Fence Working Group

**Thursday, Feb. 19, 11 a.m.-noon**

Faculty-only drop-in office hours with faculty members of the Fence Working Group

**Tuesday, Feb. 24, 4:30-6 p.m.**

All-CMU community (including alumni) discussion forum with members of the Fence Working Group