

# BERKELEY CONSERVATIVE STUDENTS, MILO YIANNPOULOS, AND THE FAR RIGHT'S WAR AGAINST THE LIBERAL UNIVERSITY IN THE EARLY TRUMP ERA\*

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By Robert Cohen

\*This paper will be merged into one of the chapters of my forthcoming book *American Student Protest and Free Speech in the 21st Century*

UC Berkeley made national headlines in the early Trump era when on February 1, 2017 a riot instigated by masked Antifa invaders of the Berkeley campus did \$100,000 in property damage to Cal's student union building and forced the cancellation of a speaking engagement there by far right provocateur Milo Yiannopoulos. The media responded by focusing on the riot and the free speech violation it caused, but neglected to probe the transformation of right wing student politics at Berkeley that paved the way for the most serious free speech crisis and the worst political violence at Cal since the 1960s. This paper explores that transformation, assessing why the leadership of the Berkeley College Republicans and the staff of far right student publication *The Berkeley Patriot* proved so eager to welcome Yiannopoulos, antagonize liberal and left-leaning students, and to discredit the UC Berkeley administration itself.

Using right wing Berkeley student op-eds, social media posts, testimony in Cal's free speech commission hearings, TV interviews, correspondence with the campus administration, and oral histories with UCB officials and faculty who interacted with these right wing student activists, this study documents a process of profound student alienation. While it has often been challenging being a conservative student in the liberal and left-leaning Berkeley milieu, Left-Right political tensions reached new heights in the fall 2016 presidential race. Though Donald Trump's campaign polarized much of the nation, Trump's xenophobic themes proved especially controversial on the Berkeley campus, with its high percentage of immigrant students and tradition of progressive politics – whose activists saw the campaign as a direct threat to Berkeley's undocumented students and also viewed Trump's embrace of the evangelical far right as a precursor to an assault on LGBTQ+ rights. Incidents of verbal abuse and even physical intimidation left Berkeley College Republican leaders alienated, viewing

themselves as an oppressed minority, embittered from their classmates and the university – which they did not view as theirs. It was this bitterness, more than any free speech concerns that motivated their embrace of hateful far right speakers, beginning with Yiannopoulos.

This process of conservative student alienation was expedited by the support it received from the adult right wing off campus, whose own hostility to the university – demonized as a left wing cultural fifth column – was a regular feature of right wing media, most notably Fox News, and was shared by President Trump himself. Berkeley's right wing student leaders found an eager, appreciative audience from conservative media outlets and quickly realized that gripes about the Berkeley administration, even if untrue, could lead to media celebrity. Funds from right wing sources, especially the wealthy Young America's Foundation, paid lawyers to escalate campus political tensions into law suits against the university. False charges that the university administration sought to suppress conservative speech and coddle left wing disruptors were made repeatedly by right wing Berkeley students in connection with the controversial Berkeley speaking invitations of Yiannopoulos, Ann Coulter, and Ben Shapiro.

The paper also reveals that the far right student leaders who gloried in this politics of polarization and university-bashing constituted a very small group, not even representative of most Berkeley conservatives. This embittered faction would lose control of the Berkeley College Republican when its key leader was scorned as a troll and impeached in fall 2017. But until the political fever had broken, right wing student alienation together with the intolerance and violence of the far Left made Berkeley into a political war zone, embodying the worst of the tribalism wrought by the Trump era, doing considerable damage to the university's reputation.

# “FREE SPEECH IS WHO WE ARE”

## The University of California and the Struggle to Preserve Berkeley’s Free Speech Tradition in the Early Trump Era\*

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by Robert Cohen

\*This paper will be merged into one of the chapters of my forthcoming book *American Student Protest and Free Speech in the 21st Century*

The ascent of Donald Trump and his hyper-polarizing politics to the White House sparked at Berkeley the most serious free speech crisis since the Free Speech Movement of 1964. Emulating Trump’s nativism and liberal and Left-baiting, Berkeley’s right wing students invited to campus the most divisive far right speakers, beginning with the Islamophobe and anti-transgender troll Milo Yiannopoulos and later the extreme nationalist Ann Coulter. These invitations inflamed the panicky far Left in the Bay Area, at a time when it was at its most chiliastic – viewing Trump’s authoritarian political style and Muslim travel ban as signaling that the US had entered its Germany 1933 moment when fascism loomed, necessitating the banning from campus of such far right bigots as Yiannopoulos so as to deny a university platform to purveyors of fascism. When the UC Berkeley administration insisted on free speech grounds that Yiannopoulos be allowed to speak on campus, a major Antifa (mostly non-student) riot ensued in February 2017, which did \$100,000, in property damage on campus, more than \$500,000 in property damage in downtown Berkeley, forcing the cancellation of the Yiannopoulos speech. This was only the start of months of heated controversy over free speech, in which Left and Right feuded, and the media and the White House bashed the UC Berkeley administration despite the fact that its leaders persisted against all odds in preserving Berkeley’s free speech tradition.

Grounded in student sources, testimony from the Berkeley chancellor’s Free Speech Commission, local and national media coverage, social media, police reports, and oral history interviews with UC Berkeley officials, including both chancellors who set policy for the campus, this paper offers the first historical account that goes beyond the headlines to explore how the UC Berkeley administration navigated these months of political crises. The study also raises important free speech questions that emerged from these months of conflict at Berkeley, most notably what higher educational leaders are to do when their legal and moral obligations to uphold the First Amendment and free speech conflict with university’s educational mission. Indeed, the months of tumultuous conflict over the invitations and appearance of far right speakers, with their assaultive rhetoric and bigotry, left many students disillusioned with what they saw as UC’s free speech absolutism that resulted in building closures, police invasions of the campus, and academic class cancellations over security concerns. Many students at Cal came to loathe all this as a “political circus” that disrupted their education for the sake of crude and cruel speakers who lacked educational value, a disruption that seemed to them all the more irritating in that it was largely ignored by the media. This student view was worlds away from the media fixation on and insistence that the university be open to all speakers regardless of how loathsome students found them or how the protests and security wrought by unpopular speakers impacted the university and its academic mission.

# SHOULD FREE SPEECH BE ABSOLUTE ON COLLEGE CAMPUSES?

## A Lesson for High School Students

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by Robert Cohen

Objectives: After this lesson, students will be able to:

- Discuss the concept and importance of freedom of speech.
- Explain how freedom of speech has been challenged in the past and present.
- Assess whether it is possible to protect free speech and the people who might be harmed by it.
- Analyze whether freedom of speech should be absolute.

### Materials:

- Graphic Organizer
- Tape/Rope
- Handout
- OK/ Not OK signs

### Lesson Outline:

- 1) Ask students what free speech means to them and record their reactions on their grid. Solicit responses and record on a board or white board. Question prompts include:
  - How would you define “free speech”?
  - What might freedom of speech allow Americans to do or say?
  - Why do you think free speech is necessary in a democracy?
  - What statements or actions might be limited despite the right to free speech?

After students discuss their ideas and perception of free speech and their answers have been recorded, teacher may ask the following:

- What do all of your responses have in common?
- Based on this discussion, why do you think free speech is important? Why is this a right for which people are willing to fight?

- 2) Prepare the classroom with a rope or tape crossing the classroom with one part marked, ‘OK’ and the other part marked, ‘not OK.’ Introduce the activity, “Crossing the Line,” and establish guidelines for respect and civility as students physically demonstrate when free speech issues “cross the line.” Encourage students to be bold and honest in this activity. Call out a scenario, allow a few moments for students to think. Direct students to move to the part of the room that reflects their view: is the scenario ‘OK, or does it ‘cross the line’ and is not OK. Suggested prompts (as time allows):

- All people are entitled to freedom of speech.
- People have the right to express unpopular ideas.
- I am more willing to say something hurtful on social media or over text than in person.
- Freedom of speech includes the right to make hateful or cruel statements.
- Political speech should be protected to a greater extent than other forms of speech.
- “The only solution for hate speech is more speech.”
- People should be allowed to make statements that might lead to others’ physical or mental harm.

Invite students to return to their seats and debrief:

- How often did you cross the line? Was it more or less often than you thought at the beginning of the exercise? Why do you think you made those choices?
- To what extent did watching your classmates’ responses influence your own? How might others’ speech and expression influence an individual’s response to a situation?
- Why did you find some of the statements more palatable than others?
- To what extent did this exercise change or help you think more deeply about your ideas of free speech and what types of speech are acceptable?

3) Teacher will explain to the class that they will apply these ideas to an incident at Berkeley in 2017. Prior to evaluating this current event, students will briefly study the Free Speech Movement of 1964 for context. Instruct students to read distributed and/or projected information on the Free Speech Movement and instruct them to read it and answer the following questions in pairs on the grid provided.

- Based on the reading, why did Berkeley students believe the Free Speech Movement was necessary in 1964?
- Why did Mario Savio believe that the university is an appropriate site for protest (specifically the Free Speech Movement)?
- What conclusions can you draw about the purpose of the university from Savio's statement?

Divide class into jigsaw groups, assign roles, and direct students' attention to "Facts: Milo Yiannopoulos at Berkeley, 2017" (if necessary, modify for differentiation). Instruct each group to interpret "Facts:...." from their assigned viewpoint and prepare a short press release responding to the case. Press releases should include:

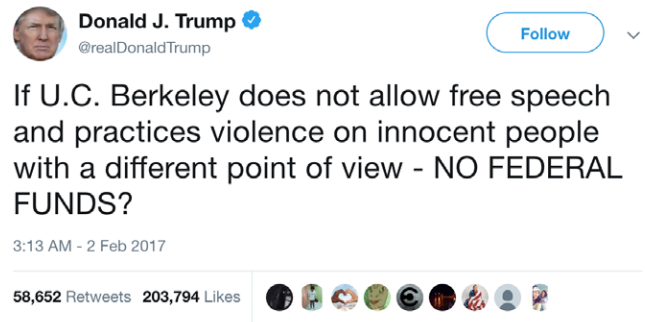
- events surrounding Yiannopoulos's speech at UC Berkeley in February 2017
- context for the chaos following Yiannopoulos' appearance
- a comment endorsing or criticizing Berkeley allowing Yiannopoulos' speech
- an articulation about the state of free speech at Berkeley, based on this incident
- a course of action for the university's future about free speech

Call on groups to present their press statements. Students should take notes on their graphic organizers.

4) After each group presents their press release the teacher will lead a full class discussion about the events at Berkeley and their implications for free speech at Berkeley and on other college campuses. Teachers will ask the following questions, debriefing the activity and connecting students' knowledge and conclusions to their earlier discussion about free speech.

- How did each group's press release differ based on their point of view? In what ways did the press releases confirm each other's account? In what ways were they contradictory?
- How might the existence of these one-sided accounts influence the way that Berkeley students and staff, and society at large, perceive these events?
- To what extent do different forms of media influence our concept of free speech in the 21st century?

Project or distribute President Trump's tweet.



#### Ask:

- How might this tweet from Donald Trump add to the controversy surrounding the events at Berkeley?
- Why might he threaten to withhold funding under these circumstances?
- To what extent might this tweet, or others related to this situation, further complicate the situation? How is this, in and of itself, an act of free speech?

Invite students to create a "real time" social media post about Berkeley, 2017 after having heard and evaluated the different perspectives on the situation. Call on a few students to share.

- How were your posts, which took into consideration multiple points of view, different than Donald Trump's?
- How does this reflect freedom of speech and its consequences?

- 5) Debrief by holding a class discussion or instructing students to return to their working groups. Suggested questions, if time allows:
- In your opinion, did Milo Yiannopoulos have a right to speak at Berkeley in February 2017? Why or why not?
  - To what extent does Berkeley's history as the site of the Free Speech Movement complicate or add to this situation?
  - Based on this case, to what extent is there a cost to "free" speech? Under what circumstances is that cost too much?
  - Under what circumstances is it acceptable to limit free speech?
  - How might the site of speech determine whether or not it can be limited?
  - Students attend college to learn in classrooms, but also to experience the myriad educational experiences that happen outside the classroom. To what extent does the purpose of the university contribute to the role of free speech on campus?

### Summary:

Direct students to answer Essential Question—Should free speech be absolute on college campuses?—on their graphic organizer.

### Assessment:

Students fill out on grid- "Free speech is..."

How is their answer now different from what they wrote in the beginning? How did this lesson inform that change?

# Accompanying Documents and Information

## The Free Speech Movement (1964)<sup>1</sup>

The Free Speech Movement (FSM) was a college campus phenomenon inspired first by the struggle for civil rights and later fueled by opposition to the Vietnam War. The Free Speech Movement began in 1964, when students at the University of California, Berkeley protested a ban on on-campus political activities. The protest was led by several students, who also demanded their right to free speech and academic freedom. The FSM sparked an unprecedented wave of student activism and involvement. ...the center of the activity on the UC Berkeley campus was in Sproul Plaza.... In defiance of the ban on on-campus political activities, graduate student Jack Weinberg set up a table with political information and was arrested. But a group of approximately 3,000 students surrounded the police car in which he was held, preventing it from moving for 36 hours. Photographs show Weinberg in the car, both Mario Savio and Jack Weinberg on top of the surrounded car speaking to the crowd, and the car encircled by protesters and police.



*Sproul Hall with FSM signs hanging over the balconies<sup>2</sup>*

Through civil disobedience, knowingly violating campus rules, Berkeley students successfully challenged restrictions on student speech and gave rise to an era of vibrant student protest during the socially and politically turbulent era of the late 1960s and early 1970s.

## Mario Savio, “An End To History,” December 2, 1964<sup>3</sup>

“Here is the real contradiction: the bureaucrats hold history as ended. As a result significant parts of the population both on campus and off are dispossessed, and these dispossessed are not about to accept this ahistorical point of view.... The university is the place where people begin seriously to question the conditions of their existence and raise the issue of whether they can be committed to the society they have been born into. After a long period of apathy during the fifties, students have begun not only to question but, having arrived at answers, to act on those answers. This is part of a growing understanding among many people in America that history has not ended, that a better society is possible, and that it is worth dying for.”

1 “The Free Speech Movement,” Calisphere, University of California, accessed February 13, 2019, <https://calisphere.org/exhibitions/43/the-free-speech-movement/#overview>.

2 “Image / Sproul Hall with FSM signs hanging over the balconies. A student holds...,” Calisphere, University of California, accessed February 13, 2019, <https://calisphere.org/item/ark:/13030/tf0f59n4hb/>.

3 Mario Savio, “An End To History,” Voices of Democracy: The US Oratory Project, December 2, 1964, accessed February 13, 2019, <http://voicesofdemocracy.umd.edu/mario-savio-an-end-to-history-december-2-1964-speech-text/>.

## Facts: Milo Yiannopoulos at Berkeley, 2017

Berkeley College Republicans (BCR) invited Milo Yiannopoulos, an alt-right, bigoted, provocateur to speak in early February 2017. This invitation was extended after a polarizing election that candidate Trump kicked off by suggesting that many Mexicans immigrating to the US are rapists and criminals and where he won the Electoral College but not the popular vote. This invitation also came on the heels of Executive Order 13769—more commonly called the “travel ban”—a realization of Trump’s campaign promise to ban Muslim immigration to the US and after the historic Women’s March on Washington in protest of President Trump’s inauguration. Milo Yiannopoulos was beloved by the alt-right for his nasty and dangerous comments about women, immigrants, and the LGBTQ community: perhaps a sizeable proportion of Berkeley’s student body.

When Yiannopoulos, who was hosted by the university, arrived on campus in February, 2017, violence ensued. The speech was canceled as \$100,000 of campus property was damaged when 150 people rioted in protest of Yiannopoulos (only one or two Berkeley students were identified among the rioters), and student and faculty safety was compromised. The BCR claimed that Free Speech was under threat at Berkeley and sued the university; media outlets and pundits endlessly discussed and debated the events at Berkeley.

## Viewpoints on Events Surrounding Milo Yiannopoulos at Berkeley

### Chancellor

Berkeley is world-renowned as the site of the Free Speech Movement. You want to uphold the tenets of free speech and give all viewpoints time and space, but you also understand that some of your students might feel threatened by certain comments. Moreover, you’re working with a tight budget and question the resources the university can devote to securing this event. Do you prioritize free speech, or student security?

### Berkeley College Republican (BCR)

You feel alienated on a campus where your views differ from the largely liberal student population and you’re angry that BCR events garner little attention. You hope that speakers like Yiannopoulos will spark debate and dialogue on campus. You believe that your group are the “real thinkers” on campus because you have the courage to introduce unpopular points of view. You believe that free speech is more important than students’ vulnerability or reactions to that speech.

### Berkeley Faculty Member

You worry that accommodating speakers like Yiannopoulos will disrupt the academic function of the university and concerned that outsiders will cause violence and chaos on campus. You fear for your students’ safety under these conditions. You wonder about the extent to which the university should prioritize free speech over student and campus safety, and whether accommodating this speech should be allowed to disrupt education.

### Berkeley Student

You are uncomfortable with Yiannopoulos’s rhetoric; you see it as bullying and you’ve learned to resist bullies. You support free speech and believe that multiple viewpoints should be expressed and heard, even if they are offensive, but you don’t want speakers and events to disrupt your campus and prevent learning opportunities. Additionally, you worry for classmates who might feel compromised based on speakers’ statements and reputations.

Free Speech is...

The Free Speech Movement (1964):

Reactions to Milo Yiannopoulos (2017):

Chancellor:

Berkeley College Republicans:

Berkeley Faculty Member:

Berkeley Student:

Berkeley Alumni, Free Speech Movement Participant:

Conservative Journalist:

Tweet about this event to your followers:

Should freedom of speech be absolute on college campuses?

Free speech is... (Part 2):





# SHOULD FREE SPEECH BE ABSOLUTE ON COLLEGE CAMPUSES IN THE 21ST CENTURY?

## A Lesson Plan for College Students

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by Robert Cohen

### Rationale:

Since the 2016 presidential election, Americans have been exercising their First Amendment rights to Free Speech in astonishing numbers. Donald J. Trump's ascendance to the presidency has inflamed the electorate on the right, the left, and the far fringes of the political spectrum. Immediately following President Trump's inauguration, UC Berkeley was in the crosshairs of controversy and the unfolding story consumed the Berkeley community, the nation, and was even the topic of a late-night, presidential tweet.

### Timing, setting, characters were all critical to this story:



Berkeley College Republicans (BCR) invited Milo Yiannopoulos to campus for an early February, 2017 speaking engagement. Yiannopoulos had a documented track record of saying and doing crude and cruel things: he referred to women as "cunts;" mocked a liberal sociologist on the campus in which he was speaking as a "fat faggot;" used a video camera to humiliate a trans student by projecting the student's image on the screen in the lecture hall and to a right wing media outlet's website. Yiannopoulos frequently baits religious and racial minorities, and has written sympathetically of white supremacist Richard Spencer. Many students and faculty members were opposed to his appearance at Cal.

This Yiannopoulos speaking engagement was to occur in the aftermath of a polarizing election that candidate Trump kicked off by suggesting that many Mexicans immigrating to the US were rapists and criminals, and Trump lost the popular vote but was nonetheless elected president by the electoral college. The Yiannopoulos appearance at Berkeley also came on the heels of Executive Order 13769, a realization of Trump's campaign promise to ban immigration of Muslims to the US. This was also a time when anti-Trump protest was surging as evidenced by the massive women's march on Washington and other major cities in protest of President Trump's inauguration. Milo Yiannopoulos was beloved by the alt-right for his nasty and incendiary comments about women, immigrants, and the LGBTQ community: offending a sizeable proportion of Berkeley's student-body.

UC Berkeley is famed for the 1964 Free Speech Movement, a milestone in the struggle for student rights and free speech on campus. In the midst of the Civil Rights Movement and student mobilization in support of that movement, the UC administration banned political advocacy on campus. Through civil disobedience, knowingly violating campus rules, Berkeley students successfully challenged restrictions on student speech, paving the way for an era of vibrant student protest during the socially and politically turbulent era of the late 1960s and early 1970s – and making Berkeley a center of student activism and free speech ever since.













In 2017, however, a small but vocal group of student and faculty at Berkeley, convinced that Yiannopoulos was both hateful and guilty of using campus podiums to harass vulnerable minority students, urged Berkeley Chancellor Nicholas Dirks to cancel Yiannopoulos's speech. Dirks instead insisted that Yiannopoulos be allowed to speak since the First Amendment protected the right of even the most offensive speakers. When Yiannopoulos arrived on campus in February, 2017, violence ensued. The event was canceled as \$100,000 of campus property was damaged, 150 masked Antifa from off campus rioted in protest of Yiannopoulos (only one or two Berkeley students were identified among the rioters), and student and faculty safety was compromised. The BCR claimed that Free Speech was under threat at Berkeley and later sued the university; media was laser-focused on Berkeley. Ignoring the facts that the UC Berkeley administration had defended free speech and that the Yiannopoulos talk had only been cancelled after the riot posed a danger to public safety President Trump tweeted:

**Donald J. Trump**   
@realDonaldTrump Follow 

**If U.C. Berkeley does not allow free speech and practices violence on innocent people with a different point of view - NO FEDERAL FUNDS?**

3:13 AM - 2 Feb 2017

58,652 Retweets 203,794 Likes          

Not only was this initial invitation at issue. Leading Berkeley student conservatives wanted Yiannopoulos to return to campus in the Fall of 2017 despite the scandal over his crude joking about pedophilia. Yiannopoulos claimed he would hold a “Free Speech Week” at Cal, in which he and other far right celebrity speakers (deemed bigoted and offensive by many students and faculty) appeared. Chancellor Carol Christ permitted his appearance, despite widespread opposition at Berkeley, but the other celebrities did not appear with Yiannopoulos – who had lied about inviting them. Explaining his motivations for returning to Berkeley, Yiannopoulos told *Playboy*, “I believe the challenge for us [the fringe right wing] is to create something so attention grabbing that it produces another U.C. Berkeley and I can sell another 100,000 copies of the book [he had just published]... Hopefully, God comes out and smiles on us and Antifa fire-bombs the entire university.”

### What is the role of Free Speech during your college years?:

In this simulation, you will pick up this story and play the roles of Berkeley principals. You will determine how you envision the scope of free speech at Berkeley during your college years and beyond.

## Members of the Berkeley Community, 2017

### You are Chancellor Nicholas Dirks, UC Berkeley. Your thinking points are:



- Berkeley's fame over free speech
- Do you have the free speech right, as chancellor, to criticize a bigoted guest invited by a student group?
- What resources should you devote to this issue when you are running the campus on a tight budget?
- "It's a terrible inconsistency. Real tensions... exist between the [university's] values of inclusion and the values of free speech. I think for kids it is a genuine confusion. The truth is that students by virtue of being... member[s] of a student community are often constrained in ways that outside people are not... They are subject to student [conduct codes]. Students for saying things can be held accountable by the rules of student conduct that actually are not about freedom of speech because they are community values."<sup>1</sup>
- Your defense of free speech makes you a target for Antifa rioters (who want to shut down the Yiannopoulos speech)
- "In our present political moment, we need more than ever to cleave to the laws that protect our fundamental rights. The First Amendment is unequivocal in its almost unfettered protection of speech with which many might disagree... . We cannot support free speech selectively."<sup>2</sup>
- **Do you think I was right to have allowed Yiannopoulos to speak at Berkeley in February, 2017?**

And/Or

### You are Chancellor Carol Christ, UC Berkeley. Your thinking points are:



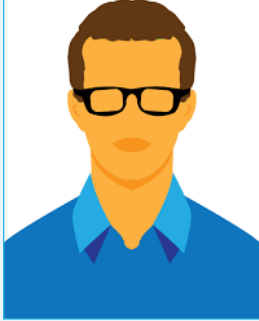
- Berkeley's fame over free speech
- Do you have free speech right, as chancellor, to criticize a bigoted guest invited by a student group?
- What resources should you devote to this issue when you are running the campus on a tight budget?
- After you assume the chancellorship following Dirks' term you will declare your first term as "Free Speech Year" and hold forums examining the complexity of this issue
- You are "aware of how some of the [bigoted] speakers made constituencies on campus feel that they didn't belong, that they were threatening their sense of place in the community. Even though I wish our students were more resilient, I realized that I came from a [different] place... 73 years old, successful, I have a powerful position so it is easy for me to be resilient. It is not so easy for someone who feels that she may not belong at Berkeley in the first place, and [then to have a vitriolic speaker comes to campus] telling her she doesn't belong."<sup>3</sup>
- **Do you think I was right to have allowed Yiannopoulos to return to Berkeley's campus in the Fall of 2017, as well as allow other far right celebrity speakers that many students and faculty deemed bigoted and offensive?**

1 Robert Cohen, "'Free Speech is Who We Are': The University of California and the Struggle to Preserve Berkeley's Free Speech Tradition in the Trump Era," 2018, in author's possession

2 Ibid.

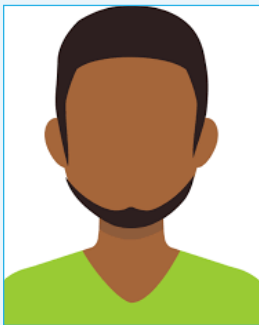
3 Ibid.

### You are President of the Berkeley College Republicans. Your thinking points are:



- You feel alienated and are fed up how BCR events garner little attention and participation
- You claim you do not feel welcome on a largely liberal campus because of your political right wing views
- You are hoping that when speakers like Yiannopoulos come to Berkeley, they will spark debate and dialogue
- “We invited Yiannopoulos precisely because he raises taboo political topics that our club believes are necessary for, and essential to a complete political debate - and he uses humor and satire while doing so.”<sup>4</sup>
- “In order to fully develop intellectually, we must not hear solely from those with whom we agree and those who make us feel good - we must have our views challenged. BCR are in fact the real thinkers on this campus precisely because they have the courage to stand up to Berkeley’s reigning political orthodoxy... [ie] liberal thought.”<sup>5</sup>
- You say that Yiannopoulos “gives a voice to repressed conservative thought on college campuses...”<sup>6</sup>
- “... we know that it is right that people’s feelings should take a back seat to open discourse and free speech... The BCR believe that we should err on the side of more speech instead of less... It is time [for liberals] to mature and realize that you will encounter people with whom you may not agree.”<sup>7</sup>
- After the riot with Yiannopoulos’ visit to Berkeley, you will be a frequent guest on national TV programs

### You are a faculty member, 2017, UC Berkeley. Your thinking points are:



- Accommodating speakers like Yiannopoulos will disrupt the academic function of the university
- In August, 2017 violence in Charlottesville, VA by alt-right extremists and Nazis left an ant-racist protester dead. You are concerned that outsider extremists will descend on Berkeley’s campus (again) and you fear for the safety of all your students, students of color, and those who may be undocumented
- Should you cancel your own classes if Yiannopoulos returns to Berkeley?
- While Berkeley is a public university which is obligated to protect the First Amendment as opposed to private universities (hence President Trump’s threat to withhold federal funds), you have been following the scholarship. Have First Amendment protections been misapplied to college campuses? Berkeley is not a public space in the sense of a park. It has an educational function and a responsibility to uphold this mission. If a speech interferes with education, by forcing the closing of academic buildings, should the university cancel the speech to restore its academic work even if the courts might rule it unconstitutional to prevent the speech?
- Security measures have inconvenienced you when these alt-right speakers come to campus: you can’t meet with students because buildings are closed, you can’t conduct campus business. Also, as a professor of color, you do not feel safe with the heavy police presence while on campus at night
- Concerns about the “mental health impact” on your students who may find Yiannopoulos and his ilk’s rhetoric directly offensive and see themselves as targets of the hostile speech

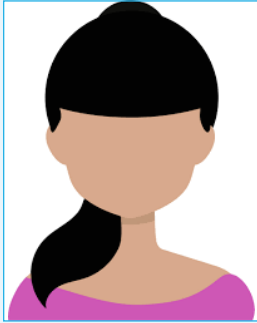
4 Robert Cohen, “Why Berkeley Conservative Student Leaders Fell For Milo Yiannopoulos and Fed the False Fox News/Trumpist Narrative that the University of California Suppresses Conservatism,” 2018, in author’s possession.

5 Ibid.

6 Ibid.

7 Ibid.

## You are a Berkeley student, 2017, UC Berkeley. Your thinking points are:



- You are uncomfortable with the rhetoric of Yiannopoulos and the other far right celebrity speakers that many students and faculty deemed bigoted and offensive who want to come to your campus. You see them as bullies and everything you have learned starting in elementary school has taught you to take a stand against bullies.
- You are a part of the three-quarters of your freshman class that entered Berkeley after the February, 2017 riots who agree that 'the University has a responsibility to provide equal access to safe and secure venues for guest speakers of all viewpoints - even if the ideas are found offensive by some or conflict with the values held by the UC Berkeley community."<sup>8</sup>
- On the other hand, you worked really, really hard to get to Berkeley, you are paying a lot of money and also feel that, "Students have a right to go to their classes and feel safe in their classrooms, and you're [the administration] ready to compromise that for, like, the First Amendment that you're trying to uplift?"<sup>9</sup>
- Is your campus being hijacked for the sake of placating the ghosts of the Free Speech Movement from 1964 at a cost to your education?
- Security measures have inconvenienced you when these alt-right speakers come to campus: you can't meet with professors because buildings are closed and some of them have cancelled classes.

## You are Mario Savio (1942-1996), leader of Berkeley's 1964 Free Speech Movement. Your thinking points are:

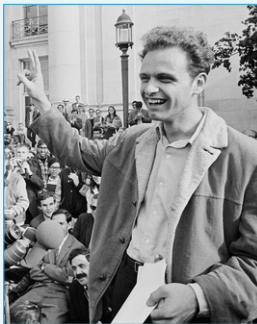


Photo credit: Sam Churchill

<https://www.flickr.com/photos/samchurchill/7839417702>

- Your passionate but measured leadership led to codifying Berkeley's rules about political speech or activity. Among these resolutions are prohibitions against the university to restrict such speech *but* does allow the university to regulate when speeches happen, where they take place and how, "to prevent interference with the normal functions of the university."<sup>10</sup> (These are called Time, Place, and Manner regulations.)
- The technology in 1964 was far limited from today where hostile speakers film and broadcast audience members to harass and intimidate
- Regarding Free Speech: "The most beautiful thing in the world is the freedom of speech... those words are...burned into my soul, because for me free speech was not a tactic, not something to win for political [advantage].... To me freedom of speech is something that represents the very dignity of what a human being is.... It is the thing that marks us as just below the angels. I don't want to push this beyond where it should be pushed, but I feel it."<sup>11</sup>
- And after Berkeley students won Free Speech protections you will say: "We are asking that there be no, no restrictions on the content of speech save those provided by the courts.... And people can say things in that area of freedom which are not responsible...we've finally gotten into a position where we have to consider being responsible, because we now have the freedom within which to be irresponsible. And I'd like to say at this time...I'm confident that the students and the faculty of the University of California will exercise their freedom with the same responsibility they've shown in winning their freedom."<sup>12</sup>
- "We will never intentionally bring disgrace upon this our university. By our words and actions we will endeavor to honor the ideals of those who have come before us, and to deepen and strengthen this community in which we are privileged to speak."<sup>13</sup>

8 Robert Cohen, "'Free Speech is Who We Are': The University of California and the Struggle to Preserve Berkeley's Free Speech Tradition in the Trump Era," 2018, in author's possession.

9 Ibid.

10 Ibid.

11 Robert Cohen, "What Might Mario Savio Have Said About the Milo Protest at Berkeley?," The Nation, February 7, 2017, <https://www.thenation.com/article/what-might-mario-savio-have-said-about-the-milo-protest-at-berkeley/>

12 Ibid.

13 Mario Savio's Free Speech Movement monument design, 1989. This is discussed in Robert Cohen, "The Berkeley Rebellion: Mario Savio's Design for a Free Speech Movement Monument," Cal Alumni Association/UC Berkeley, accessed February 13, 2019, <https://alumni.berkeley.edu/california-magazine/spring-2010-searchlight-gray-areas/berkeley-rebellion>.

## Group Task

Step one: Get to know your character by reading: “You are.... Your thinking points are... .

Step two: Read UC Berkeley’s Principles of Community, 2018<sup>14</sup>:

These principles of community for the University of California, Berkeley, are rooted in our mission of teaching, research and public service. They reflect our passion for critical inquiry, debate, discovery and innovation, and our deep commitment to contributing to a better world. Every member of the UC Berkeley community has a role in sustaining a safe, caring and humane environment in which these values can thrive.

We place honesty and integrity in our teaching, learning, research and administration at the highest level.

We recognize the intrinsic relationship between diversity and excellence in all our endeavors.

We affirm the dignity of all individuals and strive to uphold a just community in which discrimination and hate are not tolerated.

We are committed to ensuring freedom of expression and dialogue that elicits the full spectrum of views held by our varied communities.

We respect the differences as well as the commonalities that bring us together and call for civility and respect in our personal interactions.

We believe that active participation and leadership in addressing the most pressing issues facing our local and global communities are central to our educational mission.

We embrace open and equitable access to opportunities for learning and development as our obligation and goal.

*UC Berkeley’s “Principles of Community” statement was developed collaboratively by students, faculty, staff, and alumni, and issued by the Chancellor. Its intent is to serve as an affirmation of the intrinsic and unique value of each member of the UC Berkeley community and as a guide for our personal and collective behavior, both on campus and as we serve society.*

Step #3: Discuss as the assigned members of the Berkeley community during 1917:

- 1) What is the purpose of the university?
- 2) To what extent is free speech important on a college campus? How important is it to you (in your role)?
- 3) How did the function of the media affect Berkeley and the events of 2017?
- 4) Did Chancellor Dirks on 2/17 and Chancellor Christ in the Fall of 2017 make the right decisions to provide Milo Yiannopoulos (et. al) the resources and accessibility to Free Speech at UC Berkeley?
- 5) Why do you think Trump criticized Dirks in his Tweet for suppressing speech and practicing violence when the opposite was true?
- 6) Should free speech be absolute on college campuses in the 21st century? Why? Why not?

*Teaching materials designed by Robert Cohen, Stacie Brensilver Berman, and Debra Plafker of the NYU Social Studies/History Curriculum Collaborative.*

<sup>14</sup> “Principles of Community,” Berkeley Diversity, accessed February 13, 2019, <https://diversity.berkeley.edu/principles-community>.

# FREE SPEECH AND THE INCLUSIVE CAMPUS

## A Lesson for High School Students

by Robert Cohen

### Essential Question:

Can free speech and inclusivity coexist on college campuses?

### Rationale or Intro:

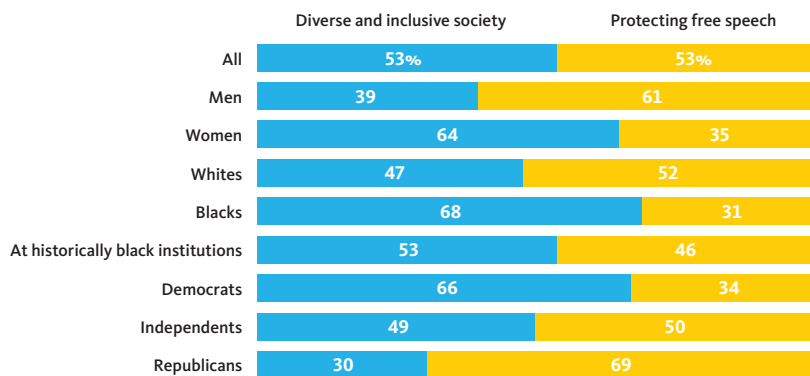
The extent to which students can exercise their First Amendment rights on campus has been debated at colleges and universities, in the media, in the halls of government, and in the courts for more than fifty years. In *Tinker v. Des Moines* (1969), for example, the Supreme Court ruled that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Though there are limits on student speech, students’ rights to speak and be heard, and the ways in which they exercise this right, have become a hallmark on college campuses in the United States. Where

students maintain and express contradictory positions, though, speaking freely can lead to conflict and additional questions as to what is and is not permissible. Such was the case at UC Berkeley, during the 1964 Free Speech Movement, one of the foremost examples of advocacy in support of students’ First Amendment rights and in 2016 when the conservative Berkeley College Republicans’ support for a border wall, and the way in which they expressed it, seemed to threaten undocumented students on campus.

### Part One: How Do College Students View Free Speech?

**Directions:** Distribute or project the following charts and ask students to examine them. Guide a brief discussion using the suggested follow up questions, as time allows. [Note: The Gallup/Knight poll surveyed more than 3000 full-time college students (including students at historically black colleges) in the Fall of 2017.]

**Inclusivity is more important than speech, majority of students say**  
When forced to choose, a small majority of college students say inclusivity is more important than free speech, though they widely believe in the importance of both to democracy.



Note: Due to rounding, some percentages may not add up to 100 percent.  
Source: Gallup survey of about 3,000 college students.

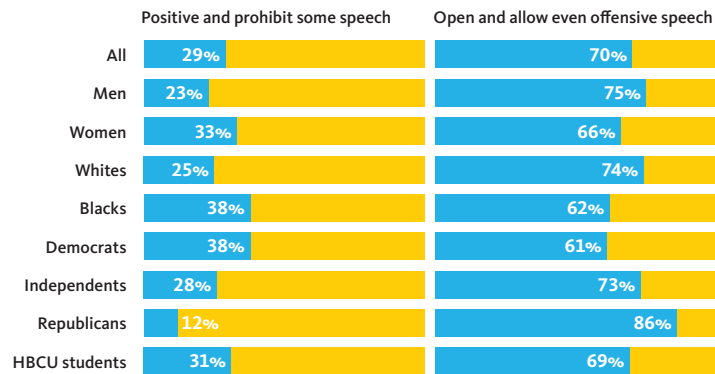
Gallup/Knight Foundation Poll, March 2018<sup>1</sup>.

<sup>1</sup> Niraj Chokshi, “What College Students Really Think About Free Speech,” The New York Times, March 12, 2018, <https://www.nytimes.com/2018/03/12/us/college-students-free-speech.html>.

- In your own words, what question was asked in this chart? What does ‘diverse and inclusive’ mean to you? Provide examples.
- In general, how did the respondents (the students polled) prioritize free speech vs. inclusivity ?
- When you look at specific groups surveyed, to what extent did they depart from the majority’s view of inclusivity versus free speech? Did specific groups value diversity or free speech to the same degree? What might account for any differences in these respondents’ views from the majority?

**Students overwhelmingly prefer openness to inclusivity on campus**

The vast majority of students say they would rather have a learning environment that is open and permits offensive speech to one that is positive but limits it.



Source: Gallup survey of about 3,000 college students.

*Gallup/Knight Foundation Poll, March 2018<sup>2</sup>.*

- What is the overall conclusion of this question? In your own words, provide examples of what might be ‘positive and prohibit some speech’ and ‘open and allow even offensive speech.’
- Do any specific groups depart from the majority’s views in greater proportion? What might account for this difference of opinion?

**Part Two: Case Study - UC Berkeley, Fall, 2016**

**Directions:** Break students into discussion groups. Direct groups to evaluate the case study from the perspective of UC Berkeley’s chancellor and debate an appropriate response. Reconvene with each group presenting their recommended course of action.

At UC Berkeley (Cal) there is an advocacy group of and for undocumented immigrant students. Their members are tabling on campus just off of Sather Gate urging that the university accord their group a larger office space for their organization. Their table is set up not far from the Berkeley College Republicans (BCR) tent. The BCR is avidly opposed to illegal immigration, the presence of undocumented students, and UC providing any support at all for the undocumented student group. The BCR decides to demonstrate this opposition in an ‘in-your-face’ way, using Lego-like building blocks to build a replica of (then) Republican presidential candidate Donald Trump’s “Wall” and chanting, “Build the Wall. Deport them all.” All this is done inches away from undocumented students who feel angry, scared, and threatened by the wall model and the chants.

<sup>2</sup> Ibid.



You are the chancellor of Cal, and hear about this conflict and are afraid it may lead to violence. *What do you do?* Examine the following options, select the best one, and explain your reasoning. Consider the chancellor's responsibilities to a diverse student body and Free Speech concerns. Prepare a brief defense of your response as chancellor to present to your group. One person should take notes on the group's debate to share with the class.

As chancellor I would...

- A) Do nothing, since the BCR has a First Amendment right to express these views (and since its members are adults it is not my responsibility as chancellor to intervene). *How would you respond to complaints that doing nothing suggests that you are indifferent to the serious campus tension raised by the unprecedented political polarization wrought by the 2016 presidential race?*
- B) Bar the BCR from the Plaza to avoid violence and/or undercut assaultive and hateful speech. *How would you address the First Amendment issues such a ban would raise?*
- C) Meet with the BCR leaders and urge them to find a more civil way to express their views on immigration, ask that they seek to be more responsible in the way they exercise their free speech rights, and consider ways to engage rather than simply offend classmates with whom they disagree. *How would you deal with the criticisms this might raise that you are using your authority as chancellor to force a more moderate brand of politics on dissenting students?*
- D) Meet with the undocumented students and remind them that the BCR members have the right to express their views, and that undocumented students, in turn, have the right to express their views. You anticipate that these students will say that they feel personally threatened by the deportation chants. *How will you respond to these concerns?*

### Questions for Discussion:

Following the case study activity and debrief, teachers may ask one or more of the following application questions.

- Is there a difference between using your rights and abusing your rights? If so, how can you tell if an abuse has occurred? How would you characterize BCR's actions in this case?
- In 1927 Justice Brandeis (*Whitney v. California*) contended that the only solution for offensive speech was "more speech." What might he have meant by that? Do you agree with him? How might you apply that idea to the circumstances in this case study?
- How might changes in the nation and new methods of communication embolden people to speak more freely than in the past? To what extent do you think the conflict at Berkeley was the result of these new ideas about acceptable speech?

*Teaching materials designed by Robert Cohen, Stacie Brensilver Berman, and Debra Plafker of the NYU Social Studies/History Curriculum Collaborative.*