



**2019-2020
FELLOWSHIP
PROGRAM**

COMPLETED WORKS



The background is a solid blue color with a collage of white, paper-cut style icons. These icons include musical notes, a play button, a megaphone, speech bubbles, a video camera, and a speaker. The icons are scattered across the page, with some overlapping the text area.

ABOUT THE CENTER

The Center explores how the fundamental democratic principles of free speech and civic engagement must adapt to the challenges and opportunities of modern society. Through research, advocacy, debate and discussion, the Center helps ensure that the next generation of leaders is prepared to defend and advance these values.

As college campuses across the country have grappled with questions of free speech and civic engagement, many have experienced a level of activism, controversy and backlash unlike anything seen in decades. As a result, a wide range of people — from university stakeholders to prominent politicians — are examining the meaning and role of free speech on college campuses. Their questions have sparked a national debate about the intention, scope and application of the First Amendment and challenged long-held views about freedom of expression developed in the wake of the Free Speech Movement born at UC Berkeley.

Cognizant of both the enduring constitutional principles of free speech and the nature of our changing times, the Center focuses on addressing if and how college students' relationship to the First Amendment has fundamentally shifted from the 1960s and what can be done to restore trust in the value and importance of free speech among college students, other members of university communities and the broader society.

CONTENTS

Melissa J. Barthelemy, JD, MA

Let There Be Light: Freedom of Expression on Campus - *A Student Affairs Toolkit*..... 4

Jonathan Friedman

Free Speech Guides for Diversity Offices, Student Affairs and Residence Life..... 105

Nikita Gupta

Transforming Moments of Conflict Through Embodied Leadership:
A Guide for Student Affairs Professionals..... 178

Spoma Jovanovic

Free Speech & Public Spaces: Voice, Activism and Democracy..... 218

Rebecca MacKinnon

Reclaiming Free Speech for Democracy and Human Rights in a Digitally Networked World..... 268

Saugher Nojan

Examining Free Speech and Civic Engagement Among UC Muslim Students:
What Role Does Campus Safety Play?..... 301

Lara Schwartz / Andrea Brenner

Let Freedom (and Respect) Ring:
Fostering Civil Discourse and Free Speech in the Classroom and Beyond..... 302

Emerson Sykes

Free Speech for Student Activists: A First Amendment Workshop for Student Leaders..... 329

Shira Tarrant

Sex.Talk.Toolkit..... 337

John Wilson

Freedom of the Press on Campus..... 338

LET THERE BE LIGHT: Freedom of Expression on Campus

A Student Affairs Toolkit

UC **SANTA BARBARA**

by **Melissa J. Barthelemy, JD, MA**

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At times this past year it has been challenging, in liberal spaces, to identify myself as a University of California Free Speech Fellow. This is arguably because in the past few years conservatives have co-opted and weaponized the concept of “free speech” to the point where merely mentioning the phrase can conjure up images of White nationalists such as Richard Spencer, Ben Shapiro and Milo Yiannopolous forcing their way onto college campuses to spew their hatred, and suing if they don’t get their way. The actual exercise of free speech rights, such as the freedom of assembly, is imbued with power relations, just as it always has been. While it is true that minorities have benefited greatly from First Amendment protections, it has never benefited them to the same extent that it protects Whites.¹ It is no surprise that mostly White and male conservative assault-rifle-toting protesters were recently able to force their way into the Michigan capitol building while the state legislature was voting on whether or not to temporarily close down businesses because of the Coronavirus pandemic. These anti-shutdown protesters were able to clutch their AR-15 rifles to their chests and scream in the faces of the police to the point where their spittle was landing on the officers’ noses. And yet things barely got physical. Few arrests were made. This provides a stark contrast to the way that police in some cities have injured Black Lives Matter (BLM) protesters, including when the President Trump used the police and military to clear Lafayette Park in DC, prior to the mandated curfew, so that he could do a photo-op in front of a church while holding a Bible. Similarly, Trump has ordered the use of federal agents, through the Department of Homeland Security, to round up BLM protesters in Portland, Oregon, and other cities “run by very liberal Democrats.” Federal law enforcement officers in Army uniforms with no badges and only a patch that says “police,” are grabbing individuals off the street and throwing them in unmarked vans to interrogate them at undisclosed locations.²

It is often said that university campus environments are a microcosm of our larger society, and as such, what plays out on the national stage is often reflected in the classrooms, the dorms, the dining halls, the libraries, and on the campus plazas. Therefore, it is not surprising that in the last five years as the country has seen an exponential increase in political divisiveness, hate crimes, and increased contestation over “free speech rights,” these same debates are raging on college campuses as well. One of the most obvious displays of hate at a

¹ Charles Lawrence III, “If he Hollers let him go: Regulating Racist Speech on Campus” in *Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment* (Boulder, CO: Westview Press, 1993), 76.

² Evan Perez and Geneva Sands, “Trump Administration preparing to send Federal Agents to Chicago,” *CNN*, July 20, 2020, <https://www.cnn.com/2020/07/20/politics/trump-administration-federal-agents-chicago/index.html>

university was in 2017 when neo-Nazis and other White supremacists marched across the University of Virginia, Charlottesville campus with tiki torches blazing as they shouted “Jews will not replace us!” The next day Heather Heyer was murdered and many others were injured when a White supremacist intentionally plowed his car into peaceful protesters. Two police officers who were responding to the scene also lost their lives in a helicopter crash. The daily existence of White supremacy and other forms of discrimination and oppression on college campuses is more subtle than the display that took place at the Unite the Right march and rally in Charlottesville, but it is still insidious, hurtful, and dangerous. We must ask ourselves: free speech yes -- but at whose expense?

Even before the outbreak of Coronavirus, the past few years have been incredibly challenging for many college administrators across the nation, and student affairs staff in particular. In the current political climate, many public universities have become soft targets for those who feel emboldened to intimidate students from racial, religious, or sexual minority groups in an attempt to negatively impact campus diversity initiatives. Hateful speech on campus is most often legally protected, even if it goes against university values and the values of the student affairs profession.³ This toolkit will discuss how my campus, University of California, Santa Barbara, and other universities have responded to intolerant and offensive speech, and countered divisive national rhetoric. These practices include taking proactive steps such as alternative programming to provide counter-narratives, messaging campaigns, faculty engagement, student resources, and opportunities for dialogue between administrators, concerned students, and students coordinating controversial programs. These responses have often involved collaboration between student activists, faculty, student affairs administrators, and other stakeholders. It is my hope that this piece may be helpful to a range of people who are interested in this topic, and student affairs staff and administrators in particular, since it has become increasingly necessary for university leaders to share resources and build networks to help balance demands for freedom of speech and the promises of equal educational opportunities.

The topics covered in this toolkit are divided into the following sections and sub-sections:

Background Information on the University of California, Santa Barbara.....	7
Free Speech Yes -- But at Whose Expense?	
<i>The Disproportionate Impacts of Free Speech on Marginalized Communities.....</i>	8
• Theories of the First Amendment	
• Normative Whiteness and Contestations Over Campus Space	
• Definitions of Key Terms	
• When Sidewalk Chalk is Used to Spread Hate: #TheChalkening	
• Using Town Halls to Address Free Speech Community Controversies	
• Speaking Out: Hearing From Campus Leaders	
Examples of Proactive Steps to Improve Campus Climate	30
• Campus Community Council (CCC)	
• Alternative Programming to Provide Counter-Narratives: “Resilient Love in a Time of Hate” Series	
• Diversity, Equity, and Inclusion Online Module	

³ Brandi Hephner LaBanc, Frank Fernandez, Neal Hutchens, and Kerry Brian Melear, *The Contested Campus: Aligning Professional Values, Social Justice, and Free Speech* (Washington DC: NASPA, 2020), 90.

Let There Be Light: Freedom of Expression on Campus

• Freedom of Expression and Campus Climate Workshop	
Here Come the Haters: When Intentionally Provocative Speakers Come to Your Campus.....	34
• “Feminism is Cancer,” Talk at UCSB by Milo Yiannopolous on May 26, 2016	
• Efforts by the UCSB College Republicans to Secure Funding and Bring Ben Shapiro to UCSB to Give a Talk	
• Counter-Narrative: “An Evening with Tim Wise a White Anti-Racist Advocate” on January 25, 2017 at UCSB	
• Student Responses to Ben Shapiro’s Talk “Prejudices, Lies, and Divided People: The Legacy of #BlackLivesMatter” at UCSB on February 21, 2017	
Say What?! Social Media Controversies and Cyberbullying.....	55
• Responding to Doxing	
Activism: Freedom of Expression, Public Art, and Activism on Campus.....	62
• Mapping Dissent April 2017 at UCSB	
• Students for Justice In Palestine’s (SJP) Anti-Oppression and Pro-Divestment Wall at UCSB May 2017	
• Students Supporting Israel’s (SSI) Pro-Israel Mural at UCSB May 2017	
• UC Merced’s Community Mural Project	
Unlearning and Opportunities to Engage in Conversation Across Difference.....	68
Student Protests and Demonstrations as Discussed Through the Lens of the COLA (Cost of Living Adjustment) Movement at the University of California Campuses.....	73
• Use of Police at Student Protests and Demonstrations	
• COLA Movement at UC Santa Barbara	
• COLA Protest at the #SpeechMatters Conference in Washington DC	
• UC-Wide Work Stoppage in Support of the COLA Movement	
Leading with Compassion.....	95

As a graduate student in Public History at UC Santa Barbara I have worked as student-staff for the Division of Student Affairs at my campus for the past four years. Some of the projects I have worked on have focused on free speech, campus climate, crisis response and mental health services. I have had the opportunity to work closely with our Vice Chancellor of Student Affairs, Assistant Vice Chancellor of Student Affairs and Dean of Students, Director of Counseling & Psychological Services, Multi-Cultural Center Director, and a large number of undergraduate and graduate students, many of whom have been student leaders on our campus. I have had a foot in student affairs work and a foot in student activism since I attended UC Santa Cruz as an undergraduate student twenty years ago. As a student activist at UCSC I helped found the Queer Resource Center and established free and anonymous HIV testing, I worked as student-staff in a number of student affairs positions, and my Senior year I worked closely with the Chancellor, through the Chancellor’s Undergraduate Internship Program (CUIP). Being able to engage with my fellow students in activism that often pushed and challenged our administration, while also helping support our Chancellor and other administrators in the work that they were doing with students provided me with a unique perspective. In some ways the past four years have been similar as I have been working closely with high level administrators at UCSB, while also pushing for change as a graduate student activist myself.

This piece represents my personal reflections based on these experiences, as well as research I have conducted through interviews and informal conversations with administrators and student activists from 4-year public and private universities. In addition to books, articles, websites, and guides, I also draw from sessions I have participated in and observed at several NASPA student affairs conferences, the National Conference on Race and Ethnicity in Higher Education (NCORE) annual conference, and both of the #SpeechMatters Conferences in Washington DC that the UC Center for Free Speech and Civic Engagement has sponsored for the past two years. I have been engaged in social justice work, and anti-racism advocacy for several decades, and I still have much to learn. I have tried to apply that lens and approach to this work. I am a liberal White cis-gendered middle-aged lesbian, who was raised in a middle-class household in a small town that was a majority White, and has lived in coastal California her entire life. My background affects my perspectives on the topic of free speech, and how I have experienced these issues on my campus, and in the wider world. As a graduate student these are my views, and my views alone.

Background Information on the University of California, Santa Barbara

In terms of intentionally provocative Right-wing speakers on the college circuit, UCSB was popular in 2016 and 2017. Milo Yiannopoulos gave a lecture for his “Feminism is Cancer” tour, David Horowitz came to spread his anti-Muslim rhetoric, and then we had a visit by Ben Shapiro for his talk criticizing the Black Lives Matter Movement.⁴ I will be sharing details about how things unfolded and how our campus responded in a variety of ways. Since I will be discussing a number of challenging incidents that we have experienced at UCSB, situated against the backdrop of incidents from across the nation, this section provides background information on my university in terms of demographics, and campus history. Each college and university has its own unique culture, and system of governance, and the “solutions” to the challenges on your campus, reside on your own campus. There is no one-size-fits all approach. However, it is my hope that hearing about the experiences of our campus regarding some of these issues, may prove fruitful in thinking about different ways of possibly preparing for and responding to situations as they may arise.

⁴ The Southern Poverty Law Center identifies David Horowitz and Milo Yiannopoulos as proponents as Alt-Right extremists, and their Hate Watch program describes the prejudicial comments that Ben Shapiro makes against Blacks, GLBTQ+ people, etc. <https://www.splcenter.org/fighting-hate/extremist-files/individual/david-horowitz>



UC Santa Barbara campus, Storke Tower and Arts Buildings reflected in Campus Lagoon. *Photograph credit: Melissa J. Barthelemy*

UC Santa Barbara is a 4-year public Research I university located in Southern California, about 90 miles north of Los Angeles. The campus is located on a 408 acre parcel of land on a mesa overlooking the Pacific Ocean on two sides. It is situated on the traditional, ancestral and unceded territory of the Chumash people. The land it resides on had formerly been a Marine Air Base in World War II and was obtained through the War Assets Board to house the campus.⁵ It is one of 10 UC campuses, and the second most diverse school in the UC system. According to the 2019-2020 Campus Profile there are currently 23,000 undergraduates and we are just shy of 3,000 graduate students. The undergraduate student population is 29% Chicano/Latino, 28% Asian/Pacific Islander, 35% White, 5% Black/African American and 1% American Indian/Alaskan. Graduate students are less diverse in ethnicity, though 31% are international students. The graduate student population is 60% White, 14% Chicano/Latino, 16% Asian/Pacific Islander, 4% Black/African American, and 1% Native American. UCSB's international students come from 79 different countries/regions. The largest percentage is from China at 75%. In terms of gender identity 53% of undergraduates and graduate students are female and 46% are male.⁶ In 2015 UCSB was designated both a Hispanic-Serving Institution (HSI) and an Asian American Native Pacific Islander-Serving Institution (AANAPISI) by the US Department of Education, reflecting the campus's undergraduate enrollment of Latinx/Chicanx, Asian American, and Pacific Islander students.⁷ UCSB also has

⁵ "World War II and the Goleta Mesa Campus," UCSB Art, Design & Architecture Museum website, accessed on July 5, 2020, <http://www.adc-exhibits.museum.ucsb.edu/exhibits/show/ucsbcampusarchitecture/world-war-ii-and-the-goleta-me>

⁶ "2019-2020 Campus Profile," UCSB Institutional Research, Planning & Assessment website, January 2020, <http://bap.ucsb.edu/institutional.research/campus.profiles/campus.profiles.2019.20.pdf>

⁷ "Minority Serving Institution," UCSB Diversity, Equity, and Inclusion website, accessed July 15, 2020, <https://diversity.ucsb.edu/about/minority-serving-institution>

one of the largest enrollments of Native American students in the UC system. Over 40% of UCSB undergraduate students will be the first in their family to graduate from a four year college. A significant fraction of UCSB faculty were also once first generation students.⁸

According to a recent article in the Los Angeles Times, “Latinos are the leading group of prospective freshmen accepted into the University of California for fall 2020, part of the system’s largest and most diverse first-year class ever admitted.” According to preliminary data, Latinos made up 36% of the 79,953 California students offered admission. Asians made up 35%, Whites 21% and Black students 5%. The rest were American Indians, Pacific Islanders or those who declined to state their race or ethnicity. About 44% of admitted students were low-income while 45% were the first in their families to attend a four-year university.” President Napolitano remarked that “UC continues to see increased admissions of underrepresented students as we seek to educate a diverse student body of future leaders.”⁹

UC’s diversity was negatively impacted after the passage of California’s Proposition 209 in 1996 which prohibited Affirmative Action, banning the consideration of race and gender in admissions decisions. This legislation was passed as conservatism clashed with student activism throughout the late 1980’s and 1990’s, when “left-wing political pushes towards multiculturalism, anti-racism, and anti-sexism at the University of California met with resistance from the political right.”¹⁰ It has taken time for the UC to restore a more diverse student body, and it has not been able to fully reflect California’s full diversity. For two decades UC has sought to increase diversity while keeping admissions race-neutral. “The percentage of American Indian, Black and Latino students fell from about 20% of all admitted freshmen in 1994 to 15.6% in 1998; their share climbed to 29% last fall.” According to a recent article in the Los Angeles Times, “UC Berkeley has a poor reputation among Black students. It’s trying to change that.” The article says that UC Berkeley is known for having the worst campus climate for Black students in the University of California system. This has to do with the small number of Black students and faculty on campus, as well as a lack of necessary resources, and instances of anti-Blackness. As a result of Prop 209, at UC Berkeley Black student numbers plummeted from a high of 7.4% of all undergraduates in 1989 to a low of 3.2% in 2016.¹¹ On June 15, 2020 the UC Regents voted unanimously to endorse ACA 5, and the effort to repeal Proposition 209.¹² It is encouraging that even with Prop 209 in effect, UC Berkeley and other campuses in California have been recently devoting more resources to improving

⁸ “UC Santa Barbara First-Gen Faculty,” UCSB First Generation Faculty website, accessed July 15, 2020, <https://www.firstgen.ucsb.edu>

⁹ Teresa Watanabe, “For the first time, Latinos are the largest group of Californians admitted to UC,” *The Los Angeles Times*, July 16, 2020, <https://www.latimes.com/california/story/2020-07-16/latinos-uc-berkeley-diverse-class-history>

¹⁰ Jamaal Justin Muwwakkil, “It’s Very Isolating”: Discourse Strategies of Conservative Student Groups on a Liberal University Campus, University of California, Santa Barbara masters thesis, June 2019, 6.

¹¹ Teresa Watanabe, “UC Berkeley has poor Reputation Among Black Students. Its Trying to Change that,” *Los Angeles Times*, July 20, 2020, <https://www.latimes.com/california/story/2020-07-20/heres-how-uc-berkeley-is-repairing-its-reputation-as-the-worst-uc-campus-for-black-students>

¹² “UC Board of Regents unanimously endorses ACA 5, repeal of Prop. 209,” University of California Office of the President website, accessed July 15, 2020, <https://www.universityofcalifornia.edu/press-room/uc-board-regents-endorses-aca-5-repeal-prop-209>

Let There Be Light: Freedom of Expression on Campus

campus climate for Black students and other marginalized student populations, though the financial set-backs of Coronavirus may threaten to potentially roll back some of these advances.

UCSB has a long history of political activism. One of the most well-known events was when the Black Students' Union (BSU) took over the UCSB Computer Science Building in 1968 threatening to dump buckets of water to destroy the main computers that UCSB depended upon. They were demanding a Black Studies curriculum, and because the demand was similar to other ones being made around the country, the university eventually consented. In retaliation police began arresting Black student activists on trumped up and unusual charges, such as failure to pay their rent on time. A year later anti-war protesters left a bomb at the Faculty Club that detonated, killing a custodian named Dover O. Sharpe. Another incident that made news around the nation was in the Fall of 1969 when the Bank of America that was located just a block from campus was burned to the ground during what came to be known as the Isla Vista Riots. When the bank was rebuilt the following year, people again set it on fire. In the confusion, a UCSB student named Kevin P. Moran was shot and killed by a policeman while he had actually been trying to put out the fire.¹³ Students also successfully demanded the creation of a MultiCultural Center at UCSB in 1988, which has provided our campus with incredible programming for the past 32 years. In 2019, after a 50-year struggle the Black Student Union was able to secure some of its longstanding demands to help support the success of the Black student community, such as the creation of an Office of Black Student Development at UCSB.¹⁴ At UCSB, as with many universities across the nation, many of the gains of marginalized students have come after decades of protest.

Our campus has been directly impacted by hate-fueled violence, the most high profile of which was the murders and injuries that occurred on May 23, 2014 in the neighboring business, residential, and educational district called Isla Vista. The incident which has often been referred to as the Isla Vista Rampage, or the softer phrase we use most often on our campus, the Isla Vista Tragedy, resulted in the deaths of six UCSB students and the injuries of 14 individuals just blocks from the edge of our campus. Elliot Rodger, a disturbed 22-year old male, who was not affiliated with our campus, used knives, a gun, and his vehicle as a weapon to exact what he termed to be "revenge" on our community. He claimed that women had rebuked his sexual advances and he targeted a UCSB sorority, but when he couldn't gain entry he went on a rampage in which he randomly targeted people on the streets. He left behind a 107,000 word manifesto in which he expressed misogynistic and racist views.¹⁵ As a result of what he wrote and said in a series of videos he recorded and posted to YouTube before the rampage, the Southern Poverty Law Center [SPLC] has claimed that he was the first Alt-Right killer and that he began the Incel rebellion.¹⁶ According to the SPLC, the phrase "Alt-right refers to the Alternative Right, a set of far-right ideologies, groups and individuals whose core belief is that "white identity" is under attack by multicultural forces using "political correctness" and "social justice" to undermine white people and

¹³ Carmen Lodise and Friends, *Isla Vista A Citizen's History* (Isla Vista, CA: CreateSpace Publishing, 2009), 21.

¹⁴ Sofia Mejias Pascoe, "Multiple BSU Demands Fulfilled," *The Daily Nexus*, March 7, 2019, <http://dailynexus.com/PrintEditions/03-2019/03-07-19.pdf>

¹⁵ "Killer who Committed Massacre in Isla Vista was part of Alt-right, New Research Shows," *The Los Angeles Times*, February 6, 2018, <https://www.latimes.com/local/lanow/la-me-isle-vista-massacre-alt-right-20180206-story.html>

¹⁶ Keegan Hanks and Alex Amend, "The Alt-Right is Killing People," Southern Poverty Law Center website, February 5, 2018, <https://www.splcenter.org/20180205/alt-right-killing-people#california>

“their” civilization. The Alternative Right is characterized by heavy use of social media and online memes. Alt-righters eschew “establishment” conservatism, skew young, and embrace White ethnonationalism as a fundamental value.” Richard Bertrand Spencer is the most well-known extremist associated with this movement.¹⁷ The Incel Rebellion refers to the term “involuntary celibate” a label men use to describe their inability to find a sexual partner despite wanting one, and who are part of an online male supremacist ecosystem that denigrates and dehumanizes women, often advocating physical and sexual violence against them.¹⁸

Sadly, Elliot Rodger’s manifesto and killings have sparked a copycat phenomenon with more than four mass shooters citing him as an inspiration before undertaking their own murderous rampages. In the aftermath of the Isla Vista Tragedy UCSB saw its campus police force increase greatly both in the number of officers and the equipment used to police the campus and community. Many students, faculty, and community members have claimed that this police presence is excessive, and demands for defunding the police have grown louder in the wake of George Floyd’s killing. According to two separate research studies conducted at UCSB, there was a high rate of PTSD among students and other campus members in the year following this tragedy. Other research has said that it often takes up to 8 years for a university to heal in the wake of a mass shooting. I believe that the hypervigilance that some of us still experience contributes to increased sensitivity to incidents of hate within the community, some of which are protected under existing free speech laws. It was only a year after the Isla Vista Tragedy, in 2015, when the United States Presidential election started ramping up political divisiveness on our campus, as was the case with many universities and colleges throughout the nation.

This past has influenced some of the structures and policies that still remain today and continue to influence the way our campus handles issues of freedom of expression. UCSB is considered to be one of the most politically active campuses in the UC system with a high percentage of registered students voters, very active student governments (Associated Students and the Graduate Student Association), and robust activism and volunteerism both on and off campus. Our university prides itself on its support of freedom of expression, being open to a diverse range of viewpoints, and serving as a welcoming environment for speakers, including those who are considered to be extremely controversial.

Free Speech Yes -- But at Whose Expense? The Disproportionate Impacts of Free Speech on Marginalized Communities

One of my main concerns about free speech controversies as they’ve been playing out on college campuses is that frequently student activists must use the language of emotion in order to try to get an institution to bend towards the arc of justice. People most often need to feel something emotionally -- fear, pain, concern, outrage – something, in order to take action. This takes a disproportionate toll on those students who are in situations of marginalization and vulnerability, and that is why what appears as simply “free speech,” on the

¹⁷ “Alt-Right,” Southern Poverty Law Center Website, accessed July 15, 2020, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/alt-right>

¹⁸ Rachel Janik, “I Laugh at the Death of Normies’—How Incels are Celebrating the Toronto Mass Killing,” Southern Poverty Law Center website, April 24, 2018, <https://www.splcenter.org/hatewatch/2018/04/24/i-laugh-death-normies-how-incels-are-celebrating-toronto-mass-killing>

surface is predicated on a model that perpetuates White as a natural and unmarked social identity while demarking all others. When there is a free speech community controversy on a campus, peers from a minority group that has been impacted are often called upon to articulate their own experiences with the hateful speech in deeply personal terms in an effort to awaken racial consciousness in students from the majority, who are most often White. Thus, Students of Color, and students from other marginalized groups as well, often first experience the hateful words and actions, then they are called upon to educate others about why the incident was offensive, and then they ultimately help plan and execute a community response to the incident.¹⁹ I am extremely worried about the burden this places on students who are already in a vulnerable position on campus, and how such experiences may negatively impact their life academically, emotionally, mentally, and physically. I am not advocating for “censorship,” of free speech, I am advocating for more honesty regarding the impact of who experiences the brunt of the burden. Because treating speech as an abstract concept, as though language is devoid of the corporeal realities of lived experiences, in the bodies that we all inhabit, is disingenuous at best, and dangerous at worst. Clearly, some of our bodies are monitored, policed, and disciplined more than others, and speech is an act that plays a role in this process. One need look no further than Trump’s ugly rhetoric as an example of the legitimization of expressions of racism, homophobia, sexism, xenophobia, and other forms of discrimination, and that these words are connected to an increase in hate crimes against marginalized groups. Research has shown that problematic speech can create hostile campus climates and inhibit the success of students.²⁰ Diverse students are often assured that they will find a welcoming educational environment where they can study, learn, and graduate, but frequently campus climates do not fulfill those expectations, nor do they live up to those assurances.

Student demographics at college campuses have shifted tremendously over the past five years. “In 1976, there were 9.4 million undergraduates enrolled in U.S. colleges and universities – 7.7 million of them were white. Forty years later, in 2016, 7.7 million of the nation’s 17 million undergraduates were students of color.” Demographics predict that the number of students of color entering colleges will be increasing, however White students are predicted to continue to comprise the single largest racial group at most universities for many years to come. As mentioned previously, an exception is within the University of California system whose 285,000 students are now majority non-White, with only 27% of the total student body identifying as White.²¹ Studies have consistently shown that in the past century Students of Color have not been well served on predominantly White campuses. According to USC Professor Shaun R. Harper, Students of Color who have participated in studies have indicated that “they feel isolated in residence halls, classrooms, and elsewhere on their campuses; they experience racism, microaggressions, onlyness, and other forms of racial stress in college; there are too few culturally affirming spaces and activities at their institutions; and they live and learn in environments where very little educationally purposeful interaction occurs between peers from different

¹⁹ LaBanc, *The Contested Campus*, 188. For a discussion of racial consciousness and student developmental theory in regards to free speech community controversies, see page 188.

²⁰ LaBanc et al, *The Contested Campus*, p. 94-95.

²¹ Teresa Watanabe, “Michael V. Drake named new UC president, first Black leader in System’s 152-year history,” Los Angeles Times, July 7, 2020, <https://www.latimes.com/california/story/2020-07-07/michael-v-drake-is-expected-to-be-named-uc-president-first-black-leader-in-systems-152-year-history>; Christopher Newfeld, “When Are Access and Inclusion Also Racist?” Remaking the University, June 28, 2020 <https://utotherescue.blogspot.com/2020/07/ucs-next-president-few-necessities.html>

racial and ethnic groups.” Harper argues that this “browning of America, and on college campuses” complicates the jobs of student affairs administrators, and that they need to be better prepared to meet the challenges of “improving the experiences of students of color, while more responsibly preparing white collegians for citizenship in a racially diverse democracy.”²²

As campus demographics have changed with more women, People of Color, LGBTQ+ folks, disabled, first-generation, and undocumented students enrolling in universities across the nation there have been increasing demands to end a culture of normative Whiteness and systems of oppressions on college campuses. Students are not willing to stay silent in the face of injustices. In particular, students have increasingly demanded campus action against microaggressions, intolerant, and offensive speech. In *Free Speech on Campus* authors Howard Gillman, PhD and Erwin Chemerinsky, JD, argue that some of these shifts can be attributed to the fact that with these changing demographics there are more students on campus who can attest to the harms they and their loved ones have experienced from hateful and intolerance speech, and they have experienced years of anti-bullying programs during their K-12 educational journey. They have less tolerance for hate because they have been taught that it has no place in their schools. Therefore, when college administrators do not silence the speech that students find offensive, students frequently get angry at the administrators for contributing to what they allege is a hostile learning environment. Frequently students, staff, and faculty do not understand that what we can often point to as “hate speech” through a common sense understanding of the term, is not legally prohibited speech on a college campus, because hate speech itself is not a recognized category under the law. Simply put, the First Amendment contains no exception for hate speech.²³

Theories of the First Amendment

The central thesis of Gillman and Chemerinsky’s book is that “all ideas and views should be able to be expressed on college campuses, no matter how offensive or uncomfortable they make people feel.”²⁴ And that it is incumbent on colleges to take steps to help build inclusive campuses where students feel protected. Their primary solution is to increase speech rather than censor it. They assert that “‘More speech’ cannot undo the hurt caused by hateful speech. But a willingness of members of the campus community to speak out on behalf of the university’s core values, and to condemn speech that is inimical to them, is an important component of how campuses should deal with offensive expression. Rather than be tempted toward censorship, campus leaders should focus on the strategies premised on more speech.”²⁵

According to Chemerinsky and Gillman, there are a wide range of activities that campuses can (and must) do to protect student well-being and promote an inclusive environment. For example, campuses can:

- Protect the rights of all students to engage in meaningful protest and to distribute materials that get their message out;

²² Shaun R. Harper “Shifting Racial Demographics on College Campuses,” *Leadership Exchange: Solutions for Student Affairs Management*, 2019, 56.

²³ Erwin Chemerinsky and Howard Gillman, *Free Speech on Campus* (New Haven, CT: Yale University Press, 2017), 155.

²⁴ Chemerinsky and Gillman, *Free Speech on Campus*, 19.

²⁵ Chemerinsky and Gillman, *Free Speech on Campus*, 149.

Let There Be Light: Freedom of Expression on Campus

- Punish speech that constitutes “true threats” or that meets the definition of harassment under federal anti-discrimination law;
- Prevent disruptions of university activities;
- Ensure that campus dormitories are safe spaces of repose, short of imposing content-based restrictions on speech;
- Prevent discrimination by official campus organizations;
- Allow faculty to use trigger warnings when they deem it appropriate in light of their best pedagogical judgement;
- Sensitize the campus community to the harms caused by microaggressions and the effects of implicit bias;
- Ensure that learning environments are safe for the civil expression of ideas;
- Require institution-wide training on the obligation to create inclusive workplace and educational environments;
- Establish clear reporting requirements so that incidents of discriminatory practices can be quickly investigated and addressed;
- Establish clear and effective grievance procedures for those who believe the institution is not taking seriously its legal obligations to create nondiscriminatory workplace and learning environments;
- Prohibit retaliation against any person who complains about discriminatory workplace and learning environments;
- Promulgate clear and powerful principles of community, stressing the importance of an inclusive environment and condemning hateful or stigmatizing speech;
- Encourage faculty and students to research and learn about the harms associated with intolerance and structural discrimination, including through the creation of appropriate academic departments, the establishment of educational requirements on diversity and structural inequality, the publication of research, and the sponsoring of academic symposia;
- Organize co-curricular activities that celebrate cultural diversity and provide victims of hateful and bullying acts the opportunity to be heard;
- Emphasize how the campus’s scholarly mission is best accomplished when people of diverse backgrounds and perspectives work together in an environment of mutual respect and constructive engagement; and
- Speak out to condemn egregious acts of intolerance as a way of demonstrating the power of “more speech” rather than enforced silence.



UCSB students hold a large “Fight Trump” banner during the “National Student Walkout Against Bigotry & Hate” protesting the inauguration of President-elect Donald Trump. Nearly 500 UCSB students, staff, and faculty participated in the march on January 20, 2020. Photo by Melissa J. Barthelemy

I wanted to begin with this overview of some of the most important suggestions from *Free Speech on Campus* because I think the book is incredibly helpful for student affairs, and other university administrators, who are grappling with issues of free speech, campus climate and diversity, equity, and inclusion (DEI). Additionally, Gillman and Chemerinsky are the National Advisory Board Co-Chairs for the UC National Center for Free Speech and Civic Engagement therefore they are instrumental to the work I have been doing as a Fellow. They were tapped by then UC President Janet Napolitano to form and help lead the Center. Erwin Chemerinsky is the Dean of the UC Berkeley School of Law and Howard Gillman is the Chancellor of UC Irvine. At the recommendation of student affairs staff at UCSB I read *Free Speech on Campus* and that is actually what helped lead me to finding out about the work of the Center. I will be building off of the list of their recommendations above with concrete examples, but before I do I would be remiss if I didn’t mention a different strand of legal thought on the subject of freedom of expression on college campuses that is also helpful to be aware of.

Whereas Gillman and Chemerinsky characterize themselves as “strong free speech advocates” and take a more absolutist perspective on the issue, there are other legal scholars who argue for a different interpretation of the First Amendment. For instance, an influential group of scholars who are known as critical race theorists began in the 1980’s and 1990’s to propose different ways in which hate speech could potentially be regulated. *Words that Wound: Critical Race Theory, Assaultive Speech, and the First Amendment* is a landmark book that was published in 1993 featuring pieces by critical race theorists Mari Matsuda, Charles R. Lawrence III, Richard

Delgado, and Kimberle Williams Crenshaw.²⁶ Matsuda advanced an argument that formal criminal and administrative actions should be used to respond to hate speech because the entire population is not equally affected by such speech, but rather the impact is imposed on specific groups who are already in vulnerable positions. She used examples of those who had been victimized by hate speech to argue that there needed to be a legal response that addressed the structural reality of racism in America; she asserted that racist comments cannot be disentangled from the operation of White supremacy. Matsuda advocated for a narrowly tailored definition of racist hate messages that could be restricted with First Amendment values.

Also, in *Words that Wound*, Lawrence focused on the need to enact hate speech regulations on college campuses, because he saw hate speech as similar to fighting words, and was concerned about racial violence in the university environment. He claimed that courts should look to the Equal Protection clause as interpreted in the case *Brown v. Board of Education* in balancing the interests between free speech and equality, in a way that grounds a racial point of view. These arguments have not been successful in altering how the First Amendment is applied on public college campuses. Critical race theorists convinced some universities to regulate hate speech through the creation of codes, but these were struck down by the courts. Some legal scholars think the debate is still far from over.²⁷ Another important book, *Must We Defend Nazis? Why the First Amendment Should not Protect Hate Speech and White Supremacy* was written by critical race theorists Richard Delgado and Jean Stefancic and was published in 1997. Delgado and Stefancic argue that the law is not written to protect the interests or values of those with less power. They assert that discriminatory speech does not advance self-fulfillment because it is more focused on harming others, and it does not advance the pursuit of truth. They assert that hateful or demeaning speech are ways to shut down conversation rather than encourage civic engagement or a meaningful discussion about differences.²⁸

²⁶ Lawrence, *Words that Wound*

²⁷ Gamelyn F. Oduardo-Sierra, "Please Protest Here: A Critical Analysis of the Public Forum Doctrine and Other Limits to Speech," *Selected Works 2018-2019 Fellows Program*, 88.

²⁸ Richard Delgado and Jean Stefancic, *Must We Defend Nazis? Why the First Amendment Should not Protect Hate Speech and White Supremacy*, (New York: New York University Press, 1997).



UCSB student rolls up sleeping pad during 72-hour long sit-in demonstration at Cheadle Hall administration building. Chancellor Yang agreed to endorse the issue of Fossil Free divestment, making him the first UC Chancellor to do so on May 12, 2017. *Photo credit: Melissa J. Barthelemy*

Normative Whiteness and Contestations Over Campus Space

Key Recommendations:

- Administrators need to create the conditions under which all students can thrive, and that relates directly to campus climate and improving what many students perceive to be a hostile learning environment.
- Campus administrators need to be vocal about condemning hate, by directly naming it with specificity.
- Administrators need to provide avenues for open and honest conversations about race and other issues of difference, by allocating resources and utilizing skilled facilitators.

In *White Guys on Campus: Racism, White Immunity, and the Myth of "Post-Racial" Higher Education*, University of Arizona Professor Nolan L. Cabrera argues that it is imperative that institutions disrupt the cultural hegemony of Whiteness on their campuses. Cabrera and other scholars have persuasively argued that in higher education "institutions and social policies are generally created and guided by a White supremacist logic. That is, systemic racism is so ingrained in contemporary society that color-blind or "race-neutral" approaches serve only to reify racial inequality. Systemic racism is present, neutrality is not an option, and institutional leaders have to ask themselves if they want to be part of the solution or part of the problem."²⁹ Colleges and universities have long served as "social sorting mechanisms, disproportionately allocating their social benefits to those already advantaged by society."³⁰ Therefore, I would argue that merely providing access and support services to students from underrepresented and under-resourced communities is not enough. We need to create the conditions under which all students can thrive, and that relates directly to campus climate and improving what many students perceive to be a hostile learning environment. Campus administrators need to be vocal about condemning hate, by directly naming it with specificity. They need to provide avenues for open and honest conversations about race and other issues of difference, by allocating resources and utilizing skilled facilitators. There is so much to be done to more fully realize the aspiration of "equal education." The work of Cabrera and other scholars who have studied issues of racism on college campuses through the lens of critical race theory and Whiteness studies can provide useful tools to help think about some of the contemporary free speech community controversies student affairs administrators have been responding to in higher education environments. As Angela Y. Davis, PhD has famously said, "In a racist society, it is not enough to be non-racist, we must be anti-racist."

Controversies over speech and the utilization of public space on college campuses often revolve around claims to power, authority and ownership. The landscape of student activism on college campuses today across the country shows that students are exercising their right to free speech by advocating for a wide range of causes, of course not all of which explicitly touch on hot button issues like race, ethnicity, religion, sexual orientation, gender identity, and so on. However, how this activism plays out on a college campus often does bring up

²⁹ Nolan L. Cabrera, *White Guys on Campus: Racism, White Immunity, and the Myth of "Post-Racial" Higher Education* (New Brunswick, NJ: Rutgers University Press, 2019), 153.

³⁰ Cabrera, *White Guys on Campus*, 149.

these other underlying issues around difference, because everything is imbued with issues of power relations and privilege. It is like the air we breathe, it is all around us. “Race and racism inform almost every facet of contemporary life, inequitably structuring access, opportunity and success in favor of White people.”³¹ Ever since Donald Trump announced that he was running for President of the United States there has been a surge in extremely high profile free speech community controversies of a certain brand, such as far-Right conservative speakers who are brought to campus to provoke, offend, and antagonize minoritized communities. That is just one type of free speech issue, but it is one that has been extremely challenging for campuses to contend with and it has accordingly received a lot of attention.

Definitions of Key Terms

I would like to offer some definitions that best describe these key terms as I am using them. I am thankful to the people and organizations who created these particular definitions.

Racist:

One who is supporting a racist policy through their actions or inaction or expressing a racist idea.³²

Antiracist:

One who is supporting an antiracist policy that reduces racial inequality through their actions, or is expressing an antiracist idea that racial groups are equals and non needs developing.³³

Structural Racism:

The overarching system of racial bias across institutions and society. These systems give privileges to White people resulting in disadvantages to People of Color.³⁴

Majority:

I do not use this term to refer to numbers but rather to influence. Therefore, I use minority to mean having less systemic influence than the majority. In contemporary context, this means that the majority is defined by Whiteness, heterosexuality, masculinity, Christianity, and ability, among many other -isms in society.³⁵ I also use the word minoritized to highlight the social oppression and power relationship that minoritizes individuals.

Diversity:

Existence of individual and social differences that contribute to identity. All the ways in which people differ, encompassing the different characteristics that make one individual or group different from another. While diversity is often used in reference to race, ethnicity, and gender, I embrace a broader definition of diversity

³¹ Cabrera, *White Guys on Campus*, 82.

³² Ibram Kendi, *Stamped From the Beginning: The Definitive History of Racist Ideas in America* (New York: Bold Type Books, 2016).

³³ Ibram Kendi, *How to Be an Antiracist* (New York: Penguin Random House, 2019).

³⁴ “Being Antiracist,” Smithsonian National Museum of African American History & Culture website, accessed on July 5, 2020, <https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist>

³⁵ Cabrera, *White Guys on Campus*, 122.

Let There Be Light: Freedom of Expression on Campus

that also includes age, national origin, religious, disability, sexual orientation, gender expression, socioeconomic status, education, marital status, language, and physical appearance. My definition also includes diversity of thought: ideas, perspectives, and values. I also recognize that individuals affiliate with multiple identities.³⁶

Inclusion:

The act of creating environments in which any individual or group can be and feel welcomed, respected, and valued to fully participate. An inclusive and welcoming climate embraces differences and offers respect in words and actions for all people. It is important to note that while an inclusive group is by definition diverse, a diverse group isn't always inclusive. Increasingly, recognition of unconscious or 'implicit' bias helps organizations to be deliberate about issues of inclusivity. Providing access to resources and opportunities is also an important aspect of inclusion.³⁷

Equity:

The fair treatment, access, opportunity, and advancement for all people, while at the same time striving to identify and eliminate barriers that have prevented the full participation of some groups. Equity involves making diversity and inclusion central to increasing justice and fairness within the procedures and processes of institutions or systems, as well as in their distribution of resources. Tackling equity issues requires an understanding of the root causes of outcome disparities within our society.³⁸

Racial Equity:

What a genuinely non-racist society would look like, where the distribution of society's benefits and burdens would not be skewed by race, and individuals would be no more or less likely to experience them due to the color of their skin.³⁹

³⁶ Monisha Kapila, Ericka Hines, and Martha Searby, "Why Diversity, Equity, and Inclusion Matter," *Independent Sector*, October 6, 2016, <https://independentsector.org/resource/why-diversity-equity-and-inclusion-matter/>

³⁷ Kapila et al, "Why Diversity, Equity, and Inclusion Matter"

³⁸ Kapila et al, "Why Diversity, Equity, and Inclusion Matter"

³⁹ Kapila et al, "Why Diversity, Equity, and Inclusion Matter"

When Sidewalk Chalk is Used to Spread Hate: #TheChalkening

Key Recommendations:

- Consider enacting content neutral policies that prohibit all chalking regardless of the message.
- Students often demand “transparency” when they want to know what disciplinary actions have been taken against students who engage in hateful actions that violate campus policies. It is important to reassure such students that action has been taken, even if you cannot provide specifics.
- Administrators should empathize with students by letting them know when they are also frustrated by their inability to prevent hateful activities on campus, and their inability to provide the transparency that students demand. Explain to students the legal and policy parameters within which administrators must operate.

A major controversy around speech and expression on our campus occurred during the last week of March 2016, when some students used chalk to write discriminatory messages on the ground, and sharpie markers to write permanent messages on campus buildings. The messages appeared to be promoting Trump, and included negative remarks against Muslims, Chicano/as, Asian Americans, Blacks, women, and the LGBTQ+ community. They purposefully wrote the messages on specific physical areas of the campus to antagonize particular groups. There is a large outdoor photo mural on our campus that depicts the Black Student Union takeover of our North Hall building in 1968, and on the ground underneath the photo murals students chaked “Obama is a Muslim,” and “Muhammad fucked children.” Near South Hall which holds the Department of Chicana and Chicano Studies they wrote “Trump build the wall 2016 but keep the tacos,” and outside the Asian American Resource Center was the phrase “Currency is devalued.” Near our Multicultural Center and Student Resource Building they wrote: “The wall just got ten feet taller,” “Torture Muslims,” “Sodomy = AIDS! Repent!” and “The Hunting Ground is Full of Lies 1 in 4 Women Are Not Raped,” and “there are only two genders.” Clearly, these messages were not all political endorsements, and instead were intended to provoke, taunt, and create fear. Timothy Irvine the Vice President of the Graduate Student Association at the time said that these messages “severely damage the [campus] climate,” and “undermine the administration’s efforts to make religious and racial minority students feel welcome.” Nihal Hakim a member of the Muslim Student Association said that he “didn’t want people to focus too much on the chalking because giving it too much attention is giving them exactly what they want.” He said he wanted UCSB to hold workshops in response to the chalk, addressing how students can have a meaningful dialogue when they disagree, because “Rather than anonymous chalk on the ground, we need to face each other.”⁴⁰

The chalk and sharpie ink messages appeared on the campus over the course of several days and UCSB maintenance staff washed many of the messages away as quickly as they could. Chalking sidewalks is a

⁴⁰ Nicholas Bogel-Burroughs, “Controversial Trump Markings Surface Around Campus,” *The Daily Nexus*, April 1, 2016, <http://dailynexus.com/PrintEditions/04-2016/04-01-2016.pdf>

Let There Be Light: Freedom of Expression on Campus

violation of the UCSB posting policy and can result in a maximum fine of \$20 for a first time offense. This is a content neutral policy, meaning it does not matter what the content of the actual message is – all chalking is prohibited. This made it easier to enforce the policy in this instance, and our Dean of Students has said that it has helped many other times as well. She has encouraged other universities to enact similar content neutral policies. All student organization leaders go through an orientation training where they learn that all chalking is prohibited, and this policy is well known by students on campus. UCSB administrators conducted a police investigation and eventually found out which students had done the chalking and there were consequences for their actions, in terms of property damage and violations of the student code of conduct. Since these were student conduct charges, the administration had to keep the information private in terms of the identity of the individuals.

This was upsetting to students who were hurt, angry, and wanted “transparency” about whether the people who had done the graffiti would be held accountable. When such information is not forthcoming, students often think that nothing is being done. It is important to reassure students that action has been taken, even if you cannot provide specifics. Also, saying that you understand why people may find that frustrating is helpful. Our Dean of Students always emphasizes to students that identifying specific student organizations is rarely helpful anyway, because usually it is only a small number of individuals within an organization who engage in behavior that warrants disciplinary action. Essentially, it is unfair to the other members to condemn an entire group for what specific individuals do. Nevertheless, I got the sense that it was widely believed on campus that students from the UCSB College Republicans and Young Americans for Liberty were the ones who had done the chalking. This incident definitely increased the anger and frustration that some student organizations held towards the College Republicans and Young Americans for Liberty.

Our campus was not unique in experiencing these chalkings in April 2016. The students who had engaged in this behavior at UCSB were inspired by others around the nation. A month earlier at Emory University chalk messages said “Trump” or “Trump 2016.” Students there complained and said the chalk messages made them feel unsafe. In response the director of social media operations for the Trump campaign tweeted about this and then conservative students began writing these inflammatory chalk messages on their own campuses, arguably as retaliation. University of Kansas, University of Tennessee-Chatanooga, and University Michigan, and UC San Diego also reported chalkings, some of which included messages like “abortion is murder,” “deport them all,” “fuck Mexicans,” and “Mexico will pay.”⁴¹ At the University of Michigan there were Islamophobic messages such as #StopIslam, along with pro-Trump chalkings. The University of Michigan didn’t have a content neutral policy that prohibits all chalking. According to an article from Inside Higher Ed “The university left the messages alone, despite unhappy students, because chalk messages are permitted on campus and these did not constitute a direct threat...campus police had been called, but they reported no criminal activity.” As a result, the students took it upon themselves to wash off the messages.⁴² At DePaul University these markings also occurred, and their College Republicans claimed responsibility for them as part of a campus

⁴¹ Jennifer Kabbany, “Provocative Chalk Messages at UC Santa Barbara Prompt Administration Crackdown, Police Probe,” *The College Fix*, April 1, 2016, <https://www.thecollegefix.com/provocative-chalk-messages-uc-santa-barbara-prompt-administration-crackdown-police-probe/>

⁴² Josh Logue, “Messages that aren’t Easily Erased,” *Inside Higher Ed*, April 15, 2016, <https://www.insidehighered.com/news/2016/04/15/pro-trump-chalkings-inflame-many-campuses>

movement known on Twitter as #TheChalkening. The Vice President for Student Affairs at DePaul said “many students, faculty and staff found the chalk messages offensive, hurtful and divisive.”⁴³ These incidents illustrate how social media has impacted student organizing across the nation with groups of students influencing, and even egging each other on.

Frequently when such incidents of hate occur, students want to take action in response. At UCSB the Black Student Union published a response to the chalking in its newsletter *Blackwatch*, *El Congreso* sent a letter to our Chancellor, a student led an effort to try to create a diversity scholarship,⁴⁴ and students focused aspects of their second Million Student March on responding to the controversial chalk writings. During the March they stopped at various locations where there were chalkings targeting specific communities and had speakers from those communities address the crowd, and participants wrote positive messages on chalkboard walls. Rather than addressing political ideologies, event organizers sought to “help students who felt ‘attacked’” so they could “uplift themselves.”⁴⁵

Using Town Halls to Address Free Speech Community Controversies

Key Recommendations:

- Town halls are often an extremely helpful way to address these situations by bringing students and other campus community members together in dialogue.
- Establishing clear community ground rules, a speakers list, and clarifying who will be serving as facilitators, and in what capacity, are all important considerations in planning a successful town hall.
- Expressing gratitude such as thanking students for taking time out of their busy schedules to attend meetings, such as town halls, is really important, especially considering that within the free speech context it is often marginalized students who are disproportionately impacted and may be in greater attendance at town halls.
- An administrator can always acknowledge the time and energy that students are spending on something that is personally meaningful to them, irrespective of whether they agree with the cause or even the student’s tactics.

In terms of an administrative response to the chalk messages, our Vice Chancellor of Student Affairs sent an email to all students condemning the hateful messages and organized “A Town Hall Community Forum and Dialogue.” On the Facebook page for the event, it was described as “an open discussion about our expectations for our campus community. In light of recent divisive chalkings at UCSB, this space will allow for open dialogue

⁴³ Peter Maxwell-Lynn, “Trump Chalking by College Republicans is a ‘Hate Crime,’ Black Students Claim,” *The College Fix*, April 15, 2016, <https://www.thecollegefix.com/trump-chalking-college-republicans-hate-crime-black-students-claim/>

⁴⁴ Madeleine Lee, “Controversial Chalk Inspires New Scholarship,” *The Bottom Line*, May 3, 2016, <https://thebottomline.as.ucsb.edu/2016/05/controversial-chalk-inspires-new-scholarship>

⁴⁵ Nicholas Bogel-Burroughs, “Second Million Student March to Address Controversial Chalk,” *The Daily Nexus*, April 14, 2016, <http://dailynexus.com/PrintEditions/04-2016/04-14-2016.pdf>

Let There Be Light: Freedom of Expression on Campus

in small groups along with the opportunity for individual expression.” It was held on April 7, 2016, within a week of the chalk incidents, and it lasted 90 minutes. The chalkings also came up as a topic during other events and meetings during the week. Town halls are often an extremely helpful way to address these situations by bringing students and other campus community members together in dialogue. When I was interviewing student affairs administrators for this project, a number of them mentioned the importance of town halls. They said that it is important to involve team members who play roles on campus that relate to the incident or situation the town hall is responding to, such as their professional job positions, and also their involvement in communities that may have been particularly impacted. They also stressed the importance of pulling in staff members who have a demeanor and communication skills that will help facilitate a productive dialogue. Establishing clear community ground rules, a speakers list, and clarifying who will be serving as facilitators, and in what capacity, were all mentioned as important considerations in planning a successful town hall. One organization to be aware of is AORTA, the Anti-Oppression Resource & Training Alliance. AORTA is a worker-owned cooperative focused on strengthening movements for social justice and a solidarity economy. They provide workshops, trainings, and consulting services. There are a number of free resources available on their website. In particular they have created an Anti-Oppressive Facilitation for Democratic Process: Making Meetings Awesome For Everyone handout.⁴⁶

Personally, I find town halls to be extremely helpful in general. At the same time I want to acknowledge there has been a lot of talk recently in the profession of “town hall fatigue,” because there are so many town halls, and students often feel like there is a lot of talk, but not enough action. Frequently students demand open communication and transparency, and when there are limitations based on law and policy as to what administrators can divulge in these public spaces, students often get frustrated. In these moments it can be incredibly important for administrators to empathize with students and validate their emotions by using empowerment language to say things such as “I hear you,” and “we see how frustrated you are, it is frustrating for us too.” As a student activist myself, I think expressions of gratitude from administrators can go a long way. It is important for administrators to acknowledge that students are most often in these meetings out of care and concern, rather than in any employment capacity. Therefore, thanking students for taking time out of their busy schedules to attend meetings, such as town halls, is really important, especially considering that within the free speech context it is often marginalized students who are disproportionately impacted and may be in greater attendance at town halls. Even if a student, or student organization is engaging in activities that an administrator might not agree with or even find offensive, the students are still spending their time on these activities most likely because they think that it will improve the university from their perspective. An administrator can always acknowledge the time and energy that students are spending on something that is personally meaningful to them, irrespective of whether they agree with the cause or even the tactics.

⁴⁶ “Anti-Oppressive Facilitation for Democratic Process,” AORTA website, accessed on July 5, 2020, https://aorta.coop/portfolio_page/anti-oppressive-facilitation/



During a previously scheduled town hall meeting between students and administrators regarding Sexual Violence and Sexual Assault, and the status of demands made by Students Against Sexual Assault (SASA) a UCSB student organization, the topic of the chalkings that had recently occurred also came up. Administrators had to be nimble and discuss both topics during the meeting, as two students with MAGA attire and holding an American flag (top right corner of this photograph) stood behind them and briefly exchanged insults with other students in the room. During the meeting, members of the College Republicans and YAL expressed concerns regarding the evidentiary burden of proof in university sexual misconduct adjudications, claiming that it discriminated against those accused of committing a sexual assault. *March 2016, Photo credit: Melissa J. Barthelemy*

Speaking Out: Hearing from Campus Leaders

Key Recommendations:

- One of the most powerful tools that administrators have in responding to hate on their campus and in the wider world is the use of their voice. They should speak out to condemn egregious acts of intolerance as a way of demonstrating the power of “more speech” rather than enforced silence.
- Use specific language that names the particular groups being targeted by hateful, intolerant or offensive acts, and describe the incidents.
- Provide as many details as possible regarding the response of the institution and the division.

Let There Be Light: Freedom of Expression on Campus

- Explain reporting procedures so that incidents of discriminatory practices can be quickly investigated and addressed.
- Provide information regarding campus and community resources that are available to students and other members of the university.
- Promulgate clear and powerful principles of community, stressing the importance of an inclusive environment and condemning hateful or stigmatizing speech.
- Sometimes it is difficult for students to understand that honor codes and creeds are a value statement of behavioral expectations rather than enforceable law. Administrators should remind students of this distinction in the wake of free speech community controversies on campus.

It is important that campus leaders be free to speak in their own right, to assert, and affirm their institutional values.⁴⁷ That can be achieved during public meetings, as well as in university-wide correspondences, or messages that are sent only to the student body. An important aspect of the administration's response to the hateful chalk messages at UCSB was a letter that VCSA Klawunn wrote and emailed to all students.⁴⁸ In the letter she described what had occurred and what policies were violated. She said

"Some of the messages constitute political endorsements, while others contain offensive, ignorant and hateful statements that target, provoke and divide our community...The sexism, racism, homophobia, transphobia, and intolerance contained in these messages are inconsistent with our core values and our commitment to maintain an inclusive and safe learning environment for every member of the UCSB community. These actions undermine our sense of community and our commitment to diversity. Such hateful messages have no place in our university. Our students, staff, and faculty take pride in our collective efforts to create an atmosphere of inclusiveness. These messages degrade and distract our community and isolate those groups who are targeted."

One reason I think this statement is so powerful is the specificity of her language in naming how hurtful the statements were by saying they are "offensive, ignorant and hateful," and then also listing the types of prejudices they invoked "sexism, racism, homophobia, transphobia, and intolerance." In these moments, it matters a lot to students to see the discrimination actually called out for what it is – the particular groups that are being targeted. I think this is an important takeaway in general, and it is something that has been especially emphasized as of late in regards to specifically naming anti-Black racism in the wake of the police killing of George Floyd. Activists and scholars are repeatedly calling for specificity in relation to naming the type of violence that occurs and the group that is impacted. For example, social justice activists have said that it is not okay to say "George Floyd died," when in actuality "George Floyd, a Black man, was killed at the hands of White police officers." And it is not enough to say "People of Color are killed at a disproportionately higher rate than Whites because of racism," because while that is true, it lacks specificity. In particular, people are

⁴⁷ "Diversity & Inclusion," PEN America website, accessed July 20, 2020, <https://campusfreespeechguide.pen.org/issue/diversity-and-inclusion/>

⁴⁸ Margaret Klawunn, "Letter to Students," UCSB Student Affairs website, accessed on July 5, 2020, <https://www.sa.ucsb.edu/docs/default-source/default-document-library/community-message-letter-campus-climate-concerns-april-1-2016.pdf>

talking about Blacks being killed at a higher rate and it is because of anti-Blackness.⁴⁹ This is a really important lesson for administrators to keep in mind when they are issuing statements in response to acts of discrimination and other bias incidents. Additionally, in the letter Dr. Klawunn also says the chalk statements were intended to “target, provoke, and divide our community.” It is important for administrators to name the intent and serious impact of these acts of intolerance.

Dr. Klawunn’s letter went on to discuss the impacts of these messages, that an investigation was being conducted, which policies were violated, where students can get additional support services and resources, and she quoted UCSB’s Principles of Community. They state,

“The community requires the respectful exchange of ideas. People should be passionate about what they believe and how they express that belief, but they must also be civil in both word and deed. This principle is particularly important when a community encompasses people who have different backgrounds, worldviews, etc. This is not about political correctness; it is about basic respect – about how people treat one another, not about what people think or believe.”

Relying on Principles of Community

VCSA Klawunn went on to say “UCSB’s campus policies protect and uphold freedom of speech. These rights also come with the responsibility to engage with one another civilly and respectfully, and in ways that support our community.” I imagine some might take issue with this letter, arguing that it could chill free speech, but I take the letter to largely be about community responsibilities and an appeal to values. Sometimes it is difficult for students to understand that honor codes and creeds, such as our UCSB’s Principles of Community, are a value statement of behavioral expectations rather than enforceable law. This is discussed at student orientations, but administrators should expect to have to remind students of this distinction in the wake of free speech community controversies on campus.

When referring to institutional creeds and value statements, sometimes it is important to clarify that they are not an extension of student codes of conduct. “Creeds and values statements are voluntary in nature. By expressly stating that commitment to the creed or statement of core value is voluntary, the institution is reminding students that they chose to be a part of a community – this concept enhances the opportunity for educational interventions.”⁵⁰ Some scholars and practitioners have suggested that universities should consider extending academic freedom and autonomy protections to student affairs professionals. Since such campus policies are not currently in existence, these creeds can help provide an additional avenue for student affairs administrators to challenge problematic situations and offensive speech. Being able to invoke creeds within

⁴⁹ Constance Grady, “Why the Term ‘BIOPI’ is so Complicated, Explained by Linguists,” Vox, June 30, 2020, <https://www.vox.com/2020/6/30/21300294/bipoc-what-does-it-mean-critical-race-linguistics-jonathan-rosa-deandra-miles-hercules>

⁵⁰ LaBanc et al, *The Contested Campus*, 96.

Let There Be Light: Freedom of Expression on Campus

such letters to the campus community is a good way to lessen personal risk by reiterating the institution's values as opposed to sounding like they are issuing a personal statement about their thoughts and feelings.⁵¹

All of this is in keeping with Chemerinsky and Gillman's recommendations of combating hateful and offensive speech, with "more speech." It is important for administrators to find their own voice, and use it to help build trust, openness, honesty, and compassion, while having the courage to name with specificity the hate and violence that has affected the community. It is important to name the impacts, and provide concrete information about future steps that will be taken to address the situation. Occasionally, when it is appropriate, our VCSA will have impacted communities read a draft of the letter she is working on to address a particular incident; it might be fellow administrators, faculty, staff, students or community members whom she reaches out to. I can see how it would be very helpful to get an extra set of eyes on a draft when it is addressing sensitive topics that disproportionately impact particular groups. "By acknowledging and addressing legitimate concerns regarding racism and bigotry in the context of free speech debates, universities can help ensure that the defense of freedom of expression is not misconstrued as a cause that is at odds with movements for social justice." Additionally, our Assistant Vice Chancellor and Dean of Students has a monthly Dean of Student Life Newsletter that she emails directly to students in which she expresses her personal views on issues affecting our campus, the nation and the world, such as the killing of George Floyd and Black Lives Matter protests demanding change. The newsletter provides an opportunity for her to speak directly to students on issues that matter to her and to students. As a student, I find it helpful to hear announcements in her newsletter about upcoming deadlines, events, and activities, as well as being able to hear from her in a way that is personal, authentic, and heartfelt.

An additional thing the UCSB Student Affairs Division did in the wake of the chalkings was create a large informational flier that was widely distributed all over campus. It was hung within academic departments, classrooms, resource centers, and offices. In large letters at the top it has a quote by author Maya Angelou "HATE -- It has caused a lot of problems in this world, but has not solved one yet."⁵² The flier provided information about who to contact if you have witnessed or have been a target of a hate-or bias-motivated incident. Even in this digital era, I think physical fliers can be really helpful because it makes a statement to have such a flier on a wall or bulletin board – it claims physical space with a powerful message.

Working with Faculty

Student affairs administrators often work with faculty in the wake of situations like this – especially faculty from Ethnic Studies programs, Womens' studies, and other allied disciplines. Academic units often seek to respond in the wake of such incidents as well. For instance, the Department of Chicana and Chicano Studies issued a statement saying the chalk messages were purposefully left at "spaces that students of color, queer students, Muslim and Middle Eastern students, undocumented students and women consider to be "safe." It goes on to say that "words can and often do wound, sometimes sparking long-term damage." The Department claims that these messages "were not a healthy exercise in free speech. They were designed to intimidate,

⁵¹ LaBanc et al, *The Contested Campus*, 96.

⁵² "Bias Incident Response," UCSB Assistant Vice Chancellor/Dean of Student Life website, accessed on July 5, 2020, <http://studentlife.sa.ucsb.edu/bias>

frighten, and harass these students. One could reasonably argue that such charged rhetoric constitutes ‘hate speech’ and in fact discourages open dialogue rather than promotes it.”⁵³

No Exception for Hate Speech

As mentioned previously, even though hate speech is deplorable and typically prejudicial towards groups of people based on their identity, hate speech is nevertheless protected speech in the United States.⁵⁴ That is, the First Amendment contains no exception for hate speech; it is not defined by law. Student affairs administrators frequently have to explain this concept to angry campus stakeholders since there is often an assumption that it violates the law because such language can be so shocking, offensive and feel so amoral. Administrators have to carefully navigate the legal terrain while trying to maintain a healthy campus climate that values diversity, equity, and inclusion. I would assume every college and university in the country has a section of their university website dedicated to explaining First Amendment law and campus policies around student protest and demonstrations. One that I came across that I found to be very straightforward and accessible for students is the Freedom of Speech website located at California State University Long Beach (CSULB). In particular, I recommend the FAQ section, which was a team effort between the CSULB Division of Student Affairs and the Center for First Amendment Studies which is located in the university’s Department of Communication Studies. In the FAQ section there are a dozen questions, including “What is “hate speech”? Is it illegal?” It is my personal opinion that their explanation is exemplary in its detail and accessibility to the general public.⁵⁵ Similarly, UCLA has a Free Speech on Campus Guide that is both detailed and highly accessible for students. There is a helpful subsection on the web page that asks “what are the costs?”⁵⁶ Also helpful is the ACLU’s Explainer on Campus Speech.⁵⁷

⁵³ “Statement in Response to Campus Chalk Writings,” University of California, Santa Barbara Department of Chicana and Chicano Studies website, accessed on July 5, 2020 <https://www.chicst.ucsb.edu/news/announcement/287>

⁵⁴ LaBanc et al, *The Contested Campus*, 186.

⁵⁵ “Freedom of Speech FAQ,” California State University, Long Beach website, accessed on July 5, 2020, <http://web.csulb.edu/divisions/students/freespeech/faq.html>

⁵⁶ “Free Speech at UCLA,” UCLA website, accessed July 15, 2020, <https://equity.ucla.edu/know/freedom-of-speech/free-speech-faq/#costs>

⁵⁷ “Speech on Campus,” ACLU website, accessed July 15, 2020, <https://www.aclu.org/other/speech-campus>

Examples of Proactive Steps to Improve Campus Climate

Campus Community Council (CCC)

One thing that has been helpful during this charged political climate is that a Campus Community Council (CCC) was started in 2015 by Vice Chancellor of Student Affairs Margaret Klawunn and Assistant Vice Chancellor of Student Affairs and Dean of Students Katya Armistead to promote an inclusive and respectful campus community at UCSB through proactive education, dialogue, and responsive action to climate or bias-related incidents as well as to concerns about local, national, and international events.

The goals of the Campus Community Council are:

- To bring together individuals who are committed to working toward an inclusive campus;
- To track bias incidents to raise awareness and address needs;
- To design proactive educational efforts to address bias;
- To develop strategies for timely and meaningful responses to campus climate concerns.

The intent for the CCC has been to evaluate trends affecting the campus climate and to initiate proactive education rather than responding solely in reaction to every incident. The Council meetings promote regular conversation among those who are working with and responding to student concerns across the campus, and members are closely attuned to student needs and aware of incidents. The CCC consists of student affairs administrators, representatives from the UC Police Department, faculty, and student representatives who were nominated by the student government. It has been a helpful way for the administration to be aware of what events, activities, and incidents have occurred or will be occurring that they should be aware of.⁵⁸ In creating the CCC, UCSB studied models at other campuses such as the Student Council on Campus Climate at UC Davis.

Alternative Programming to Provide Counter-Narratives: “Resilient Love in a Time of Hate” Series

In following the guidance of legal scholars such as Chemerinsky and Gillman, as outlined in their book *Free Speech on Campus*, student affairs sought to find opportunities to create “more speech” at UCSB. In order to turn reactive steps into proactive efforts for an inclusive campus environment, one idea that student affairs administrators and faculty developed was an ideological framework called “Resilient Love in a Time of Hate.”

This series provided a counter-narrative to the speakers who came to campus to espouse hate, and it was also vital on its own, independent of that. It exemplified the idea of returning hate with love. The series asked, ‘how can we respond ethically and honorably to hate and violence?’ It was designed to bring the campus community together in a way that promotes dialogue to find creative, positive responses to the divisiveness of the current political moment. Featuring visiting artists and academics, it sought to promote conversation and creative

⁵⁸ “Mission and Goals,” University of California, Santa Barbara Student Affairs Campus Community Council 2015-2016 Report, accessed on July 5, 2020, <http://www.sa.ucsb.edu/docs/default-source/academic-initiatives/sa-ar-15-16.pdf>

work that would forge a love-driven response to hate, hurt, and fear.⁵⁹ The series lasted for three years, and all events were open to students, staff, faculty, and community members. The series was so widespread with multi-prong efforts including lectures, training sessions, town halls, and teach-ins, that it is estimated that over 8,000 people attended the events. Additionally, this message of love and compassion was spread as events were advertised widely via email, newspaper, radio, fliers, and signs on campus and in the community.

This effort furthered the belief that programming and marketing efforts that focus on celebrating diversity, activism, civic engagement, and self-care should always be a top priority as a reflection of the university's core values, and not only seen as a necessary reaction to speech acts that attack and demean. It was beautiful to see how many stakeholders were involved and how it strengthened relationships between faculty, staff, students, and community members. In an interview back in 2016, Vice Chancellor of Student Affairs Margaret Klawunn said

"We were inspired to create the series because last spring we had a number of contentious debates on campus that tested our capacity for civil dialogue when feelings were running strong. Given the tough events of the summer for our nation, including gun violence and tense police/community relations as well as this historically uncivil presidential campaign, it seemed like it would be helpful to start the fall quarter with an event that would begin discussion on campus in a positive way. We want to take on the hard issues but set the bar for engaging each other with compassion and openness."⁶⁰

The series included speakers such as: poetry artist and activist Sunni Patterson; law professor Kimberle Crenshaw; Alicia Garza and Patrisse Cullors two of the founders of the Black Lives Movement; educator Rev. Dr. Jamie Washington; poet Nikkita Oliver; Chicano rock band Quetzal; breakbeat poets Idris Goodwin and Kevin Coval; performance artist Sharon Bridforth; White anti-racist advocates Tim Wise, Chris Crass, and Jordana Peacock; Free-Dem Foundations leaders Robert Jones, Jerome Moran, and Daniel Rideau; Associate Dean Tricia Rose; Professor George Lipsitz and numerous other faculty and graduate students from UCSB and around the nation.

⁵⁹ Series advertisement, language adapted to be in the past tense.

⁶⁰ Jim Logan, "Civil Engagement," *The Current*, September 30, 2016, <https://www.news.ucsb.edu/2016/017190/civil-engagement>



Kimberle Crenshaw, JD, posing with two dozen students and faculty from California Polytechnic State University San Luis Obispo in 2018 after Crenshaw's talk "Say Her Name: Why Intersectionality Can't Wait," as part of UCSB's *Living Lives of Resilient Love in a Time of Hate* series. The professor who organized the field trip told me that she wanted to take these students to this event because of a recent high profile incident involving White fraternity members at the school wearing black face, and dressing as gang members for a party.⁶¹ Photo credit: Melissa J. Barthelmy

Diversity, Equity and Inclusion Online Module

For more than a decade UCSB students had been demanding mandatory diversity trainings for students, staff, and faculty. This is something the Student Affairs Division had also been wanting to make happen. Several years ago UCSB partnered with UC Davis and UC Santa Cruz to contract with the educational company Everfi to create an online module for all incoming undergraduate students focused on Diversity, Equity and Inclusion.⁶² Last year, at UCSB 7,832 first year, transfer and Education Abroad Program students completed the module. It

⁶¹ Hailey Branson-Potts, "After Blackface Incident, Minority Students at Cal Poly San Luis Obispo say they don't Feel Welcome," *Los Angeles Times*, April 28, 2018, <https://www.latimes.com/local/lanow/la-me-ln-cal-poly-racism-20180425-story.html>

⁶² "Diversity, Equity, and Inclusion Initiatives," UCSB Assistant Vice Chancellor/Dean of Students website, accessed on July 5, 2020, <http://studentlife.sa.ucsb.edu/equity/initiatives>

was created with extensive engagement with each of the UC campuses and subject matter experts worldwide, and is designed to be a brief orientation to a lifetime of learning about, engaging with, and respectfully discussing identities.

I am extremely impressed with the module because it discusses identity from an intersectional perspective, and it is quite nuanced in its treatment of microaggressions, exclusion, and bias. It also lets students know how to report incidents of bias and how to get support. Other UC campuses, such as UCLA, have begun using the module for their students as well. This past year at UCLA it was made optional for incoming students, as a pilot program, and 90% of students completed it. One UCLA student from the Afrikan Student Union said that she would like to see the training be made mandatory and that she hopes it will create further discourse about diversity at UCLA.⁶³ This is one example of how online spaces can be used to contribute to productive conversation about speech and the potential impact of our voices on others in a way that addresses the goals of equity and inclusion. The goal is a campus climate where all students can feel valued and supported.

Freedom of Expression and Campus Climate Workshop

At UCSB, there are also numerous in-person workshops and trainings that compliment this online module. In particular, the Office of the Dean of Students and Student Engagement & Leadership (SEAL Office) have a 90 minute long Freedom of Expression and Campus Climate Workshop that covers federal and state law, campus policies, civil discourse, and effective communication skills. The goals are for students to: consider the role of speech on campus and in society; improve understanding of the campus' response to controversial events, protests and protected speech; and explore how staff can support students who have concerns about speech and events they are not comfortable with on campus.

There is an interactive component where students discuss world events that are divisive, and then they have the students consider their listening, speaking and non-verbal communication behavioral patterns as part of their reflections after the exercise. Then they ask student participants the following questions: "What do you think the campus climate will be like this fall? What makes a 'positive' campus climate? As staff members, "How can we contribute to a positive campus climate?" Next is a discussion of students' individual response options in terms of contending with controversial speakers on campus -- intentional avoidance, engagement, and protest. During the second portion of the workshop they have students think about their roles on campus as students, as department/university representatives, and where they and their peers can access resources and self-care. The Office of the Dean of Students and SEAL also created a short informational video on Free Expression and Campus Climate that they share with students during orientation and at other key moments during the year.

A helpful resource that was recently published online is the NASPA - Student Affairs Administrators in Higher Education Free Speech and Deliberative Dialogue on Campus Issue Guide. It was produced in partnership with the Kettering Foundation to help address how colleges and universities can foster inclusive campus communities. According to NASPA, the guide is "available for free to anyone with an interest in free speech on

⁶³ Justin Jung, "UCLA Introduces Online Module for Equity, Diversity, and Inclusion," *The Daily Bruin*, February 4, 2020, <https://dailybruin.com/2020/02/05/ucla-introduces-online-module-for-equity-diversity-and-inclusion>

campus and how to encourage civil discourse among those with divergent perspectives” and “it includes valuable suggestions for guiding groups through a deliberate dialogue forum on a controversial topic.”⁶⁴

Here Come the Haters: When Intentionally Provocative Speakers Come to Your Campus

Key Recommendations:

- Administrators should exercise their rights to speak as private citizens to challenge hateful and degrading speech. They should emphasize that the speaker’s demeaning, offensive or hurtful speech contradicts institutional values.
- When an intentionally provocative speaker is trying to organize a talk on campus, consider creating a University web-page that explains the university’s obligation to allow free speech, and provide informational resources and a section for frequently asked questions. This will help promote transparency and will provide an avenue for key campus leaders to take a collective stance against hate.
- During controversial free speech flashpoints the University needs to marshal resources, sponsor counter programming, expand access to mental health resources, and help foster a healthy campus climate by speaking out forcefully against hate.
- In regards to mental health impacts, intentionally provocative speakers who espouse hate often inflict a community based harm that extends beyond individually based harms. To only recommend individual counseling sessions in response, can potentially pathologize a symptom that is actually shared by many because of the circumstances. For many people it can be helpful to be in community with others. Therefore, it is worthwhile to consider other therapeutic modalities such as yoga, a drum circle, a meditation class, art, or group therapy. It is important for counselors to connect with groups of students who have been directly targeted or disproportionately impacted.
- Even public universities may place some limits on outside speakers, and find ways to limit security costs without running afoul of the law. There is a wide range in how universities are handling these situations. Even within the UC system there is substantial variation. What is essential is that university major events policies regarding security fees be viewpoint neutral.

In *Contested Campus: Aligning Professional Values, Social Justice, and Free Speech* the authors provide some suggestions for what administrators can do when intentionally provocative speakers are planning to come to their campus. Campuses have controversial speakers all of the time who represent a wide spectrum of political viewpoints. What I am referring to as “intentionally provocative speakers,” is the idea that some speakers come to campuses specifically to provoke, offend, and bait marginalized student populations. In their “Campus Free Speech Guide” PEN America refers to such individuals as “incendiary provocateurs.” PEN America has a helpful section of their “Campus Free Speech Guide” that focuses on hateful expression and

⁶⁴ “NASPA Launches Guide on Free Speech and Deliberative Dialogue on Campus,” NASPA website, May 22, 2020, <https://www.naspa.org/press/naspa-launches-guide-on-free-speech-and-deliberative-dialogue-on-campus>

invited speakers.⁶⁵ According to the former Director of the American Civil Liberties Union (ACLU), these speakers “deliberately seek to provoke attempts to censor them. This gets them media attention that they would not have had otherwise. They also gain sympathy because people see them as free-speech martyrs.”⁶⁶

The authors of *Contested Campus* say that there are a number of things campus officials can do:

“When an on-campus speaker is offensive or controversial – but the speech is legally protected – administrators still have agency over what types of actions they take to advance the institution’s values. Individual professionals may exercise their rights to speak as private citizens to challenge hateful and degrading speech. As groups, college and university leaders may engage in institutional speech to challenge a speaker’s ideas that are demeaning, offensive, or hurtful to others. Specifically, staff and administrators may point out when speech contradicts institutional values related to diversity, global awareness, equity, or inclusion.”

When the University of Michigan thought that they were going to have to let White nationalist Richard Spencer speak on their campus, they created a webpage to disseminate institutional speech. This webpage included statements by the university president and members of the Board of Regents about university values and how despite the university’s obligation to allow free speech – Spencer’s views were contrary to these values. The webpage also included resources and frequently asked questions to promote transparency about the process of responding to Spencer’s request to speak on campus⁶⁷

Last year a UC Free Speech Fellow, William MacKinnon Morrow, interviewed one of the leaders of the UCSB College Republicans from 2016 when the organization brought Milo Yiannopoulos and Ben Shapiro to campus, and asked her what the motivation was to do so. She said that they purposefully engaged in speech that would “provoke” to get attention, increase their membership, and because there was “a feeling that the concerns they had brought forward to the University Administration about the harassment of some of their members were being ignored.”⁶⁸ They felt like nothing would change “if this club did not exist and did not make itself heard.” They considered their efforts to be successful because the student organization’s membership grew considerably and their members felt that their club was being given more attention by the University administration. She attributed the growth of the club to the attention brought by hosting Milo Yiannopolous and Ben Shapiro as speakers, and the vocal opposition that resulted. The visits to the UCSB campus by both of these speakers were controversial by the standards of our university, but paled in comparison to places like UC Berkeley where there were large protests in response.

⁶⁵ “Campus Free Speech Guide: Hateful Expression,” PEN America website, accessed July 15, 2020, <https://campusfreespeechguide.pen.org/role/student/#hateful-expression>

⁶⁶ Nadine Strossen, “Minorities Suffer the Most from Hate-Speech Laws,” *Spiked*, December 14, 2018, <https://www.spiked-online.com/2018/12/14/minorities-suffer-the-most-from-hate-speech-laws/>

⁶⁷ LaBanc et al, *The Contested Campus*, 96.

⁶⁸ William MacKinnon Morrow, “Students Speak Up: Perspectives of Free Speech Among Student Leaders in the University of California System,” *Selected Works 2018-2019 Fellows Program*, 78. Available at <https://freespeechcenter.universityofcalifornia.edu/fellows-18-19/>

“Feminism in Cancer,” talk at UCSB by Milo Yiannopolous on May 26, 2016

One of the main reasons the visit by Yiannopolous was upsetting to some students was actually the behavior of College Republicans and Young American for Liberty beforehand as they were advertising the event. On May 22, 2016 members of Young American for Liberty (YAL), a registered student organization at UCSB, unfurled a large banner on the tunnel above the main bike path on our campus that said “Feminism Is Cancer.” This was the title of the lecture that Yiannopolous would be giving at UCSB as part of his “Dangerous Faggot Tour.” They held the banner for two hours and shouted at bicyclists and pedestrians passing underneath. I was passing by on my return from lunch off campus, and I heard them shouting at students, such as “Hey, you look like a lesbian! You are probably a feminist. Come see Milo!” To another student they said “You look like a liberal. Are you gay? You need to hear Milo!” When a Black student walked under the bridge they said “You look like a social justice snowflake!” I was really shocked by how they were baiting students with taunts, and have never seen anything like that before in my life. Some of the YAL organizers said they thought “the majority of feminists at UCSB are propagating false rape statistics and infringing on men’s due process rights,” and that was one reason they wanted to bring Yiannopolous to campus. A group of students who were LGBTQ+ gathered underneath and began yelling back at the YAL members and soon there was a shouting contest between the two groups regarding abortion, rape statistics and the definition of feminism. One YAL member defended the insults they were hurling at people passing underneath by saying Yiannopolous is a “provocateur,” therefore “it makes sense that the event’s advertisements would be as provocative as the event.”⁶⁹ Eventually the students who were in a shouting contest with the YAL members, increased exponentially in numbers and made their own homemade signs to hold up in response. Outnumbered, the YAL students eventually left and the LGBTQ+ students hung up signs on the bridge that were supportive of trans folks and feminists. One poster had a photograph of Laverne Cox, an American actress and LGBTQ+ advocate, with a quote that said “We are not what other people say we are. We are who we know ourselves to be, and we are what we love.” Other posters said “Patriarchy is Cancer!” and “Women’s Rights are Human Rights!”

⁶⁹ Nicholas Bogel-Burroughs, “Feminism is Cancer’ Banner Leads to Heated Discussions,” *The Daily Nexus*, May 24, 2016, <https://dailynexus.com/2016-05-24/feminism-is-cancer-banner-leads-to-heated-discussions/>



Members of the UCSB Young Americans for Liberty (YAL) student organization promote “Feminism in Cancer,” talk by Milo Yiannopolous by holding banner and shouting at people passing underneath bridge on May 22, 2016. *Photo credit: Melissa J. Barthelemy*

When Yiannopolous came to UCSB our large event center reached its maximum capacity, and hundreds of students who wanted to attend were turned away. There were administrators and police on scene, but no protesters. Administrators took this as an example of how supportive our campus is of free speech rights, which it is, but some other people on campus were upset about having Yiannopolous speak on campus, and thought more should have been done in response. I was one of those people. I don’t remember all of the details, but I don’t think there was counter-programming that night that students could have gone to instead. Students shouldn’t have to take on the onus of the labor of organizing and raising funds for alternative events. During controversial free speech flashpoints the University needs to marshal resources, sponsor counter programming, expand access to mental health resources, and help foster a healthy campus climate by speaking out forcefully against hate. I remember that it also felt like it took too long for a statement to be

Let There Be Light: Freedom of Expression on Campus

issued by the administration and there were a lot of people I knew who were complaining to me about this delay. We were especially worried about the mental health impacts on students since Yiannopolous had made sexist, racist, xenophobic, homophobic and transphobic comments, had made fun of people with depression and those who engaged in self-harm such as “cutting,” and had laughed about suicidal behavior. During this time period I was serving as an intern to the Director of CAPS (Counseling and Psychological Services) working on special projects. At that time I was not as familiar with free speech matters on our campus, nor had I been working closely with our Vice Chancellor of Student Affairs. I will say, as a student, when you are really upset about something, even just days can feel like an eternity. I now have a much better understanding of the competing priorities that VCSAs and their executive leadership team members have to balance, and the constraints they are operating within. In retrospect, the administration did act quickly, but for students who are impacted, it never feels like this action is quick, or sufficient, enough. It puts immense pressure on administrators to respond quickly, carefully, and within the bounds of the law. As Cabrera has written,

“Racial justice has to be articulated as an institutional value, and then a series of mutually supportive initiatives need to be enacted concurrently to truly change the campus culture of colleges and universities, disrupting what Gusa (2010) refers to as the White institutional presence....institutions of higher education need to be prepared to act quickly based on the ever-changing racial terrain of contemporary American society in order to be part of disrupting White supremacy.”⁷⁰

Nine months after Yiannopolous spoke at UCSB, the campus newspaper reported that Dominick DiCesare, YAL President, said he wasn’t interested in bringing Yiannopolous back the next year because “I’m not trying to provoke anybody. He [Yiannopolous] made his point on this campus, and it responded with incredible peace. They showed me they can have their disagreements and still be peaceful.”⁷¹ At the national level many conservative organizations tell the leaders of YAL, the College Republicans, and Turning Point USA that anytime they try to do any events featuring conservative speakers, especially of the intentionally provocative variety, they either won’t get their event funded or it will be shut down. In some instances, when a campus has no confrontation or protest, it actually undermines the credibility of what conservative organizations are telling them at the national level. Similarly, one administrator I interviewed said that students reached out to her to begin a campus chapter of Turning Point USA but they had a falling out with the national organization because it had told them that the Office of Student Life on their campus was being extremely helpful and accommodating, and that it simply wasn’t true that they were being discriminated against as conservative students. Ultimately, the students told the administrators that they felt like they were being used as “pawns” for the national Turning Point USA and weren’t willing to say that administrators were treating them poorly, when they weren’t. Therefore, they withdrew their application to become a registered student organization and decided they didn’t want anything to do with the national organization. As our Assistant Vice Chancellor and Dean of Students at UCSB often says, “A Dean of Students must be the Dean of ALL students,” regardless of their viewpoints and behavior. Treating every organization in an equitable manner is really important

⁷⁰ Cabrera, *White Guys on Campus*, 58.

⁷¹ Shomik Mukherjee, “UCSB Free Speech Activists: ‘Even Nazis Deserve Free Speech,’” *The Bottom Line*, February 7, 2017, <https://thebottomline.as.ucsb.edu/2017/02/ucsb-free-speech-activists-even-nazis-deserve-free-speech>

legally, and also from the standpoint of professional ethics. Establishing a clear line of communication makes it easier to navigate expressive activity and other issues later on.

When a hate-filled speaker like Yiannopoulos comes to your campus to speak at a large event like this one, it is important to recognize that the mental and emotional impacts can have a ripple effect throughout your entire campus community and beyond. Among some groups, there may be widespread shock, grief, anger, fear, and sadness. It can be more productive to treat these situations as a community based harm, rather than an individual harm. To only recommend individual counseling sessions in response, can potentially pathologize a symptom that is actually shared by many because of the circumstances. For many people it can be helpful to be in community with others. Therefore, it is worthwhile to consider other therapeutic modalities such as yoga, a drum circle, a meditation class, art, or group therapy. I realize my coastal California ways might be showing, since each geographical region has a different campus culture. But, those are some of the things that our campus and other UC's have found to be helpful in the wake of community harm. An especially important outlet for our campus has also been informal conversations at our MultiCultural Center where people sit in a large circle and have a discussion about what they are thinking and feeling, in a way that is very supportive. These meetings at the MultiCultural Center tend to attract students, faculty, staff, and administrators. They have been incredibly important spaces for me personally, both as a student and as a co-facilitator.

In response to the “Feminism is Cancer,” talk that Yiannopoulos gave, students wrote pieces in our student newspaper to show their disapproval. One student said “Yiannopulous praised the UCSB audience for its civility, but you could tell he was a little put out by not having a disruption.”⁷² I agree. Yiannopulous doesn't come to campuses to convey his original research, or elucidate a complex theory, he is there purely to evoke a strong reaction in terms of protest, hoping people will try to shut down his event in order to garner media attention. That way, conservatives can claim that university campuses are hotbeds of liberalism, where conservative voices are silenced and the First Amendment is threatened. This is how conservative students claim they are the victims, and that they are the ones being discriminated against. It essentially comes down to baiting and recycling tired clichés of reverse racism and censorship. The hate that speakers like Yiannopulous, Spencer, Shapiro, and Horowitz peddle on campuses is nothing new or innovative. We have had White supremacy and other forms of prejudice and discrimination for a long time, they use them as a tactics to promote themselves and their agendas, but they didn't invent them.

There is an opinion piece from *The Observer* that was published three years ago and is incredibly helpful for student affairs administrators to be aware of. It is called “I Helped Create the Milo Trolling Playbook. You should Stop Playing Right Into It.”⁷³ It was written by Ryan Holiday, who has helped run low-budget marketing campaigns that depend on provocation to generate controversy -- which exponentially increases media attention -- and fuels sales. He says that Yiannopulous and other provocateur speakers who descend on college campuses are essentially using the same playbook. Ryan claims that they have used his 2012 book *Trust Me, I'm Lying* to come up with similar media strategies that use baiting, deceit, and deception to generate

⁷² Gabriel Lazo, “Milo Yiannopoulos is Cancer,” *The Daily Nexus*, June 1, 2016, <https://dailynexus.com/2016-06-01/milo-yiannopoulos-is-cancer/>

⁷³ Ryan Holiday, “I Helped Create the Milo Trolling Playbook—Stop Playing Right into It,” *Observer*, February 7, 2017, <https://observer.com/2017/02/i-helped-create-the-milo-trolling-playbook-you-should-stop-playing-right-into-it/>

Let There Be Light: Freedom of Expression on Campus

attention. He contends that people are “playing completely into their hands” by protesting provocative speakers like Yiannopolous, Spencer, Shapiro, and Horowitz because that is how they manipulate the media. Without controversy they are nothing. They “leverage the dismissals, anger, mockery, and contempt of the population at large as proof of their credibility. Someone like Milo or Mike Cernovich doesn’t care that you hate them – they like it. It’s proof to their followers that they are doing something subversive and meaningful. It gives their followers something to talk about. It imbues the whole movement with a sense of urgency and action – it creates purpose and meaning.” This article can be an important entry point for conversations with those who want to protest, and even shut down events. There are advantages and disadvantages to these approaches and it is important to discuss them with concerned students and other campus stakeholders.

Another student writing in our school newspaper said “While Milo himself is more infamous for creating spectacles than discussions, hate speech is protected under the First Amendment. Optimistically, in the future, Young Americans for Liberty, and similar groups, will choose to promote more of what they preach and facilitate a dialogue, rather than inviting the brash entertainment that is Milo Yiannopoulos.”⁷⁴ This echoes what critical race theorists have said for decades about hateful and demeaning speech doing nothing to directly promote civic engagement or productive dialogue. When speech or expression targets racial or ethnic minorities it deters meaningful dialogue across groups, it stops conversation about difference rather than fostering it.⁷⁵ Critics of critical race legal analysis have claimed that “tough love” will prepare students for the real world, and that exposing students to hateful speech can actually teach tolerance. Critical race theorist Mari Matsuda criticized this tolerance argument “because it suggests that minority groups that historically have had less power should bear the burden of tolerating the offensive speech and expression of the majority.”⁷⁶ She encouraged people to shift from considering problematic speech through the rights of the speaker to instead consider the expression from the viewpoint of those in the audience who are targeted. Her work can encourage us to think more deeply about the obligation to protect the dignity, equality, and morality of groups that are often targeted by hateful speech on college campuses.

Instead of protesting when Yiannopolous gave his talk at UCSB, it seemed like most people who were not supportive just tried to ignore it. As forms of resistance, a small number of students purposefully took up seats but then left as the event began, and some students asked critical questions during the Q&A. Many people seemed to be dismayed that he was coming to speak, but supported his right, and YAL’s right, to have him do so. This provides a stark contrast from the situation at UC Berkeley 10 months later when there was a large protest on campus that turned violent and destructive, preventing Yiannopolous from speaking. William MacKinnon Morrow had been the president of the undergraduate student government at that time, and he described the situation in an essay he wrote last year as a UC Free Speech Fellow. He said “That evening, the antagonistic and outlandish provocateur, Milo Yiannapolous, was set to speak on Berkeley’s campus about his views on immigration in a thinly-veiled attempt to incite outrage and draw media attention,” and the night devolved into chaos that led to “serious injuries to multiple students, significant damage to campus property,

⁷⁴ Teni Adedeji, “Feminism is Cancer’ is Cancerous to Discussion,” *The Bottom Line*, February 17, 2016, <https://thebottomline.as.ucsb.edu/2016/02/feminism-is-cancer-is-cancerous-to-discussion>

⁷⁵ Delgado and Stefancic, *Must We Defend Nazis?*

⁷⁶ LaBanc et al, *The Contested Campus*, 92.

a national media frenzy, and even a critical tweet from the President of the United States threatening the distribution of federal funds to the University.”⁷⁷ Morrow says that he was just relieved that no one had been shot, as had happened a few weeks earlier at an event planned at the University of Washington when supporters of Yiannopolous shot and wounded a protester.⁷⁸ At the University of Washington, Yiannopolous was still able to deliver his talk because the shooting occurred outside after he had already begun speaking. In January 2017, Yiannopolous had tried to speak at UC Davis, but the UC Davis College Republicans cancelled the event because of safety concerns, due to protests in front of the building.⁷⁹ Student leaders from UC Berkeley have stressed that one reason student and community activists were so angered by Yiannopolous coming to speak was that there was a rumor that he was going to publicly “out” both transgender and undocumented students.⁸⁰ Sometimes it is difficult for the general public to understand how much the intense reactions of student protesters have to do with the fear and anxiety that these speakers arouse in others, because they target marginalized and vulnerable student populations in deeply personal ways.

In addition to concerns about safety, destruction to property, and a negative impact on campus climate, universities also have to worry about the exorbitant security costs associated with intentionally provocative speakers coming to campus. University of Washington spent \$75,000 in police overtime costs when Yiannopolous spoke at UW in January 2017.⁸¹ The University of Florida estimated that it paid more than half a million dollars for security costs when Richard Spencer delivered a speech there in October 2017. UC Berkeley said it spent \$1.4 million for increased security at a series of speaking events in 2017, including when Yiannopolous tried to speak on campus.⁸² Then between August 27 to September 27 in 2018, in just one month, the campus spent close to \$4 million on free speech events. These costs included “security fees and other expenses for three events: counter protests held in response to the “alt-right” rally held on August 27; conservative speaker Ben Shapiro’s appearance September 14; and events related to the ultimately cancelled “Free speech Week,” which featured a brief appearance from Yiannopolous and the Patriot Prayer rally that followed on September 26.”⁸³ These are hefty sums, especially considering UC Berkeley’s serious budget deficit. Universities have struggled with figuring out how to deal with these high security expenses, all while trying to justify increasing tuition costs for students. Colleges are in a difficult position as they try to balance free speech rights and the security of the campus environment. Some have attempted to prohibit such speakers from coming to their campus citing safety concerns, as well as the prohibitive financial impacts of

⁷⁷ Morrow, “Students Speak Up: Perspectives of Free Speech Among Student Leaders in the University of California System,” 78.

⁷⁸ Daniel Gilbert, “Milo Yiannopoulos at UW: A Speech, a Shooting and \$75,000 in Police Overtime,” *The Seattle Times*, March 27, 2017, <https://www.seattletimes.com/seattle-news/crime/milo-yiannopoulos-at-uw-a-speech-a-shooting-and-75000-in-police-overtime/>

⁷⁹ Dalila-Johari Paul, “Protesters shut down Milo Yiannopoulos Event at UC Davis,” *CNN*, January 4, 2017, <https://www.cnn.com/2017/01/14/us/milo-yiannopoulos-uc-davis-speech-canceled/>

⁸⁰ Morrow, “Students Speak Up: Perspectives of Free Speech Among Student Leaders in the University of California System.”

⁸¹ Paul, “Protesters shut down Milo Yiannopoulos Event at UC Davis.”

⁸² LaBanc et al, *The Contested Campus*, 98.

⁸³ Ashley Wong, “UC Berkeley Spent \$4 Million on ‘Free Speech’ Events Last Year,” *The Daily Californian*, February 4, 2018, <https://www.dailycal.org/2018/02/04/uc-berkeley-split-4m-cost-free-speech-events-uc-office-president/>

Let There Be Light: Freedom of Expression on Campus

increased security. In return, universities have been sued by speakers who claim that their rights to freedom of expression are being violated -- and those speakers have been successful in their lawsuits.

For instance, in the spring of 2017 Auburn University received a request for on-campus space to host Richard Spencer, who was at the time the president of the National Policy Institute, a White supremacist think tank. The request was from a student from another southeastern university who wanted to serve as the event host at Auburn University. At that time, Auburn policy allowed outside reservations without a campus sponsor. This was so that the university had an additional revenue stream, especially during school breaks when there weren't students and community members present on campus. Since then they have amended their policy, as have other universities, by now requiring an on-campus sponsor, to make it more difficult for speakers espousing hate to reserve campus space through university non-affiliates.⁸⁴ Such campuses have decided that the additional revenue that might be generated are not worth the risks of reputational damage and harm to the campus community. Auburn University denied the request to have Richard Spencer speak on campus. He sued the University, claiming that his right to speech had been violated, and he was successful. As part of the settlement Auburn University had to pay Spencer's legal fees, totaling \$28,000 and they had to host his event.⁸⁵ In December 2018 UC Berkeley settled a lawsuit by the UC Berkeley College Republicans that challenged the University's "unfairly restrictive policies towards conservative speakers." As part of the settlement, the University agreed to amend its major events policies regarding charging security fees for a variety of activities, including lectures and speeches. It also paid \$70,000 in legal costs to the UC Berkeley College Republicans and Tennessee-based Young America's Foundation.⁸⁶

It is still possible for universities to place some limits on outside speakers, and find ways to limit security costs without running afoul of the law. There is a wide range in how universities are handling these situations. Even within the UC system there is substantial variation. At UC Irvine any costs associated with security are paid by the campus, and not charged to the sponsoring organization. UCLA recently developed a policy that sets aside a university fund of \$100k a year to cover special security costs on a first come-first served basis, and once that money runs out the university no longer allows major events by certain sponsors for the remainder of the year. The fund is then replenished the next year.⁸⁷ What is essential is that university major events policies regarding security fees be viewpoint neutral. College Republicans can't be charged more for their events just because anticipated security costs are higher due to more people wanting to protest their controversial speakers. In some cases, based on state statutes, the institution may be required to pay for the increased security costs. It is essential that university staff be familiar with these policies and apply them in a way that is consistent in order to ensure fairness.

⁸⁴ Jeremy Bauer-Wolf, "Reclaiming Their Campuses," *Inside Higher Ed*, March 21, 2018, <https://www.insidehighered.com/news/2018/03/21/colleges-changing-their-policies-after-visits-controversial-speakers>

⁸⁵ LaBanc et al, *The Contested Campus*, 107.

⁸⁶ Johnathan Stempel, "UC Berkeley Settles Lawsuit over Treatment of Conservative Speakers," *Reuters*, December 3, 2018, <https://www.reuters.com/article/us-california-lawsuit-ucberkeley/uc-berkeley-settles-lawsuit-over-treatment-of-conservative-speakers-idUSKBN1O22K4>

⁸⁷ Howard Gillman, "#SpeechMatters2020 Conference" Lightning Talk

Efforts by the UCSB College Republicans to Secure Funding and Bring Ben Shapiro to UCSB to Give a Talk

When UCSB College Republicans' announced that they were bringing Ben Shapiro to campus to give his talk "Prejudices, Lies, and Divided People: The Legacy of #BlackLivesMatter" it ignited controversy and backlash. On October 31, 2016 they had submitted a request for \$5,000 in funding from the Associated Students (undergraduate student government) Finance & Business Committee for security, room booking fee, and a portion of Shapiro's honorarium. The funding request was approved with 7 voting in favor and 5 abstaining. To be official the requests must be approved by both ASF&B and the AS Senate. It is unclear whether it was a clerical error on the part of ASF&B or the College Republicans, but the information entered into the record was that the talk would be called "Prejudices, Lies, and Divided People: The Legacy of #BlackLives." Leaving out the word "Matter," made it sound as though Shapiro's talk would be about Black people rather than about the Black Lives Matter (BLM) Movement. On their Facebook group page the UCSB College Republicans said it was "extremely careless and irresponsible" of the ASF&B to incorrectly represent the title of the event in their published report on the event, and went on to say "Perhaps this was an honest mistake; perhaps it was done intentionally to rile up additional anger against our event and against our organization."⁸⁸ The Black Student Union (BSU) objected to the idea of AS using student funds to host a speaker who would be spreading a message of anti-Blackness and hate. In past renditions of the talk that Shapiro would be giving he had said that the Black Lives Matter movement "lacked values," "act[ed] as a source of violence" and used inaccurate statistics to support assertions of inequality in Black communities.⁸⁹ BSU organized a "Senate BLACKout," to take place at the Senate meeting to protest ASF&B's vote to fund the event, and demanding that Senate nullify ASF&B's decision. On a campus where only 4% of the student population is Black, BSU claimed that Shapiro's talk would further marginalize Black students, causing them to feel unwelcome and unsafe.

Members of BSU claimed that AS Senate could deny organizations funding, not based on content of the message of the speaker, but on the grounds that "the event can or is shown to bring about harm or attack members of the student body." BSU said that Shapiro's talk would impose sociological and emotional trauma upon marginalized communities. In a letter to the AS Senators, BSU members and other individuals asked that they deny the funding request based on the AS Legal Code, Article II – The Student Bill of Rights Section G" which states that "All students shall have the right to be free from discrimination and harassment on the basis of race, gender, sexuality, ethnicity, religion, national origin, disability, sexual orientation, status within or outside the university, or political belief in all activities sponsored or conducted by the University, its affiliates, ASUCSB, or campus student groups." They said that the Article also guaranteed students the right to freedom and expression, and that "When the two conflict, it is up to the elected members of the senate, to make a decision that most accurately represents the interests, values, and beliefs of the student body you serve." They provided a handful of examples of Shapiro making transphobic, homophobic, and anti-Black comments

⁸⁸ UCSB College Republicans Facebook post, accessed on July 5, 2020, <https://www.facebook.com/ucsbcrr/posts/official-statementconcerning-recent-affairsin-order-to-promote-and-engage-in-a-m/317380321966436>

⁸⁹ Brandon Chen and Tamari Dzotsenidze, "A.S. Finance Committee to fund \$5,000 for College Republicans Event featuring Ben Shapiro," *The Daily Nexus*, November 2, 2016, <https://dailynexus.com/2016-11-02/a-s-to-fund-college-republicans-event-featuring-ben-shapiro/>

Let There Be Light: Freedom of Expression on Campus

during speaking engagements, on social media, and in articles he had written.⁹⁰ One part of the letter said “Hidden behind the guise of ‘creat[ing] awareness and bringing truth to serious issues in our community,’ this event is a poorly masked attempt, using the defense of free speech, to antagonize Black students and further a highly disputatious agenda.” Students took turns reading this letter aloud during the AS Senate Meeting. The AS Senate Meeting was extremely contentious. Senators had asked members of the College Republicans to stop filming the meeting, most likely because they did not want to be doxed online. The College Republicans refused and members of the Black Student Union unsuccessfully tried to prevent them from continuing to film. Tensions escalated during the six hour long meeting. At one point one of the College Republican members who was White almost got into a physical confrontation with one of the AS Senators who is Black. Administrators and four UC Police Department officers broke up the crowd.⁹¹ The vote was postponed for the following week.

The next week at the AS Senate Meeting there was a lengthy public comment portion and eventually a vote regarding funding for the Ben Shapiro event. Numerous students from the Black Student Union, the College Republicans and other students spoke during the public comment portion. I was shocked by the racism, anti-Blackness, intolerance, and race baiting that I witnessed on the part of some of the College Republicans who spoke. I can understand why the College Republicans would be angry about the misreporting of the name of their event, the fact that ASF&B approved the funding, only to have it called into question at the next meeting when things turned contentious, and then to have the vote delayed, thus jeopardizing the timeline for their event. Those are all frustrating things. I believe it is true when they allege that far more liberal events are funded than conservative events at UCSB, though I don’t think nearly as many conservative events are proposed, which explains much of this. But, none of that frustration excuses some of the comments that were made at the Senate meeting by some of the individual members. There were Black students from BSU who spoke about how difficult it was to be a Black student on the UCSB campus, when there are so few people that look like them, and that having Shapiro speak at our largest lecture hall would increase their anxiety and concerns about their safety. Students from the College Republicans would intentionally laugh loudly at them, and mocked them for being sensitive “snowflakes” when they spoke during the public comment portions. They repeatedly used a quote from Ben Shapiro, “Facts don’t care about your feelings.”

During the public comments portion several of the students from College Republicans who appeared to be White, said that they wanted to learn more about issues of race, but that Students of Color didn’t want to speak with them about race. However, as they continued speaking it became clear that they hadn’t actually tried to engage in those conversations because they felt uncomfortable, and they had instead assumed Students of Color wouldn’t want to speak with them about matters of race. This is similar to Cabrera’s finding from his research study that showed White males “felt racially oppressed from a variety of sources, including political correctness, racial minorities assuming they were going to be racist, and race-conscious social policies,

⁹⁰ Kayla Schierbecker, “Video- UC Santa Barbara Dean Tries to Stop Students from Filming Ben Shapiro Funding Debate,” *The College Fix*, November 9, 2016, <https://www.thecollegefix.com/uc-santa-barbara-dean-tries-stop-students-filming-ben-shapiro-funding-debate/>

⁹¹ Madeleine Lee, “A.S. Senate Approves Funding for Ben Shapiro Talk Amid Protests,” *The Bottom Line*, November 3, 2016, <https://thebottomline.as.ucsb.edu/2016/11/a-s-senate-approves-funding-for-ben-shapiro-talk-amid-protests>

in particular affirmative action.”⁹² Carbera has also found that “White guys tended to view People of Color as overly sensitive on issues of race,” when in fact they often displayed fragile emotional states themselves.⁹³ In unfounded claims of reverse racism, White male students allege that it is Students of Color who “make race an issue,” by having separate spaces on campus that are focused on cultural support, such as MultiCultural Centers and Cultural Resource Centers. They are essentially trying to promote a race-blind argument when they say “this is just speech,” and that Shapiro’s talk “is about a movement, not a people.” What I witnessed in the AS Senate meeting in terms of the behavior of some of the students, seemed to reflect Cabrera’s finding that “the underlying irony was that these White guys tended to see People of Color as overly sensitive on issues of race when in fact they were the ones being emotionally uncomfortable and sometimes angry about issues of race.”⁹⁴

UCSB College Republicans also claimed that their student organization couldn’t possibly be racist because their board was all Latino/a. This is something that they frequently said, and it got promoted by conservative news media outlets, such as *The College Fix* which poked fun at the idea that the “‘All Hispanic’ executive board [was] accused of racism, white supremacy.”⁹⁵ In one of these articles the President of the College Republicans was quoted as having told an AS senator at the meeting “I do find it ironic that these accusations of racism and white supremacy are thrown at an elected [CR] executive board that is all Hispanic.” His response was in reaction to the senator’s comments about the College Republicans perpetuating “anti-blackness and racism” on social media.⁹⁶ College Republicans seemed to be unfamiliar with the concept of inter-minority racism. Some individuals who are members of a minority group uphold White supremacy in what has been termed multiracial White supremacy.⁹⁷ Based on their comments, some of the Latino/a members who were leaders of the College Republicans engaged in anti-Black racism and it is important to name it for what it is. Additionally, Education Justice Coordinator Donna K. Bivens has written, “Just as racism results in the system of structural advantage called white privilege for white people and their communities, internalized racism results in the system of structural disadvantage called internalized racism for peoples and communities of color.”⁹⁸

Between 2015-2017 UCSB College Republicans always described themselves as the victims of prejudice from their fellow students and the university administration. On their Facebook group page they wrote “who are these angry leftists protesting, exactly? What revolution are they fighting? How are they “oppressed” at UCSB when they are the political majority, the side that 90% of this campus supports and agrees with? How are they “rebellious” against some “oppressive” College Republican establishment when they are the establishment, and

⁹² Cabrera, *White Guys on Campus*, 52.

⁹³ Cabrera, *White Guys on Campus*, 52.

⁹⁴ Cabrera, *White Guys on Campus*, 148.

⁹⁵ Kayla Schierbecker, “Video- UC Santa Barbara Dean Tries to Stop Students from Filming Ben Shapiro Funding Debate.”

⁹⁶ Kayla Schierbecker, “Video- UC Santa Barbara Dean Tries to Stop Students from Filming Ben Shapiro Funding Debate.”

⁹⁷ Lydia Lum, “NCORE Conference: Scholar Offers Perspectives on Inter-Minority Racism,” *Diverse Issues in Higher Education*, June 6, 2011, <https://diverseeducation.com/article/15778/>

⁹⁸ Donna K. Bivens, “What is Internalized Racism?” *Flipping the Script: White Privilege and Community Building*, https://www.racialequitytools.org/resourcefiles/What_is_Internalized_Racism.pdf

we are the political minority?” They later say “Stop throwing your weight around and trying to pick on the “minority,” which you self-righteously claim to defend, by trying to shut down our events.”⁹⁹ In his Master’s Thesis “It’s Very Isolating”: Discourse Strategies of Conservative Student Groups on a Liberal University Campus,” UCSB PhD Candidate in Linguistics, Jamaal Muwwakkil studied conservative political identity formation at the University of California. He argues that bigoted students are empowered by discursive strategies and an ideology of “free speech” being constrained by liberals. He says that conservative groups coalesce “around a shared sense of victimization centered around a highly selective and limited version of ‘free speech.’”¹⁰⁰ Conservative students bond through commiseration about their “perceived persecution related to their exercise of ‘free speech’” and conservative student clubs function as “safe spaces where bonding and resistance strategies” are developed. Muwwakkil claims that these bigots maintain plausible deniability by utilizing discursive strategies to obfuscate their bigotry.¹⁰¹ Thus, “the conservative focus on ‘free speech’ conflates freedom of expression with freedom from the social consequences for that expression. This constrained sense of ‘free speech’ entails not suffering social stigma for having voiced potentially reprehensible ideas, so that ‘freedom of speech’ is in effect freedom from the negative consequences of speech.”¹⁰²

At the end of this lengthy meeting the AS Senate did approve the fee request. Because of the delays, the College Republicans rescheduled Shapiro to speak in late February 2017. Many students were angered by this outcome and were asking the administration if anything could be done. One thing that the AS Executive Director and VCSA suggested to students was that they could demand their portion of the student fee money allocated to the event, be refunded directly to them. It ended up being such an incredibly small amount of money, that it didn’t seem like many students decided to go to the trouble of asking for a refund. This was nevertheless one creative solution, based on policy, that allowed students the option of not having any of their student fees be used by the College Republicans for costs associated with Ben Shapiro’s talk.

Meetings were organized with members of the BSU, administrators, and other concerned campus community members, to find out what other things could be done to address the situation. Many of us wanted to help mitigate some of the hurt and harm that students were experiencing. One thing that happened as a response was t-shirts were created with the message “#HateFreeUCSB,” and “Exclusion is Ignorance,” on the back and “Respect is Not Radical,” and “#iheartUCSB” on the front. They were given out for free by the Associated Students government. They were so popular that all of the shirts were picked up within a few short hours. Many more were made and eventually sold for \$10 each because the demand was so high. Many people -- staff, students, and faculty wore these shirts on campus, especially on days that were particularly significant or symbolic. This was during the same time that the Trump administration had been making xenophobic and anti-immigrant comments towards Muslims and Mexican Americans. I found it to be a conversation starter with a number of students who approached me to speak, just based on the fact that we were wearing these

⁹⁹ UCSB College Republicans Facebook post, accessed on July 5, 2020 <https://www.facebook.com/ucsbcrr/posts/official-statementconcerning-recent-affairsin-order-to-promote-and-engage-in-a-m/317380321966436>

¹⁰⁰ Muwwakkil, “It’s Very Isolating,” 44.

¹⁰¹ Muwwakkil, “It’s Very Isolating,” iv.

¹⁰² Muwwakkil, “It’s Very Isolating,” 45.

same shirts. We spoke about how it felt good to be in solidarity with each other. This is one simple tactic that university administrators can consider suggesting to activists on their campus who want to do something “visible” and unifying. It allows people to take a stand both individually, and collectively, and can feel quite powerful. Of course, on the flip side, a small number of students got upset with these shirts and said that “hate won’t go away just because you are wearing a shirt.” They thought it minimized the significance of the harm they were experiencing, and that it was a hollow gesture. As with anything, there will always be disagreements over tactics, but it is helpful to have options to present people with.



UCSB staff and students listening to speakers at the Eternal Flame on Martin Luther King, Jr. Day, 2016. The Eternal Flame was a gift from the UCSB class of 1968. These t-shirts say “#HateFreeUCSB,” and “Exclusion is Ignorance,” on the back and “Respect is Not Radical,” and “#iheartUCSB,” on the front. Wearing these shirts provided a visible and unifying response to hate on campus, and helped people to take a stance both individually and collectively. *Photograph credit: Melissa J. Barthelemy*

Counter-Narrative: “An Evening with Tim Wise a White Anti-Racist Advocate” Talk at UCSB on January 25, 2017

Key Recommendations:

- One way to respond to intentionally provocative speakers who are coming to campus to espouse hate and intolerance, is to engage in “more speech,” by hosting speakers who will provide a counter-narrative that upholds institutional values concerning diversity, equity, and inclusion.
- Administrators, faculty, staff and students all have important roles to play in managing controversial speakers, responding to intolerant and offensive speech, and countering divisive national rhetoric. They should forge collaborative partnerships and engage in proactive actions such as creating alternative programming to provide counter-narratives, marketing campaigns, faculty engagement, student resources, and providing opportunities for dialogue between administrators, concerned students, and students coordinating controversial programs.
- Having students and faculty take the lead on organizing alternative programming can be “safer” for administrators in terms of the politics of the situation, but it is important that administrators also take some personal and professional risks in defending institutional values. Administrators must be visible in response efforts -- the campus community needs to see and hear from its leaders.
- Students need to be supported emotionally and logistically in terms of the administration helping provide labor and financial resources. Community free speech controversies require a community based response.

In reaction to the hateful comments made during the AS meeting, and the negative impact on campus climate, I felt like something needed to be done on a larger public scale. I get occasional emails from Speak Out – The Institute for Democratic Education and Culture, which is “a non-profit organization that educates, inspires and empowers young people to become activists for social justice.”¹⁰³ This is an organization that I highly recommend because of its fantastic speakers. In one of their emails I saw that well-known anti-racism advocate Wise was going to be in Southern California and that we could possibly book him for an event on our campus at a lower cost because he would already be in the area. Wise is a prominent author, educator and White anti-racist advocate who has spent the past 28 years speaking on over 1000 college and high school campuses, at hundreds of conferences, and to community groups across the nation. He is the author of seven books, including his highly-acclaimed memoir, *White Like Me: Reflections on Race from a Privileged Son*.

I contacted two of my friends from the Black Student Union and asked if they would want to work with me to bring Tim Wise to campus, and they both said yes. At the time Samantha Sanchez was an undergraduate student, and Aaron Jones was a staff member working with Associated Students and a graduate student in Education. We all thought that in this instance it would be good to bring someone like Tim Wise who would draw a large crowd. Wise identifies as a White straight cis-gendered male and anti-racist advocate. We believed that his visit would likely bring in an audience that would have more White students in attendance

¹⁰³ “Mission and Programs,” SpeakOutNow.org website, accessed on July 5, 2020, <https://www.speakoutnow.org/about>

than at many of the other events during the year that feature People of Color as speakers on topics of anti-racism. Research has shown that people are more likely to trust someone of their own racial group on matters of race. There are people who have critiques of Wise for a number of reasons, including those who allege that the speaker fees he collects should instead go to People of Color who can speak to the topics of anti-racism advocacy and social justice. Based on what was going on our campus at the moment, we thought that having a White man who has dedicated his life to anti-racism work and social justice advocacy would provide a positive counterbalance. He was very accommodating and willing to speak at a reduced cost, and meet with students for dinner afterwards. We were able to get funding for the event through the student government, and received permission to include the event as part of the *Resilient Love in a Time of Hate Series*, and marketed the event accordingly.

We only had three weeks to secure funding, organize and advertise the event. In order to get the word out we used some unusual methods in addition to the usual approach of social media, email, radio, fliers, and newspaper announcements. We repurposed huge wooden sandwich sign boards that were double-sided, six feet tall and four feet wide, and attached to them huge color posters that were professionally printed with the same information as the event flier. These were left at prominent locations on campus. We also painted large wooden garden stakes a bright royal blue color, and stapled laminated fliers onto the wooden stakes, and drove them into the ground all over campus at busy locations. On all of these wooden advertisements, we prominently painted “#HateFreeUCSB” in yellow, to take a stand against hatred on campus. In moments like this, I think it is important to take a loud stance, and physical signage can be highly effective -- even in this digital era. Of course, it is always easier when student activists and faculty are the ones taking the public risks, rather than administrators. Personally, I felt more comfortable that Aaron was also a graduate student at the time, because it meant that all three of us were students. Universities are unusual in that there is a hierarchy in which students often feel like they have less power than high level administrators, and yet students have the most expansive ability to exercise their voice with minimal risk, as compared to career staff. There was so much intense emotion on campus during this time period that someone kicked in our wooden signs. One of the large signs had said “Can We Talk about Race? Can We Talk about Social Justice?” Another sign had said “HateFreeUCSB.” I was going to throw the wooden signs away after they were damaged, but Aaron told me to bring them to the event. He displayed them on the stage next to the podium by using a plastic sandwich board to prop them upright so that everyone could see them. During the introductory remarks Aaron said, “look at these signs that were kicked in, this is an indication that we still have much work to do in this community, and this is why we need events like this.” Aaron, Sam and I each made brief remarks and then introduced the Vice Chancellor of Student Affairs who then introduced Tim Wise. For us it was important to have our VCSA speak at this event, because administrators often support events from behind the scenes, but it is crucial for students to see and hear from them during heated times for the campus.¹⁰⁴

¹⁰⁴ Arturo Samaniego, “Noted Anti-Racist Activist Tim Wise Speaks at Campbell Hall,” *The Bottom Line*, January 29, 2017, <https://thebottomline.as.ucsb.edu/2017/01/noted-anti-racist-activist-tim-wise-speaks-at-campbell-hall>



Tim Wise speaking with students after the lecture “An Evening with Time Wise a White Anti-Racist Advocate,” on January 25, 2017 at Campbell Hall, UCSB. Kicked in wooden signs appear in the foreground. *Photo credit: Melissa J. Barthelmy*

In advance of Wise coming to speak we secured funding from the student government to have 2,000 stickers with the phrase #HateFreeUCSB printed on them. We gave these stickers out to attendees as they entered the large auditorium. I was incredibly moved by the fact that some students sat outside the locked building for 90 minutes before the doors even opened, because they knew it would be a full house. We ended up having close to one thousand people attend the event. Afterwards Wise said that it was the largest group at a university he had ever spoken to and that he had feared the talk wouldn’t be well attended because we only had three weeks to advertise it. This is testament to the fact that counter-narratives about messages of social justice and anti-racism advocacy can be a profound way to respond to hateful speakers by generating “more speech.” Students are eager to hear these messages, just as they are often eager to do something positive in times of challenge, such as when incendiary provocateurs come to peddle hate. It is important for administrators and staff to help facilitate opportunities for students to take action in a way that is supported, and to do so in a timely fashion. I was surprised that Wise’s talk was much more politically divisive and critical of President Trump than I had anticipated. In terms of lessons learned, next time I would be more persistent about getting specific details about the exact content of the talk. I also want to mention that I noticed and appreciated that many of the leaders of the College Republicans and Young Americans for Liberty attended the event, were respectful, and asked Wise thoughtful questions during the Q&A.

Student Responses to Ben Shapiro's Talk "Prejudices, Lies, and Divided People: The Legacy of #BlackLivesMatter" at UCSB on February 21, 2017

Key Recommendations:

- When planning counter-programming efforts, prioritize organizing co-curricular activities that celebrate cultural diversity and provide victims of hateful and bullying acts the opportunity to be heard. When Ben Shapiro spoke at UCSB the counter-programming event that was organized for that evening was called "Yes We CAN: Cultural Appreciation Night." EOP student interns hosted this event during the same time as the Shapiro event, so that students had an alternative event they could attend.
- Be bold and vocal in condemning hateful or stigmatizing speech. At UCSB we created and distributed #HateFreeUCSB stickers and shirts, placed signage around campus, and had large fliers made with a quote by Maya Angelou that denounced hate, and provided details on how to report discrimination and bias.
- Simple acts can produce meaningful results, and while you can't control the behavior of other individuals, you can control how you decide to respond to acts of intolerance on your campus.
- Administrators need to work closely with impacted communities to find out how they can better support them, and work towards creating an environment that lives up to the ideals of equal educational opportunities.

A month after our event featuring Tim Wise, Ben Shapiro came to speak at UCSB. In the weeks before Shapiro's talk, the Young American for Liberties (YAL) tried to draw additional attention to the topic of free speech on campus. On February 7, 2017 a small handful of YAL members held signs in front of the UCSB Library that said: "Even Nazis Deserve Free Speech," "Viewpoint diversity is the most important type of diversity in a university," and "Islam is the enemy of the gay community." The YAL members said they were upset that a few days before there was a riot at UC Berkeley that prevented Yiannopoulos from speaking there, and they were also angry that White nationalist spokesman Richard Spencer had been hit by an unidentified person several weeks before, as seen in a video of the incident that went viral. They said they were protesting against free speech censorship on liberal campuses. A crowd of 20 to 30 UCSB students gathered in front of the Library to counter-protest against YAL.

One of the students who was counter-protesting told student reporters that they thought it was wrong to use inflammatory tactics to incite a response from people because "the idea of normalizing hate and putting down another group may help people decide to act on that. Hate crimes and anti-Semitism have been up since the election. It's a daily reminder that as much as we can think we've moved forward, we haven't. It's horrifying."¹⁰⁵

Concerned about the rancor on campus, and with Ben Shapiro's upcoming visit, I reached out to Samantha Sanchez, the undergraduate student who had organized Tim Wise's visit with me. We both had a feeling that

¹⁰⁵ Shomik Mukherjee, "UCSB Free Speech Activists: 'Even Nazis Deserve Free Speech.'"

Let There Be Light: Freedom of Expression on Campus

the College Republicans would again stand atop our busiest tunnel on campus with a banner to promote their event while hurling insults at people passing below. We wanted to provide an alternative, and do something positive that would make us feel good on the day Shapiro was coming to speak. So, we set-up a canopy in the rain and gave out stickers that said #HateFreeUCSB. We had fliers that were announcing counter-programming that was happening that evening, and the flier with the quote by Maya Angelou denouncing hate, and explaining how to report discrimination and bias. Shortly after we set-up and began giving out the free stickers, some of the leaders from the College Republicans took their positions on the bridge and unfurled a banner that said “Facts Don’t Care About Your Feelings,” a famous quote from Ben Shapiro. I don’t know what they yelled at people passing under the bridge but over the course of several hours we had a handful of students show up crying after they passed underneath, asking us for hugs as well as stickers. Quite a few students expressed how appreciative they were that we were there. Several players from the women’s basketball team showed up to take stickers back for the whole team. It was especially meaningful to them because they had been taking a knee before games, in solidarity with athletes like Colin Kaepernick who had been protesting police killings of unarmed Black people. We also had staff, administrators and faculty all come by to get stickers. It was one of the simplest and most enjoyable actions on campus I have been a part of because it was a powerful act at an important moment.



Community activist Tiffany Thomas (center) with two UCSB Basketball team players who came by our booth to pick up #HateFreeUCSB stickers on February 21, 2017. *Photo credit: Melissa J. Barthelémy*

One student asked us why we weren’t confronting the College Republicans on the bridge which was about 150 feet away from us. We explained that we didn’t have anything to do with what they were doing. We said that we had these stickers left from an event and just wanted to give them out. At one point one of the leaders from College Republicans, one of the students who tended to get the most aggressive in these sorts of situations, did approach us, along with three other male students who were with him. He looked at us and angrily said “You are doing this because Ben Shapiro is coming tonight!” We gave him a puzzled look. Frustrated, he tried

to engage us by quoting Ben Shapiro and spouting out statistics. I looked at him blankly and said “gee, we didn’t come here to debate you. We don’t even know what you are talking about. If you don’t mind we would like to focus on giving out stickers.” He said “Why are you giving out these stickers?!” Another student said “We think our campus should try to be hate free. Who would object to that?” Those of us giving out stickers were smiling, laughing, and hugging other students during all of this exchange. It was obvious that we weren’t intimidated, or willing to engage in a debate with them. I don’t think they could handle our happiness so they went back to their post on the bridge and resumed yelling at students passing underneath. Simple acts can produce meaningful results, and while you can’t control the behavior of other individuals, you can control how you decide to respond to acts of intolerance on your campus.



UCSB student Samantha Sanchez and community activist Tiffany Thomas handing out #HateFreeUCSB stickers on February 21, 2017.

Photo credit: Melissa J. Barthelemy

There is another reason why I wanted to organize this sticker give-away action. In the days leading up to Ben Shapiro’s visit I had been contacted by friends from two different social justice oriented organizations who wanted me to work with them to organize a protest. One was my friend who heads the local chapter of SURJ (Showing Up for Racial Justice) which is a national network of groups and individuals organizing and taking action for racial justice. This organization is located off-campus and not affiliated with the university.¹⁰⁶ The other friend was the president of the Student Activist Network, a registered student organization at UCSB that facilitates coalitional work among social justice organizations on and off campus. My friend from SURJ told me that they were hoping to organize at least 300 people with signs and banners to stand outside of our large

¹⁰⁶ “Home Page,” Showing UP for Racial Justice website, accessed on July 5, 2020, <https://www.showingupforracialjustice.org/>

Let There Be Light: Freedom of Expression on Campus

auditorium to protest Shapiro's hateful messages. I told them that there are always advantages and disadvantages to any protest and I would never tell someone that they shouldn't protest. It was just that in this particular situation I felt like a protest is exactly what Shapiro would want in order to gain media attention. I sent them an electronic copy of the opinion piece mentioned earlier "I helped create the Milo trolling playbook. You should stop playing right into it." They both read the piece and said that they could see where I was coming from, and they agreed that it might be better to deprive him of the publicity. Protesting controversial speakers often increases safety risks, requires campus police and additional staffing, risks reputational damage to the institution, and allows the speaker to gain more followers on social media by increasing their individual relevance. I suggested that they instead support the counter-programming that the students were organizing, which they and their organizational members did. Personally, I had three primary motivations for trying to steer individuals and organizations away from protesting. First and foremost I was concerned about the safety of the campus community. Second, I feared that Shapiro would end up being able to claim that he was a "victim" of free speech censorship on a liberal campus and use that claim of "martyrdom" to increase his following. Lastly, as much as I may personally disagree with Shapiro's message, it was important that he be able to give his talk. It is undeniable that the College Republicans and Young Americans for Liberty had put tremendous effort into bringing Shapiro to campus and it was not only their legal right, but also their right as students to be able to hear their speaker.

There were no protests or disruptions at the Ben Shapiro event. One news article said "many expected Tuesday night's event to result in protests and potentially violence."¹⁰⁷ Shapiro was noticeably thrown off by the lack of protest. Several times during his opening remarks he said that there are normally protesters at his talks, and he began describing other campuses where people had protested his appearance. He gave numbers and details. It was sad listening to him describe places where people had protested him, as if those were victories. Most likely it was the controversies over the funding for the event that made him think people would protest.

Similarly to the Yiannopolous and Wise events, Shapiro's talk filled the auditorium to capacity and about 50 people had to be turned away. One noticeable difference was that the audience had many more middle-aged adults. I was told by a staff person that a lot of the people in the audience were likely not affiliated with the university, and had taken buses from their churches in other cities to attend the event. It sounded like the buses were parked right outside.

The counter-programming event that evening was called "Yes We CAN: Cultural Appreciation Night." The EOP student interns came up with the idea of having this event during the same time as the Shapiro event, so that students had an alternative event they could attend. It was held in the Student Resource Building and was hosted by the Cultural Resource Centers. Each Center stayed open late and had food specific to that culture, live music, and arts activities. It was an incredibly successful event. Members of the Student Activist Network attended this event instead of protesting Shapiro's talk. They had also helped with giving out the "HateFreeUCSB stickers earlier in the day. At the Shapiro event, many of the administrators, and student activists like myself, wore the #HateFreeUCSB t-shirts to be in solidarity with each other, and to indicate that the talk did not reflect our campus, or personal values. Symbols such as shirts, hats, bracelets, and stickers can

¹⁰⁷ Josh Zitser, "Everything that Happened when Former Breitbart Editor Ben Shapiro came to UCSB," *The Tab*, February 22, 2017, <https://thetab.com/us/ucsb/2017/02/22/ben-shapiro-came-to-ucsb-2583>

serve as a powerful sign to students from impacted communities that their needs and concerns are being heard. This is a creative way of providing “more speech” in an environment where one cannot be disruptive through spoken speech. Of course these symbols, while important, are not the large scale change that needs to happen on university campuses to confront the legacies of White supremacy, privilege and intolerance. What matters most is that administrators work closely with impacted communities to find out how they can better support them, and work towards creating an environment that lives up to the ideals of equal educational opportunities.

Say What?! Social Media Controversies and Cyberbullying

Key Recommendations:

- Create opportunities to bring problematic online behavior between students, or student groups, into an in-person setting.
- Everything is contextual, so administrators have to make decisions that work for their campus environment and based on the particularities of the social media incident that they are responding to.
- In terms of response, preliminary statements from campus leadership can serve as a helpful intermediary step to: let the campus community know that the administration is also concerned about an incident, that they are working on a response, and to remind everyone of what resources are available on campus to support students. Administrators can then follow up with more detailed messaging and action as things develop further, and once more resources have been marshalled for the response, which may include such actions as town hall meetings.

One of the most difficult things facing colleges and universities today is trying to navigate free speech issues that occur online, and specifically via social media. The technology and behavior evolves at a faster pace than policies can keep up with, and administrators are constantly having to react to things that happen very quickly online. The recent Zoombombings by White supremacists is one example of this unanticipated behavior, as classes and meetings were forced to move online due to the Coronavirus and physical distancing mandates. Over the course of the past couple of decades campus life has been increasingly moving on-line, for academic, employment, and social purposes – and now the pace of this change has been dramatically increased. In 2016-2017 UCSB the College Republicans and the Black Student Union had heated arguments online, as well as in person, regarding Ben Shapiro’s upcoming visit to UCSB. I remember hearing about, and observing, insulting messages being posted on the Facebook group pages that they had created for their respective student organizations. Ethnic and racial minorities are often harassed and targeted by online stereotyping. Compared with White students, Black students tend to experience more racial discrimination in online forums. Additionally, Black students who experience online discrimination tend to have poorer perceptions of campus racial climate. This is especially concerning given the other hardships that Black students are regularly facing on campus, which contribute to lower persistence rates.¹⁰⁸

¹⁰⁸ LaBanc, *The Contested Campus*, 116.

Let There Be Light: Freedom of Expression on Campus

People often view online speech or expression as inherently different from face-to-face interactions. They feel that they have more anonymity behind a computer or cell phone screen, and are frequently willing to say more hurtful things online, than what they would ever say in person. This is called “the online disinhibition effect.” Researchers have attributed this behavior to such factors as: invisibility, dissociative anonymity, asynchronicity, and minimization of authority.¹⁰⁹ One of the recommendations for student affairs professionals is that they create opportunities to bring problematic online behavior between students, or student groups, into an in-person setting. At such a meeting staff can facilitate a conversation about honor codes and behavioral expectations, as well as asking students to consider the impact their online posts can have on their peers. It is more difficult to have in-person conversations right now because of the COVID pandemic and the switch to remote learning. Having students speak with staff via Zoom is one alternative, though it is important to check those security settings to make sure your conversations are private, so that you don’t get Zoombombed! It is important to educate students about their rights and responsibilities in exercising their free speech in online contexts. Students should be encouraged to think about the fact that in many instances they may have a right to say something but that doesn’t mean that they should, in terms of thinking about empathy and appeals to morality. Impact must be considered at both the individual and institutional level. It is important for administrators to make statements that reject hurtful online speech because it conflicts with institutional values, and it is equally important that institutions connect those who have been targeted by hateful speech with support resources and opportunities to engage in collective responses.

In the case of the Black Student Union, there were a handful of undergraduate students from the organization who told me they didn’t feel safe on campus because some of the College Republican students were so angry that they had tried to have funding cancelled for the Ben Shapiro event. They told me that these students from the College Republicans were saying horrible things to them and about them online, and especially on Facebook. They also said that some of the members seemed to know the schedules of the BSU leaders and were following them around on campus in order to intimidate them. One student told me that when she got out of class there was a student from College Republicans who would follow her to her next class, and then a different student would follow her from that class to her on-campus job. She said that she didn’t know the names of these students, and that it wasn’t just one individual, it was several. I encouraged her, and her student organization members, to let the Student Affairs Division know, but it appeared that these actions did not rise to the level of harassment, and it was hard to prove that they were actually following the BSU students around in an effort to intimidate them. Nevertheless, these students were naturally anxious and concerned for their individual safety and that of their fellow organization members. It was clear that this behavior was negatively impacting their lives and their studies. An additional challenge for these students was the unwanted negative attention from across the nation that they received from conservatives off campus who read articles from conservative news outlets such as *The College Fix*, and even watched videos of the Senate vote where BSU members had spoken out. These articles can be shared so easily via social media that it doesn’t take long for footage to go viral encouraging followers from outside the campus to target administrators and

¹⁰⁹ LaBanc, *The Contested Campus*, 118.

liberal students. This can make students and campus officials feel like their actions are under a magnifying glass, and sometimes subject them to doxing.¹¹⁰

One of the main challenges with social media is the pace. Images and stories can go viral almost instantaneously and can be seen around the world at the lift of a fingertip. It is sudden, unpredictable, and campuses are often expected to have an immediate response. This impatience puts pressure on a situation that is already anxiety producing for many administrators. Because of this increased scrutiny, there is tremendous pressure to “get it right.” Everything is contextual, so administrators have to make decisions that work for their campus environment and based on the particularities of the incident that they are responding to. In the case of our campus we have found preliminary statements from our Vice Chancellor of Student Affairs and our Assistant Vice Chancellor of Student Affairs and Dean of Students, to be helpful as an intermediary step to: let the campus community know that they are also concerned about an incident, and that they are working on a response, and to remind everyone of what resources are available on campus to support them. They then follow up with more detailed messaging and action as things develop further, and once more resources have been marshalled for the response, which may include such things as town hall meetings.

A month before Milo Yiannapolous was coming to speak at UCSB our campus experienced a high-profile incident in which a controversial photograph taken at our university went viral. A conservative writer and self-proclaimed “professional truth sayers” named Matt Walsh was invited by the UCSB College Republicans to speak at an event called “An Encroachment on Liberty: How the Left Exploits Transgender Laws.” There were 70 students in the audience, including students from the College Republicans and Young Americans for Liberty chapters at other UC campuses. During the event there were no disruptions of the speaker but flyers reading “Keep Bigotry Where It Belongs” with images of YAL’s flyers submerged in a toilet, were placed in several rows of the event space as a sign of silent protest. Several police officers and five student workers from the Community Service Organization (CSO) stood out front the event to provide security.¹¹¹ After the event students from the UC Los Angeles and UC San Diego College Republicans posed for a photograph with signs that said: “Get your agenda out of my restroom!” “There are only two genders!” and “Transgenderism is a mental disorder!” There was public outcry, especially on some of the UC campuses, as many people condemned the signs as discriminatory and hateful. One of the students who posed in the photograph and posted it online, said that she had received death threats. University police and university administrators at UCLA were notified in order to help protect the security of the students.¹¹² Some individuals wanted the students in the photograph to be admonished by campus administrators for their behavior, but the photograph and the signs they were holding are protected under the First Amendment.

There have been quite a few attention grabbing transphobic events and activities that conservative members of the student population at UCSB have engaged in – especially during the past four years, but it is important

¹¹⁰ Justin Jung, “UCLA Introduces Online Module for Equity, Diversity, and Inclusion”

¹¹¹ Madeleine Lee, “Matt Walsh Event Targets Transgenderism,” *The Bottom Line*, May 8, 2016, <https://thebottomline.as.ucsb.edu/2016/05/matt-walsh-details-flaws-of-transgenderism>

¹¹² Janice Shiao, “Student Photo Protests Transgender Identity, Raises Free Speech Debate,” *Daily Bruin*, May 11, 2016, <https://dailybruin.com/2016/05/11/student-photo-protests-transgender-identity-raises-free-speech-debate>

Let There Be Light: Freedom of Expression on Campus

to recognize that this behavior is not confined to a particular political viewpoint or political party affiliation. Another high-profile incident involved a UCSB PhD Candidate in Feminist Studies named Laura Tanner and occurred during the 2019 school year. Tanner describes herself online as a “radical feminist,” or what some would call a “gender-critical feminist.” Tanner has an account @saltyfemst, which includes her name and image, and on it she posted dozens of transphobic tweets such as: “It’s not possible to be born in the wrong body,” “so called trans women will never be anything but men,” and “Genital cutting of any kind does not change one’s sex and can never make a man into a woman.”¹¹³ Tanner had taught as a teaching assistant for an introductory LGBTQ+ studies course and once the tweets were discovered and made public among the student body, students began demanding that she be fired, claiming that her beliefs interfered with her ability to teach. In order to draw attention to the issue, two undergraduate students organized a demonstration against Tanner, and to support the transgender community on campus. One of those students said in an interview with reporters, that she knew Tanner was “protected by her First Amendment on Twitter,” and that students were “also showing our First Amendment [rights] on campus by advocating for our community here and spreading awareness.” Twenty graduate students from the Feminist Studies Department and more than 400 alumni released two open letters – the first demanding that the university protect its students, and the second emphasizing the Feminist Studies Department’s commitment to transgender and genderqueer students. In response Tanner defended her legal right to share her views on social media and accused the students of a smear campaign intended to incite violence, perpetuate lies about her teaching, and harass her based on her race and sexuality. A Title IX investigation occurred to see if there were any campus policy violations, but the university did not release details of the investigation due to confidentiality requirements that govern employees and students.¹¹⁴ The intersections of free speech, academic freedom, and social media in the university environment are a rapidly evolving area of law and policy.

Doxing

Key Recommendations:

- One way that we have responded on our campus to doxing is that the Vice Chancellor of Student Affairs or members of her staff have offered to write students a letter of recommendation, or provide them with a form letter. The form letter says the student was doxed, and that from an institutional perspective this is seen as an unfair characterization of their activism.
- At an event where administrators anticipate that doxing may occur, such as during a contentious student government meeting, staff should make an announcement about what doxing is and what resources are available to support students who may be doxed. Including information and resources on responding to doxing on university websites is also important.

¹¹³ Evelyn Spence, “UCSB Teaching Assistant Under Fire from Colleagues, Students for Transphobic Tweets,” *The Daily Nexus*, July 2, 2019, <https://dailynexus.com/2019-07-02/ucsb-teaching-assistant-under-fire-from-colleagues-students-for-transphobic-tweets/>

¹¹⁴ Colleen Flaherty, “The Trans Divide,” *Inside Higher Ed*, July 19, 2019, <https://www.insidehighered.com/news/2019/07/19/divide-over-scholarly-debate-over-gender-identity-rages>

One especially concerning aspect of cyberbullying is doxing. Doxing is the act of publishing private information and identifying information about an individual online with intent to harm. It is done in order to shame someone, encourage other online users to intimidate someone, or put the person being doxed in actual danger. It comes from the abbreviated form of the word documents, and is a type of online harassment used to exact revenge and to destroy the privacy of individuals by making their personal information public, including addresses, email accounts, phone numbers, social media accounts, social security, credit card information, or compromising photos or videos.

In a university setting, any member of the institution may be affected by doxing, whether they be administrator, professor, student or staff. They may be the target of such behavior, or they may be the one engaging in the behavior themselves. There have been myriad incidents and cases involving doxing, it happens quite frequently, and I will touch on just a few examples. It is important to be aware of the range of issues that may come up in relation to the topic of doxing.

There have been instances where a faculty member has doxed a graduate student for various reasons. One example of this is when Marquette University fired Professor John McAdams for doxing a PhD student in Philosophy named Cheryl Abbate because she allegedly prevented an undergraduate student in her classroom from saying things critical of marriage rights for same-sex couples. She said that this student's comments were not pertinent to what she had already planned in advance for the teaching lesson and discussion. The undergraduate student went to McAdams, because of the professor's conservative reputation on campus, to tell him that he was being silenced because of his viewpoint against same-sex marriage. McAdams then doxed the graduate student by providing her name and contact information, on his blog post. McAdams claimed that this blog post and all of his comments were an exercise of academic freedom and protected speech. The graduate student ended up receiving ruthless, hateful attacks from McAdams followers. Marquette University had already warned McAdams previously that he was not allowed to dox members of the university, because he had done this several times before. The University suspended McAdams for jeopardizing the safety of a student teacher, putting her directly in harm's way by publishing her name and contact information on his blog.¹¹⁵ As a result of being suspended without pay for seven semesters, McAdams sued the University and he won, with the court finding that he had to be reinstated because the university had breached its contract by engaging in activity protected by the contract's guarantee of academic freedom.¹¹⁶ Increasingly, student affairs administrators are being called upon by faculty and students to help advise them on how they can respond to doxing.

More often these conflicts between professors and students have to do with viewpoints related to the particular subject matter the professor teaches and researches, or their political activism regarding a particular political cause. One well-known case regarding doxing involves Professor Rabab Abdulhadi, who teaches in the Arab and Muslim Ethnicities and Diasporas Studies Department at San Francisco State University (SFSU). I

¹¹⁵ "Facts About McAdams Case," Marquette University website, accessed July 15, 2020, <https://www.marquette.edu/mcadams-case-facts/myths-vs-facts.php>

¹¹⁶ Karen Herzog and Bruce Vielmetti, "Wisconsin Supreme Court Sides with Marquette Professor John McAdams in Free Speech Case," *Milwaukee Journal Sentinel*, July 9, 2018, <https://www.jsonline.com/story/news/education/2018/07/06/marquette-professor-john-mcadams-prevails-academic-freedom-case/759800002/>

Let There Be Light: Freedom of Expression on Campus

was able to hear Dr. Abdulhadi and a number of other panelists speak on the panel discussion “Academic Freedom for Whom? Islamophobia, Palestine, and Campus Politics” at a conference sponsored by the SFSU History Department in 2017. She and the other panelists said that there is a double standard in academia in which the academic freedom rights of professors who promote Justice in Palestine are not supported to the same degree as are academics who are pro-Israel. According to a website called “Support Professor Rababa Abdulhadi,” she has been “subjected to a relentless new McCarthyist and bullying campaign launched by a pro-Israel network that seeks to silence and intimidate her and dismantle the Arab and Muslim Ethnicities and Diaspora Studies and advocacy for Justice in Palestine at San Francisco State University.”¹¹⁷ During the panel Dr. Abdulhadi spoke about being doxed, receiving death threats, and being targeted by students on her own campus. She said that the SFSU was failing to protect her and her students, and she is currently suing the university due to what she alleges is “a systemic pattern of university discrimination against a Palestinian professor and the program she was explicitly hired to direct.”¹¹⁸

The Canary Mission has Abdulhadi’s profile listed as a professor whose actions they condemn, alleging that she supports terrorism and promotes antisemitism. On its website The Canary Mission says that it “documents people and groups that promote hatred of the USA, Israel and Jews. We investigate hatred across the North American political spectrum, including the far-right, far-left and anti-Israel activists.” The organization says that “every individual and organization has been carefully researched and sourced.”¹¹⁹ In 2018 students at UC Davis protested against The Canary Mission saying it is a “spying organization” that has doxed over 2,000 students and 500 professors for any critique of Israel. Some people criticize the organization for casting too wide of a net by grouping together those who criticize Israel with those who call for complete dissolution of Israel as a state and those who use anti-Semitic slurs. Students who are critical of the group say that “The Canary Mission equates any form of what is perceived as anti-Zionism, including support of the Boycott, Divestment and Sanctions movement, with anti-Semitism and racism.”¹²⁰

The Boycott, Divestment and Sanctions movement (BDS) has been a heated topic on college campuses across the country for years. BDS refers to the effort to have the UC system withdraw investments from companies that profit off of alleged human rights violations by the Israeli government against the Palestinian people. Within the UC system, UC Santa Barbara is the only undergraduate UC campus that has not voted to pass the resolution. In April 2019, the last time UCSB Associated Students voted on a resolution call there were 10 votes in favor and 14 against. The student government leaders decided to vote by secret ballot because “Both

¹¹⁷ “About Dr. Rabab Abdulhadi,” Support Prof. Rabab Abdulhadi website, accessed July 15, 2020, <https://supportprofabdulhadi.org/about-dr-rabab-abdulhadi/>

¹¹⁸ “The International Campaign to Defend Professor Rabab Abdulhadi,” Support Prof. Rabab Abdulhadi website, August 22, 2019, <https://supportprofabdulhadi.org/2017/08/22/federal-judge-moves-forward-with-abdulhadi-lawsuit/>

¹¹⁹ “Because the World Should Know,” Canary Mission website, accessed July 15, 2020, <https://canarymission.org>

¹²⁰ Aaron Liss, “Canary Mission releases Personal Information of UC Davis students, faculty who criticize Israel,” *The California Aggie*, October 12, 2018, <https://theaggie.org/2018/10/12/canary-mission-releases-personal-information-of-uc-davis-students-faculty-who-criticize-israel/>

senators and their constituents expressed concern about students being doxxed.¹²¹ During the public forum portion of the meeting members provided their opinions about divestment, and the AS leaders were being doxed right as the meeting took place, which was causing anxiety in many students. UCSB Student Affairs administrators had anticipated that doxing might happen online during the meeting so they provided information to the AS Senators and those in attendance about the doxing resources available online through the Dean of Students Office.¹²²

Since doxing often involves spreading disinformation about an individual and/or a movement, it can negatively impact a person's web presence, making it more difficult to get into graduate programs or obtain jobs. One way that we have responded on our campus to doxing in general is that the Vice Chancellor of Student Affairs or members of her staff have offered to write students a letter of recommendation, or provide them with a form letter. In situations where the VCSA has personally known the students and can attest to their qualifications she has avoided saying the name of the organization or individual who engaged in the doxing, and has just said "this student was doxed because of their activism" and has spun it as a positive. For instance, she has said something along the lines of "this student has the aptitude and capacity to be successful as a graduate student" and how "they navigated a difficult situation with maturity and showed leadership." If the affected student is someone who our VCSA does not know personally, a member of her team will meet with the student to review the circumstances. If warranted, the Division will help secure letters from other good recommenders and help provide guidance on the language used to describe the situation. Another option has been to provide a form letter that says the student was doxed, and that from an institutional perspective this is seen as an unfair characterization of their activism.

One positive thing for administrators to be aware of is the court case *Dumpson v. Anglin* which potentially indicates an increasing willingness of courts to hold those accountable who engage in doxing and other online harassment of college students. Taylor Dumpson was the first African American female student body president of American University. Following her election in May 2017, Dumpson was the target of hate crimes based on her race and gender. On her first day in office, nooses were found hanging around campus with bananas tied to them, some of which had "AKA" written on them which referenced the Dumpson's historically Black sorority. Others read "Harambe bait," referencing a gorilla killed at the Cincinnati Zoo and making a racist and threatening comparison to African Americans. She was harassed on Twitter and Facebook.

Andrew Anglin, a known neo-Nazi posted Dumpson's personal information online and encouraged his followers to harass her. Anglin maintains a White supremacist website called the Daily Stormer. In response to Anglin's behavior, a number of his followers did target Dumpson with hateful messages, and out of fear she resigned as student body president. She sued Anglin and several other defendants claiming that she had suffered significant injuries and feared for her safety. She also claimed that the Defendant interfered with her ability to fully enjoy places of public accommodation and interfered with an equal opportunity to participate

¹²¹ Evelyn Spence, Sanya Kamidi, Simren Virma, and Jorge Mercado, "A.S. Senate Votes Against Divestment through Secret Ballot," *The Daily Nexus*, April 11, 2019, <https://dailynexus.com/2019-04-11/a-s-senate-votes-against-divestment-through-secret-ballot/>

¹²² "Protecting yourself from Online Harassment and Doxing," UCSB Student Affairs website, accessed July 15, 2020, <http://studentlife.sa.ucsb.edu/docs/default-source/campusclimateinclusion/ucsb-doxing-guide.pdf>

Let There Be Light: Freedom of Expression on Campus

in her education.¹²³ In a landmark settlement the judge ruled that Neo-Nazis have no First Amendment right to harassment and Dumpson received a \$725,000 settlement.¹²⁴ The court also required the Defendant to provide a sincere apology; undergo anti-hate training and counseling for at least one year; undergo academic coursework on race and gender issues; perform 200 hours of community service related to racial justice or serving a minority community; renounce and publicly advocate against White supremacy, hate, and other forms of bigotry; and refrain from engaging in future hateful activities.¹²⁵ For those who are interested in hearing more about this court case, one of the lawyers who represented Dumpson was interviewed by UC Free Speech Fellow Dr. Andrea Brenner at the last #SpeechMatters Conference in Washington DC.¹²⁶

An important resource to also be aware of is the PEN America “Campus Free Speech Guide: Tips for Facing Online Harassment and Threats.”¹²⁷ The guide has sections specific to students, faculty, and administrators. Among other things it discusses how individuals should: document the harassment or threats, assess their feelings about personal safety, provide notification to campus authorities, bolster their cyber security, and learn their rights. PEN America also has an online harassment field manual.¹²⁸ Other good sources include: a comprehensive guide to digital security available at Wired.com,¹²⁹ the materials found at iHeartMob which is a community working to help end online harassment,¹³⁰ and Cybersmile.org which is a multi-award winning anti-cyberbullying nonprofit organization committed to tackling all forms of digital abuse, harassment, and bullying online.¹³¹

Activism: Freedom of Expression, Public Art and Activism on Campus

Key Recommendations:

- Faculty can play an important role in fostering freedom of expression on campus. It can be incredibly meaningful for students to work with their professors on projects outside of the classroom, and especially on ones that center their identities.

¹²³ “Landmark Settlement in Dumpson vs. Ade,” Lawyers Committee for Civil Rights under Law website, accessed July 15, 2020, <https://lawyerscommittee.org/landmark-settlement-in-dumpson-v-ade/>

¹²⁴ Karen Zraick, “Neo-Nazis have no First Amendment Right to Harassment, Judge Rules,” The New York Times, November 15, 2018, <https://www.nytimes.com/2018/11/15/us/daily-stormer-anti-semitic-lawsuit.html>

¹²⁵ Stanley Augustin, “Landmark Settlement between Hate Incident Perpetrator and Survivor Announced in Dumpson vs. Ade,” Lawyers Committee for Civil Rights Under Law website, December 18, 2018, <https://live-lawyers-committee-2020.pantheonsite.io/landmark-settlement-between-hate-incident-perpetrator-and-survivor-announced-in-dumpson-v-ade/>

¹²⁶ “#SpeechMatters2020 Conference Agenda,” Session “Tackling Hate: Dumpson v. Anglin,” University of California National Center for Free Speech and Civic Engagement, accessed July 5, 2020, <https://freespeechcenter.universityofcalifornia.edu/speech-matters-2020/>

¹²⁷ “Tips for Students facing Online Harassment and Threats,” PEN America website, accessed July 15, 2020, <https://campusfreespeechguide.pen.org/resource/tips-for-students-facing-online-harassment-and-threats/>

¹²⁸ “Online Harassment Field Manual,” PEN America website, accessed July 15, 2020, <https://onlineharassmentfieldmanual.pen.org>

¹²⁹ “The Wired Guide to Digital Security,” Wired, accessed on July 15, 2020, <https://www.wired.com/2017/12/digital-security-guide/>

¹³⁰ “End Online Harassment,” Heart Mob website, accessed on July 15, 2020, <https://iheartmob.org>

¹³¹ “Digital Wellbeing,” The Cyber Smile website, accessed on July 15, 2020, <https://www.cybersmile.org>

- Faculty engagement can be strategic because when it comes to edgy topics it can be easier to push the envelope when a professor with academic freedom is taking the lead on a project as opposed to administrators or students alone.

Freedom of expression covers far more than just free speech. Events like the protests at UC Berkeley that prevented Milo Yiannapolous from speaking tend to get the headlines and create a distorted view of what expressions of speech look like on college campuses on a daily basis. All kinds of expressive activities happen both inside and outside the classroom, that never draw media attention or controversy. Students tabling at a quad, handing out literature about their organization to people passing by is a daily feature of university life that almost never draws attention the way that incendiary provocateurs like Yiannapolous do. It can be important to educate people both on and off campus about the myriad ways in which university environments foster, support, and celebrate expression, in a way that goes smoothly and largely unnoticed by the outside media.

One area that is important to think about are the physical signs, political art statements, and performances students may do on campuses that fall under the umbrella of freedom of expression. Frequently, these projects draw a lot of interest, and may spark debate from students and other campus community members passing by. They are often bold projects that are intended to “make a statement.” One type of project is what has been more recently called “Artivism.” Artivism is a word combining art and activism. Artivism has its origins in a 1997 gathering between Chicano artists from East Los Angeles and the Zapatistas in Chiapas, Mexico to describe “artivists” who promote political views and increase societal awareness through art. “Artivists” use many mediums to push for change including film, music, street art, spoken word, and social media.

Mapping Dissent April 2017 at UCSB

A creative activist project that I was able to assist with at UCSB was called *Mapping Dissent*, and it happened in April 2017, just three months after Ben Shapiro’s talk on campus. A Feminist Studies professor at UCSB, Dr. Jennifer Tyburczy, teamed up with Mexico-City based artist Lorena Wolffer and a team of over 30 students, staff and community members to bring the project to life. Wolffer and Tyburczy described Mapping Dissent as “a participatory cultural intervention centered on marking UC Santa Barbara with queer affective responses to the presidential election and its aftermath.”

Our project team collected resident’s testimonies that spoke to the situation of the country, we had the quotes printed on signs, and attached them to wooden stakes which we hammered into lawns on campus. We also hung some signs on concrete buildings and on metal railing, in places on campus where we had obtained permission in advance. We dressed in all-black and silently moved about campus as a collective group. We took up space, and disrupted the everyday both through our movements and through the placement of these signs on campus. After placing the signs we read the testimonies aloud at the base of our prominent tower on campus. One of the goals behind *Mapping Dissent* was to provide an opportunity for queer, transgender and non-binary community members to validate their emotions and foster LGBTQ+ community solidarity. A

Let There Be Light: Freedom of Expression on Campus

second goal was to increase dialogue with those who identify as heterosexual and cis-gendered, in order to foster empathy and understanding.¹³²

A particularly powerful testimony was written by a 20-year-old queer student named Jaime. They wrote: “November 8: The day I realized that we really hadn’t left the closet. The world had shoved us back in. Then set fire to it.” Another testimony by H.K., 26 art historian, said: “So much has changed. Nothing has changed. We are less safe than we have ever been in our lifetimes. We have never been safe before. We are rising to new resistances; we have always been resisting. This is Trump’s America. This is just America.” One of the rationales behind the project is the need for marginalized groups to have an outlet for their emotions, because frequently queer and trans people have their feelings called into question.

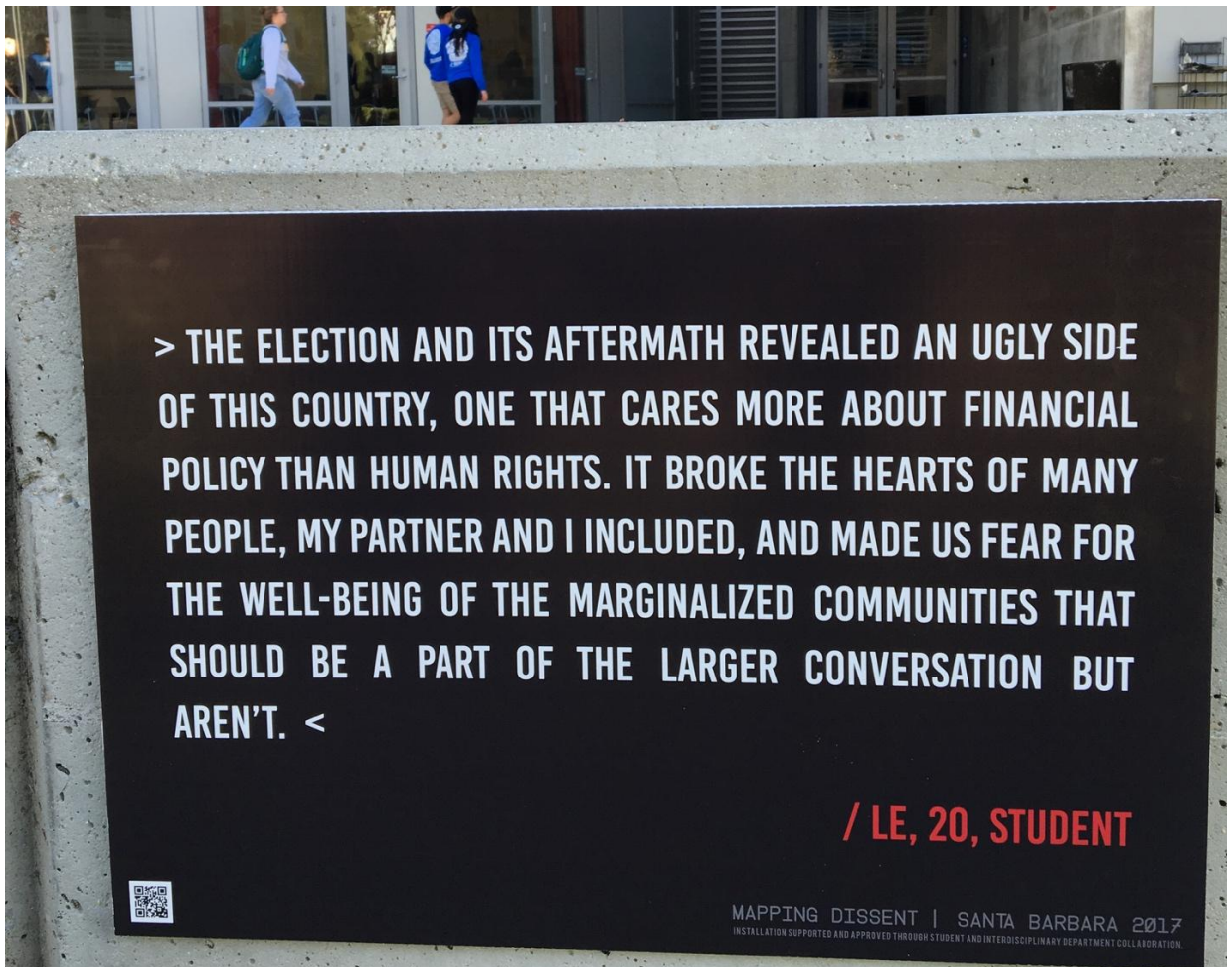
Faculty can play an important role in fostering freedom of expression on campus. It can be incredibly meaningful for students to work with their professors on projects like this outside of the classroom, and especially on ones that center their identities. I remember students who worked with me on the project saying that they found the project to be powerful, healing and personally transformative. As an installation coordinator for the project, I helped work as a liaison between our Assistant Vice Chancellor and Dean of Students, and Professor Tyburczy. The project represented a collaboration between the UCSB Feminist Studies Department, many other academic departments, the Interdisciplinary Humanities Center, and the Division of Student Affairs, with co-sponsoring units being the Resource Center for Sexual & Gender Diversity, and the MultiCultural Center.

Having a faculty member who had obtained a prestigious humanities grant for the project, certainly made it easier to marshal institutional support. There might have been some resistance if it had been a student organization undertaking the project. This is one of many reasons why faculty engagement can be strategic when it comes to projects like this one. One hiccup that we had along the way was that we initially wanted to use removable double stick tape to attach the signs to the buildings directly, but most campus units were unwilling to have the signs affixed to their actual buildings. Instead, we used a sledgehammer to drive stakes with the signs into the ground. One of my personal takeaways was that faculty and artists might struggle with the policies that student affairs administrators are required to enforce, which may seem bureaucratic. Therefore, it is important to have clear communication about the needs of each stakeholder early in the process. I also expected there to be some sort of backlash from conservative forces on campus but, as far as I know, that never happened.

¹³² Melissa Barthelemy, “Mapping Dissent: Queer and Trans resistance at UCSB,” National Council on Public History website, July 9, 2019, <https://ncph.org/history-at-work/queer-and-trans-resistance-at-ucsb/>



"Mapping Dissent" participants walking across UCSB campus holding testimonial signs and sledgehammers to pound signs into campus lawns on April 13, 2017. *Photo credit: Bennett Barthelemy*



Sign with testimony affixed to a concrete wall in front of the Student Resource Building on the UCSB campus. *Photo credit: Melissa J. Barthelemy*

Students for Justice in Palestine's Anti-Oppression and Pro-Divestment Wall at UCSB May 2017

As mentioned earlier, the Boycott, Divestment and Sanctions movement (BDS) has been an emotionally charged issue on the UCSB campus for many years. Nearly every Spring quarter UCSB's Students for Justice in Palestine (SJP) have brought an Anti-Oppression and Pro-Divestment Wall to the free speech zone in front of our library to raise awareness about the human rights violations that Israel has committed against Palestinians. The Wall is a series of wood panels that have been painted with statistics, quotations, and artwork including Israeli helicopters spraying blood on residential buildings below, with the words "Free Palestine" painted in the corner. The Wall has traveled to numerous college campuses and is a collective project that continues to be added to, and altered through the years. According to one SJP student activist the mural symbolizes "the very real apartheid wall that snakes amongst and between Palestine/Israel." At UCSB the Wall has been met through the years with strong reactions from Students Supporting Israel (SSI) and other student organizations. From my perspective, tensions seemed to increase when the Wall was on campus in May 2017. One student from SSI said it is important to have healthy criticism of Israeli policy but "there is nothing healthy about this grossly offensive wall SJP erected this week."¹³³ I overheard heated conversations among students standing at the Wall, and the SJP-sponsored BDS resolution came up as a divisive topic.

Pro-Israel Mural at UCSB May 2017

In response to SJP's Anti-Oppression Wall and the upcoming BDS vote, UCSB's Students Supporting Israel teamed up with Santa Barbara Hillel and Artists 4 Israel to create a large Pro-Israel mural during the "Israel Peace Week." It has the word Israel painted on the front in large letters, with a Gaucho peering over the top. The Gaucho is our school mascot. It is a racist caricature of a Gaucho, which is an Argentinian cowboy. This Pro-Israel Mural also featured symbols and palm trees and orange clouds to symbolize Israel. It was installed on the opposite side of the campus from the Pro-Divestment Wall. It was located directly across from our Student Resource Building in a lawn that was often used for student organizations to table and engage in free speech activities.

Twice the Pro-Israel Mural was vandalized with graffiti during the night with someone writing "Free Palestine" across the front. SJP denied any involvement with defacing the Mural and said on their Facebook page that they "firmly and unequivocally" condemned the acts of vandalism and the accusations that SJP was affiliated with the incident. SSI and Artists 4 Israel decided to repaint the sign with the message "Stop Hate," and the words "love" and "peace" written in Arabic, Hebrew and English. Students were invited to write their own messages of love and unity with markers on the back. Some students thought the "stop hate" message of the repainted mural was muddled with the additional comments. SSI and Artists 4 Israel had painted at the top "This mural was originally created by Pro-Israel Groups to express love, peace, unity. It was vandalized overnight by anti-Israel groups. Those who vandalized are likely the same who want 2 divide campus with a BDS vote. Stand up 4 tolerance & respect." Then below the phrases "Vote No BDS" and "No Hate" also appeared.¹³⁴ Some students took issue with the mural conflating acts of graffiti, anti-Semitism, and hate with the upcoming BDS vote.

¹³³ Bailee Abell, "Pro-Divestment wall in Arbor met with Opposing Views," *The Bottom Line*, May 2, 2017, <https://thebottomline.as.ucsb.edu/2017/05/pro-divestment-wall-in-arbor-met-with-opposing-views>

¹³⁴ Maura Fox, "Pro-Israel Mural Defaced amid Divestment Debate," *The Daily Nexus*, May 10, 2017, <https://dailynexus.com/2017-05-10/pro-israel-mural-defaced-amid-divestment-debate/>



In May 2017, Students Supporting Israel, a registered UCSB student organization, Santa Barbara Hillel, and Artists 4 Israel painted this mural during Israel Peace Week. Photo credit: Melissa J. Barthelemy



In May 2017, after their mural had been defaced with graffiti twice, Students Supporting Israel at UCSB and Artists 4 Israel repainted their pro-Israel mural with the message "Stop Hate." Photo credit: Melissa J. Barthelemy

Let There Be Light: Freedom of Expression on Campus

In contrast to the examples of public art described above, activist projects can also bring diverse student organizations together to work on the same mural or project. Often students have partnered with esteemed artists, academic departments, and student affairs units. Some examples include the California State University Dominguez Hills Mural-Manifest Destiny, the UC Berkeley Cesar Chavez Student Center, and the UC Riverside Mundo Chicano/Latino Theme Hall.¹³⁵

UC Merced's Community Mural Project

Administrators and students at UC Merced told me that the Community Mural Project at their Multicultural Center was a deeply meaningful project for the student body and campus community. According to their website “The Community Mural Project is a ‘for students by students’ community project that centers students at the forefront of creating a visual representation and celebrates our history, values, and community by examining the past, present, and future.”

This project is grounded in our values:

- Social Justice
- Education
- Coalition Building
- Collective Healing

The Community Mural Project at UC Merced was created in collaboration with Professor Richard Gomez and his semester-long class. Some of their goals were to understand that the process of the art project is the true measure of value, and is equally as important as the product; the role of art in community is to connect and communicate cultures, values, and voices; and that it is important to send the message that Art is for everyone, regardless of their status in society. It had taken several years to find a permanent space for the Multicultural Center at UC Merced and unveiling the mural was an important part of their opening ceremony. The Multicultural Center is located on the first floor of the library and is seen as an important space for students to “find others who share the same values and opportunities for authentic connections.”¹³⁶

For students it was incredibly meaningful to be able to create this space with faculty, staff and administrators, and the mural represented a way of making it their own. Professor Gomez and his students also created murals on the walls of an outbuilding at a local park, and on the walls of several schools in the area. He said, “the only art they were seeing at school before was graffiti on the walls” and that he and his class “used spray

¹³⁵ “Mural Community Project: The Multicultural Center,” University of California, Merced website, accessed on July 20, 2020, <https://studentlife.ucmerced.edu/program-areas/social-justice-initiatives/mural-community-project-multicultural-center>

¹³⁶ Kenneth Mashinchi, “New Multicultural Center Captures Past, Present, and Future of UC Merced,” University of California, Merced website, June 13, 2019, <https://sfca.ucmerced.edu/news/2019/new-multicultural-center-captures-past-present-and-future-uc-merced>

paint to show the students what else they can do with a spray can.”¹³⁷ According to administrators and students at UC Merced, the Multicultural Center and its mural have provided an important backdrop for many meaningful events on campus.

A student who just graduated from UC Merced told me about an event he organized there last year called the “Spoken Experience” storytelling event. The event was presented by the Office of the Dean of Students and took inspiration from “The Moth,” a popular podcast, radio show and live performance event in which ordinary people share extraordinary experiences and realizations. The goal was to have members of the campus community connect with one another by having 10 people deliver five-minute long monologues reflecting on moments of enlightenment under the theme “Lessons.” In an interview, he said “When people stand in their truth and own that truth, it’s powerful. But when they share their truth, and allow others to discover it, that’s what builds community.”¹³⁸

Un-Learning and Opportunities to Engage in Conversation Across Difference

Key Recommendations:

- Educate students about the differences between expectations of administrators and faculty in regards to freedom of expression. When we involve faculty who are tenured and have the protections of Academic Freedom, they are frequently able to be much more “political” in their comments than administrators. Students often don’t grasp the difference between faculty and administrators; they don’t realize that Vice Presidents of Student Affairs serve at the discretion of the University President. This is one reason why students sometimes get angry that administrators are not as outspoken as their professors are.
- Cultivate spaces that encourage racial empathy. It is important to create spaces where people can talk openly and emotionally about their personal experiences. When discussing free speech issues and the topics of diversity, equity and inclusion as a nation, and within higher education, it is important to address and make room for the intensity of emotion related to this work.
- It is helpful when administrators in high level leadership positions can show their emotional vulnerability, because it gives their staff more “permission” to show and discuss their emotions in the workplace. It also lets students know these administrators are personally affected by things; that they care.
- When universities are making plans for how they can better support Students of Color and other marginalized students who are disproportionately affected by hate speech on campus, administrators need to also be thinking about minority staff and faculty who do tremendous amounts of unseen labor in responding to these campus crises. It is important to address burnout and racial battle fatigue in the workplace. All administrators need to think carefully and creatively about developing

¹³⁷ Lorena Anderson, “Artists Making their Marks on and off Campus,” *Newsroom*, September 1, 2017, <https://news.ucmerced.edu/news/2017/artists-making-their-marks-and-campus>

¹³⁸ Michelle Morgante, “Storytellers to share Personal Lessons in Inaugural ‘Spoken Experience’ Event,” *Newsroom*, November 13, 2019, <https://news.ucmerced.edu/news/2019/storytellers-share-personal-lessons-inaugural-spoken-experience-event>

Let There Be Light: Freedom of Expression on Campus

support networks, allocating labor in a more equitable fashion, and compensating staff who are doing essential emotional labor that often goes unseen.

At UC Santa Barbara one of the most successful and moving events I have ever attended was an event our MultiCultural Center organized called “The 2016 Election: The Day After.” The flier for the event said,

“What’s Next? Where Do We Go From Here? The 2016 presidential campaign has been extremely controversial and widely discussed. People of Color, women, queer folks, immigrants, and people with disabilities have been mocked, scorned, and attacked. Many people feel exhausted and overwhelmed by this election. Whatever happens on November 8th, history will be made. The United States could elect its first female president or it might elect a person who has limited political experience and a penchant for antagonizing nearly everyone. Regardless of who wins, much work will be left to do the day after the election. Come and share your views about the 2016 election and where we as a nation go from here.”¹³⁹

Initially the event was slated to be held in the MultiCultural Theater which holds 150 people, but because Trump won the election, which was not expected, they quickly relocated the event to our large event center, where they set up over 500 seats and it was still standing room only. It was supposed to go for 90 minutes but it went much longer. The MultiCultural Center on our campus is known for quickly creating spaces to talk and process through emotionally difficult things right after they happen, such as with Trump unexpectedly winning the election. This fast response is really important to students and the larger community. These responses don’t have to be complicated. Frequently at the MultiCultural Center we have everyone place their chairs in a circle and have two or three people co-facilitate the discussion. Events where everyone can speak to and listen to each other in a more organic fashion frequently provide an avenue that students are looking for, as opposed to only having panel discussions and highly structured conversations.

This particular event, “The 2016 Election: The Day After” featured a panel of professors as guest speakers: Dr. Eileen Boris from Feminist studies, Dr. Lisa Sun-Hee Park from Asian American Studies, Dr. Vilna Bashi Treitler from Black Studies, and Dr. Ralph Armbruster-Sandoval from Chicana/o Studies. Each professor gave a short, personal reaction to the election of Trump, and then they said they wanted to turn over the event to the students in the audience so that they could share their personal reactions. There were two standing microphones where students, staff, faculty, and community members lined up to share their thoughts and ask questions of the panelists. Students spoke about being fearful that their parents might be deported. A Latinx student said that he didn’t understand how his grandmother could vote for Trump knowing that members of her own family might face deportation. A Black student said that her boyfriend was White and that his family was racist towards her and things would probably just get worse under Trump. I remember she began crying as she was speaking into the microphone, and afterwards a White female student got up and began patting her back, and gave her a hug. It was an emotionally intense space where a lot of students shared deeply personal stories and concerns about a wide range of issues.

¹³⁹ Shawn Warner, “MCC Discussion today on Post Election Processing,” accessed on July 5, 2020, <http://www.gradpost.ucsb.edu/life/life-article/2016/11/09/mcc-discussion-today-on-post-election-processing>



"The 2016 Election: The Day After," event hosted by the UCSB MultiCultural Center, students commenting and asking questions at standing microphones. *Photo credit: Melissa J. Barthelemy*

At one point a White male student who was a leader in the College Republicans student organization at UCSB, and was adorned in MAGA garb, got up and said that at the anti-Trump protest the night before he was there to celebrate Trump's victory with an American flag and his MAGA gear on and another student came up from behind and punched him in the back really hard.¹⁴⁰ When he told this story he seemed shaken and sad rather than angry. It was something that stood out to me because I had seen this student's behavior in many spaces on campus, and he was often very angry and confrontational with students he identified as being liberal. I started thinking about how hard it could be as a Trump supporter to be at this event where the vast majority of people were expressing shock, fear, and sadness over Trump's election as President. If you were happy and excited that he had become President, this was clearly not the ideal venue to come to in order to celebrate that win. I began to empathize with this student in a way that I hadn't before. One of the professors quickly said something to him along the lines of, "I am so sorry you were assaulted, violence is never justified, that was wrong." She then talked about working with the administration to file a report, and other steps that could be taken. Sadly, when there are heightened tensions it is too easy for situations to escalate into violence. In general, for our campus, having Student Affairs partner with faculty from Ethnic Studies programs and other departments on campus has helped to provide a larger context to help people understand the times in which we are living. When we involve faculty who are tenured and have the protections of Academic Freedom, they are frequently able to be much more "political" in their comments than administrators. Students often don't

¹⁴⁰ Supriya Yelimeli, Cheryl Sun, Deepika Chandrashekar, "Over 1000 UC Santa Barbara Students Protest after Trump Elected President," *The Daily Nexus*, November 9, 2016, <https://dailynexus.com/2016-11-09/over-1000-uc-santa-barbara-students-protest-in-isla-vista-after-trump-elected-president/>

Let There Be Light: Freedom of Expression on Campus

grasp the difference between faculty and administrators; they don't realize that Vice Presidents of Student Affairs serve at the discretion of the University President. This is one reason why students sometimes get angry that administrators are not as outspoken as their professors are. Educating students on this situation seems paramount to creating greater understanding around freedom of expression on campus.

In *White Guys on Campus: Racism, White Immunity, and the Myth of "Post-Racial" Higher Education*, Nolan L. Cabrera discussed the importance of cultivating racial empathy as a "pathway to understanding across racial lines – seeing one's individual experience directly tied to all others in society."¹⁴¹ Scholars have argued that "racial emotions are central to the perpetuation of racial inequality: Over time, white racist thought and action also involves a massive breakdown of positive emotions such as empathy, the human capacity to experience the feelings of members of an outgroup unlike your own."¹⁴² It is important to note that empathy indicates a sense of a human connection to those harmed by racism, whereas sympathy is often associated with a patronizing view towards the target of the racism (i.e., "You poor thing!").¹⁴³

An important part of this work is creating spaces where people can talk openly and emotionally about their personal experiences. One of the things that surprises me the most about the way we are currently talking about free speech issues and diversity, equity and inclusion work as a nation, and within higher education, is that we don't always acknowledge and make enough room for the intensity of emotion related to this work. In the United States we are often taught that it is wrong to show your emotional vulnerability and to express negative emotions. To describe this cultural pattern, some scholars have coined the phrase toxic positivity.¹⁴⁴ Toxic positivity is the idea that we should focus only on positive emotions and the positive effects of life. In other words, instead of confiding in co-workers about how painful it is to experience acts of prejudice, we are often expected to put on a happy face, especially in a workplace environment like a university.

At the NASPA Student Affairs Law Conference in San Diego in December 2019, Dr. Kevin Kruger, the President of NASPA, gave a talk where he said that faculty and other administrators on campus sometimes jokingly refer to the student affairs folks as the "balloon people."¹⁴⁵ He said this is because they are frequently seated at informational tables and other events with balloons, and also because they are often perceived as extroverted, high energy, and friendly. Within the student affairs profession I often hear people praise a co-worker as "upbeat," "always smiling," and "easy to get along with." In thinking about Cabrera's arguments around White normativity (and heteronormativity) in University environments, and the concept of toxic positivity, it is important to also make space for negative emotions in the workplace. It is helpful when administrators in high level leadership positions can show their emotional vulnerability, because it gives their staff more "permission" to show and discuss their emotions in the workplace. It also lets students know these administrators are personally affected by things; that they care.

¹⁴¹ Cabrera, *White Guys on Campus*, 142.

¹⁴² Cabrera, *White Guys on Campus*, 142.

¹⁴³ Cabrera, *White Guys on Campus*, 142.

¹⁴⁴ Brittany Wong, "What is Toxic Positivity? Why it's OK not to be OK Right Now," *HuffPost*, July 8, 2020, https://www.huffpost.com/entry/what-is-toxic-positivity-coronavirus_1_5f04bca0c5b67a80bbff7cd3

¹⁴⁵ Dr. Kevin Kruger, Keynote Presentation, 2019 NASPA Student Affairs Law Conference, December 12-14, 2019, San Diego, California.

When free speech controversies arise on campus and they involve conflicts over issues of race, sexuality, and other marginalized identities, frequently staff, graduate students, and faculty who are members of the affected communities end up doing lots of additional emotional labor, in working with the students who have been most affected. The diversity of student affairs staff at many colleges and universities often do not reflect the full diversity of the institution's student population, in terms of campus demographics. In the highest leadership positions, such as the Vice President of Student Affairs level, statistically a majority of administrators are White and male.¹⁴⁶ When universities are making plans for how they can better support Students of Color and other marginalized students who are disproportionately affected by hate speech on campus, administrators need to also be thinking about minority staff and faculty who do tremendous amounts of unseen labor in responding to these campus crises. It is important to address burnout and racial battle fatigue in the workplace. All administrators need to think carefully and creatively about developing support networks, allocating labor in a more equitable fashion, and compensating staff who are doing essential emotional labor that often goes unseen.

¹⁴⁶ Dr. Lori S. White, Keynote Presentation, "We just can't find ANY diverse candidates for THAT position: Ensuring Diversity in Hiring Processes and Practices," 2019 NASPA Student Affairs Law Conference, December 12-14, 2019, San Diego, California.

Student Protests and Demonstrations As Discussed Through the Lens of the COLA (Cost of Living Adjustment) Movement at University of California Campuses

Use of Police at Student Protests and Demonstrations

Key Recommendations:

- For years students have spoken out against the use of police, especially to break up campus demonstrations, claiming that what might feel like “safety” and “security” to some, can be antagonizing and dangerous to communities of color, undocumented students, international students, LGBT+ students, and those from other marginalized communities that have historically faced discrimination at the hands of the police.
- When student affairs administrators are working with other university officials to determine whether a police response is needed to a situation, and if so, what that response might look like, they should keep in mind that police in general, and riot police in particular, can often exacerbate tensions.

Even before the recent world-wide BLM (Black Lives Matter) protests against the police killing of George Floyd, the presence of police on university campuses, and their use to break up non-violent student protests has been a hotly contested issue for years. One of the most high profile incidents within the UC system was the pepper spraying of UC Davis students during the Occupy Movement demonstration on campus in 2011. As student activists sat peacefully on the sidewalk, Lt. John Pike of the UC Davis Police Department (UCPD) sprayed them directly in the face with pepper spray. The video of the pepper spray incident became a viral video and the photograph became an internet meme seen around the world. The three dozen student demonstrators were collectively awarded a million dollars by UC Davis in a settlement from a federal lawsuit, with each pepper-sprayed student receiving \$30,000 individually.¹⁴⁷ This incident sparked a fierce public debate about the militarization of police and the behavior of university police officers on campus. Many students and faculty called for the resignation of Linda P.B. Katehi, who was the Chancellor of UC Davis at the time. Years later, in 2016, The Sacramento Bee reported that UC Davis had paid at least \$175,000 to public relations companies in order to clean up the “negative image” of the university, by using Google platforms to eliminate search results that reflected negatively on the university.¹⁴⁸ In April 2016 Chancellor Katehi was removed from her post as Chancellor and placed on administrative leave; using university funds to remove negative references online was cited as one of the reasons for her removal.

This incident at UC Davis illustrates how high stakes the issue of demonstrations on campus can be for university administrators. The rapid accessibility of social media also makes it easy for photos, videos, and memes to go viral around the world in a matter of days, if not hours, magnifying public relations nightmares for a campus. Given what occurred at UC Davis in 2011 and the sharp outcry against the use of militarized

¹⁴⁷ Garofoli, Joe, “UC Davis Pepper Spray Officer Awarded \$38,000,” *SFGate.com*, October 23, 2013, <https://www.sfgate.com/politics/joegarofoli/article/UC-Davis-pepper-spray-officer-awarded-38-000-4920773.php>

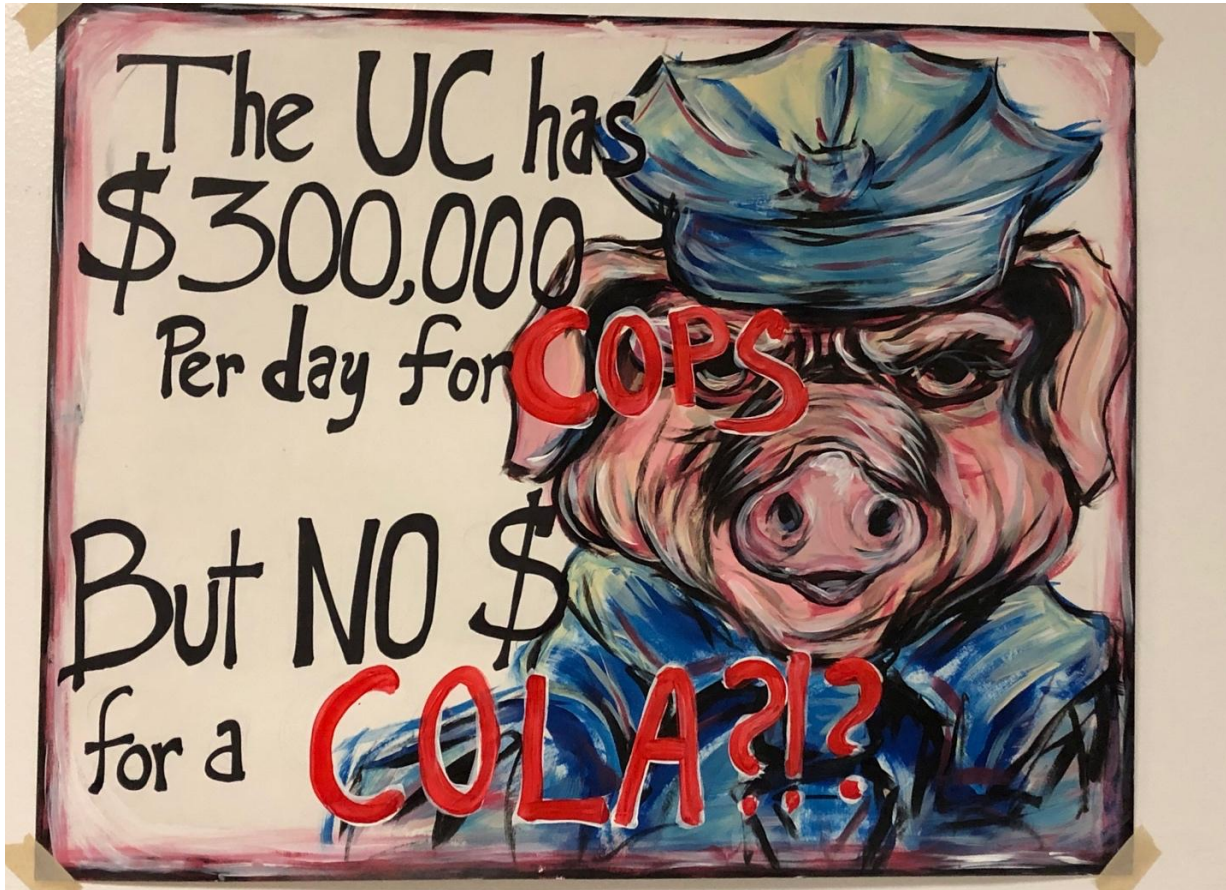
¹⁴⁸ Sacramento Bee, “Read UC Davis’ Contracts to Repair Online Image,” *The Sacramento Bee*, April 13, 2016, <https://www.sacbee.com/news/local/education/article71674767.html>

police to break up non-violent student protests, it was surprising and disheartening to witness what took place at UC Santa Cruz this past year when riot police were used to break up student demonstrations during the Wildcat Strikes for a COLA (Cost of Living Adjustment) for graduate student teaching assistants.

In September 2019 graduate students at UCSC began demanding better pay for their work as teaching assistants, due to the high cost of living in Santa Cruz, which has been exacerbated by the housing shortage and high rental costs in the area. This was a wildcat strike because it was not authorized by the graduate students' union, United Auto Workers (UAW) Local 2865. This union represents over 19,000 academic student employees, including graduate student teaching assistants, across the UC system. In August 2018, UAW 2865 signed a collective bargaining agreement with the UC that was ratified by the majority of graduate workers across the system, but at UCSC 83% of union members voted against ratification because they had wanted a cost of living adjustment (COLA) included in the contract. Many student workers at UCSC felt the Union was no longer representing their interests, and decided to go on a wildcat strike demanding a \$1,412 per month Cost of Living Adjustment.

In December 2019, graduate student instructors and teaching assistants engaged in a "grading" strike by withholding over 12,000 fall-quarter grades for undergraduate students, which amounted to roughly 20% of all UCSC grades. On February 10, graduate student strikers and their supporters began demonstrating at the two entrances to UCSC, blocking the flow of traffic in and out of the campus. It was estimated that 350 graduate students participated along with hundreds of undergraduate student protesters, and sympathetic faculty who marched in solidarity and picketed alongside the graduate students. Additional protests blocking the entrances to the campus took place throughout the month and into March. The protests grew so large that they attracted national and international news coverage. Powerful photographs of faculty in their full regalia standing between police and student protesters appeared in numerous publications.¹⁴⁹ The city council in Santa Cruz voted to not allow the city police to be used to help the UCPD break up the protests, which had formed at the intersections where campus streets and the city streets met at the edge of the campus. The UCSC administration contracted - at a high cost - to bring riot police from Alameda County to break up the unlawful demonstrations that blocked the streets; there was a daily deployment of 50 to 100 riot-gear clad police at the cost of \$300k per day. COLA demonstrators allege that the officers used excessive force and UCSC denies this allegation. Seventeen UCSC students were arrested during the protests, most of whom were undergraduates. One of the rallying cries of the COLA Movement at UCSC soon became "Cops off campus!"

¹⁴⁹ Erika Mahoney and Audrey Garces, "Striking UC Santa Cruz Graduate Students hold Picket Lines After Police Arrest," *KQED.org*, February 14, 2020, <https://www.kqed.org/news/11801554/striking-uc-santa-cruz-graduate-students-hold-picket-lines-after-police-arrest-17>



Protest poster hand drawn by UCSB COLA movement activists, hung in the main administration building at UCSB during sit-in. *Photo credit: Melissa J. Barthelemy*

For years students have spoken out against the use of police, especially to break up campus demonstrations, claiming that what might feel like “safety” and “security” to some, can be antagonizing and dangerous to communities of color, undocumented students, international students, LGBT+ students, and those from other marginalized communities that have historically faced discrimination at the hands of the police. The Black Lives Matter Movement has increased awareness that black and brown people are more likely to be profiled, harmed or killed during police encounters. As a microcosm of the larger world, students often allege that university police also discriminate against students, staff, and faculty of color. There has also been great concern about undocumented students and international students being arrested during protests, potentially facing legal charges, and disciplinary action by the university that might put their visas into jeopardy, result in loss of campus employment, or even deportation. The decision to use riot police against protesters at UC Santa Cruz was concerning for these reasons, and also because research has shown that paramilitary police responses actually escalate violence at protests.¹⁵⁰

¹⁵⁰ Glen Martin, “The Riot Act: Evidence that a Paramilitary Police Response Actually Ramps Up Violence,” *California Magazine*, August 25, 2014, <https://alumni.berkeley.edu/california-magazine/just-in/2014-08-25/riot-act-evidence-paramilitary-police-response-actually-ramps>

Psychology Professor Jack Glaser from UC Berkeley, has been studying police practices for decades. He claims that racial prejudice is a fixture in many of the nation's 18,000 police agencies, and that these officers reflect the same racism and biases that all people carry as a result of the devastating history of White supremacy in America. When police are "clad with military body protection and armed with advanced weapons, they may see themselves more as warriors battling an enemy than as guardians protecting a community. They may become more aggressive." According to Glaser, the implicit biases that officers may harbor could partially explain why reactions to Black Lives Matter protests have seemed harsher than restrained police responses to recent protests by armed White right-wing groups in Ohio, Michigan, and Kentucky. He said that the data on race and policing makes it clear that "black people are treated with greater suspicion, disrespect and physical force." Rather than resorting to riot police using force, he recommends that officers keep a distance from protesters, speak in a calm voice, and not show up dressed for a combat zone.¹⁵¹ Amnesty International USA has also said that a militarized police force that acts aggressively endangers the lives of protesters by exacerbating a tense situation. The organization claims that when officers wear riot gear, it dehumanizes the officers and makes it more likely that the protesters will throw rocks and other items.¹⁵² When student affairs administrators are working with other university officials to determine whether a police response is needed to a situation, and if so, what that response might look like, they should keep in mind that police in general, and riot police in particular, can often exacerbate tensions.

Dr. Nick Mitchell, an associate professor in Feminist Studies, and the Critical Race and Ethnic Studies Program at UC Santa Cruz forcefully spoke out against the use of riot police to break up the COLA protests, the disciplinary actions being taken against strikers, and the disproportionate effect such actions may have on faculty and students of color. He wrote an Open Letter to Chancellor Cynthia Larive entitled "Why I'm returning the Chancellor's Achievement Award for Diversity." It is a powerful letter and I suggest reading it in its entirety. In one poignant section he wrote,

"Today, along with this letter, I am returning the Chancellor's Achievement Award for Diversity. My reason for returning the award is simple: your administration's reckless and harmful response to the graduate workers' Cost of Living Adjustment (COLA) campaign raises grave concerns as to the way UC Santa Cruz values diversity. As one of a scarce few black faculty members at UCSC, witnessing this response has been disturbing, to say the least. If you only value diversity insofar as it smiles but sweep it aside when it expresses its grievances in public confrontation, your commitment to diversity is shallow and superficial at best. At worst it is exploitative and opportunistic. Know this: when you respond to a protest against the socioeconomic conditions that fuel hunger, eviction and insecurity with tear gas cannons, handcuffs, batons, guns, and tasers, you are sending a clear message to the black and brown members in the university community: this is a campus where safety is enforced by the institutions and instruments that endanger our lives. This is the case regardless of the race of

¹⁵¹ Edward Lempinen, "How Reforms could Target Police Racism and Brutality – and Build Trust," *Berkeley News*, June 9, 2020, <https://news.berkeley.edu/2020/06/09/how-reforms-could-target-police-racism-and-brutality-and-build-trust/>

¹⁵² Catherine E. Scholchet, "Action News Now," *CNN*, posted June 3, 2020, <https://www.actionnewsnow.com/content/national/570939372.html>

Let There Be Light: Freedom of Expression on Campus

the person at whom those cannons and batons are pointed: we know—and this is an historically informed knowing--that they will eventually be pointed at us. Yours appears, in other words, to be a definition of safety experienced by many of us as terror.”¹⁵³

Mitchell goes on to point out that firing of graduate students for their activity in striking and protesting will disproportionately affect those students with the least means, and in particular students of color. He says that if the Chancellor fires these workers,

“I would request that you not plead ignorance if and when underrepresented student-of-color matriculation to UCSC plummets. Do not create diversity initiatives in which you offer yourself occasion for self-congratulation in remedying a problem that you could easily have avoided fueling...I request that you kindly refrain from feigning surprise when this institution begins to hemorrhage faculty and students of color, or when it struggles mightily to recruit and/or retain them...We understand that the mass firing that you are poised to enact has been conducted with the machinery of institutional racism.”

Mitchell's letter is powerful and important for a number of reasons. One of which is the reminder that even something that might seem like it will equally affect all striking graduate students the same might have a differential impact on marginalized student populations who are more apt to suffer the consequences of potentially discriminatory policing. Secondly, first-generation, undocumented, LGBT+ and Students of Color are less likely to have familial resources to depend upon when fired from student employment positions. This situation is particularly difficult for international students who are not legally able to work anywhere but on campus. Students have, and continue to receive suspensions, and other disciplinary notations in their student records for their behavior during the demonstrations. Lastly, Mitchell's letter illustrates how hypocritical the institution is to hand out achievement awards for diversity as it simultaneously propagates institutional racism through its actions, with the consequence of alienating those groups it is seeking to attract and retain. Mitchell's letter was shared widely as a source of inspiration for those striking and their supporters.

COLA Movement at UC Santa Barbara

Key Recommendations:

- Explain to protesters the existence and function of campus demonstration resource teams, and the people who are on them. Consider including such information on university websites where it can be readily accessed by campus community members and the public.
- Campus demonstration resource teams help ensure safety, and they often serve as an intermediary between students, police, and counter-protesters. These teams are a highly effective way to monitor free speech events and provide useful guidance to speakers and support passersby.

¹⁵³ Nick Mitchell, “Why I’m Returning the Chancellor’s Achievement Award for Diversity,” UCSC Critical Race & Ethnic Studies website, Friday February 21, 2020, <https://cres.ucsc.edu/news-events/news/mitchell-cola.html>

- It is important to think carefully about who you have on your campus demonstration resource teams in terms of representing the diversity of your staff and students, as well as the temperament of individual staff members and how they may respond in stressful situations.
- It is important for administrators to remember that there are frequently different factions within student groups calling for change, and differences of opinion regarding goals, strategy and tactics are common.
- The most important part of addressing free speech issues on campus is building trust and creating relationships with students.
- Being able to empathize with the needs of another person, keeping personal frustration at bay, having open lines of communication and extending warmth even in the most difficult moments can go a long way.

Within months of the wildcat strike beginning at UCSC, the COLA movement spread to all campuses in the UC system. There has been variation in timeline and tactics on each campus with some COLA organizers engaging in a full teaching strike, others withholding grades, and activists on some campuses conducting educational campaigns in order to gain more allies, but declining to strike or withhold grades. Winter Quarter 2020 saw activists on most of the campuses engaging in direct action free speech activities such as sit-ins in the Chancellors' offices, rallies, marches, teach-ins, blocking streets to stop the flow of traffic, and obstructing the entrances to administrative buildings.

At my own campus, UC Santa Barbara, during Winter Quarter we had the second largest and most active COLA movement outside of Santa Cruz. During this time period I had the opportunity to observe, and work with, some of the main organizers from COLA UCSB, and also our university administration. As a UC Free Speech Fellow I was able to devote time and energy to observing what was taking place on my campus, and because of my role, and my personal relationships with stakeholders, I came away with a unique perspective.



Protest poster hand drawn by UCSB COLA movement activists, hung in the main administration building at UCSB during sit-in.
Photo credit: Melissa J. Barthelemy

On February 11th several hundred COLA demonstrators marched from our campus library to Cheadle Hall, our main administration building. After a demonstration that featured speakers, everyone entered the building and climbed the staircases to the 5th floor where activists handed a copy of their demands to our Executive Vice Chancellor, who received them on the Chancellor's behalf. The group UCSB 4 COLA had their own set of demands for what they thought needed to change on our campus, such as increased pay and better financial support for graduate students. They also demanded that our Chancellor advocate on behalf of UCSC wildcat strikers.

After we were back outside I was speaking with some of the graduate student activists who said they were upset that they were being “monitored” by administrators in suits and ties, and that they felt they were under “surveillance.” Earlier one of those administrators who I know personally had told me he was there as part of the Student Affairs Demonstration Response Team (DRT). When the COLA leaders were telling me how upset they were about the administrators following them I explained the function of the Team in general and that they were there to make sure everyone was safe, that protesters were not blocking paths, and that they often serve as an intermediary between students, police, and counter-protesters. The student leaders were relieved to find out why the Team was present, what their role was, and that the DRT members were not taking down

information about any of the student activists. In a situation where you have graduate student employees who are considering striking or being involved in an employment dispute, anxiety and concern tend to be heightened. In that moment I realized how important it can be for protesters to know about the existence and function of these campus demonstration resource teams, and the people who are on them. These teams are a highly effective way to monitor free speech events and provide useful guidance to speakers and support passersby.¹⁵⁴

Personally, I think it is important to think carefully about who you have on your campus demonstration resource teams in terms of representing the diversity of your staff and students. In moments of high emotions, students from marginalized communities often respond better if they see administrators who might be from minoritized populations as opposed to a team that is all white, male, and straight for instance. It may be necessary to bring staff onto the team who might not normally have free speech as a primary area within their portfolio. Also, it is helpful for universities to explain oversight functions on their websites so that concerned students have a better understanding of these processes if they ever inquire.



Hundreds of UCSB students climbed 5 stories of stairs in Cheadle Hall administration building to deliver UCSB COLA demands to the UCSB Chancellor on February 11, 2020. Photo credit: Melissa J. Barthelemy

UC Merced has a webpage on Peaceful Protest Guidelines that describes its Protocol Oversight Group (POG), who the members of the group are, and what their responsibilities are.¹⁵⁵ This particular website comes closer to the “transparency” that students often demand in terms of outlining their framework for university responses. Additionally, they specify that,

¹⁵⁴ LaBanc et al, *Contested Campus*, 91.

¹⁵⁵ “Peaceful Protest Guidelines,” University of California, Merced Student Affairs website, accessed July 5, 2020, <https://studentaffairs.ucmerced.edu/students/peaceful-protest-guidelines>

Let There Be Light: Freedom of Expression on Campus

“actions by campus police to intervene in a peaceful assembly or protest only will be taken following consultation with and approval by the Chancellor, who is ultimately responsible for ensuring that force is used as a last resort when negotiations have failed, and the disruption to the mission of the University is substantial or a threat exists to the safety of persons or property. The Chancellor may delegate responsibility for this decision but in doing so must maintain civilian control.”

As a graduate student who has been engaged in campus activism around a range of issues, I found the details on the website to be informative. Another helpful resource for administrators to look at is the webpage on University of California Response to Protests on UC Campuses, that lists 49 separate recommendations.¹⁵⁶ There are also a number of sample policies and resources for education and enforcement located on the UC National Center for Free Speech and Civic Engagement website.¹⁵⁷ For instance, UC Irvine has spent years crafting and updating their disruption guidance and major events policies which can be accessed at the site. The University of Oregon has harnessed technology to create a tool that allows members of their student affairs team, university police department, and safety risk services office to immediately track incidents on campus and coordinate a response.¹⁵⁸ Of course, policies are one thing, and implementation and enforcement are another thing. This is evidenced by COLA student protesters from UCSC who allege that excessive force was used by the riot police who used batons to break up demonstrators, something which UC's own recommendations say should be used as a last resort.

UC Santa Barbara, is similar to UC Merced in terms of avoiding the use of police as much as is possible when there is a campus protest or demonstration. This is something that I took for granted that UCSB graduate student protesters would know when they engaged in direct action demonstrations on our campus. On February 21st hundreds of graduate student protesters and their supporters took over Cheadle Hall, our main administration building and held a 16-hour-long sit-in at the Chancellor's office that spilled into the adjoining hallways. Graduate students set up sleeping bags and work areas directly on the floor, and even held office hours with their undergraduate students while protesting in the hallways. The plan was to continue the sit-in at the Chancellor's office until midnight, because the UC Santa Cruz administration had set a midnight deadline for the striking graduate students to turn in the grades, otherwise they would face termination from their employment at UCSC. Therefore it was very important to UCSB students to stand in solidarity with the UCSC students until midnight. When I was observing the actions of student protesters and administrators during the sit-in I was surprised by the high level of anxiety that some student protesters were displaying. The lead organizers of the sit-in were worried that they'd face punishment if they remained in the building after the workday ended at 5pm. They thought that the police might be called and that they would be dragged out of the building and arrested. When student leaders asked my opinion I told them that I knew the VCSA and

¹⁵⁶ “Response to Protests on UC Campuses: Recommendations,” University of California website, accessed July 5, 2020, <https://campusprotestreport.universityofcalifornia.edu/recommendations.html>

¹⁵⁷ “Resource Materials: Protest & Disruption Guidelines,” University of California National Center for Free Speech and Civic Engagement website, accessed July 5, 2020, <https://freespeechcenter.universityofcalifornia.edu/programs-and-resources/resource-materials-protest-disruption-guidelines/>

¹⁵⁸ Kris Winter and Krista Dillon, “Managing Campus Demonstrations and Protests,” 2019 NASPA Western Regional Conference, University of Oregon.

her team would be trying to de-escalate the situation as much as possible, and that they always try to avoid the use of police.

I secured the permission of the organizers to have administrators come into the area of the sit-in to answer their questions directly. Not all of the protesters were comfortable with the presence of administrators which made the situation more challenging than usual. It is important for administrators to remember that there are frequently different factions within student groups calling for change, and differences of opinion regarding goals, strategy and tactics are common. In this situation, our Assistant Vice Chancellor and Dean of Students (AVCDOS) was able to reassure the students and provide detailed answers to their questions. She always says that the most important part of addressing free speech issues on campus is building trust and creating relationships with students. Eventually she was able to exchange cell numbers with the student leaders and be “on call” if they had any questions. One concern protesters raised was that they didn’t want any police in the building. There had been a plan to have one uniformed police officer at the front door for security purposes. However, after a conversation between the student protesters and our AVCDOS an agreement was reached not to have any police present. A lieutenant from the UCPD, who usually does this community based work, stood outside the building in plain clothes, to monitor from a distance. Other UCPD officers were in the vicinity, but out of sight. We also had our undergraduate student CSOs present on the floors that were not part of the sit-in, so they were not visible, but were available to assist if needed.

Our CSO program stands for Community Service Organization and it was created 30 years ago to liaison between UCSB students and the Police Department. Now the CSO students also provide safety and security for students, staff, and faculty by patrolling the campus, reporting crimes in progress, assisting in emergency situations, and detecting safety hazards. Our campus has found that using CSOs in lieu of police often helps de-escalate situations. However, recently “cops off campus” activists have complained that the CSOs are too closely connected to the police department. Some members of the campus community think that our CSO program should be housed under the Student Affairs Division instead. Administrators always have to remain nimble as circumstances can change so easily in a university environment. Additionally, the financial pressures created by COVID-19 have put the future of the CSO Program in jeopardy.

During the night of the sit-in there was increasing communication between administrators and the activists to the point where our VCSA ate dinner with them at their invitation, dining on the food that was donated by Food Not Bombs. She also brought non-alcoholic beverages to add to the meal. A supportive faculty member brought pizzas. Our VCSA also gave her work cell number to one of the main student leaders. I could see how much that meant to the student leader. A while later our Associate Dean of Student Life showed up with a projector so that the students could watch “The Matrix” during the sit-in. My personal takeaway was that one of the successes to the sit-in was that even though student protesters (arguably out of necessity) positioned administrators as adversaries based on their roles, everyone was still cordial and polite. There are moments where student activists and administrators are going to naturally be in a confrontational situation based on circumstances, but it is great when things do not devolve into personal attacks. It is important for safety reasons as well. Being able to empathize with the needs of another person, keeping personal frustration at bay, having open lines of communication and extending warmth even in the most difficult moments can go a long way.



UCSB graduate student COLA protesters sitting in one of the many crowded halls outside of Chancellor Yang's office on February 21, 2020. Photo credit: Melissa J. Barthelemy

COLA Protest at the #SpeechMatters Conference in DC

Key Recommendations:

- Administrators need to be thoughtful about the words and tone they use in speaking with students, and be aware of their positionality.
- It is important to support students who are pushing back against the institution, because that can be an integral part of the educational process itself. Protest can be a platform for both teaching and learning.
- Rather than treating student protesters as an inconvenience, it is best if administrators can engage in receptive listening when student activists come to them expressing their concerns.
- Protests by students often occur when their basic needs are not being. In those moments students are demanding that their lived experiences be recognized and validated.
- Radical empathy and engaged pedagogy are needed to create more liberatory campuses where students can feel empowered by their campus leaders.
- Bring students to the table who may not necessarily possess the social and cultural capital to get into the positions of power and privilege on campus.
- Students hate to be ignored, and when they protest it is often because other means of communication with administrators have been foreclosed.

In the midst of the COLA strikes and protests throughout the UC system, the UC National Center for Free Speech and Civic Engagement held its annual conference in Washington DC at the UCDC Center on February 27th. The UCDC Washington Center is a multi-campus residential, instructional, and research center that provides students and faculty from the University of California with opportunities to study, research, work, and live in Washington DC. As a UC Free Speech Fellow I attended and participated in the conference and related activities. While preparing for and traveling there I kept wondering whether the COLA Movement would come up as a topic at the conference considering that this seemed to be one of the largest freedom of expression movements that the UC system had ever experienced in recent history.

The conference and its speakers had been planned long in advance of the COLA Movement, therefore none of the scheduled talks focused on that topic. But, shortly after the conference began a group of students, who I later found out identify as Latinx, first-generation, low-income and LGBT+ walked up to the base of the stage and unfurled handmade protest signs with messages supporting the COLA movement, criticizing police presence on UC campuses, and demanding UC President Janet Napolitano resign. One student held a sign that said “Janet deported by dad April 21, 2009,” referencing the fact that President Napolitano had served as the Secretary of Homeland Security from 2009-2013 and oversaw deportations during that time period. The students wore shirts that said “UC Santa Cruz,” “UC Irvine,” and “UCDC.” They also verbally identified themselves as current students who were enrolled in the UCDC program, which is a semester-long internship program housed in the UCDC Center, the building where the conference was being held. Several of the

protesters also handed everyone in the audience a list of “Student Grievances and Demands to Janet Napolitano.”

At times, the student protesters stood directly in front of the stage and interrupted speakers and panelists by shouting, which made it more difficult to hear the speakers. This crossed a line into being an unlawful disruption, and they were warned by conference organizers at least four times that they needed to remain silent. One audience member, a White male, shouted “be quiet, I can’t hear my speaker!” and then “shut up, I am trying to listen to my speaker!” The protesters repeatedly demanded the ability to speak and explain why they were protesting, but they were told that they needed to wait until the public question and answer segment to ask questions and speak to those in attendance. The student demonstrators told one reporter that they found it “ironic that the conference was addressing how institutions should allow campus activists to respectfully express themselves while, at the same time, conference organizers were moving the protesters to the side of the stage to keep their posters from blocking audience members’ views of the speakers on the stage.”¹⁵⁹ The student protesters complained that they were being silenced and that they were being kept out of the filming of the conference. One student said, “Yeah, everyone has access to free speech, we’re allowed to demonstrate, but did we make it in the frame?”¹⁶⁰ They referred to the conference as a “show” partially because they were so angry that President Napolitano and Chancellor Gillman wouldn’t address or acknowledge their protest, and because they hadn’t been willing to meet with them privately the day before.¹⁶¹

The students occasionally shouted personal testimonies, such as saying they weren’t able to sign up for the classes needed to graduate because UCSC graduate students were on strike, and class offerings were being reduced. One student said that she didn’t have the funds to pay for her last quarter of schooling. She shouted, “Who are the grad students that are really suffering and the undergrad students who are suffering the most? Students of Color, low-income students, disabled, trans...I personally don’t have any funding past next quarter.”¹⁶² When panelists spoke about supporting marginalized students and helping provide them opportunities to speak out on their campuses, one of the protesters in the room shouted “they [administrators] don’t care about us, we are the marginalized students.”¹⁶³ It is important to remember that these protests by students often occur when their basic needs are not being met. In those moments students are demanding that their lived experiences be recognized and validated. At one point, Michelle Deutchman, Executive Director of the UC National Center for Free Speech and Civic Engagement, went on stage to say “Protest is welcome so

¹⁵⁹ Greta Anderson, “Free Speech Challenges in Real Time,” *Inside Higher Ed*, February 28, 2020, <https://www.insidehighered.com/news/2020/02/28/students-protest-free-speech-conference>

¹⁶⁰ Anderson, “Free Speech Challenges in Real Time.”

¹⁶¹ Anderson, “Free Speech Challenges in Real Time.”

¹⁶² Sara Weissman, “Students Protest at UC System conference on free speech and student dissent,” *Diverse Issues in Higher Education*, February 27, 2020, <https://diverseeducation.com/article/168351/>

¹⁶³ “#SpeechMatters2020 Conference Agenda,” Session “Get Up, Stand Up: Protest and Disruption on Campus,” University of California National Center for Free Speech and Civic Engagement, accessed July 5, 2020, <https://freespeechcenter.universityofcalifornia.edu/speech-matters-2020/>

long as it doesn't unduly interfere with the ability of the speaker to deliver the message or the ability of the audience to receive the speaker's message."¹⁶⁴

During the scheduled breaks in the conference, a number of attendees wondered if it would have been prudent to allow the protesters even just five minutes to speak about their cause(s). I wondered the same thing. I know that the conference organizers spend a tremendous amount of time organizing every detail of the conference and that things are timed down to the minute, but it seemed like giving some time and space to the protesters might have possibly de-escalated things and allowed those in the audience to better understand what the protest was about. The protesters did make it difficult to hear the speakers at times, causing a disruption that did violate the law, and the conference organizers showed a high degree of patience and professionalism as they navigated a tense situation. Ultimately, I wished the student protesters had been given an opportunity to make a short public statement and wondered whether such an adjustment to the schedule could have been fruitful from a pedagogical standpoint, as well as a public relations one. In an interview, Varsha Sarveshwar, president of the UC Student Association, and a speaker on one of the panels at the conference said "I think there's this tendency to turn protest into something that's palatable. There's a lot of praise for protest and activism in principle, but when someone is shutting down an event, it starts to be seen differently."¹⁶⁵



Student protesters speaking with UC staff and reporters during a break in the #SpeechMatters conference program at UCDC Center.
Photo credit: Melissa J. Barthelemy

¹⁶⁴ Alexandra Feldman, "UC Participation, Protest Conference Interrupted by COLA Protesters," *The Daily Californian*, March 1, 2020, <https://www.dailycal.org/2020/03/01/uc-participation-protest-conference-interrupted-by-cola-protesters/>

¹⁶⁵ Alexandra Feldman, "UC Participation, Protest Conference Interrupted by COLA Protesters."

Let There Be Light: Freedom of Expression on Campus

At one moment the Chancellor of UC Irvine Howard Gillman was referring to the student protesters and said “these people -- who are expressing themselves, it is important for them to have an opportunity to get their expression out.”¹⁶⁶ He went on to commend them for showing “extraordinary” respect for the audience, and the speakers and panelists, by not being too disruptive. I am sure it was stressful for him to be in that situation with the protest happening as he was speaking, especially because the students were saying things that were critical of him and President Napolitano. I am sympathetic to the challenges of the situation, and I also found it concerning that he referred to the protesters as “these people.” I immediately wished that instead he had used the phrase “our students.” These were UC students, enrolled at and living inside the UCDC Center, at a UC Conference and while adversarial in their tactics and behavior, they were still UC students. The phrase “these people” is often interpreted as a microaggression and condescending because of its “Othering” effect. Often it implies that the people spoken about do not belong, that they are a lower class or different kind of person, and that the speaker is distancing himself from them, as if they have no connection. It is also often perceived as stereotypical by implying a group of people are all the same; it is dehumanizing. When the speaker presents as an older White male and the group he is addressing presents as young Women of Color, and in this case when there is such an uneven power differential of a high level administrator and students, it becomes even more important to be sensitive in language choice. Microaggressions refer to “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults toward people of color.”¹⁶⁷ Because of the negative cumulative effect that microaggressions have on peoples’ lives it is important that we sensitize ourselves and our community to the insidious effects of implicit bias.

Administrators in general need to be thoughtful about the words and tone they use in speaking with students. It is important to support students who are pushing back against the institution, because that can be an integral part of the educational process itself. At a certain point, in addition to “managing” student protest and other free speech issues it is also important to think about the educational mission of a university, to contribute to the mission of inquiry and discovery. Rather than treating student protesters as an inconvenience, it is best if administrators can engage in receptive listening when student activists come to them expressing their concerns.

In *Free Speech on Campus* authors Howard Gillman, PhD and Erwin Chemerinsky, JD, discuss their experiences growing up during the civil rights movement and anti-Vietnam War protests and witnessed “first-hand how officials attempted to stifle or punish protesters in the name of defending community values or protecting the public peace.” They go on to say “In our experience, speech that was sometimes considered offensive, or that made people uncomfortable, was a good and necessary thing. We have an instinctive distrust of efforts by authorities to suppress speech,” and that this is partially because “the power to punish speech has been used primarily against social outcasts, vulnerable minorities, and those protesting for positive change.”¹⁶⁸ They

¹⁶⁶ “#SpeechMatters2020 Conference Agenda,” Session “Get Up, Stand Up: Protest and Disruption on Campus.”

¹⁶⁷ Chemerinsky and Gillman, *Free Speech on Campus*, 140.

¹⁶⁸ Chemerinsky and Gillman, *Free Speech on Campus*, 11.

remind us that “colleges and universities also cannot accomplish their modern missions if they are places of privilege and exclusion rather than gateways of inclusive excellence.”¹⁶⁹

The students conducting the protest at the conference asserted that because of the power differential between themselves as students and the administrators on the stage they had no chance to gain access and express their voices other than through disruptive protest. They tried to secure a private meeting with university administrators in advance regarding a number of issues, but were told no. Therefore, in order to get attention they resorted to direct confrontation. This is a common pattern in university environments. Because the stakes are so high it is understandable that administrators may want to “contain” student demonstrations, especially when they may pose a public relations challenge, and when they might involve employment related issues (such as the COLA strike). But, when UC students aren’t given a substantial opportunity to participate in a UC conference as part of their UCDC experience, and when a campus such as UC Santa Cruz prides itself on its history (at least in its marketing materials) as the “authority on questioning authority” but then uses riot police to force its student demonstrators into compliance, it begins to feel like student voices and experiences aren’t being centered and uplifted in the ways that they should be. In order to meet the intellectual and spiritual growth of students, and to obtain a more democratic ideal of education, perhaps the top-down model of control is not the best approach for interacting with students who beg to have their lived experiences valued and appreciated. Radical empathy and engaged pedagogy are needed to create more liberatory campuses where students can feel empowered by their campus leaders. Granted, it is hard to have a liberatory campus when you can’t even afford your rent or food to eat. As UCSB English Professor Chris Newfield has said, “UC is only willing to treat the COLA strike as a breach of contract discipline rather than a desperate attempt to communicate basic needs.”¹⁷⁰ As an “entanglement of bureaucratic, ideological, and security interests,” the UC threatens to become “an expression of neoliberal social forces” that have worked to establish student activism as a basis of suspicion rather than a chance for social transformation.¹⁷¹

Several years ago Dr. Margaret Klawunn, the Vice Chancellor of Student Affairs at UCSB gave a talk that was in conversation with educator and author bell hooks’ pedagogy, from her seminal book *Teaching to Transgress: Education as the Practice of Freedom*.¹⁷² Klawunn asked whether “we are encouraging activism that disrupts the institutions we are a part of and the roles we inhabit” and what it might look like to encourage such questioning of power relations both in the classrooms and across campus. Her talk is something that I frequently come back to when I am thinking about the activism of students on college campuses, including mine. As I was watching things unfold during the protests at the #SpeechMatters Conference, I was thinking that access to educational institutions is not enough. I would like to share one powerful passage from Dr. Klawunn’s talk:

¹⁶⁹ Chemerinsky and Gillman, *Free Speech on Campus*, 155.

¹⁷⁰ Christopher Newfield, “When Are Access and Inclusion Also Racist?” *Remaking the University*, June 28, 2020 <https://utotherescue.blogspot.com/2020/07/ucs-next-president-few-necessities.html>

¹⁷¹ Roderick Ferguson, *We Demand: The University and Student Protests*, (Oakland, CA: University of California Press, 2017)

¹⁷² bell hooks, *Teaching to Transgress: Education as the Practice of Freedom*, (New York: Routledge, 1994)

Let There Be Light: Freedom of Expression on Campus

“...what we are seeing is a population of students coming to college who were not on college campuses 20 years ago. Valued for their academic achievements and the diversity they bring, it makes sense as their numbers increase, first generation, under-represented minority, and high need students are speaking up for what they need and expect changes to reflect their presence and the realities of their lives. I am not suggesting that every change students ask for should be made, but we have got to be having different kinds of exchanges – educating and challenging students but also being willing to listen to what no longer works. It only makes sense that structures created for majority white, more socioeconomically homogenous students would need to adapt to the realities of today’s college students. How things have been working for many years, including when and how faculty members and administrators did their own training, doesn’t make sense.”¹⁷³

She also stated the necessity of “connecting knowledge with life practices,” and that “to do this work we would all have to confront and own our differences, our privilege, our status, our power, our empathy and the places where we lack it,” and “use our mistakes as lessons to learn and be better.”¹⁷⁴

At the #SpeechMatters 2020 Conference, as the student protesters were demanding “Cops off Campus,” and to “Defund the Police,” there was simultaneously a powerful and informative panel going on that was called “Get Up, Stand Up: Protest and Disruption on Campus.” It featured Kyhm Penfil, Campus Counsel at UC Irvine, Sandra Rodriguez, Director of Student Engagement at University of Nevada, Reno, Kristen Roman, Chief of Police, University of Wisconsin, Madison, and Varsha Sarveshwar, President, University of California Student Association. Rodriguez said that “speech and inclusion do not exist in a binary but rather they exist with the most integrity when they are completely intertwined,” and that “marginalized communities pay a higher price for free speech” because it is a “democratic trauma when you have to listen to protected speech that is diametrically opposed to your existence.” She also said that people in positions like hers can “challenge our students to use protesting as a platform for teaching and learning.” Rodriguez also seemed to be reflecting what was going on with the protest right in front of our eyes at the conference when she said “it is important to bring students to the table who may not necessarily possess the social and cultural capital to get into the positions of power and privilege.” In response some of the protesters shouted, “that is us, we are the marginalized students!”

Additionally during that conference session, UC Student Association President Varsha Sarveshwar defended students who shut down speech that they find hateful. She spoke about the impact that these incidents can have on campuses and said that speech isn’t just speech, because there is harm to it. She said, “if you are from a marginalized community, words are incredibly powerful when they are hate speech. They have a huge impact on your ability to even just be a student. You aren’t going to be on a level playing field with everyone else.” According to Sarveshwar, UC Berkeley recognizes that having significant police presence on campus during events can have a harmful impact on many students so a campus wide notification is now sent out well in advance so that students are not surprised. She said that the student government uses social media such as Facebook, Instagram, and Twitter to also show areas of the campus where there is an incident of significant police presence, so that students can avoid the area. She said that campuses need to increase trust between

¹⁷³ Margaret Klawunn, “Can We Teach to Transgress?” speech given at University of California, Santa Barbara, 2016.

¹⁷⁴ Klawunn, “Can We Teach to Transgress?”

students and the administration and that they need to take issues of diversity, equity, inclusion and affordability just as seriously as federal mandates to uphold Constitutional free speech rights of the speakers who come to campus.

Kyhm Penfil, the moderator asked Saveshwar whether she thought that when protesters cross the line from lawful protest to unlawful disruption they don't know what the line is or whether they know where the line is and they are crossing it on purpose willing to pay the consequences. Sarveshwar said that she thought students knew the difference and were intentionally crossing that line. She said "If you have speakers coming to your campus who deny your right to exist as an individual, and you say 'look this is a threat to me and my community on this campus and I am going to respond by de-platforming the speaker' that is not a choice being made because they don't understand the First Amendment. They do and they are saying 'this person is unjust and I am not going to allow it.' I think there is a lot of condescension that sometimes happens towards students because people say that the students don't get the difference. I think the conversation needs to be at a more nuanced level recognizing that students are making some really informed choices, and you have to engage with them on that level." Rodriguez agreed but added that sometimes even though students may know and are driven by conviction they might still be in a stage of psychosocial cognitive identity development that might not allow them to fully grasp the consequences of their actions. To help inform students protesting on campus, and to diffuse tensions between groups that might not be getting along, Rodriguez shared cards with Student Expression, Rights & Responsibilities Tips for when students might be confronted with offensive speech or materials. She said that student affairs staff at her campus walk among the students and encourage them not to do anything physical and engage with their minds instead. Examples of these cards are available on their website.¹⁷⁵

This question of whether or not students realize they are breaking the law reminded me of the hundreds of Black Lives Matter protests and uprisings on and off campuses that have recently occurred. This moment and debate harken back to a passage that critical race theorist Charles Lawrence III wrote in *Words That Wound* in 1993:

"Most blacks – unlike many white civil libertarians – do not have faith in free speech as the most important vehicle for liberation. The first amendment coexisted with slavery, and we still are not sure it will protect us to the same extent it protects whites. It often is argued that minorities have benefited greatly from first amendment protection and therefore should guard it jealously. We are aware that the struggle for racial equality has relied heavily on the persuasion of peaceful protest protected by the first amendment, but experience also teaches us that our petitions often go unanswered until protests disrupt business as usual and require the self-interested attention of those persons in power. Paradoxically, the disruption that renders protest speech effective usually causes it to be considered undeserving of first amendment protection."¹⁷⁶

¹⁷⁵ "Resource Materials: Protest & Disruption Guidelines," University of California National Center for Free Speech and Civic Engagement website, accessed July 5, 2020, <https://freespeechcenter.universityofcalifornia.edu/programs-and-resources/resource-materials-protest-disruption-guidelines/>

¹⁷⁶ Lawrence, *Words That Wound*, 76.

Let There Be Light: Freedom of Expression on Campus

The conference ended with executive director Michelle Deutchman saying “I think it’s sort of appropriate – some might say it’s ironic – that participation and protest has sort of reshaped our agenda today. But it was the theme of today’s conference, and I think the bottom line is it can be messy – both participation and protest – but they remain critically important to the smooth functioning of our democracy, and today we had an opportunity to see that live and in action.”¹⁷⁷

As things were wrapping up, I was able to speak with some of the student protesters and asked if I might be able to interview them later that weekend as part of my research project as a Free Speech Fellow. Two of the students, Jazleen Jacobo and Ashleigh Medina, were extremely thankful that I reached out to them, said they appreciated some of the comments I had made during the Q&A portion, and gave me their contact information so we could connect. Several days later I treated them out to brunch at the hotel to thank them for their time and because I wanted them to know that I valued and appreciated them, as UC students. We had a 90 minute long conversation. Both students were graduating seniors at UC Santa Cruz, and were interning at non-profit organizations as part of the UCDC program. They were excited to hear that I had also graduated from UCSC, identify as lesbian, and that I had a law degree, since they are both interested in going to law school. I have to admit that emotionally I found it really difficult to sit in the audience during the conference and witness how frustrated these student protesters were not being able to say what they wanted to say, and it felt really good to finally be able to sit down with them and better understand what their concerns were. It is so important to demonstrate compassion and care, and as a UC graduate student I do feel a connection to other students in the UC. It is crucial that institutions work with their students to resolve their concerns, and I hoped to at least understand their frustrations better.

They explained that they had only learned about the #SpeechMatters conference four days before it was happening, and that they were disappointed that it was being held on a Thursday because all of the interns work between 24-32 hours Monday through Thursday. Since a lot of the UCDC interns are interested in possibly going to law school in the future, and because free speech is such a timely and important topic, they thought more of an effort should have been made to include the interns in the conference and its related activities. Since the conference was scheduled a year in advance, they didn’t understand why there wasn’t a coordinated effort to involve the UCDC interns, and schedule it on a day they could attend. They felt as though they were being excluded from an important opportunity that was taking place in their own building. They said that was one reason why they felt like it was a “show conference” that was based on “performativity” rather than directly engaging the students in the topic itself. One administrator had told them “your disruption is not what we are talking about today,” and another White administrator had put up her hand to silence them when they were chanting. They told me that they had to work really hard to get out of work for that day so that they could attend the conference. They had several sleepless nights while they worked on papers, classwork, and had discussions with the UCDC Center staff about their concerns, and attempted to schedule a meeting with Chancellor Howard Gillman. Since they couldn’t obtain a meeting with Gillman during his visit they decided to create a list of Demands and protest at the conference. I asked them how they felt standing there holding their signs and chanting, with hundreds of people watching, and the event being filmed and broadcast. Ashleigh said “it was scary, but I was angry. I had to step back because they were shushing us. I had to hide behind the poster because I was tearing up. I thought, ‘what you are listening to here

¹⁷⁷ Alexandra Feldman, “UC Participation, Protest Conference Interrupted by COLA Protesters.”

[at the conference] is nothing compared to what we live.” Jazleen said, we were “fighting for humanity. Making sure the place we would go back to is there, and we can graduate.”

They said that they realized their protest was a big deal once it was showing up on social media like Twitter, Instagram and Facebook. During the breaks between sessions -- faculty, staff, some of the UC Free Speech Fellows, and students from other campuses made supportive comments to the student protesters. Then reporters began asking them questions. They told me that it meant a lot to them that people were impressed by their protest, even though they didn't feel that support when they were protesting in the actual room of the conference. One UC administrator said “we appreciate your demonstration, and would like to help.” They kept emphasizing that they weren't protesting for themselves but rather for the importance of the causes they were advocating. In particular, they wanted to make things easier for other marginalized students who attend the UCDC program and other UC campuses in the future. Some of their complaints were about the UCDC Center itself. They claimed that the Director created a “violent living environment for communities in the UCDC Center by bringing Border Patrol to traumatize undocumented students,” and that they experienced numerous microaggressions. They said speakers came to the Center who were discriminatory and made transphobic remarks. They were also upset by the lack of services for students who were registered and receiving accommodations through their Disabled Students Programs (DSP) on their home campuses. Lastly, they wanted Chancellor Gillman to intervene on behalf of Shikera Chamdany, an African American UCI alumnae who was arrested by police officers during the COLA protests at UC Irvine. They claimed that a White female police officer had seen Chamdany inside an administration building, and mistakenly assumed she was a COLA protestor in an area that was off limits. The officer tackled the student and arrested her for resisting an officer. According to Chamdany she was only inside that building to obtain a copy of her transcripts from the registrar. A Town Hall meeting was arranged at the UCDC Center the night after the #SpeechMatters Conference and Chancellor Gillman attended and spoke directly with the students, along with other UC officials. They said the Town Hall went from 9:30pm to midnight and they thought it was successful in a lot of ways. They were impressed by how many people attended, that the administrators had listened to their concerns, and that they had promised to take action. It is important for universities to recognize and support all of their student leaders.

A number of the things that Jazleen and Ashleigh shared with me were similar to what William MacKinnon Morrow, one of the UC Free Speech Fellows from last year's cohort, also found in his interviews with student activists throughout the UC system. In his piece, “Students Speak Up: Perspectives of Free Speech Among Student Leaders in the University of California System,” he found that free speech controversies often have an anxiety producing effect on students and can impact many aspects of their lives. He also found that students hate to be ignored, and that when they protest it is often because other means of communication have been foreclosed.¹⁷⁸ I am reminded of something a Black student at UCSB said to our Vice Chancellor of Student Affairs when she was interviewing Black students about free speech issues and diversity, equity, and inclusion. He told her, “Activism derives out of necessity. People only come here to study. They only come to get out of here with a degree. Activism comes out of what students need. Students should not have to do activism. They

¹⁷⁸ William MacKinnon Morrow, “Students Speak Up: Perspectives of Free Speech Among Student Leaders in the University of California System,” *Selected Works 2018-2019 Fellows Program*, 72.

Let There Be Light: Freedom of Expression on Campus

should be part of the decision-making process.”¹⁷⁹ Similarly, one of the students who led the Fossil Free UCSB movement and the 72-hour sit-in at our main administration building said her student organization had realized they needed to take bolder action because none of their previous attempts to have their voices heard had worked. She said “Basically, we’ve been to regents meetings, made committees, formed coalitions, nothing has really come to fruition. We were tired of having our voices not be heard by the channels that were not available to us.”¹⁸⁰

UC-Wide Work Stoppage in Support of the COLA Movement

On March 5, 2020, just three days after I returned from our conference in DC, there was a UC-wide work stoppage in support of the COLA movement. At UCSB student protesters blocked the front entrance to Cheadle Hall, with a large banner, at one point refusing to let staff enter the building. One staff member tried to push past protesters and claimed that she was shoved, and she called the police. Our VCSA was able to work with the police to have the officers stay far away from the protesters as the situation calmed down. Later that day over 3,000 protesters marched to the gate that marks the entrance to our campus.¹⁸¹ They were accompanied by a dozen faculty members who wore yellow caution tape to indicate they were serving as safety monitors for the march. For a half hour demonstrators stood on the adjoining lawn, at the edge of the roadway. The protesters flexed their numbers to show that they could close down the highway to our campus if they wanted to. There were only several police officers present and they quickly staged the area in advance by using their patrol vehicles to block the necessary streets. This was done out of a safety concern since people were crossing the roadway as they marched and were standing near the edge of the street. Some protesters yelled “Cops off campus!” and swore at the police. The officers had shut down the roads at quite a distance away from the protesters, and they did not respond to any of the insults that were shouted at them. All of this helped to keep things calm, and enabled more students to feel comfortable exercising their free speech rights, especially our most marginalized and vulnerable student populations. The extensive work that our student affairs administrators have done behind the scenes in establishing protocols, working carefully with our university police, and building relationships with student activists, have certainly helped facilitate smoother responses to large scale demonstrations on our campus.

¹⁷⁹ Klawunn, “Can We Teach to Transgress?”

¹⁸⁰ Lauren Marnel Shores, “Chancellor Endorses Fossil Free Push for Divestment,” *The Bottom Line*, May 12, 2017, <https://thebottomline.as.ucsb.edu/2017/05/chancellor-endorses-fossil-free-push-for-divestment>

¹⁸¹ Arturo MartInez Rivera and Holly Rusch, “‘Without Graduate Student Labor there is no Light’: UCSB 4 COLA Rallies as part of UC-wide Strike,” *Daily Nexus*, March 6, 2020, <https://dailynexus.com/2020-03-06/without-graduate-student-labor-there-is-no-light-ucsb-4-cola-rallies-as-part-of-uc-wide-black-out-strike/>



Nearly 3,000 graduate and undergraduate students, faculty, and staff marched to Henley Gate at the entrance to the UCSB campus in support of the COLA movement as part of a UC-wide work stoppage on March 5, 2020. In the foreground are two faculty members wearing yellow caution tape to indicate they were serving as safety monitors for the march. *Photo credit: Melissa J. Barthelemy*

Several days after I took this photo of the COLA march, our campus switched to remote learning due to the Coronavirus. As such, COLA activists were suddenly deprived of the visibility of people power in a physical form, and the targets for on-campus protests were no longer relevant as many students returned to their hometowns and our university emptied. Out of necessity COLA activists switched to what they call a “Digital Picket Line,” which is a remote, online strike. Instead of meeting in-person, activists hold their meetings via Zoom. COLA activists have engaged in online actions such as mass emails and phone calls to administrators on particular days, in order to flood their inboxes and voicemails with demands for a Cost of Living Adjustment. Both graduate and undergraduate students have also sent testimonials to administrators about their financial, emotional, and physical struggles as underpaid student workers, who reside in precarious living situations. Additionally, Strike University is a digital initiative created by COLA organizers across the UCs, that aims to provide public education that is free and accessible for everyone. The initiative includes classes on organizing, mutual aid activism, phone bank training, a reading group, and watch parties. Most recently, in the wake of George Floyd’s killing, there has been a large focus on the Cops off Campus Movement within the larger COLA Movement, with many calling for the abolition or defunding of UC police. One of the strengths of the COLA Movement has always been organizers’ abilities to disseminate information and increase engagement through the utilization of social media such as Twitter, Facebook, and Instagram. That foundation has enabled the Movement to continue in the digital realm.¹⁸²

¹⁸² Melissa Barthelemy, “UC Graduate Students Shift to a Digital Picket-Line in Demanding a Cost of Living Adjustment (COLA),” University of California National Center for Free Speech and Civic Engagement, April 2020, <https://freespeechcenter.universityofcalifornia.edu/wp-content/uploads/2020/04/speechspotlight-issue3-april2020.pdf>

Leading with Compassion

Key Recommendations:

- Students and administrators engaging collaboratively in addressing free speech community controversies on campus should engage in open, honest, and heartfelt discussions about the challenges of this work.
- The power relations between various groups and individuals need to be acknowledged based on positionality, and the roles that each person inhabits within the hierarchical university structure.
- To help student-staff and administrators develop close interpersonal working relationships based on trust and to minimize the chances of hurt feelings, student-staff and administrators should have conversations about the dual roles they inhabit personally and professionally.
- Creating opportunities for student activists to provide constructive criticism and to engage in open dialogue with administrators about their lived experiences can provide crucial context for their concerns, issues, and demands.

To celebrate its 100 year anniversary the professional organization NASPA – Student Affairs Administrators in Higher Education, published a special anniversary issue of its *Leadership Exchange* magazine. One section featured reflections written by vice presidents of student affairs and other university administrators discussing student activism on campus in the past and present. Felicia E. McGinty, Executive Vice Chancellor for Administration and Planning at Rutgers University-New Brunswick said “Since the 1990s, campus activism has evolved from passive demonstrations to more direct actions that target issues and individuals. The ‘demand lists’ are lengthier and more specific. Social media, cell phones, digital photos, and video footage have transformed the landscape for campus activists, enabling them to organize quickly, better communicate with constituents on and off campus, and more effectively achieve their goals.”¹⁸³

Student activists of today are also more likely to embrace the element of surprise by engaging in covert actions that are quickly organized. In his reflection piece, Larry D. Roper, former Vice Provost for Student Affairs at Oregon State University lamented that in the past “students came to the board meeting, requested time to present their demands, and engaged in respectful discourse with board members. They then focused on working with those who could give them the outcome they sought.” He says that student activism in the 1980s “seemed to honor ‘time, place, and manner’ guidelines – to the point of alerting institutional leaders that they were planning an activism event, reserving space as required by policy, and being more single-issue focused as opposed to forwarding broad lists of demands.”¹⁸⁴ Student affairs administrators and other university leaders are under increasing pressure due to the pace and high visibility of student activism, the divisive national

¹⁸³ Felicia E. McGinty, “Free Speech, Firebombing, and the FBI,” *Leadership Exchange: Solutions for Student Affairs Management*, (Washington, DC: National Association of Student Personnel Administrators, 2019), 37.

¹⁸⁴ Thomas A. Parham, “Activism Then and Now,” *Leadership Exchange: Solutions for Student Affairs Management*, (Washington, DC: National Association of Student Personnel Administrators, 2019), 37.

political climate which increases tensions on campus, changing student demographics, and challenges meeting the basic needs of students which are more varied than ever before.

According to the Cooperative Institutional Research Program at the Higher Education Research Institute at the University of California, Los Angeles, in the last 50 years that data has been collected, college students are at their highest levels of interest in political and civic engagement. This trend is evidenced by the large numbers of protests and demonstrations held at colleges and universities in the past few years. It is exciting to see college students serving as change agents, and there are unique challenges facing administrators who must carefully navigate sensitive issues such as the use of police on campus; supporting all students while also speaking out against prejudice and hate; abiding by the First Amendment while simultaneously upholding university values, creeds and honor codes; and responding to bias incidents without chilling speech on campus. At times, administrators must protect speech that is hateful and offensive, and that runs afoul of university values, the values of the student affairs profession, and personal beliefs. Increasingly, student activists on all sides of the political spectrum claim that university administrators are not doing enough to either protect their free speech rights or protect them from hate speech. They often portray administrators as barriers to change. Many student affairs administrators became interested in the field as a result of their own personal experiences as student activists. At times administrators are in a place of personal and professional conflict as they have to explain to marginalized students why even offensive and hurtful speech frequently cannot be censored. Students may perceive such administrators as “sell outs” or “hypocrites,” claiming that these administrators regularly speak about the importance of social justice, but then cower with their tails between their legs when faced by intentionally provocative conservative speakers who spew hate. These comments can be incredibly hurtful as “Student affairs leaders must constantly consider how to balance personal narratives with a responsibility as educators charged with the emotional, cultural, social, and leadership development of all members of the student community.”¹⁸⁵

When students and administrators engage collaboratively in addressing free speech community controversies on campus there should be open, honest, and heartfelt discussions about the challenges of this work. The power relations between various groups and individuals need to be acknowledged based on positionality, and the roles that each person inhabits within the hierarchical university structure. There are moments when students and administrators may be at odds with each other based purely on these roles. Those who are in more privileged positions as administrators, faculty, and staff must realize the challenges and pressures that students may face in navigating these spaces and discussions with them. Student-staff who are engaged in activism may at times work cooperatively “with” the administration, and at other times they may be fighting “against” the administration in order to advocate for change. For student workers who find themselves working “for” the administration in an employment capacity, it can become even more difficult to push back against the administration in ways that are still seen as appropriate. Additionally, their colleagues from their student organizations and activist circles may question their allegiances if they appear to be too cozy with the administration.

¹⁸⁵ Anna K. Gonzalez, “A Storied History,” *Leadership Exchange: Solutions for Student Affairs Management*, (Washington, DC: National Association of Student Personnel Administrators, 2019), 34.

Let There Be Light: Freedom of Expression on Campus

There is however, a certain amount of choice and flexibility that student-staff still possess which administrators do not. The roles of administrators are constant in terms of enforcing university policies and procedures whereas student-staff are often able to use their student voice in ways that have a wider range of permissibility with fewer ramifications. To help student-staff and administrators develop close interpersonal working relationships based on trust and to minimize the chances of hurt feelings, it can help to have conversations about the dual roles you inhabit personally and professionally. There are times during free speech community controversies when it is important to differentiate actions and thoughts as individuals who care about each other, versus behavior in an official work capacity that requires administrators to abide by and uphold specific laws and policies. Such conversations can help provide understanding, but they don't always make the situation less emotional or less frustrating. Administrators must build trust with students by demonstrating compassion and care. Creating opportunities for student activists to provide constructive criticism and to engage in open dialogue with administrators about their lived experiences can provide crucial context for their concerns, issues, and demands. During a time in which our nation is facing a politically divisive Presidential election and an unprecedented pandemic it is more important now than ever to demonstrate leadership that is grounded in empathy, compassion and love.



Dr. Britt Andreatta, former faculty and associate dean of students at UCSB, protesting at Women's March in downtown Santa Barbara on January 21, 2017. *Photo credit: Melissa J. Barthelemy*

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FREE SPEECH GUIDE FOR DIVERSITY OFFICES



by **Jonathan Friedman**
Program Director, Campus Free Speech

Table of Contents

Introduction to this Guide.....	105
Free Speech and Diversity Offices.....	105
Our Principles.....	107
The Law.....	107
<i>The First Amendment</i>	
<i>Public and Private Institutions</i>	
<i>Campus Policies</i>	
<i>Federal Statutes</i>	
<i>Hateful Language and Offensive Speech</i>	
<i>State Legislation</i>	
<i>First Amendment Terms at a Glance</i>	
Advice for Different Speech-Related Scenarios.....	112
<i>What to consider when responding to speech-related controversies</i>	
<i>Different approaches to responding to speech-related controversies</i>	
<i>Proactive tips for promoting free speech and inclusion in tandem</i>	
<i>How to respond to expressions of hate on campus</i>	
<i>How to respond to student calls to rename a campus building or landmark</i>	
<i>Cautions and tips for bias response systems</i>	
<i>How to respond if you're asked to fire a professor over speech</i>	

Free Speech Guides for Diversity Offices, Student Affairs and Residence Life

How to support faculty and staff who experience online harassment

If a student asks for help planning a protest

Guidance for administrators thinking about safe spaces

Case Studies..... 124

Georgetown University grapples with slavery, memory, and reconciliation

Controversy over painted bridge at the University of Minnesota-Twin Cities

Students at Sarah Lawrence College call for professor's tenure to be reviewed

Sample Statements..... 127

Statement on Milo Yiannopoulos at New York University

Statements on hateful incidents at Colorado State University

Statement on racist incident at the University of Oklahoma

Swastika graffiti at Duke

Professional Profile..... 131

Introduction to this Guide

In response to controversies and debates that have roiled colleges and universities across the country in recent years, PEN America has developed a first-of-its-kind guide to navigating issues of free speech and inclusion on campus. Housed online, the [Campus Free Speech Guide](#) provides practical, principled guidance for students, faculty, and administrators with the aim of keeping campuses open to a broad range of ideas and perspectives.

The **Free Speech Guide for Diversity Offices** is a companion resource complimenting the advice found online, with a particular focus for diversity office personnel. The advice in this Guide reflects PEN America's efforts to uphold and advance the principles of free speech and inclusion in tandem in higher education, recognizing that college campuses are foundational to the future of civic life and often the catalyst for wider social change. These dual principles are both vital to sustaining an open, equitable, democratic society, and we believe that administrators and faculty have an obligation to model a commitment to these principles and to strive to inculcate this commitment among the rising generation.

The content of this guide was compiled in conjunction with PEN America's Campus Free Speech Program as part of a fellowship by its director, Jonathan Friedman, from the University of California National Center for Free Speech and Civic Engagement. The advice contained herein was developed in consultation with hundreds of university students, faculty, and administrators nationwide. It also draws on PEN America's extensive research, analysis, and advocacy on campus free speech issues.

Free Speech and Diversity Offices

The freedom to express one's ideas unhampered by censorship and suppression is a bedrock civil rights principle. In the U.S., the First Amendment endows all Americans with this freedom by forbidding Congress to pass any law that abridges freedom of speech, freedom of the press, peaceful assembly, or the right to petition the government. This right is also codified in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which cement free expression not just as an American liberty, but as international human rights law. In order to understand free speech on college campuses, one must begin with this fundamental precept: free expression is a universal and inalienable freedom belonging to all people equally, without discrimination. Free speech belongs to everyone.

But neither the First Amendment nor human rights covenants guarantee that all citizens in a democracy have equal opportunities to speak and be heard. Rather, upholding the principle of free speech -- for all -- requires an affirmative commitment to inclusion, and to advancing institutional efforts to lower the barrier to expression for members from historically marginalized or lesser heard communities. In order to ensure that the public sphere is open to all diverse voices, it is often in fact necessary that harmful or intimidating speech does not go unchallenged by institutional authorities. Speaking out against hateful speech, bigotry, harassment, and discrimination has become urgent in an era of rising hate, deepening political divides, and a crisis in civic literacy, where controversies over language have struck at the heart of the social fabric.

Colleges and universities, our democracy's crucibles of ideas and dialogue, know very well the challenges in harmonizing free expression with diversity, equity, and inclusion. Diversity Officers are uniquely positioned to balance these ideas while nurturing a campus climate that reflects and embraces the diversity of a changing nation, and a changing world. Hateful expression incidents, controversial invited speakers, contentious statements made by faculty and staff, and other common issues often pose challenges to this mission. Although these events have the potential to antagonize and infuriate, responding to heightened anxieties with regulation and censorship can inhibit productive and inclusive long-term conditions for discourse. Diversity Officers must take care to avoid setting precedents that would empower administrators with the ability to discipline students based solely on the content of their expression, and they should work both proactively and reactively to ensure that all students on campus can express themselves freely and equally, exposing them to a wide array of thoughts and ideas. Sanctions should be saved for only the most legally egregious offenses. Hateful and offensive speech should be answered with more speech, as well as clear, unwavering denunciations of values at odds with those of the institution. Diversity Officers can also help institutional leaders understand that not everyone targeted with hate feels comfortable or empowered to speak out against it, and that beyond disciplinary responses, institutions can also engage in responses that involve education, counseling, or other restorative justice practices.

Just as these principles apply across campuses, so too do they come to bear in the work of Diversity Offices. In their day-to-day operations, diversity directors, staff, and assistants can experience frictions between free expression and the feelings of welcoming and belonging. Language and politics have the potential to spur interpersonal tensions, occasionally leaving Diversity Officers on the student- and parent-facing frontlines to respond with level-headed, policy-minded approaches that are consistent with free speech, inclusion, and other campus values. Diversity and inclusion efforts have in recent years sometimes been perceived as

detrimental to a robust climate for free speech. This Guide was created to demonstrate that, in fact, the values of free speech, diversity, and inclusion can and should be mutually reinforcing, rather than at odds with each other, by providing diversity officers with principled and practical advice to help them confront a range of different scenarios.

Our Principles

PEN America Principles on Campus Free Speech

In today's debate over free speech on campus, PEN America's philosophy is guided by the 1948 PEN Charter to stand for the "unhampered transmission of thought," to "oppose any form of suppression of freedom of expression," and to "dispel all hatreds." The PEN America Principles on Campus Free Speech provide both general and specific precepts for nurturing campus communities that uphold these values; protecting speech to the utmost and allowing for academic and social discourse that is truly inclusive and transcends boundaries.

- Campuses must be open to a broad range of ideas and perspectives, and to achieve that, they must uphold the rights of all students to participate freely and equally.
- Campuses can and must fulfill their dual obligation to both protect free speech and advance diversity and inclusion.
- Campus leaders must be free to speak in their own right, to assert and affirm their institutional values.
- Promoting free speech and inclusion requires proactive steps, not just reactions to controversy.
- Campuses should encourage a climate of listening and dialogue in tandem with support for free speech.
- By acknowledging and addressing legitimate concerns regarding racism and bigotry in the context of free speech debates, universities can help ensure that the defense of freedom of expression is not misconstrued as a cause that is at odds with movements for social justice.
- Colleges have a unique academic mission and core values that are distinct from other social institutions, which should be protected.

To see the full list of principles, check out our online Guide at: <https://campusfreespeechguide.pen.org/pen-principles/>

The Law

The First Amendment

The First Amendment protects people's rights to free speech, expression, press, and assembly, as well as the right to petition the government. These fundamental rights extend to all individuals in the United States, regardless of factors such as religion, gender, race, citizenship, or sexual orientation. Under the First Amendment, people have the right to create, publish, convey and receive information; to express their views; to speak freely; and to be free from retaliation or efforts to restrain their expression. Although free speech is an

essential value of the United States, it is important to note that it is not absolute. The government may impose regulations on certain kinds of speech, including but not limited to harassment, threats, slander, and instances in which an individual participates in incitement of violence. In addition to jurisprudence and precedent, there are several federal statutes that regulate certain kinds of speech, including Title VI and Title IX.

Public and Private Institutions

Colleges and universities are held to different legal standards when setting internal regulations for First Amendment rights on campus, depending on their public or private status. While public universities are beholden to principles of the First Amendment, they may impose what are known as time, place, and manner restrictions on the exercise of those rights by individuals on campuses. A public college or university may impose these restrictions as long as they are reasonable and content-neutral, are in the interest of preventing significant disruption, and leave open other means of communication. Any campus policy that regulates speech based on content is unconstitutional unless the university can show that the regulation is narrowly tailored to serve an important university function. Often, the context that a policy seeks to regulate on campus—such as speech in a classroom versus in public areas versus in student dormitories—is relevant to understanding whether it is constitutional.

Because private colleges and universities are not government entities, they are not required to uphold First Amendment protections in the same manner as public universities. In other words, private institutions may impose stricter limitations on free speech. Still, most adhere to free speech principles and support academic freedom. Private institutions that receive federal funding must also adhere to federal anti-discrimination laws, such as those applicable under Title IX.

There are some exceptions to this rule. Private colleges and universities that accept government funding or which otherwise engage with government closely may be required to adhere to the First Amendment more closely. State governments may also pass statutes requiring private universities to respect free speech rights as a matter of state law, even when the US Constitution imposes no such requirement. For example, California law applies First Amendment protections to both public and private universities. Congress also has the power to propose and pass federal laws which would require private universities, by statute, to adhere to various free speech guidelines.

Campus Policies

In an effort to balance the educational value of free speech against the value of providing a safe and supportive community for all students, some colleges and universities have considered or adopted policies that regulate or prohibit speech deemed hateful or offensive. Public institutions, however, must be sure that their policies do not contravene the First Amendment. Some policies promulgated by public universities have been found unconstitutional, particularly related to university regulation of offensive speech, bias reporting, and other expressive speech. To learn more about how to evaluate these policies at public universities, see FIRE's [“Correcting Common Mistakes in Campus Speech Policies.”](#)

Private colleges and universities are able to impose even greater restrictions as long as they do so within the bounds of their legal obligations to members of the campus community. Private institutions should also

ensure that their policies allow the campus to remain open to a broad range of diverse ideas and perspectives. Students seeking to understand the parameters of conduct on campus should consider both relevant law and university policies.

Time place and manner restrictions are limitations imposed by the government on expressive activity, such as limits on noise, the number of protesters allowed in a public space, or barring early morning or late night protest. The restrictions must leave ample alternative channels for communicating the speaker's message.

Federal Statutes

Beyond the contours of free speech rights afforded by the Constitution and the First Amendment, the two most significant federal statutes regulating speech in higher education are Title VI and Title IX, which prevent discrimination on the basis of race and sex, respectively.

The Office of Civil Rights in the Department of Education has [stated](#) that these federal regulations are “not intended to restrict the exercise of expressive activities protected under the U.S. Constitution.” Rather, they apply only to unprotected speech that constitutes discrimination and harassment and creates a hostile environment. The offensiveness of speech alone is not sufficient to establish that it has created a hostile environment. A hostile environment is created when the harassment is “severe, persistent, or pervasive” and “sufficiently serious to deny or limit a student’s ability to participate in or benefit from an educational program.” Schools are obligated to take action if speech or conduct contributes to a hostile environment.

Title VI

Title VI of the Civil Rights Act of 1964 states that

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This applies to both public and private schools that receive federal funds.

On December 11, 2019, President Trump issued an Executive Order that would allow Title VI to apply to cases of anti-Semitism on college campuses.

Title IX

Title IX of the Education Amendments Act of 1972 states that

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This applies to both public and private schools that receive federal funds. Title IX’s impact on speech has been contentious, with some arguing that its implementation goes too far in its definition of sexual harassment and has a chilling effect on speech, and others arguing that it does not go far enough to protect people from sexual harassment. Under Secretary of Education Betsy DeVos, the definition of sexual harassment under Title IX was narrowed from that used in the Obama administration, and it was mandated that colleges and universities hold live hearings in Title IX cases that allow for cross-examination of all parties.

Hateful Language and Offensive Speech

Hateful language and offensive speech may be subject to punishment in a variety of contexts. However, such speech remains constitutionally protected under the First Amendment, as the United States Supreme Court has regularly upheld. While many countries ban hate speech, the U.S. has taken a different path, adopting no legal definition of “hate speech.” The Supreme Court has consistently ruled that such speech enjoys First Amendment protection unless it is directed to causing imminent violence or unlawful action, or involves true threats against individuals. The principle often invoked instead is that the solution to offensive speech is to engage in counter-speech.

It is important to distinguish between hate crimes and hateful speech. There are various federal and state-level hate crime statutes. For the purposes of data collection, the FBI defines a hate crime as a “criminal offense against a person or property motivated in whole or in part by an offender’s bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.” Unlike hate speech, all hate crimes are punishable criminal acts that are treated with priority by the federal government, and by almost all states, due to their extreme impact on individuals, groups and society. As the FBI articulates, “a hate crime is a traditional offense like murder, arson, or vandalism with an added element of bias...Hate itself is not a crime.” State-level hate crime statutes are typically “penalty enhancement” statutes, which means they increase the punishment for a defendant if the target of a hate crime is intentionally selected because of his/her personal characteristics.

For more background and analysis, interested readers can read *Hate: Why We Should Resist it with Free Speech, Not Censorship*, by Nadine Strossen, former president of the American Civil Liberties Union (ACLU). Strossen explains in a June 2018 [interview with NPR](#):

“The most effective way to counter the potential negative effects of hate speech — which conveys discriminatory or hateful views on the basis of race, religion, gender, and so forth — is not through censorship, but rather through more speech. And that censorship of hate speech, no matter how well-intended, has been shown around the world and throughout history to do more harm than good in actually promoting equality, dignity, inclusivity, diversity, and societal harmony.”

State Legislation

Since 2017, over 30 states have proposed or passed new laws specifically focused on campus speech. As these debates often prompt heated debate around campus communities, different political actors and free speech groups continue to propose new legislative or regulatory “solutions.” Most of these proposals have been based on a handful of model bills, such as the [Campus Free Expression Act](#) (CAFE), authored by the Foundation for Individual Rights in Education (FIRE), the [Campus Free Speech Act](#), authored by the Goldwater Institute, and the [FORUM Act](#), authored by the American Legislative Exchange Council (ALEC). PEN America has discussed each of these bills in our reports, including [Wrong Answer: How Good Faith Attempts to Address Free Speech and Anti-Semitism on Campus Could Backfire](#) and [Chasm in the Classroom: Campus Free Speech in a Divided America](#).

First Amendment Terms at a Glance

The First Amendment reads: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Freedom of the Press is a core First Amendment principle which protects printing and public circulation of opinions without censorship by the government.

Right to Assemble is a core First Amendment principle which protects the right to peaceful public assembly and protest. The government may impose some restrictions on the right to assemble.

Government (Public) vs. Private Acts refer to different standards to which government and private actors are held when setting regulations that implicate First Amendment rights.

Content Neutral Government Restrictions refer to the government’s ability to impose regulations on free speech without regard to the content or message of the expression.

Prior Restraints are laws or regulations that suppress speech at the discretion of government officials on the basis of the speech’s content and in advance of its actual expression, such as requiring fees or permits as a condition for protesters to engage in peaceful assembly.

Harassment is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. Such activities may be the basis for a lawsuit if due to discrimination based on race or sex.

Defamation is the unlawful act of making untrue statements about another which damages their reputation. In a defamation trial, public figures must prove that the defamation was made with malicious intent and was not fair comment.

Slander/Libel are oral and written forms of defamation, respectively, in which someone expresses an untruth about another that will harm the reputation of the person defamed.

Fighting Words are words intentionally directed toward another person, causing them to suffer emotional distress or incite them to immediately retaliate physically. While this isn’t an excuse or defense for assault and battery, it can form the basis for an assault lawsuit.

Hate Speech has no legal definition in the U.S., making it protected by the First Amendment. Many countries differ in having laws that disallow hateful speech or speech that advocates for or denies genocide.

Advice for Different Speech-Related Scenarios

The following set of advice was developed as guidance for Diversity Officers and their staff facing a generalized set of scenarios. Any true scenario will require considerations of context, policy, the public/private status of the institution, and judgments by the personnel on the ground. This advice is meant to inform those considerations, by offering step-by-step considerations that responding Diversity Officers and their staff should bear in mind.

What to consider when responding to speech-related controversies

Speech-related controversies on campus are often complex and best analyzed through multiple lenses. When confronted with such a scenario, it is essential that Diversity Officers and their staff are prepared to respond nimbly and effectively and to address the concerns of the stakeholders involved. After assessing whether there are any immediate threats to public safety and gathering as much information as possible about the incident, consider utilizing PEN America's three-pronged response framework in developing your response:

Lens 1: Law and policy considerations

Private and public universities are subject to laws differently, but both have legal obligations and their own policies which will shape responses to speech-related incidents. Some questions to consider include:

- What laws and university policies, if any, are relevant to this incident?
- How do they shape the way that Diversity Officers, their staff, or the institution more broadly, should respond?

Lens 2: Community considerations

Campuses are communities. They have histories and stakeholders, bound together by core values like diversity, inclusion, academic freedom, and open inquiry. In responding to incidents involving speech, questions related to community to consider include:

- How has this incident affected the campus community?
- Who are the stakeholders in this incident and to what degree is the institution accountable to them?
- How does this incident fit within the context of other recent events on campus?
- Does this incident challenge the institution's shared values like academic freedom, open inquiry, diversity, and inclusion?
- Has the community had the opportunity to voice their opinions or concerns? If demands are being made, where are they coming from? Consider historical and systemic issues that may contribute to community concerns.
- Who within the community might not be speaking up at all?

- If appropriate, what actions can you take to help address any fears or concerns community members may feel in response to this incident?

Lens 3: Academic considerations

In addition to considerations of law, policy, and community, responses to incidents involving speech should also be informed by an academic lens, considering colleges' and universities' obligations to academic freedom, open inquiry in the search for knowledge, and education and growth. Some questions to consider from this lens include:

- What academic or pedagogical considerations are relevant? Can this incident be a learning experience?
- How can you ensure that the dialogue surrounding this incident is productive, rigorous, and balanced?
- Will your actions be consistent with the need to foster an intellectual climate for free speech, open inquiry, and dissent?

Different approaches to responding to speech-related controversies

When controversies arise on campus related to speech, there are a range of actions you can take to address the issue. These incidents often illuminate underlying tensions and can also be used as opportunities for reflection and self-evaluation.

Public Statements

When an incident reaches the level of campus-wide controversy, it is important for the university to speak out promptly and clearly. Statements should outline in clear terms what the university's response to the incident will be, a principled justification for that response, and an affirmation of the university's values. Diversity Officers and staff can consider how they can support and facilitate dialogue in response to such statements, which can have an impact on their students.

Forums and Dialogues

Forums and panel discussions can be effective ways of deepening a conversation. But often dialogue in reaction to controversial incidents can easily become flattened and reductive. Creating venues for dialogue that encourage wide participation, discussion of nuance, and promotion of listening and understanding can be effective in de-escalating community tensions, as well as furthering the mission of the university to encourage open inquiry and rigorous debate.

Space for Counter-Programming

Allowing a controversial event to continue under the precepts of academic freedom is in no way an endorsement of the event's content. If an event held on campus is contrary to the university's values or has a negative impact on the community, creating counter-programming can be a way to affirm the community's values and support community members while upholding the tenets of free expression. Diversity Officers and staff can help students to channel their discontent into counter-programming.

Engagement With Affected Communities

A controversy may reveal that certain communities on campus feel marginalized or alienated. Use the opportunity to conduct outreach and learn more about what these communities want from the institution. Ensure Diversity Office staff or teams are equipped with knowledge of campus resources to share and to which they can refer students.

Establishment of a New Task Force or New Resources

If a controversy brings to the fore an issue that requires more systemic change in the institution, it may be appropriate to establish a task force or committee to determine how to address the problem. Similarly, a controversy may highlight a lack of resources for students, faculty, or community members. Diversity Officers and staff can support these institution-wide responses, including by examining ways to establish new resources.

Reassessment of University Policies and Procedures

An incident may also highlight that certain pre-existing policies and procedures are flawed or ineffective, or that the institution lacks relevant policies and procedures that could have been helpful in responding to the incident. The aftermath of a controversy can be a good opportunity to reevaluate existing policy, although a proactive review is even better.

Further Reading:

- Jonathan Friedman, [“When Diversity and Inclusion Clash with Free Speech—and Why they Don’t Have To”](#)

Proactive ways to support free speech and inclusion on campus

Educate

Invest in strategies to educate staff, faculty, and students on the First Amendment, academic freedom, and the importance of creating a diverse, inclusive, and equitable learning environment.

Articulate Values

Publicize a statement articulating the institution’s values. Make clear that free speech and inclusion are core to the academic mission, and present the statement as a binding set of principles to which the institution is deeply committed.

Support Speech

Cast the institution as a staunch defender of free speech explicitly and frequently by, for example, defending the right of even controversial speakers to be heard as well as by supporting the right to counter-speech and protest. Emphasize that college is a time for young people to test and debate opinions and to hone their civic voices.

Support Faculty

Stand by faculty when they encounter issues that threaten their academic freedom or sense of well-being in the university community. Consider instituting a system whereby faculty can seek support from administrators if they feel their academic freedom is under attack. Ensure that faculty are educated about resources for dealing with discrimination and harassment, as well.

Speak Out

Universities should be empowered to speak out against speech—even protected speech—that conflicts with the institution’s values. In clear and unequivocal language, leaders can make the case both for why even deeply offensive speech should be allowed and for why such speech is inimical to campus values.

Facilitate Dialogue

Create opportunities for students, faculty, and staff with opposing views to engage with one another on difficult issues. Programs and activities that facilitate dialogue can reinforce the value of free speech on campus while fostering mutual understanding.

Listen

Campus leaders should promote active and deep listening. Through town halls, dialogues, and other forums that enable the exchange of views, campus leaders can help students find their own voices and practice listening to the opinions of others. These exchanges may involve meeting with campus constituents, engaging in consultative decision-making processes, and demonstrating a fair and reasoned response to calls for change.

Productive Engagement

Whenever possible, campus leaders, administrators, and faculty should model giving others the benefit of the doubt, debating in good faith, listening with nuance and patience, and considering multiple perspectives on an issue. This approach can set a tone on campus that the institution cares about and listens to its constituents.

Provide Resources

Resources made available to members of the university community have a great impact on the campus climate and can signal the institution’s commitment to free speech and inclusion. If resources allow, consider hiring dedicated student-facing staff to generate resources and facilitate programs, and to be attuned to students’ concerns.

Ensure Cultural Competence

Because students come from a wide range of backgrounds, it is important to ensure that student-facing staff receive cultural competency training. It is especially important for all mental health counselors and any staff who respond to trauma, such as sexual assault response teams.

Reckon with the Institution’s Past

If your institution has a history of slavery, racism, or discrimination, it can be both symbolically and substantively important to take public steps to address that legacy and to identify and rectify systemic injustices that may still inflict harm. Universities are uniquely positioned to draw on the expertise and research of faculty and other community members to undertake a rigorous examination of their history.

Further Reading:

- Jonathan Friedman, “[Four Simple Strategies for Balancing Free Speech and Inclusion](#)”
- [Engaged Listening Project](#)

How to respond to expressions of hate on campus

Universities must be responsive to threats, hateful intimidation, overt racism, and other forms of discrimination. In developing responses, administrators need to distinguish between speech that is offensive but protected by the First Amendment and hate crimes or harassment, which are punishable criminal acts. Even short of hate crimes or harassment, manifestly malicious and intimidating speech can impair equal access to the full benefits of a college education and the ability of all students to participate in campus discourse. In responding, administrators should emphasize expressions of outrage, empathy with those targeted, and creative educational approaches.

Verify

Amass as much information as possible about the origins of the hateful messages. Determine whether the speech in question represents an imminent threat of violence or potential hate crime, and coordinate with law enforcement as appropriate.

Listen

When emotions run high, the community might not be receptive to hearing you, but you should nonetheless listen to them. Be active, present, and visible. An immediate public response, even if only to say that the administration is aware, concerned, and investigating, is important.

Consult

Reach out to all relevant stakeholders (affected students, student groups, faculty) and confer with them to arrive at a response that reflects their input and the full range of duties of the university.

Weigh

Consider a range of responses. Some cases may demand strenuous, public condemnation, while others may raise concerns that amplifying a hateful act will bring it outsize attention. In determining a response, keep in mind that even if some individuals take offense, that is not sufficient grounds to limit the offensive speech.

Lead with Inclusion

When communicating about instances of hateful speech, starting with a defense of free speech can be alienating for those who feel hurt. It is better to first characterize the hateful speech as morally offensive and only then, and as appropriate, make clear that it is nonetheless a protected form of speech.

Affirm Values

In messages sent out to the campus community or shared on public platforms, assert core values, such as inclusion, tolerance, and mutual respect.

Support

Engage in specific outreach to targeted communities and express support for and solidarity with them. Provide them with information about campus counseling services and resources.

Discipline

Depending on the type of incident, consider whether any disciplinary measures are appropriate, in line with campus policies. For hate crimes, harassment, and any other conduct that violates the law, an aggressive disciplinary response is warranted.

Consider Other Responses

Even when disciplinary action is not appropriate, other responses include counseling and education. Student Affairs personnel should work with any relevant campus units that deal with hate or bias to consider and develop a range of ways of responding to hate on campus.

Keep Talking

Create spaces for community reflection and healing. Consider organizing opportunities for community members to speak out against hate. Any formal responses will spark conversation; be as transparent as possible and continue engaging with the community.

Assess

Establish mechanisms to review and evaluate the effectiveness of the university's response.

Further Reading:

- Cynthia Miller-Idriss & Jonathan Friedman, "[When Hate Speech and Free Speech Collide](#)"
- [American Council on Education's guide to hateful incidents](#)

How to respond to student calls to rename a campus building or landmark

There is nothing sacrosanct about the name of a building. Nor is there any right to a particular name. The evolution of words, images, and even certain intellectual assumptions is part of how societies change and not in and of itself cause for alarm. Still, when considering what's in a name, there are steps that universities can take that respect the principles of both free speech and inclusion.

Verify

Gather as much information as possible about the building as well as the reasons that community members want to change its name.

Adopt a Process

It is important to have an agreed-upon, inclusive, consultative process for evaluating possible name changes. Some universities have appointed multi-stakeholder committees to establish these processes and have then appointed additional committees to review specific calls for changes as they arise.

Be Transparent

Publicly acknowledge calls for name changes and be as transparent as possible in the university's response.

Say When

Establish and communicate clear timelines for responding.

Affirm Values

In public statements, communicate clearly whether and how the building's name contravenes the university's contemporary values.

Listen

Create opportunities for the group calling for change to meet in person with university administrators. As much as possible, integrate their perspectives into the decision-making process.

Consult

In addition to the group leading the charge, reach out to and discuss the matter with additional university stakeholders, including other students, student organizations, faculty, and alumni.

Compare

Draw on previous cases, either from your own university or others, when evaluating various courses of action. Whatever your decision, be prepared to defend it.

Reflect

Changing a name need not be interpreted as an erasure of history. Whatever the university's final decision, campus leaders can lessen this fear by creating multiple opportunities to learn about and spur reflection on the building's past.

Support

These kinds of conversations can stir up heavy emotions, so be sure that students and faculty have access to channels of support.

Further Reading:

- [Principles and procedures for renaming buildings and other landmarks at Stanford University](#)
- [Yale University students demand the renaming of Calhoun College](#)

Cautions and tips for bias response systems

One mechanism that many campuses have adopted to respond to hateful incidents are bias response systems, which generally consist of an online system to report incidents of bias to an appointed committee as well as a protocol that allows each complaint to be acknowledged, tracked, and addressed in a timely manner. When done right, bias response systems can be useful mechanisms for responding to hateful speech or discrimination. But they have generated [criticism](#) for their potential to chill free expression by punishing speech that is unfavorable. To minimize that risk, bias response teams should have clearly defined roles that exclude the power to discipline individuals for speech alone.

Specify Roles

Bias response teams should have plainly delineated roles. They can be effective for recording complaints, mediating disputes, educating on free speech protections, and supporting targeted individuals, but they should not have the power to police speech using punitive measures. Further, members of the team should be appointed in a neutral manner with set term limits, so as to avoid conflicts of interest with duties and roles of other university offices. Any office with the power to impose disciplinary measures, for example, should refrain from serving on a bias response team.

Define

Concepts like bullying and bias can be defined in overly broad and vague ways, while concepts like discrimination and harassment have legal definitions that must be considered. To avoid the arbitrary enforcement of policies, strive to provide clear, standardized definitions that are consistent with the law.

Be Transparent

Transparent processes can help ensure that bias response systems stay accountable, making them less likely to chill speech. They should also have mechanisms that apply when people feel they have been treated unfairly or when the bias response system has overstepped its boundaries.

Empower

Members of bias response teams must receive specialized training in legal definitions and institutional policies on free speech, discrimination, and harassment. Individuals in these roles need to understand that most speech is protected, though acts of violence and speech that poses an imminent threat are not.

Further Reading:

- [Duke University's bias response advisory committee](#)
- [Students sue University of Michigan over its bias response team](#)

How to respond if you're asked to fire a professor over speech

Academic freedom is a core tenet of higher education, and faculty should be free to push the bounds of knowledge, and explore ideas that might offend, without fear of retaliation.

Verify

Gather as much information as possible about the accusations against the professor and what led to them.

Hear Out

Speak with the professor, hear their perspective, and if other members of the campus community would like to voice their views, create an opportunity for them to do so with the appropriate offices or officials.

Prioritize Speech

Institutions should be careful to avoid any form of discipline or punishment solely for legally protected speech. While private institutions have more leeway in regulating speech, they should still be mindful of academic freedom and set a high bar for punishing expression.

Consult

Reach out to all relevant stakeholders, consult with them, and weigh their input.

Communicate

Whether by campus-wide email, press release, or social media, publish a clear statement of the university's view of the situation. Emphasize its commitment to faculty's free speech and academic freedom. If a professor's statements contradict the values of the institution, leaders can say so.

Facilitate Counter-Speech

Make sure to provide opportunities for lawful protest and counter-speech for those with opposing views.

Support

Calls for professors to be fired for protected speech can impede their self-confidence, well-being, and productivity. Offer support and reassurance.

Respond

Any disciplinary actions taken against professors for their speech should be based on clear evidence that their language fell outside the legal categories of protected speech. If their conduct or speech crossed a line into harassment, discrimination, or other forms of unprotected speech, punishment may be merited. If the speech falls into a gray area that raises questions about the professor's ability to perform their professional duties, engage the professor directly and consider measures that fall short of formal discipline.

How to support faculty and staff who experience online harassment

This guidance is based on advice contained in PEN America's [Online Harassment Field Manual](#).

Acknowledge

As an institution, acknowledge that online harassment is a real problem that can have real consequences on lives and livelihoods. Take it seriously and encourage your staff and faculty to do the same.

Reach Out

If you see or hear about faculty or staff being targeted by abuse online second-hand, reach out to get a better understanding of what is happening and how they are doing. There is no need to wait for them to come to you. Not everyone will feel comfortable discussing their experience, so be discreet in your outreach.

Document and Identify

Before taking action, encourage the targeted faculty or staff to document the abuse and, if they are comfortable, share it with the university. Collect information to identify the kind of online abuse taking place. See our guidance on "[Definitions](#)."

Assess

Based on the available information, work with the targeted individual to assess the threat to themselves, the university, and others, like the target's family). Encourage the targeted individual to assess their sense of physical safety – the "Assessing the Threat" section of PEN America's Online Harassment Field Manual offers a good place to start. Depending on the nature of the online abuse and the individual's sense of personal safety, consultations with campus police, legal and security experts, and others may be necessary. See our guidance on "[Assessing the Threat](#)".

Include

Get all targets of the abuse involved in any decisions you make on their behalf, especially those that involve contacting law enforcement or drawing public attention to the abuse.

Communicate

Check in frequently with the faculty or staff member, collect any further relevant documentation, and keep notes of new developments. Work with other appropriate offices and personnel in coordinating the institutional response, which may vary depending on the type of harassment. At public institutions, be cognizant that emails could be subject to future open-records requests.

Support

Harassment can be detrimental to psychological and physical health. Be sure to offer support to the targeted faculty or staff and to others who are affected. Listen and acknowledge their feelings. Share information about counselling and [other resources](#) for coping with online harassment. Offer to connect them with others at the university who have experienced harassment and expressed a willingness to serve as allies.

Speak Out

Speak out against the harassment and in support of the faculty or staff member's right to free expression and academic freedom, while being mindful of the targeted individual's desire for discretion or publicity. If the faculty or staff member's own speech has diverged from the school's core values, you can distance your institution from that speech while forcefully defending their right to express it.

Reflect

Treat each case as an opportunity to create or improve official policies. Consider conducting an anonymous survey to assess the scope of the problem and the needs of faculty and staff.

Educate

Online harassment has been on the rise in recent years. Educate faculty and staff on how to prepare for and respond to online abuse and serve as allies.

Further Reading:

- [University of Iowa's Faculty Support & Safety Guidance](#)

If a student asks for help planning a protest

Peaceful protests are legal, powerful expressions of free speech, but planning them can be daunting. When students ask for your support, make sure that you are equipped with accurate and helpful information to help set them up for success. There is no reason that you cannot also participate in the protest, should you choose, subject to the same provisos as students.

Know Your Rights

Help students understand their rights as well as the legal parameters. If you plan to participate in the protest, make sure you know your own rights, too.

Inform

Provide students with resources that offer practical guidance, such as PEN America's [advice on how to plan a peaceful protest](#).

Advise

Direct students to legal, safe, and effective methods of protest. Protesters should not be permitted to shut down, shout down, or obstruct speech.

Prepare

If students choose to engage in civil disobedience, make sure that they understand their rights and the consequences they can expect for their actions. See PEN America's [information on protests involving civil disobedience](#).

Further Reading:

- [Six Tips from Successful Protests](#)

Guidance for administrators thinking about safe spaces

Universities have an obligation to foster an environment of respect in which violent, harassing, and reckless conduct does not occur. However, it is neither possible nor desirable for campuses to offer protection from all ideas and speech that may cause a measure of damage. Designating certain spaces as “safe” for particular groups on campus can ensure that all students have a place where they can feel free to share ideas and air grievances that they may otherwise feel uncomfortable expressing.

Provide Real Resources

Short-term safe spaces with resources for stress reduction and trauma response can have their place; but these cannot replace robust options for mental health treatment and accessible counseling.

Don't Dismiss

Dismissing safe spaces as coddling or infantilizing fails to recognize the very real toll that harmful language, microaggressions, and systemic inequalities can take on students. In order for campuses to remain committed to both free speech and inclusion, they must find ways to help address harmful speech that do not involve sanctions or punitive measures. Providing resources for students who experience the effects of harmful speech is necessary for maintaining that balance.

Equip

Providing some safe spaces where students can feel safe to ask questions, express their ideas, and be with their communities can better equip them to engage with more challenging ideas within the campus at large.

Make Them Voluntary

Any space designated as “safe” on campus should be one that is entered voluntarily. The campus as a whole, and segments thereof that are intended for all—such as classrooms, quads, and cafeterias—must be kept physically safe but intellectually and ideologically open.

Adopt a Nuanced Approach

Allowing certain spaces to be designated as safe does not require surrendering the ideals of free speech on campus, nor does keeping public spaces ideologically open mean abandoning all sensitivity to diversity and

inclusion. As Wesleyan president Michael S. Roth has said, “Stop talking about [safe spaces] as if they were part of a zero-sum ideological war.”

Reflect

If students feel that safe spaces on campus are necessary, it may be worth considering if there are any systemic issues or problems in the campus climate that contribute to students feeling unsafe or unwelcome. Think about other steps you can take to address those issues.

Further Reading:

- [PEN America’s principles on safe spaces](#)
- [And Campus for All: Diversity, Inclusion, and Freedom of Speech at U.S. Universities](#)
- [Michael S. Roth, “Don’t Dismiss Safe Spaces”](#)

Case Studies

Georgetown University grapples with slavery, memory, and reconciliation

In November 2015, student activists at Georgetown University [held a sit-in](#) at President John J. DeGiogia's office, demanding that the school publicly reckon with its history of racism. Their demands included changing the name of a campus building from Mulledy Hall, which memorialized a man who had authorized the 1838 sale of slaves to pay off the school's debt, to Building 272, which would commemorate [the 272 slaves that Georgetown sold](#). A rally of around [250 students and faculty](#) was organized. Activists also called for the creation of a fund to hire more black faculty and for the renaming of another building whose namesake was associated with the slave sale. In response, Georgetown administrators created the [Working Group on Slavery, Memory, and Reconciliation](#) to investigate the history of the sale and its implications for the campus today. The group produced a [104-page report](#) providing detailed background, discussion, and recommendations for how the university could recognize and address its history and legacy. In April 2017, Georgetown renamed the building after Isaac Hawkins, one of the slaves sold by the school. The university also took a series of other [measures](#) to strengthen its commitment to racial justice, including creating a Department of African American Studies, hiring new faculty, and the establishment of a Working Group to plan for an Institute for the Study of Racial Justice.

PEN America Analysis

Following the efforts of campus organizers, Georgetown administrators took clear steps to confront the university's historical involvement in oppressive and racist structures and institutions. The working group convened by the university examined the issue in great depth and detail, as evidenced by the final report. The report also investigated the socioeconomic status of descendants of the 1838 sale and local African Americans living near the Georgetown area. Overall, the working group and its recommendations dovetail with [PEN America's Principles on Campus Free Speech](#), constituting an effort to "look hard at how physical barriers, historical traditions, inequalities, prejudices, and power dynamics can weigh against openness." By listening to the concerns and demands of their constituents and taking significant steps to address them, officials have helped to ensure that Georgetown remains an inclusive campus for all.

Further Reading:

- [Working Group report](#)
- [Georgetown University – Slavery, Reconciliation, Memory project website](#)

Similar Cases:

- [Brown University's Steering Committee on Slavery and Justice](#)
- [The Lemon Project: A Journey of Reconciliation at William & Mary](#)

Controversy over painted bridge at the University of Minnesota-Twin Cities

Straddling the University of Minnesota's Twin Cities campus, the Washington Avenue Bridge has become a locus of annual controversy, especially in the wake of Donald Trump's election. Student groups gather every

fall to paint the panels that line the bridge's pedestrian walkway, an opportunity that the university's College Republicans [took in 2016](#), devoting a panel to the phrase "Build the Wall" and another to the phrase "Trump Pence 2016." Within 24 hours, the group's panels were graffitied over with multiple tags, and the only legible message was "Stop White Supremacy," rendered in gold. The next day, the university's president, Eric W. Kaler, sent [a campus-wide email](#) defending the College Republicans' right to voice their opinion, arguing that "Build the Wall" must be protected as "free, political speech," and encouraging those who found it distasteful to counter it by speaking out in response. That afternoon, nearly 150 students did just that, [gathering on the bridge](#) in protest. A coalition of academic departments released a [statement](#) saying that the university's response was inadequate given the "inherent violence" within this slogan. In the years since, the panels on the Washington Avenue Bridge have been a consistent flashpoint, the site of an [annual battle](#) among student groups with differing political and social ideologies.

PEN America Analysis

The controversy at the University of Minnesota is instructive because it highlights how campuses have become a proxy for national political and social conflicts in which speech has taken on great significance and in which neither side is willing to cede an inch—or a mural—to the other. To one camp, the paint wars were just another example of how college campuses had become inhospitable to free speech, with left-leaning populations quick to censor conservative ideas. On the other side were students and faculty who, amid a pitched presidential campaign marked by charges of sexism, racism, and xenophobia, were acutely sensitive to bigoted overtones in messages appearing on campus. While PEN America agrees with President Kaler's suggestion to counter offensive speech with more speech rather than with vandalism, his statement failed to adequately address the concerns of students and faculty about the anti-immigrant and discriminatory overtones of the messages. This is a case where a robust defense of free speech should have been accompanied by an acknowledgement of these feelings and a forceful assertion of the university's values of inclusion.

Further Reading:

- [Statement on Paint the Bridge event from President Eric W. Kaler](#)
- [Statement of solidarity from the Department of Chicano and Latino Studies, et al.](#)

Similar Cases:

- [Swastika vandalism of mural at Duke](#)
- [Mural controversy at USC](#)

Students at Sarah Lawrence College call for professor's tenure to be reviewed

In October 2018, professor Samuel Abrams of Sarah Lawrence College became a target of criticism by students and faculty after he published an [op-ed](#) in The New York Times criticizing the dominance of liberal and progressive ideologies in the college administration. Soon after, Abrams's office door was [vandalized](#), and flyers alleging impropriety were posted around campus. Following each of these retaliatory incidents, the college president, Cristle Collins Judd, sent emails to the campus community addressing the controversy, but it was only three weeks after the initial incident that she explicitly rebuked the attacks on Abrams and issued a robust defense of his right to free expression. In March 2019, a student group called the Diaspora Coalition occupied a campus building and published a [list of demands](#) in the student newspaper, including that "Abrams's position at the college be put up to tenure review to a panel of the Diaspora Coalition and at least three faculty members of color."

PEN America Analysis

While students are free to say what they wish, their call for a review of Abrams's tenure demonstrates a lack of understanding of [the principles of academic freedom and free speech](#). In cases like these, PEN America urges administrators to work with their communications team to make clear their institution's commitment to academic freedom and assure the public that the professor's tenure is secure. This does not mean that the administration should not hear students out, or that the students cannot criticize a professor's position. But the call for tenure review or the discipline of a professor in response to an op-ed runs roughshod over the principles of free inquiry that should govern any campus.

Further Reading:

- [Overview of the controversy](#)
- [Abrams's New York Times op-ed](#)

Similar Case:

- [Statement supporting Camille Paglia at the University of the Arts](#)
- [University of Nebraska at Lincoln professor files ethics complaint](#)

Sample Statements

Statement on Milo Yiannopoulos at New York University

Background

In October 2018, Professor Michael Rectenwald [invited](#) professional provocateur Milo Yiannopoulos to speak to his class at New York University (NYU) on the “politics of Halloween.” Amid dissent from the community, John Beckman, senior VP for public affairs, published a statement explaining that Yiannopoulos would be allowed to speak as invited. Subsequently, Mayor Bill de Blasio [requested](#) that the university delay the visit for public safety reasons, considering nearby Halloween parades and NYPD assessments of risk. President Andrew Hamilton complied and the talk was said to be postponed, although it ultimately never took place.

Excerpt from Beckman’s Statement (October 29, 2018)

“Many institutions in our society speak with a single voice. That is not true of universities. The role of universities is to be a forum for many voices and many ideas, sometimes even ideas that are repudiated by much of the community. A controversial speaker’s appearance at a university must be understood not as the institution’s endorsement of the speaker’s views, but as the fulfillment of its commitment to the free exchange of ideas.” See the [full text](#).

What we like about this statement:

- Is clearly based in values, grounding the decision to permit Yiannopoulos to speak in the ideal of academic freedom.
- Acknowledges that some of Yiannopoulos’s views are at odds with the institution’s values.
- Makes a strong case that the free exchange of ideas is paramount even when ideas offend.

Similar Statement:

- [Statement on Richard Spencer at the University of Florida](#)

Statements on hateful incidents at Colorado State University

Background

In 2017 and 2018, a series of hateful incidents occurred at Colorado State University (CSU). They ranged from a fake noose and anti-Semitic symbols found in dorms to a racist incident targeting a Middle Eastern student on local public transportation. In each case, CSU President Tony Frank responded with campus-wide emails telling the community what occurred and offering support to those directly targeted. [One of the emails](#) invited students to attend a “solidarity walk and community gathering” to counteract hate. The event, called “CSUnite: No Place for Hate,” was [attended](#) by more than 2,500 people.

Excerpt from Message from President Frank (August 31, 2017)

“Our Colorado State community stands firmly against anyone who seeks to intimidate, incite violence and deprive others of their Constitutional rights. We hold up our Principles of Community in counter to anyone

who seeks to divide and terrorize. And while we cannot shield anyone from words or ideas that may be damaging and destructive, we will stand with those targeted so that no one on this campus will stand alone. And we will respond with utmost seriousness when there are threats to the safety of anyone on our campus.” See the [full text](#).

What we like about this statement:

- Does not shy away from forceful condemnation of hateful expression.
- Acknowledges the detrimental impact of hateful incidents on targeted members of the community.
- Provides contact information for various support offices at the university.

Similar Statements:

- [President Frank responds to anti-immigrant flyers on campus](#)
- [President Frank invites community to solidarity walk and gathering](#)
- [Statement on swastika graffiti at Duke University](#)
- [Northwestern University condemns acts of hate](#)

Statement on racist incident at the University of Oklahoma

Background

In early January 2019, a video of a University of Oklahoma (OU) student wearing blackface and making racial slurs circulated across the internet. In response, the school [released a statement](#) denouncing the action but did not immediately specify any disciplinary measures. Following a [rally](#) held by students a few days later, the university’s president, James L. Gallogly, issued another statement to update the community on steps that the school would take to address racism.

Excerpt from President Gallogly’s Initial Statement (January 18, 2019)

“We were made aware of an inappropriate and derogatory video circulating on social media of two OU students. The University of Oklahoma abhors such conduct and condemns the students’ actions and behavior in the strongest terms possible. While students have the freedom of expression, the negative impact of such conduct cannot be underestimated.” See the [full text](#).

Excerpt from President Gallogly’s Follow-up Statement (January 25, 2019)

“It has been seven days since a racist incident by OU students reignited an important dialogue on our campus about racism. I use the word reignited because we have traveled this path before in 2015. And, like our students who felt the disrespect and anger from this incident, I want to do everything in our power to eradicate racism and disregard for the inherent value of every person.” See the [full text](#).

What we like about these statements:

Free Speech Guides for Diversity Offices, Student Affairs and Residence Life

- Clarify that students have a right to free expression while also emphasizing that words have a serious impact.
- Acknowledge the history of racism on the campus, contextualizing the most recent incident as an ongoing challenge rather than a one-off.
- Showcase President Gallogly's willingness to listen to and engage with the student body, reflecting a commitment to better serve the campus community as a whole.
- Clearly detail the measures being taken to address racism on the campus.

Similar Statement:

- [University of Georgia condemns racism](#)

Swastika graffiti at Duke

Background

In the wake of a deadly mass shooting at the Tree of Life Synagogue in Pittsburgh, Jewish students at Duke gathered to paint a mural to memorialize the victims. Days later, the mural was [defaced](#) with a large, red swastika. In a letter to Duke President Vincent Price, one student asked that the administration do more to support Jewish students in the wake of growing anti-Semitism. "I know that you cannot stop anti-Semitism," she [wrote](#), "but you can make students more aware of what is happening on campus." President Price officially responded to the incident both in a published statement and in a campus-wide email.

Excerpt from President Price's Statement (November 19, 2018)

"That such a craven and cowardly act of vandalism—a desecration of a memorial to individuals who were killed because they were Jewish and practicing their faith—should happen anywhere is extremely distressing. That it should occur in such a visible, public location at Duke should be a matter of grave concern to us all." See the [full text](#).

What we like about this statement:

- Not only condemns the single act of vandalism but also educates the campus community on the rising number of anti-Semitic and hateful incidents in the United States at large.
- Details the steps that the university would take, including providing additional security at the university's Jewish center and at the location of the mural and convening members of the Jewish community and public officials to further review the matter.
- Condemns the hateful act and acknowledges the harm it caused.
- Pledges to protect the safety of Jewish students and calls on the rest of the community to confront anti-Semitism and other forms of hate.

Similar Statements:

- [Columbia University denounces racism](#)

- [American University responds to hate](#)

Further Reading:

- [American Council on Education's guide to hateful incidents](#)

Professional Profile



NEIJMA CELESTINE-DONNOR, MSW, LCSW-C

Director,

Bias Incident Support Services (B.I.S.S.) | University of Maryland

Why do you think free speech and inclusion are important on campuses?

Inclusion is critical to college campuses because it seeks to actively invite the contribution and participation of all people and cultivates a culture of belonging particularly for marginalized persons. Free speech allows students to pursue knowledge involving a wide range of content and also allows a space for marginalized voices to be heard.

What do you or your team do to nurture or facilitate a healthy campus climate that respects both free speech and inclusion?

We acknowledge that free speech is a right, while also acknowledging that folx exercising their free speech, can have an impact on others. We facilitate dialogue, trainings and discussions where we discuss that the legality of an action often times does not mitigate the impact. That way, we nurture a campus climate that does not get bogged down in fighting over free speech, but one that focuses on impact, healing and building community.

What have been the toughest challenges in doing this work? How have you been able to successfully navigate these challenges and/or learn from them?

Navigating the fact that when it comes to free speech that some people have more opportunities to be heard, to speak and to disseminate information. Through our trainings and dialogue program The Circle, we facilitate discussions where we challenge folx to acknowledge that power matters when it comes to free speech.

Getting folx to understand that while universities must remain open to all ideas, remaining open to all ideas doesn't mean that you must accept all ideas are equal on merit, especially if you value diversity and inclusion. We promote the importance of moral leadership. That involves working with leaders and getting them to understand that speaking out against an incident, does not equate to speaking out against free speech. It means that they are speaking out against the hateful ideas and actions including those that are racist, anti-black and xenophobic

What are 3 essential tips that you think everyone in Diversity Offices should keep in mind when responding to an incident concerning free speech on campus?

1. Take proactive measures by engaging in ongoing relationship building, not just when incidents happen. That way, those relationships that you have time nurturing and building, particularly with students, can be activated in times of crisis
2. Acknowledge the impact by reaching out to those who may have been impacted by the incident and acknowledging any harm they may have experienced.
3. Utilize processes in restorative practices to process incidents with all parties involved.

FREE SPEECH GUIDE FOR RESIDENCE LIFE



by **Jonathan Friedman**
Program Director, Campus Free Speech

Table of Contents

Introduction to this Guide.....	134
Free Speech and Residence Life.....	134
Our Principles.....	136
The Law.....	137
<i>The First Amendment</i>	
<i>Public and Private Institutions</i>	
<i>Campus Policies</i>	
<i>Federal Statutes</i>	
<i>Hateful Language and Offensive Speech</i>	
<i>State Legislation</i>	
<i>First Amendment Terms at a Glance</i>	
Advice for Different Speech-Related Scenarios.....	141
<i>What to consider when responding to speech-related controversies</i>	
<i>Different approaches to responding to speech-related controversies</i>	
<i>If a resident displays something offensive, unfavorable, or objectionable</i>	
<i>If an incident of hateful expression occurs in a residence</i>	
<i>If a resident files a complaint about another resident's speech</i>	
<i>If a resident complains about speech of a Resident Advisor or Staff Member</i>	
<i>Proactive ways to support free speech and inclusion in residence</i>	
Professional Profiles.....	151

Introduction to this Guide

In response to controversies and debates that have roiled colleges and universities across the country in recent years, PEN America has developed a first-of-its-kind guide to navigating issues of free speech and inclusion on campus. Housed online, the [Campus Free Speech Guide](#) provides practical, principled guidance for students, faculty, and administrators with the aim of keeping campuses open to a broad range of ideas and perspectives.

The **Free Speech Guide for Residence Life** is a companion resource complimenting the advice found online, with a particular focus on residence life personnel. The advice in this Guide reflects PEN America's efforts to uphold and advance the principles of free speech and inclusion in tandem in higher education, recognizing that college campuses are foundational to the future of civic life and often the catalyst for wider social change. These dual principles are both vital to sustaining an open, equitable, democratic society, and we believe that administrators and faculty have an obligation to model a commitment to these principles and to strive to inculcate this commitment among the rising generation.

The content of this guide was compiled in conjunction with PEN America's Campus Free Speech Program as part of a fellowship by its director, Jonathan Friedman, from the University of California National Center for Free Speech and Civic Engagement. The advice contained herein was developed in consultation with hundreds of university students, faculty, and administrators nationwide. It also draws on PEN America's extensive research, analysis, and advocacy on campus free speech issues.

Free Speech and Residence Life

The freedom to express one's ideas unhampered by censorship and suppression is a bedrock civil rights principle. In the U.S., the First Amendment endows all Americans with this freedom by forbidding Congress to pass any law that abridges freedom of speech, freedom of the press, peaceful assembly, or the right to petition the government. This right is also codified in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which cement free expression not just as an American liberty, but as international human rights law. In order to understand free speech on college campuses, one must begin with this fundamental precept: free expression is a universal and inalienable freedom belonging to all people equally, without discrimination. Free speech belongs to everyone.

But neither the First Amendment nor human rights covenants guarantee that all citizens in a democracy have equal opportunities to speak and be heard. Rather, upholding the principle of free speech -- for all -- requires an affirmative commitment to inclusion, and to advancing institutional efforts to lower the barrier to expression for members from historically marginalized or lesser heard communities. In order to ensure that the public sphere is open to all diverse voices, it is often in fact necessary that harmful or intimidating speech does not go unchallenged by institutional authorities. Speaking out against hateful speech, bigotry, harassment, and discrimination has become urgent in an era of rising hate, deepening political divides, and a crisis in civic literacy, where controversies over language have struck at the heart of the social fabric.

Colleges and universities, our democracy's crucibles of ideas and dialogue, know very well the challenges in harmonizing free expression with diversity, equity, and inclusion. Hateful expression incidents, controversial

invited speakers, contentious statements made by faculty and staff, and other common issues often raise the temperature of a campus climate. Although these events have the potential to antagonize and infuriate, responding to heightened anxieties with regulation and censorship can inhibit productive and inclusive long-term conditions for discourse. Campuses must take care to avoid setting precedents that empower administrators with the ability to discipline students based solely on the content of their expression, and they should work both proactively and reactively to ensure that all students on campus can express themselves freely and equally. Sanctions should be saved for only the most legally egregious offenses. Hateful and offensive speech should be answered with *more* speech, as well as clear, unwavering denunciations of values at odds with those of the institution.

Just as these principles apply across campuses, so too do they come to bear on residence life. In their day-to-day operations, residence directors, staff, and assistants can experience frictions between free expression and the feelings of welcoming and belonging. Language and politics have the potential to spur interpersonal tensions, occasionally leaving residence officers on the student- and parent-facing frontlines to respond with level-headed, policy-minded approaches that are consistent with free speech, inclusion, and other campus values. Residence Life leaders and staff can help campus communities understand that not everyone targeted with hate feels comfortable or empowered to speak out against it, and that beyond disciplinary responses, institutions can also engage in responses that involve education, counseling, or other restorative justice practices.

Speech-related tensions have the capacity to reverberate in all aspects of students' lives, from the classroom, to online, to their residence halls. This Guide has been assembled with the aim of supporting residence life personnel with principled and practical advice to help them confront a range of different scenarios.

Our Principles

PEN America Principles on Campus Free Speech

In today's debate over free speech on campus, PEN America's philosophy is guided by the 1948 PEN Charter to stand for the "unhampered transmission of thought," to "oppose any form of suppression of freedom of expression," and to "dispel all hatreds." The PEN America Principles on Campus Free Speech provide both general and specific precepts for nurturing campus communities that uphold these values; protecting speech to the utmost and allowing for academic and social discourse that is truly inclusive and transcends boundaries.

- Campuses must be open to a broad range of ideas and perspectives, and to achieve that, they must uphold the rights of all students to participate freely and equally.
- Campuses can and must fulfill their dual obligation to both protect free speech and advance diversity and inclusion.
- Campus leaders must be free to speak in their own right, to assert and affirm their institutional values.
- Promoting free speech and inclusion requires proactive steps, not just reactions to controversy.
- Campuses should encourage a climate of listening and dialogue in tandem with support for free speech.
- By acknowledging and addressing legitimate concerns regarding racism and bigotry in the context of free speech debates, universities can help ensure that the defense of freedom of expression is not misconstrued as a cause that is at odds with movements for social justice.
- Colleges have a unique academic mission and core values that are distinct from other social institutions, which should be protected.

To see the full list of principles, check out our online Guide at: <https://campusfreespeechguide.pen.org/pen-principles/>

The Law

The First Amendment

The First Amendment protects people's rights to free speech, expression, press, and assembly, as well as the right to petition the government. These fundamental rights extend to all individuals in the United States, regardless of factors such as religion, gender, race, citizenship, or sexual orientation. Under the First Amendment, people have the right to create, publish, convey and receive information; to express their views; to speak freely; and to be free from retaliation or efforts to restrain their expression. Although free speech is an essential value of the United States, it is important to note that it is not absolute. The government may impose regulations on certain kinds of speech, including but not limited to harassment, threats, slander, and instances in which an individual participates in incitement of violence. In addition to jurisprudence and precedent, there are several federal statutes that regulate certain kinds of speech, including Title VI and Title IX.

Public and Private Institutions

Colleges and universities are held to different legal standards when setting internal regulations for First Amendment rights on campus, depending on their public or private status. While public universities are beholden to principles of the First Amendment, they may impose what are known as time, place, and manner restrictions on the exercise of those rights by individuals on campuses. A public college or university may impose these restrictions as long as they are reasonable and content-neutral, are in the interest of preventing significant disruption, and leave open other means of communication. Any campus policy that regulates speech based on content is unconstitutional unless the university can show that the regulation is narrowly tailored to serve an important university function. Often, the context that a policy seeks to regulate on campus—such as speech in a classroom versus in public areas versus in student dormitories—is relevant to understanding whether it is constitutional.

Because private colleges and universities are not government entities, they are not required to uphold First Amendment protections in the same manner as public universities. In other words, private institutions may impose stricter limitations on free speech. Still, most adhere to free speech principles and support academic freedom. Private institutions that receive federal funding must also adhere to federal anti-discrimination laws, such as those applicable under Title IX.

There are some exceptions to this rule. Private colleges and universities that accept government funding or which otherwise engage with government closely may be required to adhere to the First Amendment more closely. State governments may also pass statutes requiring private universities to respect free speech rights as a matter of state law, even when the US Constitution imposes no such requirement. For example, California law applies First

Amendment protections to both public and private universities. Congress also has the power to propose and pass federal laws which would require private universities, by statute, to adhere to various free speech guidelines.

Campus Policies

In an effort to balance the educational value of free speech against the value of providing a safe and supportive community for all students, some colleges and universities have considered or adopted policies that regulate or prohibit speech deemed hateful or offensive. Public institutions, however, must be sure that their policies do not contravene the First Amendment. Some policies promulgated by public universities have been found unconstitutional, particularly related to university regulation of offensive speech, bias reporting, and other expressive speech. To learn more about how to evaluate these policies at public universities, see FIRE's "Correcting Common Mistakes in Campus Speech Policies."

Private colleges and universities are able to impose even greater restrictions as long as they do so within the bounds of their legal obligations to members of the campus community. Private institutions should also ensure that their policies allow the campus to remain open to a broad range of diverse ideas and perspectives. Students seeking to understand the parameters of conduct on campus should consider both relevant law and university policies.

Time place and manner restrictions are limitations imposed by the government on expressive activity, such as limits on noise, the number of protesters allowed in a public space, or barring early morning or late night protest. The restrictions must leave ample alternative channels for communicating the speaker's message.

Federal Statutes

Beyond the contours of free speech rights afforded by the Constitution and the First Amendment, the two most significant federal statutes regulating speech in higher education are Title VI and Title IX, which prevent discrimination on the basis of race and sex, respectively.

The Office of Civil Rights in the Department of Education has stated that these federal regulations are "not intended to restrict the exercise of expressive activities protected under the U.S. Constitution." Rather, they apply only to unprotected speech that constitutes discrimination and harassment and creates a hostile environment. The offensiveness of speech alone is not sufficient to establish that it has created a hostile environment. A hostile environment is created when the harassment is "severe, persistent, or pervasive" and "sufficiently serious to deny or limit a student's ability to participate in or benefit from an educational program." Schools are obligated to take action if speech or conduct contributes to a hostile environment.

Title VI

Title VI of the Civil Rights Act of 1964 states that

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This applies to both public and private schools that receive federal funds.

On December 11, 2019, President Trump issued an Executive Order that would allow Title VI to apply to cases of anti-Semitism on college campuses.

Title IX

Title IX of the Education Amendments Act of 1972 states that

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This applies to both public and private schools that receive federal funds. Title IX's impact on speech has been contentious, with some arguing that its implementation goes too far in its definition of sexual harassment and has a chilling effect on speech, and others arguing that it does not go far enough to protect people from sexual harassment. Under Secretary of Education Betsy DeVos, the definition of sexual harassment under Title IX was narrowed from that used in the Obama administration, and it was mandated that colleges and universities hold live hearings in Title IX cases that allow for cross-examination of all parties.

Hateful Language and Offensive Speech

Hateful language and offensive speech may be subject to punishment in a variety of contexts. However, such speech remains constitutionally protected under the First Amendment, as the United States Supreme Court has regularly upheld. While many countries ban hate speech, the U.S. has taken a different path, adopting no legal definition of “hate speech.” The Supreme Court has consistently ruled that such speech enjoys First Amendment protection unless it is directed to causing imminent violence or unlawful action, or involves true threats against individuals. The principle often invoked instead is that the solution to offensive speech is to engage in counter-speech.

It is important to distinguish between hate crimes and hateful speech. There are various federal and state-level hate crime statutes. For the purposes of data collection, the FBI defines a hate crime as a “criminal offense against a person or property motivated in whole or in part by an offender’s bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.” Unlike hate speech, all hate crimes are punishable criminal acts that are treated with priority by the federal government, and by almost all states, due to their extreme impact on individuals, groups and society. As the FBI articulates, “a hate crime is a traditional offense like murder, arson, or vandalism with an added element of bias...Hate itself is not a crime.” State-level hate crime statutes are typically “penalty enhancement” statutes, which means they increase the punishment for a defendant if the target of a hate crime is intentionally selected because of his/her personal characteristics.

For more background and analysis, interested readers can read *Hate: Why We Should Resist it with Free Speech, Not Censorship*, by Nadine Strossen, former president of the American Civil Liberties Union (ACLU). Strossen explains in a June 2018 interview with NPR:

“The most effective way to counter the potential negative effects of hate speech — which conveys discriminatory or hateful views on the basis of race, religion, gender, and so forth — is not through censorship, but rather through more speech. And that censorship of hate speech, no matter how well-intended, has been shown around the world and throughout history to do more harm than good in actually promoting equality, dignity, inclusivity, diversity, and societal harmony.”

State Legislation

Since 2017, over 30 states have proposed or passed new laws specifically focused on campus speech. As these debates often prompt heated debate around campus communities, different political actors and free speech groups continue to propose new legislative or regulatory “solutions.” Most of these proposals have been based on a handful of model bills, such as the Campus Free Expression Act (CAFE), authored by the Foundation for Individual Rights in Education (FIRE), the Campus Free Speech Act, authored by the Goldwater Institute, and the FORUM Act, authored by the American Legislative Exchange Council (ALEC). PEN America has discussed each of these bills in our reports, including *Wrong Answer: How Good Faith Attempts to Address Free Speech and Anti-Semitism on Campus Could Backfire* and *Chasm in the Classroom: Campus Free Speech in a Divided America*.

First Amendment Terms at a Glance

The First Amendment reads: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Freedom of the Press is a core First Amendment principle which protects printing and public circulation of opinions without censorship by the government.

Right to Assemble is a core First Amendment principle which protects the right to peaceful public assembly and protest. The government may impose some restrictions on the right to assemble.

Government (Public) vs. Private Acts refer to different standards to which government and private actors are held when setting regulations that implicate First Amendment rights.

Content Neutral Government Restrictions refer to the government’s ability to impose regulations on free speech without regard to the content or message of the expression.

Prior Restraints are laws or regulations that suppress speech at the discretion of government officials on the basis of the speech’s content and in advance of its actual expression, such as requiring fees or permits as a condition for protesters to engage in peaceful assembly.

Harassment is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. Such activities may be the basis for a lawsuit if due to discrimination based on race or sex.

Defamation is the unlawful act of making untrue statements about another which damages their reputation. In a defamation trial, public figures must prove that the defamation was made with malicious intent and was not fair comment.

Slander/Libel are oral and written forms of defamation, respectively, in which someone expresses an untruth about another that will harm the reputation of the person defamed.

Fighting Words are words intentionally directed toward another person, causing them to suffer emotional distress or incite them to immediately retaliate physically. While this isn't an excuse or defense for assault and battery, it can form the basis for an assault lawsuit.

Hate Speech has no legal definition in the U.S., making it protected by the First Amendment. Many countries differ in having laws that disallow hateful speech or speech that advocates for or denies genocide.

Advice for Different Speech-Related Scenarios

The following set of advice was developed as general guidance for residence staff facing a generalized set of scenarios. Any true scenario will require considerations of context, policy, the public/private status of the institution, and judgments by the personnel on the ground. This advice is meant to inform those considerations, by offering step-by-step guidance that responding residence staff and leaders should bear in mind.

What to consider when responding to speech-related controversies

Speech-related controversies on campus are often complex and best analyzed through multiple lenses. When confronted with such a scenario, it is essential that residence personnel are prepared to respond nimbly and effectively and to address the concerns of the stakeholders involved. After assessing whether there are any immediate threats to public safety and gathering as much information as possible about the incident, consider utilizing PEN America's three-pronged response framework in developing your response:

Lens 1: Law and policy considerations

Private and public universities are subject to laws differently, but both have legal obligations and their own policies which will shape responses to speech-related incidents. Some questions to consider include:

- What laws and university policies, if any, are relevant to this incident?
- How do they shape the way the residence staff, or institution more broadly, should respond?

Lens 2: Community considerations

Campuses are communities. They have histories and stakeholders, bound together by core values like diversity, inclusion, academic freedom, and open inquiry. In responding to incidents involving speech, questions related to community to consider include:

- How has this incident affected the campus community?
- Who are the stakeholders in this incident and to what degree is the institution accountable to them?
- How does this incident fit within the context of other recent events on campus?
- Does this incident challenge the institution's shared values like academic freedom, open inquiry, diversity, and inclusion?

- Has the community had the opportunity to voice their opinions or concerns? If demands are being made, where are they coming from? Consider historical and systemic issues that may contribute to community concerns.
- Who within the community might not be speaking up at all?
- If appropriate, what actions can you take to help address any fears or concerns community members may feel in response to this incident?

Lens 3: Academic considerations

In addition to considerations of law, policy, and community, responses to incidents involving speech should also be informed by an academic lens, considering colleges' and universities' obligations to academic freedom, open inquiry in the search for knowledge, and education and growth. Some questions to consider from this lens include:

- What academic or pedagogical considerations are relevant? Can this incident be a learning experience?
- How can you ensure that the dialogue surrounding this incident is productive, rigorous, and balanced?
- Will your actions be consistent with the need to foster an intellectual climate for free speech, open inquiry, and dissent?

Different approaches to responding to speech-related controversies

When controversies arise on campus related to speech, there are a range of actions you can take to address the issue. These incidents often illuminate underlying tensions and can also be used as opportunities for reflection and self-evaluation.

Public Statements

When an incident reaches the level of campus-wide controversy, it is important for the university to speak out promptly and clearly. Statements should outline in clear terms what the university's response to the incident will be, a principled justification for that response, and an affirmation of the university's values. Residence leaders can consider how they can support and facilitate dialogue in response to such statements, which can have an impact on their residents.

Forums and Dialogues

Forums and panel discussions can be effective ways of deepening a conversation. But often dialogue in reaction to controversial incidents can easily become flattened and reductive. Creating venues for dialogue that encourage wide participation, discussion of nuance, and promotion of listening and understanding can be effective in de-escalating community tensions, as well as furthering the mission of the university to encourage open inquiry and rigorous debate. Residence staff trained in mediation can use these skills to facilitate opportunities for dialogue among residents.

Space for Counter-Programming

Allowing a controversial event to continue under the precepts of academic freedom is in no way an endorsement of the event's content. If an event held in a residence hall is contrary to the university's values or

has a negative impact on the community, creating counter-programming can be a way to affirm the community's values and support community members while upholding the tenets of free expression. Residence staff can help residents to channel their discontent into counter-programming.

Engagement With Affected Communities

A controversy may reveal that certain communities on campus feel marginalized or alienated. Use the opportunity to conduct outreach and learn more about what these communities want from the institution. Ensure Residence staff are equipped with knowledge of campus resources to share and to which they can refer residents.

Establishment of a New Task Force or New Resources

If a controversy brings to the fore an issue that requires more systemic change in the institution, it may be appropriate to establish a task force or committee to determine how to address the problem. Similarly, a controversy may highlight a lack of resources for students, faculty, or community members. Residence staff can support these institution-wide responses, including by examining ways to establish new resources.

Reassessment of University Policies and Procedures

An incident may also highlight that certain pre-existing policies and procedures are flawed or ineffective, or that the institution lacks relevant policies and procedures that could have been helpful in responding to the incident. The aftermath of a controversy can be a good opportunity to reevaluate existing policy, although a proactive review is even better.

Further Reading:

- Jonathan Friedman, [“When Diversity and Inclusion Clash with Free Speech—and Why they Don’t Have To”](#)

If a resident displays something offensive, disfavorable, or objectionable

Verify and Document

Gather as much information as possible about the display. Consider whether or not the message constitutes any kind of threat, or if the message involves vandalism, destruction of property, or other criminal activity.

Listen

When residents see something offensive, they may react with anger, sadness, fear, disgust, or a combination of several emotions. Even if your residents may not be keenly open to hearing you, it is vital that you reach out to offer yourself and your staff as listeners. Be active, present, and visible. An immediate public response, even if only to say that your office is aware, concerned, and investigating, is important. Remember to provide students with information about campus counseling services and other support resources.

Affirm Values

When speaking to or sending messages out to your residential community, it is essential to assert core values such as inclusion, tolerance, and mutual respect.

Consult and Support

If the objectionable content references a certain group or groups, whether that be racial, ethnic, religious, sex

or sexuality-based, ability-based, political, or another category, it is essential to consult relevant campus and local offices that work with those identity groups. Lead with solidarity and inclusion by working with these groups to coordinate responses that prioritize safety and community. Provide alternative accommodation options for students who feel threatened or unsafe. Students should have the right to leave as well as the right to stay in their current residence.

Weigh

Consider a range of responses. The gravity of the message, the voices of the students affected, and the communities involved should all inform a reasoned response that could include a wider public condemnation, or alternatively, a more discreet solution so as not to amplify the message and attract more attention. Nevertheless, keep in mind that the offensiveness of the message does not warrant regulating speech, and punitive action should only take place in response to clear situations of imminent and likely threats, harassment, or other criminal activities. Always consider campus policies and whether the conduct violates the law and warrants a disciplinary response. Choosing not to pursue a disciplinary response does not rule out other forms of response, including counseling and education, or adjusting rooming arrangements.

Keep Talking

Create spaces for community reflection and healing. Consider organizing opportunities for community members to speak out against hate. Any formal responses will spark conversation; be as transparent as possible and continue engaging with the community.

Assess

Establish mechanisms to review and evaluate the effectiveness of your response. Look to other institutions' responses to objectionable expression for examples of this sequential work.

Further Reading:

- Jonathan Friedman, ["Balancing Free Speech and Inclusion: Four Simple Strategies for Campus Leaders"](#)

If an incident of hateful expression occurs in a residence

Verify and Document

Amass as much information as possible about the expressive act deemed hateful. Determine whether or not the message constitutes a threat of imminent lawless action (if the action is imminent and likely to occur), harassment (if unwelcome, severe, pervasive, objectively offensive, detracts from the individual's access to their education), or if the message might be a potential hate crime (if involving vandalism, destruction of property, or other criminal activity). Coordinate with law enforcement if appropriate. When incidents of hateful expression occur, information often spreads quickly throughout the campus. If administrators do not work to fully understand the incident and inform the campus, students may be subject to inaccurate information about the incident.

Listen

When emotions run high, it is crucial for the community to be heard. Listening to community members' concerns in an earnest way is important. Be active, present, and visible. An immediate public response, even if

only to say that residence leaders are aware, concerned, and investigating, is crucial in lessening fear and confusion after a hateful incident has occurred.

Consult

Reach out to all relevant stakeholders (affected students, student groups, residence faculty, the diversity office) and confer with them to arrive at a response that reflects their input as much as possible, as well as the full range of responsibilities of the residence.

Lead With Inclusion

When communicating about instances of hateful speech, starting with a defense of free speech can sometimes be alienating for those who feel hurt. It is better to first characterize the hateful speech as morally offensive and only then, and as appropriate, make clear that it is nonetheless a protected form of speech. It may be appropriate to open a campus forum where students can ask questions and express their views about the incident. These forums should center the experiences of individuals directly affected by the incident.

Affirm Values

In messages sent out to the campus community or shared on public platforms, assert core values, such as inclusion, tolerance, and mutual respect.

Support

Engage in specific outreach to targeted communities and express both support for and solidarity with them. Provide them with information about campus counseling and support services, cultural centers, faculty and staff assistance, spiritual life offices, and other resources.

Discipline

Depending on the type of incident, consider whether any disciplinary measures are appropriate, in line with campus policies. For hate crimes, harassment, and any other conduct that violates the law, a disciplinary response will be warranted.

Consider Other Responses

Even when disciplinary action is not appropriate, other responses include counseling, education, or adjusting rooming arrangements could be pursued. Residence staff should work with any relevant campus units that deal with hate or bias to consider and develop a range of ways of responding to hate in their residences.

Keep Talking

Create spaces for community reflection and healing. Residence staff can consider organizing opportunities for their residents to speak out against hate or larger issues or concerns that go beyond the specific incident. Any formal responses will spark conversation; be as transparent as possible and continue engaging with residents. Where possible, create a mechanism for residence staff to elevate these concerns to leaders and to other campus units.

Assess

Establish mechanisms to review and evaluate the effectiveness of your response. Coordinated responses to controversial expression involve ongoing conversation; appraisals relating to issues of inclusion or free speech are not one-time events. Instead, they are elements of a complex ongoing relationship between communities and those who lead them.

Further Reading:

Jonathan Friedman, [“When Diversity and Inclusion Clash with Free Speech—and Why they Don’t Have To”](#)

If a resident files a complaint about another resident's speech

Listen

When emotions run high, it is crucial for the community to be heard. Deliberating with community members' concerns in an earnest way is important. Be active, present, and visible. Amass as much information as possible about the complaint.

Collaborate

If you have a bias response system or office on campus, coordinate with them for record-keeping, mediation, and supporting affected students. It is important to ensure such systems record issues of concern in ways that do not constrain student expression. Resident life staff may be on the frontlines of seeing how such systems operate and should develop means of providing feedback to these offices, as appropriate. See PEN America's "Cautions and Tips for Bias Response Systems."

Define

Ensure that your working definitions in responding to a complaint are clearly aligned with campus policies and the law. Hate, bias, and bullying have real repercussions and harmful effects, yet they have no legal definition and are often colloquially defined in broad, subjective terms. Legal definitions of discrimination, harassment, true threats, and defamation, however, have serious authority and must be standardized in your residence in compliance with the law.

Be Transparent

Being transparent with your residents about how complaints are handled keeps your team accountable, maintains the trust of your residential community, and makes the chilling of free expression less likely. Your complaint management policies should include mechanisms for people to appeal when they feel that they have been treated unfairly, as well as a space for residents to express when they feel a Resident Advisor's response has overstepped boundaries.

Discipline

Punitive responses should be saved for acts that violate campus policies and the law. For hate crimes, harassment, and any other conduct that violates the law, a disciplinary response will be warranted.

Consider Other Responses

Even when disciplinary action is not appropriate, other responses include counseling, education, or adjusting rooming arrangements could be pursued.

Empower

Residence life officers and their staff must receive specialized training in legal definitions and institutional policies on free speech, discrimination, and harassment. They should also be trained in mediation for situations involving interpersonal conflicts over speech.

If a resident complains about speech of a Resident Advisor or Staff Member

Prepare

Create and maintain a system that students can use to elevate their concerns if a Resident Advisor says

something they find troubling. Be transparent with residents about how that system works. If a student is alleging a Resident Advisor is engaged in any form of harassment it should be raised to appropriate disciplinary channels speedily. This guidance is not designed for such instances, but rather for circumstances where the Resident Advisor has engaged in potentially offensive, but protected, non-harassing speech. In such cases, responses other than those involving disciplinary action may still be necessary.

Know Your Rights

Students have broad rights to free expression. If a Resident Advisor engages in speech that does not rise to the level of harassment but nonetheless offends, the students do have a right to voice their criticism. It may be necessary to remind staff and students of the basics of free expression, but also to ensure Resident Advisors are clear on their roles and responsibilities.

Analyze

Context will matter a great deal in determining a response to this scenario, as will specific policies regarding Resident Advisor conduct. Consider carefully if the offending speech in question occurred while the Resident Advisor was on-duty, serving in a professional capacity, or not. When possible, try to support protections for free expression by Resident Advisors, particularly when they are off-duty. However if an action in question raises concerns about a Resident Advisor's ability to fulfill their duties or responsibilities with regard to residents, it is reasonable for Residence Leaders to initiate a disciplinary response. Even falling short of that, consultation, counseling, or educational programming for the Resident Advisor may be considered as appropriate.

Reflect and Engage

If your own words are being criticized, consider whether the language you used was necessary to convey your idea. Also consider why your speech was upsetting to someone else. If, after a conversation, you conclude that your language was ill chosen, be clear about your mistake. If you feel that your language was justified, explain your perspective calmly and honestly.

Reach Out

If you have heard second-hand that something a Resident Advisor said was interpreted negatively, consider reaching out and setting up a time to discuss the incident.

Listen

Resident Advisors and Residence Leaders must make an effort to understand why the resident was offended and how best to open up a productive conversation. If the resident has indicated that a group or groups were affected or offended, create opportunities to listen to those voices.

Respond

If what was said was particularly controversial or alienating, consider taking additional steps to restore trust in the residence building. While students have broad free expression rights, every community member benefits from approaching highly controversial speech sensitively and with a mind to nurturing an inclusive campus climate. Resident Advisors have broad responsibilities, usually including the responsibility to facilitate an emotionally safe environment for residents. Often, students speak out not with the purpose of disciplining a Resident Advisor but to vocalize a sense of alienation. Consider a range of responses before taking action.

Proactive ways to support free speech and inclusion in residence

Educate

Residential communities are a critical component to many students' experiences of college. Invest in strategies to educate residents and residential staff on the First Amendment and the importance of creating a diverse, inclusive, and equitable learning environment. Resident Advisors should be trained in implicit bias and ways to promote diversity, as well as taught how to handle different speech-related conflicts and who to contact for support. Reflecting on the range of programming sponsored through residential life and how these might be used to educate students about free speech and inclusion would also be worthwhile.

Articulate Values

Resident Advisors are normally on the frontlines of day-to-day, student-facing operations. Publicize a statement articulating your values. Make clear that free speech and inclusion are core to the academic mission, and present the statement as a binding set of principles to which a residential community—like a university more broadly—is deeply committed.

Support Speech

Cast the institution as a staunch defender of free speech explicitly and frequently by, for example, defending the right of even controversial speakers to be heard as well as by supporting the right to counter-speech and protest. Explain how college is a time for young people to test and debate opinions and to hone their civic voices.

Speak Out

Residential staff should be empowered to speak out against speech—even protected speech—that conflicts with the institution's values. In clear and unequivocal language, leaders can make the case both for why even deeply offensive speech should be allowed and for why such speech is inimical to campus values.

Facilitate Dialogue

Create opportunities for students, faculty, and staff with opposing views to engage with one another on difficult issues. Programs and activities that facilitate dialogue can reinforce the value of free speech on campus while fostering mutual understanding.

Listen

Residential staff should promote active and deep listening. Through dorm-sponsored community events that enable the exchange of views, residential staff can help students find their own voices and practice listening to the opinions of others. These exchanges may involve engaging in consultative decision-making processes and demonstrating a fair and reasoned response to calls for change.

Engage Productively

Whenever possible, residential staff should model openness and trust, debating in good faith, listening with nuance and patience, and considering multiple perspectives on an issue. This approach can set a tone on campus which indicates that the institution cares about and listens to its constituents.

Provide Resources

Resources made available to members of the university community have a great impact on the campus

climate and can signal the institution's commitment to free speech and inclusion. Ensure Residence staff are dedicated to generating resources, facilitating programs, and paying attention to students' concerns, and that they have the resources necessary to do so.

External Resources:

- Four Simple Strategies for Balancing Free Speech and Inclusion
- Engaged Listening Project

For more advice ready-made for student audiences, including tips for planning protests, or responding to hateful expression on campus, consult the student section of the online **Campus Free Speech Guide**. Advice ready-made for campus administrators in a range of positions is also available.

Professional Profiles

VICKA BELL-ROBINSON, Ph.D.

Director | Office of Residence Life | Division of Student Life Miami University

Why do you think free speech and inclusion are important on campuses?

College is supposed to help people prepare for work in a world that is based in a global society. Many students come from communities that are homogenous and where they are in the majority population. Students need the opportunity to converse with people who are different from themselves in a way that promotes an exchange of various perspectives. The exchange of different perspectives is not always a comfortable experience, and the discomfort can be reduced through exposure. The goal is not to have people change their minds or adjust their perspective, but rather consider the validity of an alternative point and recognize the humanity in themselves and others.

What do you or your team do to nurture or facilitate a healthy campus climate that respects both free speech and inclusion?

We frequently discuss the importance of diversity and inclusion. We grapple with the nuances associated with creating an inclusive campus and understanding that not everyone shares the same perspective. We have a committee that coordinates training, climate surveys, and opportunities to broaden our understanding of the identities our students hold. We review our climate survey results and enact changes to improve the climate for everyone. We also occasionally have training sessions from our General Counsel and other folks who are familiar with the First Amendment. All this makes us better situated to serve our students with respect to their identities.

What have been the toughest challenges in doing this work? How have you been able to successfully navigate these challenges and/or learn from them?

Everyone just wants to be seen and heard, trying to do that in situations around free speech and inclusion is challenging. When someone exercises free speech that negatively impacts another person you definitely want to support the student who is negatively impacted. You also want to engage the person who has caused harm in a productive conversation. The world is a better place when people who have caused harm recognize it. I'm not always convinced that students understand that they caused harm to each other. Talking with them is the best way to successfully attempt to navigate these challenging situations.

What are 3 essential tips that you think everyone in Residence Life should keep in mind when responding to an incident concerning free speech on campus?

1. People are eager to be offended. If you're aiming to not offend anyone, you're not going to succeed. The goal is to help students feel heard and understood, if they end up happy, that's a bonus.
2. There is always more to learn. You haven't arrived at the pinnacle of diversity and inclusion work. You have biases just like everyone else, don't pretend like you don't.
3. Work to be the best possible professional for the students you have, not the students you wish you have.

JOHN-PAUL WOLF, Ph.D.**Assistant Director - Campus Apartments University of California, Riverside*****Why do you think free speech and inclusion are important on campuses?***

In a virtual world where algorithms "help" us consume more and more of what we are looking for and already believe, free speech and inclusion are crucial on our campuses to challenge everyone to develop more complex and nuanced thoughts. When we protect free speech we allow novel ideas to be shared and discovered in ways that would not occur otherwise. Inclusion is the "leveled up" version of free speech because it takes us beyond freedom of topic and thought to actually honor perspective. With inclusion we create room for voices that have been missing and encourage dialogue that is thick and rich, which is exactly the kind of engagement colleges and universities should all foster.

What do you or your team do to nurture or facilitate a healthy campus climate that respects both free speech and inclusion?

To protect the health of the campus climate while respecting the importance of free speech and the virtue of inclusion we have written policies. These policies allow us to set expectations early and often, and we lean on those policies to protect everyone involved. By setting physical space boundaries and abiding by our policies we are able to allow all manner of free-speech, even the speech that offends some, while preserving the business operations of the university. Additionally, we offer additional support to those who are triggered or upset. Finally, to achieve our goals our staff members are required to participate in free-speech training and educational events.

What have been the toughest challenges in doing this work? How have you been able to successfully navigate these challenges and/or learn from them?

As a protector of free-speech and a champion of inclusion I believe the most difficult challenge is to remember my role in the moment. Often, I have not agreed with messages that were being presented on campus. I have wanted to "fight back" against thoughts and perspectives that I have felt were wrong or harmful - I have wanted to silence voices I disagreed with. When you protect free-speech and inclusion, other people may think you agree with messages and ideas that you do not. In this way, you have to find the words to say, "I don't agree with this message but I do agree that they have a right to express the message, while following our policies."

What are 3 essential tips that you think everyone in Residence Life should keep in mind when responding to an incident concerning free speech on campus?

1. Make sure you know the policies concerning free speech on your campus. Know where public free speech areas are located. Know the resources that are available to support student residents. If you are comfortable, engage them on the topics to which they have been exposed.
2. We work in spaces where there is very little distance between the private and the public space. A big part of our job is helping people understand the difference between free -speech and expression in their on- campus home and in the public forum, which may be just outside their door. Then we guide people to make good decisions in both spaces.
3. Not all speech that offends is hate speech. Not all imagery associated with hate speech is being displayed as such. Slow down when responding to reports so you can assure that everyone's rights are being respected.

FREE SPEECH GUIDE FOR STUDENT AFFAIRS



by Jonathan Friedman
Program Director, Campus Free Speech

Table of Contents

Introduction to this Guide.....	153
Free Speech and Student Affairs.....	153
Our Principles.....	155
The Law.....	155
<i>The First Amendment</i>	
<i>Public and Private Institutions</i>	
<i>Campus Policies</i>	
<i>Federal Statutes</i>	
<i>Hateful Language and Offensive Speech</i>	
<i>State Legislation</i>	
<i>First Amendment Terms at a Glance</i>	
Advice for Different Scenarios.....	160
<i>What to consider when responding to speech-related controversies</i>	
<i>Different approaches to responding to speech-related controversies</i>	
<i>Proactive tips for promoting free speech and inclusion in tandem</i>	
<i>How to respond to expressions of hate on campus</i>	
<i>If a student asks for help planning a protest</i>	
<i>If student protests involve civil disobedience</i>	
<i>How to respond if a controversial speaker is invited to your campus</i>	
<i>Tips for supporting students facing online harassment and threats</i>	
<i>Tips for student clubs seeking to foster dialogue and defend free expression</i>	
Case Studies.....	170
<i>Fordham denies permission to form a Students for Justice in Palestine chapter</i>	
<i>Protesters at Columbia University disrupt a class</i>	
<i>Middlebury College student government requests a way to vet speakers</i>	
<i>Students at Sarah Lawrence College call for professor's tenure to be reviewed</i>	
Sample Statements.....	173
<i>Statement on critics of Israeli policy at the University of Massachusetts</i>	
<i>Statement on vandalism of pro-life display at Miami University of Ohio</i>	
<i>Statements on hateful incidents at Colorado State University</i>	
Professional Profile.....	176

Introduction to this Guide

In response to controversies and debates that have roiled colleges and universities across the country in recent years, PEN America has developed a first-of-its-kind guide to navigating issues of free speech and inclusion on campus. Housed online, the [Campus Free Speech Guide](#) provides practical, principled guidance for students, faculty, and administrators with the aim of keeping campuses open to a broad range of ideas and perspectives.

The **Free Speech Guide for Student Affairs** is a companion resource complimenting the advice found online, with a particular focus for Student Affairs personnel. The advice in this Guide reflects PEN America's efforts to uphold and advance the principles of free speech and inclusion in tandem in higher education, recognizing that college campuses are foundational to the future of civic life and often the catalyst for wider social change. These dual principles are both vital to sustaining an open, equitable, democratic society, and we believe that administrators and faculty have an obligation to model a commitment to these principles and to strive to inculcate this commitment among the rising generation.

The content of this guide was compiled in conjunction with PEN America's Campus Free Speech Program as part of a fellowship by its director, Jonathan Friedman, from the University of California National Center for Free Speech and Civic Engagement. The advice contained herein was developed in consultation with hundreds of university students, faculty, and administrators nationwide. It also draws on PEN America's extensive research, analysis, and advocacy on campus free speech issues.

Free Speech and Student Affairs

The freedom to express one's ideas unhampered by censorship and suppression is a bedrock civil rights principle. In the U.S., the First Amendment endows all Americans with this freedom by forbidding Congress to pass any law that abridges freedom of speech, freedom of the press, peaceful assembly, or the right to petition the government. This right is also codified in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which cement free expression not just as an American liberty, but as international human rights law. In order to understand free speech on college campuses, one must begin with this fundamental precept: free expression is a universal and inalienable freedom belonging to all people equally, without discrimination. Free speech belongs to everyone.

But neither the First Amendment nor human rights covenants guarantee that all citizens in a democracy have equal opportunities to speak and be heard. Rather, upholding the principle of free speech -- for all -- requires an affirmative commitment to inclusion, and to advancing

institutional efforts to lower the barrier to expression for members from historically marginalized or lesser heard communities. In order to ensure that the public sphere is open to all diverse voices, it is often in fact necessary that harmful or intimidating speech does not go unchallenged by institutional authorities. Speaking out against hateful speech, bigotry, harassment, and discrimination has become urgent in an era of rising hate, deepening political divides, and a crisis in civic literacy, where controversies over language have struck at the heart of the social fabric.

Colleges and universities, our democracy's crucibles of ideas and dialogue, know very well the challenges in harmonizing free expression with diversity, equity, and inclusion. Student Affairs personnel are uniquely positioned to balance these ideas, as their role entails working closely with the student body, and navigating tensions among these principles when they arise. Hateful expression incidents, controversial invited speakers, contentious statements made by faculty and staff, and other common issues often raise the temperature of a campus climate. Although these events have the potential to antagonize and infuriate, responding to heightened anxieties with regulation and censorship can inhibit productive and inclusive long-term conditions for discourse. Student Affairs personnel must take care to avoid setting precedents that empower administrators with the ability to discipline students based solely on the content of their expression, and they should work both proactively and reactively to ensure that all students on campus can express themselves freely and equally. Sanctions should be saved for only the most legally egregious offenses. Hateful and offensive speech should be answered with more speech, as well as clear, unwavering denunciations of values at odds with those of the institution. Student Affairs personnel can also help institutional leaders understand that not everyone targeted with hate feels comfortable or empowered to speak out against it, and that beyond disciplinary responses, institutions can also engage in responses that involve education, counseling, or other restorative justice practices.

Just as these principles apply across campuses, so too do they come to bear in Student Affairs. In their day-to-day operations, Student Affairs directors, staff, and assistants can experience frictions between free expression and the feelings of welcoming and belonging. Language and politics have the potential to spur interpersonal tensions, occasionally leaving Student Affairs personnel on the student- and parent-facing frontlines to respond with level-headed, policy-minded approaches that are consistent with free speech, inclusion, and other campus values.

Speech-related tensions have the capacity to reverberate in all aspects of students' lives, from the classroom, to online, to their residence halls. Student Affairs personnel must often manage a range of complex issues as they attempt to balance competing priorities while creating a sense of community on campus. This Guide has been assembled with the aim of supporting these personnel with principled and practical advice to help them confront a range of different scenarios.

Our Principles

PEN America Principles on Campus Free Speech

In today's debate over free speech on campus, PEN America's philosophy is guided by the 1948 PEN Charter to stand for the "unhampered transmission of thought," to "oppose any form of suppression of freedom of expression," and to "dispel all hatreds." The PEN America Principles on Campus Free Speech provide both general and specific precepts for nurturing campus communities that uphold these values; protecting speech to the utmost and allowing for academic and social discourse that is truly inclusive and transcends boundaries.

- Campuses must be open to a broad range of ideas and perspectives, and to achieve that, they must uphold the rights of all students to participate freely and equally.
- Campuses can and must fulfill their dual obligation to both protect free speech and advance diversity and inclusion.
- Campus leaders must be free to speak in their own right, to assert and affirm their institutional values.
- Promoting free speech and inclusion requires proactive steps, not just reactions to controversy.
- Campuses should encourage a climate of listening and dialogue in tandem with support for free speech.
- By acknowledging and addressing legitimate concerns regarding racism and bigotry in the context of free speech debates, universities can help ensure that the defense of freedom of expression is not misconstrued as a cause that is at odds with movements for social justice.
- Colleges have a unique academic mission and core values that are distinct from other social institutions, which should be protected.

To see the full list of principles, check out our online Guide at: <https://campusfreespeechguide.pen.org/pen-principles/>

The Law

The First Amendment

The First Amendment protects people's rights to free speech, expression, press, and assembly, as well as the right to petition the government. These fundamental rights extend to all individuals in the United States, regardless of factors such as religion, gender, race, citizenship, or sexual orientation. Under the First Amendment, people have the right to create, publish, convey and receive information; to express their views; to speak freely; and to be free from retaliation or efforts to restrain their expression. Although free speech is an essential value of the United States, it is important to note that it is not absolute. The government may impose regulations on certain kinds of speech, including but not limited to harassment, threats, slander, and instances in which an individual participates in incitement of violence. In addition to jurisprudence and precedent, there are several federal statutes that regulate certain kinds of speech, including Title VI and Title IX.

Public and Private Institutions

Colleges and universities are held to different legal standards when setting internal regulations for First Amendment rights on campus, depending on their public or private status. While public universities are beholden to principles of the First Amendment, they may impose what are known as time, place, and manner restrictions on the exercise of those rights by individuals on campuses. A public college or university may impose these restrictions as long as they are reasonable and content-neutral, are in the interest of preventing significant disruption, and leave open other means of communication. Any campus policy that regulates speech based on content is unconstitutional unless the university can show that the regulation is narrowly tailored to serve an important university function. Often, the context that a policy seeks to regulate on campus—such as speech in a classroom versus in public areas versus in student dormitories—is relevant to understanding whether it is constitutional.

Because private colleges and universities are not government entities, they are not required to uphold First Amendment protections in the same manner as public universities. In other words, private institutions may impose stricter limitations on free speech. Still, most adhere to free speech principles and support academic freedom. Private institutions that receive federal funding must also adhere to federal anti-discrimination laws, such as those applicable under Title IX.

There are some exceptions to this rule. Private colleges and universities that accept government funding or which otherwise engage with government closely may be required to adhere to the First Amendment more closely. State governments may also pass statutes requiring private universities to respect free speech rights as a matter of state law, even when the US Constitution imposes no such requirement. For example, California law applies First

Amendment protections to both public and private universities. Congress also has the power to propose and pass federal laws which would require private universities, by statute, to adhere to various free speech guidelines.

Campus Policies

In an effort to balance the educational value of free speech against the value of providing a safe and supportive community for all students, some colleges and universities have considered or adopted policies that regulate or prohibit speech deemed hateful or offensive. Public institutions, however, must be sure that their policies do not contravene the First Amendment. Some policies promulgated by public universities have been found unconstitutional, particularly related to university regulation of offensive speech, bias reporting, and other expressive speech. To learn more about how to evaluate these policies at public universities, see FIRE's "Correcting Common Mistakes in Campus Speech Policies."

Private colleges and universities are able to impose even greater restrictions as long as they do so within the bounds of their legal obligations to members of the campus community. Private institutions should also ensure that their policies allow the campus to remain open to a broad range of diverse ideas and perspectives. Students seeking to understand the parameters of conduct on campus should consider both relevant law and university policies.

Time place and manner restrictions are limitations imposed by the government on expressive activity, such as limits on noise, the number of protesters allowed in a public space, or barring early morning or late night protest. The restrictions must leave ample alternative channels for communicating the speaker's message.

Federal Statutes

Beyond the contours of free speech rights afforded by the Constitution and the First Amendment, the two most significant federal statutes regulating speech in higher education are Title VI and Title IX, which prevent discrimination on the basis of race and sex, respectively.

The Office of Civil Rights in the Department of Education has stated that these federal regulations are “not intended to restrict the exercise of expressive activities protected under the U.S. Constitution.” Rather, they apply only to unprotected speech that constitutes discrimination and harassment and creates a hostile environment. The offensiveness of speech alone is not sufficient to establish that it has created a hostile environment. A hostile environment is created when the harassment is “severe, persistent, or pervasive” and “sufficiently serious to deny or limit a student’s ability to participate in or benefit from an educational program.” Schools are obligated to take action if speech or conduct contributes to a hostile environment.

Title VI

Title VI of the Civil Rights Act of 1964 states that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This applies to both public and private schools that receive federal funds.

On December 11, 2019, President Trump issued an Executive Order that would allow Title VI to apply to cases of anti-Semitism on college campuses.

Title IX

Title IX of the Education Amendments Act of 1972 states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This applies to both public and private schools that receive federal funds. Title IX’s impact on speech has been contentious, with some arguing that its implementation goes too far in its definition of sexual harassment and has a chilling effect on speech, and others arguing that it does not go far enough to protect people from sexual harassment. Under Secretary of Education Betsy DeVos, the definition of sexual harassment under Title IX was narrowed from that used in the Obama administration, and it was mandated that colleges and universities hold live hearings in Title IX cases that allow for cross-examination of all parties.

Hateful Language and Offensive Speech

Hateful language and offensive speech may be subject to punishment in a variety of contexts. However, such speech remains constitutionally protected under the First Amendment, as the United States Supreme Court has regularly upheld. While many countries ban hate speech, the U.S. has taken a different path, adopting no legal definition of “hate speech.” The Supreme Court has consistently ruled that such speech enjoys First Amendment protection unless it is directed to causing imminent violence or unlawful action, or involves true threats against individuals. The principle often invoked instead is that the solution to offensive speech is to engage in counter-speech.

It is important to distinguish between hate crimes and hateful speech. There are various federal and state-level hate crime statutes. For the purposes of data collection, the FBI defines a hate crime as a “criminal offense against a person or property motivated in whole or in part by an offender’s bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.” Unlike hate speech, all hate crimes are punishable criminal acts that are treated with priority by the federal government, and by almost all states, due to their extreme impact on individuals, groups and society. As the FBI articulates, “a hate crime is a traditional offense like murder, arson, or vandalism with an added element of bias...Hate itself is not a crime.” State-level hate crime statutes are typically “penalty enhancement” statutes, which means they increase the punishment for a defendant if the target of a hate crime is intentionally selected because of his/her personal characteristics.

For more background and analysis, interested readers can read *Hate: Why We Should Resist it with Free Speech, Not Censorship*, by Nadine Strossen, former president of the American Civil Liberties Union (ACLU). Strossen explains in a June 2018 interview with NPR:

“The most effective way to counter the potential negative effects of hate speech — which conveys discriminatory or hateful views on the basis of race, religion, gender, and so forth — is not through censorship, but rather through more speech. And that censorship of hate speech, no matter how well-intended, has been shown around the world and throughout history to do more harm than good in actually promoting equality, dignity, inclusivity, diversity, and societal harmony.”

State Legislation

Since 2017, over 30 states have proposed or passed new laws specifically focused on campus speech. As these debates often prompt heated debate around campus communities, different political actors and free speech groups continue to propose new legislative or regulatory “solutions.” Most of these proposals have been based on a handful of model bills, such as the Campus Free Expression Act (CAFE), authored by the Foundation for Individual Rights in Education (FIRE), the Campus Free Speech Act, authored by the Goldwater Institute, and the FORUM Act, authored by the American Legislative Exchange Council (ALEC). PEN America has discussed each of these bills in our reports, including *Wrong Answer: How Good Faith Attempts to Address Free Speech and Anti-Semitism on Campus Could Backfire* and *Chasm in the Classroom: Campus Free Speech in a Divided America*.

First Amendment Terms at a Glance

The First Amendment reads: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Freedom of the Press is a core First Amendment principle which protects printing and public circulation of opinions without censorship by the government.

Right to Assemble is a core First Amendment principle which protects the right to peaceful public assembly and protest. The government may impose some restrictions on the right to assemble.

Government (Public) vs. Private Acts refer to different standards to which government and private actors are held when setting regulations that implicate First Amendment rights.

Content Neutral Government Restrictions refer to the government’s ability to impose regulations on free speech without regard to the content or message of the expression.

Prior Restraints are laws or regulations that suppress speech at the discretion of government officials on the basis of the speech’s content and in advance of its actual expression, such as requiring fees or permits as a condition for protesters to engage in peaceful assembly.

Harassment is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. Such activities may be the basis for a lawsuit if due to discrimination based on race or sex.

Defamation is the unlawful act of making untrue statements about another which damages their reputation. In a defamation trial, public figures must prove that the defamation was made with malicious intent and was not fair comment.

Slander/Libel are oral and written forms of defamation, respectively, in which someone expresses an untruth about another that will harm the reputation of the person defamed.

Fighting Words are words intentionally directed toward another person, causing them to suffer emotional distress or incite them to immediately retaliate physically. While this isn’t an excuse or defense for assault and battery, it can form the basis for an assault lawsuit.

Hate Speech has no legal definition in the U.S., making it protected by the First Amendment. Many countries differ in having laws that disallow hateful speech or speech that advocates for or denies genocide.

Advice for Different Scenarios

The following set of advice was developed as general guidance for Student Affairs personnel facing a generalized set of scenarios. Any true scenario will require considerations of context, policy, the public/private status of the institution, and judgments by the personnel on the ground. This advice is meant to inform those considerations, by offering step-by-step considerations that responding Student Affairs personnel should bear in mind.

What to consider when responding to speech-related controversies

Speech-related controversies on campus are often complex and best analyzed through multiple lenses. When confronted with such a scenario, it is essential that Student Affairs personnel are prepared to respond nimbly and effectively and to address the concerns of the stakeholders involved. After assessing whether there are any immediate threats to public safety and gathering as much information as possible about the incident, consider utilizing PEN America's three-pronged response framework in developing your response:

Lens 1: Law and policy considerations

Private and public universities are subject to laws differently, but both have legal obligations and their own policies which will shape responses to speech-related incidents. Some questions to consider include:

- What laws and university policies, if any, are relevant to this incident?
- How do they shape the way that Student Affairs personnel, or the institution more broadly, should respond?

Lens 2: Community considerations

Campuses are communities. They have histories and stakeholders, bound together by core values like diversity, inclusion, academic freedom, and open inquiry. In responding to incidents involving speech, questions related to community to consider include:

- How has this incident affected the campus community?
- Who are the stakeholders in this incident and to what degree is the institution accountable to them?
- How does this incident fit within the context of other recent events on campus?
- Does this incident challenge the institution's shared values like academic freedom, open inquiry, diversity, and inclusion?
- Has the community had the opportunity to voice their opinions or concerns? If demands are being made, where are they coming from? Consider historical and systemic issues that may contribute to community concerns.
- Who within the community might not be speaking up at all?
- If appropriate, what actions can you take to help address any fears or concerns community members may feel in response to this incident?

Lens 3: Academic considerations

In addition to considerations of law, policy, and community, responses to incidents involving speech should also be informed by an academic lens, considering colleges' and universities' obligations to academic freedom, open inquiry in the search for knowledge, and education and growth. Some questions to consider from this lens include:

- What academic or pedagogical considerations are relevant? Can this incident be a learning experience?
- How can you ensure that the dialogue surrounding this incident is productive, rigorous, and balanced?
- Will your actions be consistent with the need to foster an intellectual climate for free speech, open inquiry, and dissent?

Different approaches to responding to speech-related controversies

When controversies arise on campus related to speech, there are a range of actions you can take to address the issue. These incidents often illuminate underlying tensions and can also be used as opportunities for reflection and self-evaluation.

Public Statements

When an incident reaches the level of campus-wide controversy, it is important for the university to speak out promptly and clearly. Statements should outline in clear terms what the university's response to the incident will be, a principled justification for that response, and an affirmation of the university's values. Student Affairs leaders can consider how they can support and facilitate dialogue in response to such statements, which can have an impact on their students.

Forums and Dialogues

Forums and panel discussions can be effective ways of deepening a conversation. But often dialogue in reaction to controversial incidents can easily become flattened and reductive. Creating venues for dialogue that encourage wide participation, discussion of nuance, and promotion of listening and understanding can be effective in de-escalating community tensions, as well as furthering the mission of the university to encourage open inquiry and rigorous debate.

Space for Counter-Programming

Allowing a controversial event to continue under the precepts of academic freedom is in no way an endorsement of the event's content. If an event held on campus is contrary to the university's values or has a negative impact on the community, creating counter-programming can be a way to affirm the community's values and support community members while upholding the tenets of free expression. Student Affairs personnel can encourage students to channel their discontent into counter-programming.

Engagement With Affected Communities

A controversy may reveal that certain communities on campus feel marginalized or alienated. Use the opportunity to conduct outreach and learn more about what these communities want from the institution.

Ensure Student Affairs personnel are equipped with knowledge of campus resources to share and to which they can refer students.

Establishment of a New Task Force or New Resources

If a controversy brings to the fore an issue that requires more systemic change in the institution, it may be appropriate to establish a task force or committee to determine how to address the problem. Similarly, a controversy may highlight a lack of resources for students, faculty, or community members. Student Affairs personnel can support these institution-wide responses, including by examining ways to establish new resources.

Reassessment of University Policies and Procedures

An incident may also highlight that certain pre-existing policies and procedures are flawed or ineffective, or that the institution lacks relevant policies and procedures that could have been helpful in responding to the incident. The aftermath of a controversy can be a good opportunity to reevaluate existing policy, although a proactive review is even better.

Further Reading:

- Jonathan Friedman, ["When Diversity and Inclusion Clash with Free Speech—and Why they Don't Have To"](#)

Proactive tips for promoting free speech and inclusion in tandem

Educate

Invest in strategies to educate staff, faculty, and students on the First Amendment, academic freedom, and the importance of creating a diverse, inclusive, and equitable learning environment.

Articulate Values

Publicize a statement articulating the institution's values. Make clear that free speech and inclusion are core to the academic mission, and present the statement as a binding set of principles to which the institution is deeply committed.

Support Speech

Cast the institution as a staunch defender of free speech explicitly and frequently by, for example, defending the right of even controversial speakers to be heard as well as by supporting the right to counter-speech and protest. Emphasize that college is a time for young people to test and debate opinions and to hone their civic voices.

Support Faculty

Stand by faculty when they encounter issues that threaten their academic freedom or sense of well-being in the university community. Consider instituting a system whereby faculty can seek support from administrators if they feel their academic freedom is under attack. Ensure that faculty are educated about resources for dealing with discrimination and harassment, as well.

Speak Out

Universities should be empowered to speak out against speech—even protected speech—that conflicts with

the institution's values. In clear and unequivocal language, leaders can make the case both for why even deeply offensive speech should be allowed and for why such speech is inimical to campus values.

Facilitate Dialogue

Create opportunities for students, faculty, and staff with opposing views to engage with one another on difficult issues. Programs and activities that facilitate dialogue can reinforce the value of free speech on campus while fostering mutual understanding.

Listen

Campus leaders should promote active and deep listening. Through town halls, dialogues, and other forums that enable the exchange of views, campus leaders can help students find their own voices and practice listening to the opinions of others. These exchanges may involve meeting with campus constituents, engaging in consultative decision-making processes, and demonstrating a fair and reasoned response to calls for change.

Productive Engagement

Whenever possible, campus leaders, administrators, and faculty should model giving others the benefit of the doubt, debating in good faith, listening with nuance and patience, and considering multiple perspectives on an issue. This approach can set a tone on campus that the institution cares about and listens to its constituents.

Provide Resources

Resources made available to members of the university community have a great impact on the campus climate and can signal the institution's commitment to free speech and inclusion. If resources allow, consider hiring dedicated student-facing staff to generate resources and facilitate programs, and to be attuned to students' concerns.

Ensure Cultural Competence

Because students come from a wide range of backgrounds, it is important to ensure that student-facing staff receive cultural competency training. It is especially important for all mental health counselors and any staff who respond to trauma, such as sexual assault response teams.

Reckon With the Institution's Past

If your institution has a history of slavery, racism, or discrimination, it can be both symbolically and substantively important to take public steps to address that legacy and to identify and rectify systemic injustices that may still inflict harm. Universities are uniquely positioned to draw on the expertise and research of faculty and other community members to undertake a rigorous examination of their history.

How to respond to expressions of hate on campus

Universities must be responsive to threats, hateful intimidation, overt racism, and other forms of discrimination. In developing responses, administrators need to distinguish between speech that is offensive but protected by the First Amendment and hate crimes or harassment, which are punishable criminal acts. Even short of hate crimes or harassment, manifestly malicious and intimidating speech can impair equal access to the full benefits of a college education and the ability of all students to participate in campus

discourse. In responding, administrators should emphasize expressions of outrage, empathy with those targeted, and creative educational approaches.

Verify

Amass as much information as possible about the origins of the hateful messages. Determine whether the speech in question represents an imminent threat of violence or potential hate crime, and coordinate with law enforcement as appropriate.

Listen

When emotions run high, the community might not be receptive to hearing you, but you should nonetheless listen to them. Be active, present, and visible. An immediate public response, even if only to say that the administration is aware, concerned, and investigating, is important.

Consult

Reach out to all relevant stakeholders (affected students, student groups, faculty, the diversity office) and confer with them to arrive at a response that reflects their input and the full range of duties of the university.

Weigh

Consider a range of responses. Some cases may demand strenuous, public condemnation, while others may raise concerns that amplifying a hateful act will bring it outsize attention. In determining a response, keep in mind that even if some individuals take offense, that is not sufficient grounds to limit the offensive speech.

Lead With Inclusion

When communicating about instances of hateful speech, starting with a defense of free speech can be alienating for those who feel hurt. It is better to first characterize the hateful speech as morally offensive and only then, and as appropriate, make clear that it is nonetheless a protected form of speech.

Affirm Values

In messages sent out to the campus community or shared on public platforms, assert core values, such as inclusion, tolerance, and mutual respect.

Support

Engage in specific outreach to targeted communities and express solidarity and support for them. Provide them with information about campus counseling services and other resources.

Discipline

Depending on the type of incident, consider whether any disciplinary measures are appropriate, in line with campus policies. For hate crimes, harassment, and any other conduct that violates the law, an aggressive disciplinary response is warranted.

Consider Other Responses

Even when disciplinary action is not appropriate, other responses include counseling and education. Student Affairs personnel should work with any relevant campus units that deal with hate or bias to consider and develop a range of ways of responding to hate.

Keep Talking

Create spaces for community reflection and healing. Consider organizing opportunities for community members to speak out against hate. Any formal responses will spark conversation; be as transparent as possible and continue engaging with the community.

Assess

Establish mechanisms to review and evaluate the effectiveness of the university's response.

Further Reading:

- Cynthia Miller-Idriss & Jonathan Friedman, "When Hate Speech and Free Speech Collide"
- American Council on Education's guidance on hateful incidents

If a student asks for help planning a protest

Peaceful protests are legal, powerful expressions of free speech, but planning them can be daunting. When students ask for your support, make sure that you are equipped with accurate and helpful information to help set them up for success. There is no reason that you cannot also participate in the protest, should you choose, subject to the same provisos as students.

Know Your Rights

Help students understand their rights as well as the legal parameters. If you plan to participate in the protest, make sure you know your own rights, too.

Inform

Provide students with resources that offer practical guidance, such as PEN America's advice on how to plan a peaceful protest.

Advise

Direct students to legal, safe, and effective methods of protest. Protesters should not be permitted to shut down, shout down, or obstruct speech.

Prepare

If students choose to engage in civil disobedience, make sure that they understand their rights and the consequences they can expect for their actions. See PEN America's information on protests involving civil disobedience.

Further Reading:

- Six Tips from Successful Protests

If student protests involve civil disobedience

Civil disobedience is a form of protest that involves the willful refusal to comply with certain laws. While it is not typically protected by the First Amendment, nonviolent civil disobedience has often been deployed to demand social change, and it has a long association with college campuses. It is imperative that schools be prepared to respond to civil disobedience in a nonviolent, proportionate way.

Prepare

Be ready with an internal policy for administrators on how to deal with protesters engaged in civil disobedience and ensure that senior administration is well versed in it. Institute guidelines for campus police as well and make sure they are properly trained. See our advice for drafting a civil disobedience policy.

Assess

Ensure that the protest actually amounts to civil disobedience and is not, in fact, protected speech. Assess whether or not the protesters have a plan to engage in violence.

Listen and Engage

Let the students know that you hear their concerns. If you do not address them directly in the moment, make clear that you will be addressing them after some reflection. Offer a time and place to participate in structured conversation about the issue at hand, preparing students to accept the consequences of their actions, which might include arrest. Laying this groundwork can make students less likely to believe that any punitive measures are designed to shut down their speech.

Communicate

Let the students know that you recognize their protest as a form of civil disobedience and that any punitive action you may take is a direct engagement with and response to their chosen form of protest.

Warn

Tell the students that what they are doing is against the law or against school policy. Make sure they know the specific consequences of their demonstration before you take any action against them, so they can decide whether they are prepared to accept the consequences.

Use Campus Police

Use campus police or security rather than local or state authorities whenever possible. Recognize that students of color may be particularly distrustful of law enforcement and that calling it in may be seen as an act of betrayal.

Respond

Issue a timely public response that recognizes that students chose to engage in civil disobedience. Reach out to students involved in the protest and offer to have a mediated conversation.

Discipline

Civil disobedience is powerful in part because those engaged in it are prepared to accept the consequences of

their actions. In some cases an institutional response may be warranted, but when that response goes too far, there can be a strong chilling effect on people's willingness to exercise their constitutional and human right to protest. Make sure that your disciplinary measures are not excessively punitive for nonviolent acts of civil disobedience. If possible, avoid measures like suspension and expulsion.

How to respond if a controversial speaker is invited to your campus

Both public and private campuses should be open to a wide variety of academic and popular opinions and should foster a culture where speech and reasoned debate are seen as the best tools for confronting mistaken, wrongheaded, or hateful ideas. The advice below was adapted in part from the article "A Free-Speech To-Do List for College Administrators," by Erwin Chemerinsky and Howard Gillman.

Verify

Confirm the details of who invited the speaker and whether existing policies for such invitations were followed.

Affirm Values

If the speaker's views contradict the university's values, leaders should explain the distinction to their community clearly and unequivocally, while also reaffirming their commitment to free speech.

Communicate

During the lead-up to the event, the university should be as transparent as possible about how it plans to handle the event and any new developments.

Teach

These cases provide an opportunity for leadership to educate the community about free speech, the First Amendment, and the dangers of silencing even offensive speech.

Listen

If a group would like to voice discontent in response to the invitation, create an opportunity for them to do so with the appropriate offices or officials.

Anticipate

Establish transparent, content-neutral procedures for approving events in campus spaces. Groups do not have the right to unconditional access to campus spaces, and universities can impose certain content-neutral restrictions.

Prioritize Safety

Prepare security assessments to ensure that speakers, audiences, and protesters will be able to participate safely.

Stand Firm

Only under extremely rare and extenuating circumstances should administrators consider a disinvitation or cancellation. Whenever possible, campuses should not allow security costs to be grounds for disinviting a speaker.

Facilitate Counter-Speech

During the lead-up to the event, make sure to provide opportunities for lawful protest and counter-speech. Some universities have created alternative programming in conjunction with a controversial speaker's visit.

Anticipate

Establish clear and detailed procedures for staff to respond to various potential disruptions. Make clear that counter-protests must not prevent others from hearing the speaker.

Remind

Before the event, review policies for invited speakers, protests, and disruptions with the campus community.

Tips for supporting students facing online harassment and threats

This guidance is based on advice contained in PEN America's Online Harassment Field Manual.

Reach Out

If you hear second-hand about students being targeted by abuse online, reach out to get a better understanding of what is happening and how they are doing—no need to wait for them to come to you. Not everyone will feel comfortable discussing their experience, so be discreet in your outreach

Document and Identify

Documenting the harassment or threats is a critical first step. Before taking action, encourage the targeted student(s) to document the abuse and, if they are comfortable, share it with the university. Advise the student(s) to collect information to identify the kind of online abuse taking place, such as screenshots, links to social media messages, emails, voicemails, or texts. Amassing evidence can be helpful in conversations with allies and university officials and instrumental if you decide to engage law enforcement or pursue legal action. See our guidance on "Definitions."

Assess Safety

Based on the available information, work with the targeted individual(s) to assess the threat to themselves, the university, and others, like the target's family. Encourage the targeted individual to assess their sense of physical safety. Depending on the nature of the online abuse and the individual's sense of personal safety, consultations with campus police, legal and security experts, and others may be necessary. See our guidance on "Assessing the Threat" and "Engaging Law Enforcement."

Communicate

Check in frequently with the student, collect any further relevant documentation, and keep notes of new developments. Work with other appropriate offices and personnel in coordinating the institutional response, which may vary depending on the type of harassment. At public institutions, be cognizant that emails could be subject to future open-records requests.

Support

Harassment can be detrimental to psychological and physical health. Be sure to offer support to the targeted student(s) and to others who are affected. Listen and acknowledge their feelings. Share information about counselling and other resources for coping with online harassment. Offer to connect them with others at the university who have experienced harassment and expressed a willingness to serve as allies. If the harassment

is affecting the student's ability to work or study, tell their advisor or dean and get them the support they need. Offer our guidance on "Talking to Friends and Family."

Take Care

Online harassment can make you feel like your life is spinning out of control and elicit feelings of fear and shame, even when it is not happening directly to you. It can do real damage to psychological and physical health and affect people differently depending on their life experience, race, gender, and background. Resist the urge to ignore how you're feeling and prioritize self-care. See our guidance on "Self-care."

Speak Out

Some people find it empowering to speak publicly against harassment and take control of the narrative. If harassers are propagating misinformation, it might be important for campus leaders to stand up for students. See our guidance on "Safely Approaching Counterspeech."

Review

Treat each case as an opportunity to create or improve official policies. Consider conducting an anonymous survey to assess the scope of the problem and the needs of staff.

Educate

Online harassment has been on the rise in recent years. Educate faculty and staff on how to prepare for and respond to online abuse and serve as allies.

Tips for student clubs seeking to foster dialogue and defend free expression

Articulate

Create a statement of values, upholding commitments that can help guide your thinking and actions, including free speech and inclusion. Engage your membership broadly to help shape this statement.

Include

Strive to reach a diverse audience. If your organization should appeal to the student body at large but you find that your membership is homogeneous, reflect on whether you should undertake steps to make the club more welcoming.

Partner

Partner with other campus organizations on events and initiatives. Create coalitions to address common concerns. Consider opportunities to pool resources, contacts, knowledge, and experience to strengthen your actions.

Advocate

Recognized student groups often have direct lines of communication to administrators and opportunities to make clear and concrete requests of them. Use your position to advocate for free speech and diversity and to represent the concerns of the student body at large.

Speak Out

Student groups are well positioned to mobilize large groups of people around issues they care about. Take

advantage of that position to organize events and to bring attention to any causes about which your group is passionate.

Respect

Try to engage respectfully with organizations that have different perspectives from your own. Consider engaging them in dialogue or co-sponsoring debates. Clubs can be built around bipartisanship or debate, to deliberately bring together students from different backgrounds or who disagree with each other on key social and political matters.

Case Studies

Fordham denies permission to form a Students for Justice in Palestine chapter

In 2016, a group of students at Fordham University sought permission to form a Students for Justice in Palestine (SJP) chapter. The student government initially approved the request, but it was ultimately vetoed by the dean of students, who claimed that the group would cause “polarization” and that their support for a boycott of Israel “presents a barrier to open dialogue.” In 2017, five students involved in the formation of the group sued the university on First Amendment grounds, with Fordham arguing that, as a private university, they were not beholden to the First Amendment. In 2019, the students won the suit and the university was ordered to recognize the club. The court found that the university’s denial of the chapter was “arbitrary and capricious” and that Fordham violated its own rules in vetoing the application.

PEN America Analysis

The best way for universities to support the laudable ideals of open dialogue and mutual understanding is to allow students to freely participate in organizations focusing on a wide range of political issues, even highly controversial ones. Barring a student organization because university administrators are uncomfortable with its objectives denies students the opportunity to learn from each other and debate the pressing issues of our time, and universities should adopt a content-neutral approach to student clubs, unless they advocate or provide a forum for violence, discrimination, or harassment.

Similar Incident:

- Williams College Council rejects proposal for Williams Initiative for Israel student group

Protesters at Columbia University disrupt a class

In October 2017, a group of student protesters entered the Columbia University classroom of Suzanne Goldberg, a law professor and the executive vice president of the Office of Student Life, which is partly responsible for overseeing the school’s response to sexual assault and harassment. The students were protesting university sexual harassment and assault policies that they believed to be ineffective. During class, the students held signs and distributed pamphlets as one of them read a prepared statement, and they refused to leave when Goldberg repeatedly asked them to.

PEN America Analysis

While there should be a high threshold for disciplinary action in response to peaceful student protests, cases where protests infringe on students’ ability to learn can cross that line. The students in this case clearly violated the school’s code of conduct, which prohibits “interrupting a university function” and “causing a noise that substantially hinders others in their normal academic activities.” Students participating in such a protest should be aware they may face disciplinary action as a result, and the university in this case should make clear that such disruptions are not permissible. A failure to punish clear disciplinary infractions, impermissible encroachments on speech, and acts of violence signals that university norms and values won’t be enforced and can create the impression that justice is meted out selectively. At the same time, when institutions punish

protesters too harshly, they risk unnecessarily chilling students' free speech. A retributive mindset can lead to harsher punishments than necessary, or to a situation in which discipline is misapplied. University leaders should try to balance these concerns, punishing disruptions only when it's truly warranted. The school could also encourage protest in other forums, supporting students who wish to bring a concern to the fore.

Further Reading:

- Article about the protest
- Column Criticizing the protest
- Columbia's Rules of University Conduct

Middlebury College student government requests a way to vet speakers

In April 2019, the Middlebury College Student Government Association sent out a formal request to the administration calling for more student and community input in university decision making. The students' letter, titled "Thirteen Proposals for Community Healing," notably requested a vetting process for invited speakers that included students' views. The process would require any organization or academic department that invites speakers to first fill out "due diligence forms" created by the Office of Institutional Diversity, Equity, and Inclusion. An additional provision asked that student advisory boards be added to faculty councils and that those boards be given access to speaker lists at least a month in advance of a visit. Another called for the university to release a list of names of faculty who had opted out of bias training.

PEN America Analysis

Students and the larger campus community should absolutely have a voice in a campus community, and proposals calling for increased transparency and communication between administration and students should be applauded. But the specific demand that students be allowed to vet speakers works against the spirit of free expression and risks becoming a mechanism for censorship. While the desire to protect individuals from hateful ideas is understandable, PEN America believes that this goal is attainable without resorting to censorship or other chilling mechanisms. PEN America also believes that creating a public list of faculty who haven't participated in bias training could become an ideological litmus test and stifle open inquiry. Efforts to promote diversity and inclusion are most effective if they are done voluntarily. Instituting them through public shaming or other punitive measures is more likely to lead to animosity and backlash than social change.

Further Reading:

- Text of the Student Government Association's proposals

Students at Sarah Lawrence College call for professor's tenure to be reviewed

In October 2018, professor Samuel Abrams of Sarah Lawrence College became a target of criticism by students and faculty after he published an op-ed in The New York Times criticizing the dominance of liberal and progressive ideologies in the college administration. Soon after, Abrams's office door was vandalized, and flyers alleging impropriety were posted around campus. Following each of these retaliatory incidents, the college president, Cristle Collins Judd, sent emails to the campus community addressing the controversy, but it

was only three weeks after the initial incident that she explicitly rebuked the attacks on Abrams and issued a robust defense of his right to free expression. In March 2019, a student group called the Diaspora Coalition occupied a campus building and published a list of demands in the student newspaper, including that “Abrams’s position at the college be put up to tenure review to a panel of the Diaspora Coalition and at least three faculty members of color.”

PEN America Analysis

While students are free to say what they wish, their call for a review of Abrams’s tenure demonstrates a lack of understanding of the principles of academic freedom and free speech. In cases like these, PEN America urges administrators to work with their communications team to make clear their institution’s commitment to academic freedom and assure the public that the professor’s tenure is secure. This does not mean that the administration should not hear students out, or that the students cannot criticize a professor’s position. But the call for tenure review or the discipline of a professor in response to an op-ed runs roughshod over the principles of free inquiry that should govern any campus.

Further Reading :

- Overview of the controversy
- Abrams’s New York Times op-ed

Similar Case:

- Statement supporting Camille Paglia at the University of the Arts
- University of Nebraska at Lincoln professor files ethics complaint

Sample Statements

Statement on critics of Israeli policy at the University of Massachusetts

Background

In April 2019, three anonymous Jewish students filed a lawsuit to stop the University of Massachusetts at Amherst (UMass Amherst) from hosting an upcoming panel event. Called “Not Backing Down: Israel, Free Speech, and the Battle for Palestinian Rights.” The event was scheduled for May 2019 and was set to feature musician Roger Waters, sportswriter David Zirin, activist Linda Sarsour, and academic Marc Lamont Hill. The student plaintiffs argued that these speakers were not just critical of Israeli policy but also anti-Semitic, and that the panel would be harmful to Jewish students on campus. In response, the university released a statement saying that the event should, and by law must, be allowed to proceed based on free speech grounds. A judge ultimately rejected the suit, and the event went forward.

Excerpt from UMass Amherst’s Statement (April 25, 2019)

“UMass Amherst is committed to fostering a community of dignity and respect and rejects all forms of bigotry. The campus is also firmly committed to the principles of free speech and academic freedom. As such, and as is required of a public institution under the First Amendment, UMass Amherst applies a content-neutral standard when making facilities available to outside organizations for the purpose of holding events.” See the full text.

What we like about this statement:

- Denies the request to cancel the event, explaining the university’s policy—in accordance with the First Amendment—to remain content-neutral in deciding who can rent and use campus facilities.
- Reaffirms the university’s stance against bigotry as well as its duty to support free speech and the free exchange of ideas.
- Clarifies the university’s view that departmental sponsorship of events does not constitute an endorsement of the views expressed at those events.
- Combats ambiguity by clarifying that the university does not support academic boycotts of any kind.

Similar Statements:

- New York University affirms the right to air unpopular views
- UCLA chancellor explains that allowing controversial opinions does not imply endorsement
- Templeton University defends the airing of controversial views

Statement on vandalism of pro-life display at Miami University of Ohio

Background

On November 12, 2018, at Miami University, an installation called Cemetery for the Innocents by the group Students for Life was vandalized multiple times. Over the course of two days, portions of the display were

knocked over, stolen, placed in a recycling bin, and partially disassembled. In 2017, the annual display also faced controversy at a regional campus of Miami University when Students for Life successfully challenged the university's attempt to require trigger warnings surrounding the display on a regional campus. Soon after the vandalism occurred, Dean of Students Kimberly Moore sent a school-wide email condemning it and affirming the university's commitment to freedom of speech.

Excerpt from Dean Moore's Statement (November 14, 2018)

"With a student body of over 17,000 undergraduates and 500+ registered student organizations, every student at Miami is likely to hear or see something with which they do not agree. We do not expect students to agree with every idea espoused by a student organization but we compel all students to take the opportunity to learn and gain from the experience. It is not unusual for student organization displays to generate conversations that in fact deepens our understanding of, and commitment to, those qualities we most value." See the full text.

What we like about this statement:

- Strongly condemns the vandalism and "destructive behavior" and affirms all students' right to free speech and expression
- Draws an explicit distinction between the administration's policy on free speech and an endorsement of the content of that speech.
- Acknowledges that due to the size of the student body, disagreements among students are unavoidable, and encourages students to engage with one another to generate conversations.

Similar Statements:

- University of Minnesota supports the free flow of ideas
- University of Southern California defends the right to display a controversial mural

Statements on hateful incidents at Colorado State University

Background

In 2017 and 2018, a series of hateful incidents occurred at Colorado State University (CSU). They ranged from a fake noose and anti-Semitic symbols found in dorms to a racist incident targeting a Middle Eastern student on local public transportation. In each case, CSU President Tony Frank responded with campus-wide emails telling the community what occurred and offering support to those directly targeted. One of the emails invited students to attend a "solidarity walk and community gathering" to counteract hate. The event, called "CSUnite: No Place for Hate," was attended by more than 2,500 people.

Excerpt from Message from President Frank (August 31, 2017)

"Our Colorado State community stands firmly against anyone who seeks to intimidate, incite violence and deprive others of their Constitutional rights. We hold up our Principles of Community in counter to anyone who seeks to divide and terrorize. And while we cannot shield anyone from words or ideas that may be damaging and destructive, we will stand with those targeted so that no one on this campus will stand alone.

And we will respond with utmost seriousness when there are threats to the safety of anyone on our campus.”
See the full text.

What we like about this statement:

- Does not shy away from forceful condemnation of hateful expression.
- Acknowledges the detrimental impact of hateful incidents on targeted members of the community.
- Provides contact information for various support offices at the university.

Similar Statements:

- President Frank responds to anti-immigrant flyers on campus
- President Frank invites community to solidarity walk and gathering
- Statement on swastika graffiti at Duke University
- Northwestern University condemns acts of hate

Professional Profile

LARA SCHWARTZ

Director | Project on Civil Discourse American University

Why do you think free speech and inclusion are important on campuses?

Universities are entirely about communicating and listening. Because of our unique role in expanding and challenging previously understood ideas and teaching critical thinking, universities protect freedom of speech. But the mere absence of censorship by authorities doesn't guarantee productive discourse. A campus where a wide variety of voices can come together, and where everyone is equally valued and respected, is one where the most rigorous and life-changing conversations can happen.

What do you or your team do to nurture or facilitate a healthy campus climate that respects both free speech and inclusion?

We encourage students to look beyond mere speech rights and think about responsibilities. They start by reflecting on two questions: what do I want for myself, and what will I ask of myself? We encourage them to see themselves as part of a learning community and challenge themselves to contribute something to it. In addition, we encourage perspective-taking, both across difference and across academic disciplines. Finally, we try to avoid the language of combat and debate, and ask students to try, as Rilke wrote, "to love the questions themselves."

What have been the toughest challenges in doing this work? How have you been able to successfully navigate these challenges and/or learn from them?

The biggest challenge is our changed relationship with truth. First, today's students have grown up in a media landscape where people shop for their preferred truth, where both-sidesism is the norm, and where many people doubt the existence of stable truth. Many campus groups invite speakers to troll their peers rather than to educate. Some of our most successful student-led conversations have been about whether debunked scientists or conspiracy theorists have any place on campuses- regardless of whether they have a First Amendment right to be there.

What are 3 essential tips that you think everyone in Student Affairs should keep in mind when responding to an incident concerning free speech on campus?

1. First, remember the First Amendment is only a limitation on authority- not a blueprint for running a university. The real conversation begins after you explain why you can't punish speech. Be prepared to talk about what the institution is doing to be equally accessible to everyone—especially those targeted by hurtful but constitutionally protected speech.
2. Second, help students move from their positions (desire to punish or exclude speakers) to their interest in building an inclusive community, and involve them in getting that interest met.
3. Finally, remember the First Amendment doesn't require schools to be value neutral. You can speak in solidarity against hate and in favor of human dignity.

TRANSFORMING MOMENTS OF CONFLICT THROUGH EMBODIED LEADERSHIP:

A Guide for Student Affairs Professionals

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Table of Contents

Acknowledgement.....	179
Introduction.....	180
Module 1: Self-Preparation	
Leadership Practice: Embodiment	183
Module 2: MAGA Hat Case Scenario	
Leadership Practice: Mindfulness.....	189
Module 3: Yoga Mat Case Scenario	
Leadership Practice: Growth Mindset	197
Module 4: Conference Protest Case Scenario	
Leadership Practice: Trauma-Informed Approach.....	205
Conclusion.....	214
Additional Resources.....	216
Bibliography	217

Acknowledgement

This Toolkit is developed in partnership with the UC Center for Free Speech and Civic Engagement. It offers an interdisciplinary synthesis of concepts, experiences and body-centered strategies designed for Student Affairs (SA) professionals (also known as Student Services professionals), Educators and Service-Providers who actively support the social and emotional development, positive mental health and resilience of their students and constituents on a daily basis.

This Toolkit is rooted in the beliefs that as Educators, we (1) actively develop the whole person, that we (2) practice cultural humility¹⁸⁶ and work to unpack perspectives, beliefs, and assumptions through dialogue and communication, and that we (3) nurture diversity through mutual respect and relationship-building (ACPA, 2013).

The Toolkit highlights case stories of SA professionals who have navigated social justice conflicts in their campus spaces since November 2016. Through a deeper appreciation and examination of these stories we highlight leadership practices that include basic human needs, our biology, and our histories when responding to the complexity of free speech and social justice conflicts in campus spaces.

As the author, I acknowledge that only certain perspectives are presented here and that they occur through my lens as a first-generation Indo-American woman raised in the Southern United States whose journey of healing and liberation has been centered in internal practices of reflection and embodiment. The perspectives, stories and strategies presented here do not reflect all lived experiences, social identities, theoretical frames or ways of moving through conflict experiences. My hope is that as participants of this Toolkit, you will find ways to translate and synthesize the ideas and concepts here into your own context for the upliftment of yourself, your teams and your communities.

Thanks to the UC Center for Free Speech for supporting the vision for this project. I have gained a new home and family through this Fellowship experience.

Thanks to my amazing Project Assistants, Jessica Coates and Maya Ram who carefully helped me uphold the precious stories shared by the Student Affairs Staff through research and writing. Maya, thank you deeply for your support, reflections and advocacy.

Thanks to my Colleagues who work tirelessly to serve their communities on campus and at home. May this Toolkit honor and support your empathy and offer permission and pathways by which you can take care of your well-being while supporting others through uncertain times.

And finally, I am grateful to my students for inspiring me daily to be a better listener, to cultivate curiosity and to stay hopeful as we work to create a more loving world.

¹⁸⁶ For additional information, see *Cultural Humility: People, Principles and Practices*, a short documentary by Vivian Chávez at youtu.be/SaSHLbS1V4w.

Introduction

College campuses are crucial cultural microcosms that intensely reflect the shifting ideologies of our time. As critical campus helpers, Student Affairs (SA) professionals, also called Student Services Professionals, have long been positioned to support students' social-emotional development, encourage broader perspective, build community and advocate against bureaucratic barriers to success. These professionals do this work to promote both student well-being and social justice. SA professionals exist in many important domains of campus, that include diversity centers (serving individuals including LGBTQ+, Undocumented, and First-Generation College Students), counseling and wellness centers, financial aid offices, and numerous other student-centered services.

The heightened national and global socio-political climate in the United States for the last several years have increasingly put SA professionals in positions to navigate situations of social identity-based polarization and conflict between individuals and groups across all levels of the campus.

It is clear that many have witnessed an increase in social identity-based conflicts starting in 2016. Tensions are high on campuses. According to a Gallup poll comparing data from 2016 and 2018, "61%, up from 54%, say campus climate prevents people from speaking freely" (Jones, 2018). As individuals on campus worry about polarization and conflict, they freeze and may become fearful of using their voice or offending another person. They do not want to be the one to ignite a conflict on their campus.

SA professionals are often motivated to address challenges with conviction, care and responsiveness. Therefore, they also experience a high degree of overwhelm, emotional fatigue and burnout as they respond to these nuanced and often alarming situations. The yet unknowable long-term impacts of the COVID-19 pandemic crisis and the unfolding Black liberation uprising as the countdown continues to a tenuous 2020 U.S. presidential election has additionally heightened our alertness and preparation around how to prevent, navigate and cope with the chaos of social change.

The modules in this Toolkit are designed to support SA professionals in navigating social justice conflicts in campus spaces through practices of embodied leadership¹⁸⁷. **Embodied leadership** is the practice of integrating the wholeness of our body as a tool and channel for skillfully facilitating uncomfortable, intense moments. The modules present frameworks that support helping professionals to enter willingly and delicately into uncertainty, with the goals of reinforcing belonging, broadening perspective, and moving intentionally toward the very next step.

¹⁸⁷ For additional information on embodied leadership, see *Embodied Leadership: The Somatic Approach to Developing Your Leadership* (2013) by Pete Hamill.

This Toolkit is for SA professionals who:

- Serve marginalized communities through direct service, advocacy, or administration
- Want to take effective action during times of conflict
- Feel they lack the skills to handle a conflict
- Feel uncertain about how to engage with the emotional nature of conflict
- Feel emotionally drained, overwhelmed, or burned out
- Want to shift moments of conflict into opportunities for transformation

This Toolkit serves to validate the experiences of SA professionals, honor the stories, and provide accessible perspectives and skills that can support us holistically as we tend to the emotional complexities of our current climate. Many SA professionals want to be able to take action during conflict situations, but fear they don't have the right training, language, power or answers. This Toolkit offers perspectives and skills that challenge SA professionals to grow our thinking of what is possible with conflict, and to explore how to prepare for and move through conflict by trusting instinct, honing biological awareness and creating a brave space through presence.

Toolkit Layout and Orientation

This toolkit offers four primary modules to support you in skillful facilitation during a social justice conflict between groups and/or individuals.



Module 1 focuses on preparing ourselves for conflict as professionals. Modules 2, 3 and 4 present case scenarios that are used to illustrate the related Leadership Practice. Each module offers in-depth reflection questions, tools and additional resources for continued learning. These modules can be engaged with on your own and with your team members.

About the Case Scenarios

During the development of this Toolkit, SA professionals were interviewed across multiple campuses. These SA professionals have provided a window into the conflicts they have witnessed and engaged with on their campuses. Their interviews were used to create the three case scenarios in the Toolkit. The purpose of these scenarios is not to promise solutions or detailed step-by-step processes, but instead to allow other SA professionals to put themselves in the shoes of their colleagues and learn through their experience to prepare for similar challenges ahead.

Inner Reflection from the Author, a Student Affairs Professional

For a bit of background, the first case scenario presented here was one that many college campuses heard about. In my department, we debriefed this scenario and talked about what we may have done in that situation. By the end of this meeting, we had no consensus of what our process was besides having the phone numbers of a couple of campus resources programmed into our phones. This felt frustrating and increased our confusion as a team.

But over time, I started to see threads of the scenario we debriefed in my own campus spaces. I realized that I had developed a greater readiness to handle these incidents because of the activity we did in that meeting months prior. I had gotten to explore the reality of that situation and reflect on the possibility of something like this happening to me and my team. That familiarity with uncertainty helped me to feel more empowered in my response when the time came. I hope this Toolkit can do the same for you.



MODULE 1: SELF-PREPARATION

Leadership Practice: Embodiment

Conflict is a Part of the Change Process

Many of our society's domains are in turmoil. In the U.S., the volatile political and racial climate stirs trauma and unease for many social groups. Compounding threats like climate change and the multi-layered challenges posed by COVID-19 continue to stretch us in ways that we didn't know were possible. We are being pushed to look at our personal and cultural ideologies and take collective accountability through action. In order for large-scale reorganization to occur, conflict, a catalytic mechanism for change, is inevitable.

SA Staff are positioned physically and virtually in spaces that support student expression and are by nature emotionally charged. As leaders of growth and stewards of hope, SA professionals must be ready to persist on the bumpy road ahead. We can find strength by knowing that conflict management is a part of our role and that we embody the values, mindsets and skills to lead when the time comes. It is crucial to do this without burning out and instead replenish our energy while dancing with uncertainty.

This Toolkit focuses specifically on social justice conflicts that are present in campus spaces. The strategies presented in this Toolkit can ultimately be applied to all types of conflict. **Conflict** is a clash between individuals that occurs when the individuals involved (or other parties) perceive that, as a consequence of a disagreement, there is a threat to their needs, interests or concerns. Conflict occurs in all facets of life (University of Wisconsin-Madison, 2008). **Social Justice Conflicts** are those in which the person(s) expressing their views are advocating for the rights of an individual/group of a particular social identity(ies). Social identities include religious, gender, sexual orientation, racial or ethnic, cultural, national affiliations.

***Example:** In a class, a student who identifies as a woman brings up how the #MeToo movement makes it difficult to be on social media because her own traumas are consistently being triggered. This activates another student, who is a man, and he tells her that she is too sensitive and that the #MeToo movement is actually just a war on men. A conflict begins.*

In this Toolkit, two of the three case scenarios presented are social justice conflicts that occurred under the auspices of free speech. The language of “free speech” is often used in campus spaces to justify statements and actions that incite conflict. **Free Speech** is the freedom of expression, without censorship or sanction of the point of view or content, with the exception of speech that creates a risk of immediate violence (Tufts University, 2018).

***Example:** Student protests erupted on college campuses across the nation following the 2016 election of Donald Trump. These students were exercising their right to freedom of speech, and therefore they had a right to protest freely as long as they were not inciting or enacting violence.*

Take a moment to assess your current relationship to conflict by reflecting on the following questions:

1. On a scale of 1-10, to what degree do you feel ready to handle a social justice conflict in your professional space? (1=not ready at all, 10=very ready)
2. Why did you choose this response?
3. What fears come up for you when faced with a workplace conflict?
4. How do you typically handle conflict when it arises?
5. What would help you grow your ability to handle conflict in the future?

What Drives Conflict

All conflict, regardless of the context, is rooted in our biological and human need for *safety, belonging and dignity* (Haines, 2019). All three must exist in order for a human being and community to feel whole. Social justice conflicts at the core are centered in a threat to one's right to exist with whole-body freedom and to have access to liberation through societal structures such as education, health care and finances.

Safety is a feeling or state of familiarity and ease in physical/material, emotional, relational and spiritual domains. What makes one person feel safe may not be the same for others. **Belonging** “reaches from the intimate to the social.” It is the feeling of having a place or being accepted within a group. Dignity is our inherent worthiness and value as a human being or as a community. **Dignity** is being valued for who you are and how you show up. It reflects our innate value and worth as human beings (Haines, 2019, p. 140-145). The moment of conflict and the simultaneous discomfort experienced in the body presents a visceral threat to these basic needs.

How Conflict is Experienced in the Body

Think back to a recent time in which you experienced or witnessed a conflict. What do you recall about how you felt inside as your body responded in that moment? Perhaps a little hot and angry? Perhaps constricted in your stomach and physically stuck in place? Or perhaps your heart was racing and had flashbacks to another time in which you felt a similar way?

Conflict is a whole-body experience. The ways in which our bodies have adapted to stress and conflict is rooted in our genetic line, our lived history, our culture, our positionality in society, and internalized beliefs. For

bodies and communities who have experienced trauma because of oppressive practices, discrimination, racism and violence, whether complex or acute, the body exists in somewhat heightened a state as a norm¹⁸⁸. Hence, social justice conflicts can be particularly charged because long-held traumas and pain are being expressed and are wanting healing and acknowledgement (Centers for Disease Control and Prevention, 2014).

Let's look more closely at what happens within our bodies in times of conflict. For simplicity, we can divide the brain into three parts. The first two parts represent the primal brain comprising the limbic system and brain stem which together regulate emotions and other autonomic processes such as breathing, heart rate, and digestion. The third part is the neocortex, or the top of the brain that is unique to humans in its size and ability. This part is responsible for higher level thinking and responsiveness including logic, intuition and empathy.

In a moment of distress, such as an interpersonal conflict in the workplace, the amygdala, which sits in the limbic system, becomes activated. This alarm bell turns on the body's wise protection system whose function is to organize the body in a way that maintains and protects its safety, belonging and dignity in the moment. Such safety shaping results in the fight-flight-freeze-faint response pattern through the body's intricate nervous system (Haines, 2019). When activated, the connection between the primal brain and the rationalizing brain becomes temporarily disrupted and emotional literacy, logic and empathy are difficult to access. Instead we become more biologically committed to self or group protection.

The fight-flight-freeze-faint response pattern occurs differently in bodies of individuals and communities. We all embody some combination of these responses in different contexts. Below are some generalized ways in which these response patterns manifest in our physical sensations, emotions and mind during conflict:

Nervous System Responses During Stress/Conflict ¹⁸⁹			
FIGHT	FLIGHT	FREEZE	FAINT
Irritability, aggression, impatience, tightening in muscles, heat, perfectionistic/ critical thoughts	Leaning away from, physical or mental avoidance, numbing out, anxious thoughts	Tight and stiff, nervous, frozen, recycling of emotion and thoughts, difficulty moving body	Fogginess, confusion, feeling drained or tired, feeling wobbly, unanchored, anxious thinking

These internal response patterns can manifest in a myriad of ways depending on who is triggered, the degree of power and authority they hold in that context, past experiences of trauma, personality, etc. From the outside, they can look like shut down, aggression, stonewalling, confrontation, defensiveness, pleading, etc. (Hendricks, 2019). These reactions can feel scary and threatening, making conflict even more difficult to move through. If, as leaders, we are able to work with the biology of those in the conflict, including our own, we can

¹⁸⁸ For additional information on trauma, see SAMHSA's Concept of Trauma and Guidance for a Trauma- Informed Approach (2014). https://ncsacw.samhsa.gov/userfiles/files/SAMHSA_Trauma.pdf.

¹⁸⁹ Adapted from the Hendricks Institute: <https://hendricks.com/product/fear-melters/>.

Transforming Moments of Conflict Through Embodied Leadership

relax the emotional intensity in the space. We can provide the emotional containment that is needed to touch the deeper thread of shared humanity and move with greater perspective to the next step.

The ways in which we react to conflict can shift and change over time. We can become more masterful in transforming the uncomfortable and overwhelming energy of conflict into something productive. We can invite a space for emotional healing, connection, and understanding, regardless of how long or short the interaction.

Reflection

Think about the last time that you were involved in a conflict. How did you feel in your body? What nervous system response was activated in you? Thoughts, body sensations, emotions? In the other(s) involved in the conflict?

Embodiment to Move through Conflict

In preparing for conflict, there is not a generalizable process or protocol to follow that can be applied to every scenario. What we can do, however, is learn how to be more *embodied*, or present and available emotionally and rationally, when conflict arises.

Embodiment is a way of being in our bodies (instead of just in our heads) and understanding the moment through our emotions, sensations and thoughts. During conflict, we can use this information from our nervous system to guide us in supporting ourselves and others. As leaders, our embodiment can be a way to foster connection, emotional regulation and belonging, while creating a contained space for what wants to be expressed. When we ground and center ourselves in the heat of the moment, we shift the energy in the space and in our collective bodies.

As an embodied leader, your ability to be present and contain the space in the midst of conflict and its accompanying emotions is key to finding a path through it. The ability for you to monitor and adjust your own behavior, emotions or thoughts in accordance with the needs of the situation is called **self-regulation**. (J.L. Cook, G. Cook, 2009). As you find presence, slow down your breath and open your posture, you will automatically help to calm the fight-flight-freeze-faint response in the bodies of others. This is called co-regulation, meaning that through the quality of the relationship, whether it is a momentary interaction or longer term, we can together resource feelings of safety, belonging and dignity irrespective of ideological differences.

Embodiment practice can move us to a space where it is emotionally safer to address conflict. It teaches us that there are alternatives to shutting down, retreating inward, or reacting defensively. Getting embodied, remembering to feel, and shifting our narratives around emotions and feelings opens up opportunities for leadership, growth and dialogue.

Self-Care is the Key to Embodiment

As SA professionals, we often come into this role through our own histories of marginalization and adversity. This work is personal. Therefore, tending to our mental health and well-being are crucial in order to fulfill our roles without burning out. This must be supported by the institution and through the daily infrastructural operations within a department. We ourselves must also individually choose to do the deep, internal work of self-care.

“Caring for myself is not self-indulgence, it is self-preservation, and that is an act of political warfare.”

- Audre Lorde

Self-care¹⁹⁰ is a way of life that includes biological renewal as part of our daily routine. It allows us to become familiar with our body’s needs and inner workings. It teaches us how to regenerate our energy and find joy in the micro-moments of the day. Self-care hones our ability to trust our instinct and get comfortable with a wide range of emotion so that during conflict we can lead with whole-body presence.

As highly empathetic community helpers, our focus is often on taking care of others. We forget that giving and receiving are part of the same mechanism -- that in order to give, we must be able to receive, or replenish. To replenish and practice self-care means setting boundaries with others, pausing in nature, sharing vulnerably with a friend. It means actively nurturing a mindset of worthiness and recognizing when you are giving more than you have. It means listening to your instincts, to your need for nourishment, and need for healthy rest. Self-care as an embodied leader equally requires doing the difficult work of acknowledging our biases, understanding our limitations, and actively unlearning fixed mindsets through curiosity, dialogue and critical conversations.

When we turn our empathy inward to reflect and recharge our body and our spirit, we fuel our resilience, regenerate hope, and enhance readiness to handle challenges as they arise in the moment with grace, presence, and skill.

¹⁹⁰ For additional information on self-care, see *The A-to-Z Self-Care Handbook for Social Workers and Other Helping Professionals* (2016) by Erlene Grise-Owens, Justin “Jay” Miller, and Mindy Eaves

Self-Preparation Tips to Support Embodied Leadership

The following are steps you can take toward ensuring your well-being and strength as a leader and professional:

1. **Actively prioritize and invest in your self-care** with time and effort.
2. **Seek out mentorship/counsel** within and outside of the workplace.
3. **Engage in mindful body practices that open the body system and generate energy**, like stretching, yoga, deep breathing, and meditation.
4. **Affirm yourself** daily.
5. **Express your needs and ask for support**, even when it may be scary to do so.
6. **Say “no”** to extra responsibilities, especially when your capacity is low.
7. **Make time for reflection**, both alone and with others.
8. **Take intentional breaks** during the workday.
9. **Arrange your workspace** so that you are comfortable and have items around you that support your wellness.
10. Identify and seek out practices for **rest, nourishment and re-energizing**.

Now that we have explored embodiment and tips to support embodied leadership, it is important to commit to practicing embodiment. To start, choose one or two Self-Preparation tips to work on and try to create a consistent practice. Start with small steps and be kind to yourself as you begin this journey of shifting inward and caring for yourself. The work of embodiment is a process. Trust that as you continue to practice embodied leadership, you will see growth and transformation.



MODULE 2: MAGA HAT CASE SCENARIO

Leadership Practice: Mindfulness

The names of all key players in this scenario have been changed to protect the privacy of the students and staff who experienced this moment.

At the beginning of fall quarter in 2017, a video from UC Riverside went viral on social media. The video shows a student of color, Alex, entering the Office of Student Life while clutching a MAGA hat. The video is being filmed by a white student, Sam, who follows Alex into the office claiming that his hat was taken off his head just now at the Summit. Sam says he wants his hat back because it is his property and he has a right to freedom of speech. The students argue back and forth. Alex, still holding the hat, says, *“Your freedom of speech is genocide, homeboy. Is that what you’re trying to represent?”* Sam responds, *“It doesn’t matter. My freedom of speech allows me to wear*

that hat as much as I want.” The video goes on with the students arguing about respect versus freedom of speech. We see staff members making multiple attempts to calm and appease the students, making phone calls, and standing present as the conflict unfolds. The students both then turn their demands to Staff, asking how they can allow such things to happen. Eventually, Alex hands the hat to a staff member who then returns it to Sam. Alex is additionally upset by this and decides to leave instead of talking further to the support Staff present. As Alex turns to exit the office, two police officers block the exit. Sam stopped filming almost as soon as it appears that Alex is going to be questioned by the police.

CONTEXT:

Location: UC Riverside

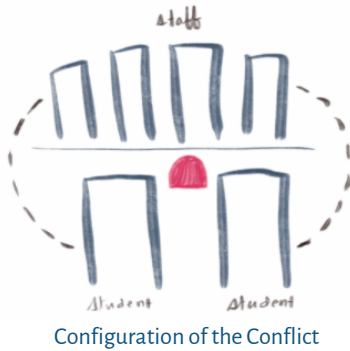
Date: Early September, Fall Quarter 2017

Time: 12:30pm

Setting: This event took place at Student Organization Summit at the beginning of the school year. Student organizations attend this Summit in order to register for the year. Many diverse groups are present.

Political Climate: On September 5th, 2017, a memorandum was issued for the rescission of DACA, which would roll back protections for DACA recipients and make them potentially vulnerable for deportation after six months. This affected many students on UC Campuses.

Transforming Moments of Conflict Through Embodied Leadership



View the entire interaction as filmed by the student who was wearing the MAGA hat, by visiting this link:

<https://www.youtube.com/watch?v=6HDFd5U9BYg>.

Please note that the video is emotionally charged and can be triggering to some viewers. As you watch this on your own or with your team, actively take care of your well-being by breathing more deeply and grounding yourself in the present moment.

The following reflection is provided by a SA Professional Staff who witnessed the igniting of the conflict. Here they shared more detail of what happened before and after the events captured in the viral video. Their inner reflections and reactions are also represented, showing the intricate relationship between our inner responses and our outer experiences, and the degree of nuance and attention that is required by Staff when navigating conflicts on campus.

What Happened?

The Summit had just started that afternoon. One of the first things that participants were guided to do was an interactive activity in small groups. The activity started, and the student wearing the MAGA hat was sitting alone.

Eventually he stood up and joined the small group activity. The activity concluded and the next presenters were invited to come to the stage and talk about their resources.

As I was closing out this session, I saw that the student with the MAGA hat was at the front of the room. Someone then runs by, takes the hat off his head, and runs out. It happened so fast.

After I had finished talking and passed the mic to the next person, my colleague and I went out of the room to find the students, but couldn't find them. We were thinking, "Okay, where did they go?"

Inner Reflections by Student Affairs Staff

← As people were checking in, several of us [staff members] noticed that the person who was wearing the MAGA hat sat in the back of the room. And so many of us were anxious. I thought, "Okay. Let's see what happens."

← When the hat was taken, I couldn't just drop everything and run out with the students. I didn't want to alarm the students who were present. So, I had to remain calm and finish doing my job before I started handling the crisis.

← Right when the hat was taken, I felt that the interaction was so heated that it could potentially result in violence. The tension was palpable. A colleague and I thought, "She might hurt him." She was that angry. The body language and expressions were clear.

SA Professional's Note

We were looking for the students and someone finally tolerated us that they were in the Office of Student Life. But as soon as the students entered the office, one of our administrative assistants got scared and immediately dialed the police. While some staff members were trying to get a hold of the Student Affairs response team, the police had already been called.

What Happened Later

After the video went viral, people wanted to know “What happened to her? Why was the hat given back?” We were getting calls from other offices asking, “What? Why did you think that calling the police was the answer?”

The debrief experience was consistent and intense. We talked with several campus departments, but we were also getting phone calls from off campus and there was a lot happening on social media because the video went viral.

The student who took the MAGA hat was feeling unsafe and uncomfortable. The student with the MAGA hat was potentially picking up sponsors and getting paid for reposts of the video. There were a lot of legal components popping up, around pressing charges and counter suing.

We, as Student Affairs staff, were in a position because of the viral nature of the video. A colleague who was thought to be in the video turned off all his social media accounts for almost a year because of the fear of threats. As part of the Student Affairs response team, we were trying to offer support to the student who took the MAGA hat. But we were also told to check in with the other student to make sure they were safe, and people were questioning that.

Inner Reflections by Student Affairs Staff

← When I found out the police were called, I was concerned. It's hard because I wasn't actually there for the conflict and the handling of it. I wouldn't have handled it that way. But I didn't have control over how other people acted in the moment of crisis. I had to focus on dealing with the outcomes. Because conflicts on campus continued to manifest in different ways for at least two or three weeks after the main crisis.

← I experienced lots of stress during this time, and that had an impact on me and the family and my life outside of work. What I needed was to be able to debrief my work experiences outside of work, but I wasn't able to at that time. I wasn't in a good space. I don't think that I was practicing good self-care. I was just having to push through and do things.

Takeaways: A SA Professional's Perspective

The video stops at the point where it looks like the next step is that the student will be taken into custody or at least that the police were intervening. This made it seem like the student who took the hat was the one that was going to wind up getting in trouble. But there was more to it.

The student was not detained. The police asked some questions. And it was also a problematic situation. There were some things the officers said that were completely inappropriate during that situation. One of them said something like, “Well, if you don't like it here, then why don't you go back?” There were complexities and clear power dynamics in this situation. But this was not seen by the outside world like the viral video was.

What I learned from this incident is knowing that everything that I do as a SA professional and how I respond to conflicts can go viral. And so, am I role modeling good behavior? Am I role modeling effective communication? Am I demonstrating my ability to support multiple parts of a complex situation at the same time? These are things I have to think about and reflect on a lot more because of this experience.

Analysis and Strategy

What we can learn from this situation?

This situation demonstrates the very complex role of SA professionals as mediators and facilitators in campus spaces. In this space, SA staff had to hold space for two competing truths at the same time, while managing their own value systems internally. It was a challenge and it had a significant ripple effect of outcomes on many people on and off campus.

The truth is that campus life is unpredictable, especially in our current climate of heightened tensions, threats to existence and the uncertainties of change. We see this after elections, during student protests, and even amid national pandemics. We never know when a conflict like this one could happen. So, what can we do?

SA professionals are the essential gatekeepers to student support. This is made clear as Alex and Sam start to direct their communication away from each other to the support staff. It may seem obvious that SA professional staff should first help a student whose property was taken, but in the larger context of what drove the conflict, it is important to look into the complexities of this situation beyond the surface.

Not only was DACA just rescinded before the student Summit, but the Summit was hosting Undocumented Student organizations and Chicax student organizations on that day. This was a sensitive time for any student directly affected by the rescission of DACA, whether personally or through their close relationships. The time and place that Sam chose to wear the MAGA hat symbolically mattered and no doubt fueled this conflict.

Alex is the one who first went to the Office of Student Life looking for support in this situation, but at the end of the video, she turns to leave instead of talking to a SA staff member. It is clear that she felt unsupported. The scenario reveals that there were not prior structures or processes of support in place for Alex, the student of color. The moment Alex entered the office, a staff member, reacting to the intensity of Alex's anger -- called the police. It is clear by Alex's behavior in the video that they are not intending to cause physical harm, but simply are seeking support and safety -- both from the SA staff and from student peers.

Through the video footage and the aftermath, we see that Sam, the White student, got what he wanted in the end. The police were on his side. He controlled the narrative of the video which then went viral. Alex, on the other hand, did not find safety in the supports that were offered at that moment. *What could have been done differently to bring safety for Alex in that situation while upholding free speech policy?*

Leadership Practice: Mindfulness

Part of the SA staff role is to uphold campus policy while simultaneously helping to remove barriers to student success. This duality often creates confusion on how to respond in such situations. If we allow ourselves to be *present and mindful* in the gray area for a little while longer, we can uncover ways to nurture safety and growth while still upholding policy.

Mindfulness is a powerful practice, which teaches us to be present in uncomfortable moments¹⁹¹. Biologically, mindfulness fosters the collaboration between the primal/emotional brain (limbic system + brain stem) and the logical/intuitive brain (neocortex) to help the body system find equilibrium, or self-regulate, in times of disruption. It allows us to contain the space for emotion that comes from trauma, without reacting from a place of fear. Mindfulness allows us to find openness and compassion. This reflection from a campus leader demonstrates the benefits of mindfulness in difficult moments:

“Mindfulness meditation & deep breathing techniques have allowed me to remain nonreactive during times of high stress & chaos. In the past, it has been a challenge for me to remain calm when approached with harsh words, criticisms, or controversial views. [Recently], I have had many difficult conversations in which people have revealed deeply rooted, long hidden prejudices. Before I really honed in on controlling my reactions through deep breathing and staying present, I would not have been able to hold my tongue and remain consciously detached from the conversation. Because of skills I have developed, I instead responded to this challenge with an open mind, and an empathetic, respectful response.”

As seen in the viral video, SA staff demonstrated mindfulness by slowing down their voice and inviting the students to calm and to sit and talk. This was not wholly effective, however, because the larger focus remained on returning Sam’s property. Sam had no incentive to stay and be present for a conversation because staff were allied around getting the hat back first, then talking.

Mindful Coaching To create greater safety for Alex and make another attempt at diffusing the situation, another strategy rooted in mindfulness is coaching. Coaching is an essential skill that SA professional staff use on a regular basis when supporting students. **Coaching** is a process of empowering an individual to grow perspectives through their own process of self-reflection. Coaching requires generous listening, empathy and compassionate curiosity. It is a powerful tool that can be used to interrupt a situation, create inclusion and support safety in the space. Below are some examples of coaching questions that could be asked in such a moment of conflict. Asking these questions out loud to the students would open the possibility for creating safety for Alex and inclusion of Sam in a process of deeper perspective taking and understanding, regardless of the outcome.

¹⁹¹ For additional information on mindfulness, see *The Inner Work of Racial Justice: Healing Ourselves and Transforming Our Communities Through Mindfulness* by Rhonda V. Magee

Coaching Questions to Diffuse the Situation

1. Sam, this hat is your property and it's meaningful for you. What do you think this property represents to Alex?
2. Yes, Sam, you have a right to free speech. How does expression of your freedom of speech impact a space like ours in which there are others who hold different views than you?
3. Alex, when you saw Sam's hat, what came up for you?

Once you have worked to diffuse the initial reactivity by focusing reflections on the representation of the conflict, in this case the hat, there may be opening to shift focus now to the larger context of the conflict. A deeper reflection may be appropriate only at a later time, as in this case where the conflict persisted for weeks after the initial moment. In going deeper, we invite a more vulnerable sharing of history and create a space in which each of the key players can embody the others' perspective. This is important to the SA professional role. We must continue to find ways to allow presence to multiple perspectives in a reflective space as a neutral facilitator while simultaneously honoring our personal beliefs (and emotions) that may be triggered by conflict. You may have resistance to nurturing both sides, as SA staff alluded to in the case scenario reflection. Part of mindful coaching is noticing your inner resistance and biases and letting them pass as you stay present with the people in front of you. At a later time, pause to explore and learn from your resistance. Resistance is normal in this work. It teaches us where we can grow perspective, empathy and compassion, which are crucial as agents of transformative engagement.

If the situation is sufficiently diffused, questions for deeper engagement can be asked if appropriate and timely. Such coaching questions can start to include the larger contextual conversation and move away from focus on the original object of contention, the hat.

Coaching Questions to Broaden Perspective

1. How does our political climate right now impact you and your community on a daily basis? (Ask this of both Sam and Alex)
2. What about their story is familiar to you? Unfamiliar? (Ask this of both Sam and Alex)
3. How might you respond in this situation if you were in Alex's shoes right now? If you were in Sam's shoes?

These are just a sampling of questions that may be posed to interrupt such situations in order to support the well-being of all in the space. The practice of mindfulness will help you access the right wisdom in these moments, when the time comes. We simply have to be ready.

Team Preparation

In addition to the critical self-preparation practice discussed in the previous module, it is imperative that administrators and leaders prepare for conflict as a team and create preventive spaces to discuss such situations before they happen. We can walk through different scenarios, such as this one, as individuals and as a team, debriefing our values and best practices. We can negotiate our departmental values and boundaries around how we take procedural steps to ensure safety and prevent re-traumatization of the communities we serve, while upholding freedom of expression. We can make sure that we and our teams are cared for holistically before, during and after a crisis happens.

There are many questions we can ask within our teams to organize our philosophies and values into processes of practice. Think through these questions through anti-oppression and healing-centered lenses. Take time in team meetings to do this reflective work on a consistent basis, concurrent with the changing landscape of our social climate.

10 Questions to Discuss with Your Team

1. What are personal values and philosophies that drive you in your work?
2. What are the institution's values and practices that align with yours? That do not align?
3. How can our departmental processes better reflect our personal and institutional values in practice?
4. What social dynamics do we need to be aware of as we structure our programs/events?
5. What is happening in the geo-political landscape right now, and how does that impact the people in our space?
6. In what ways do you currently foster safety, dignity and belonging in your work?
7. What processes can we put into place or redesign to best support the needs of the communities we prioritize?
8. What are grey areas in our process development for which we do not have answers yet?
9. How can we take care of ourselves as a team during this time?
10. What do we need to thrive together? How can each of us personally support this effort?

Team preparation and team care are vital to conflict preparation. Entering a conflict already burned out can have serious consequences on both you and the people around you. Cultivating a culture of active reflection, community care, and engagement can help create resilience across all of our campus communities.

Module Debrief Questions

The questions below will help you and your team to walk through the nuances of this case scenario and reflect on your personal and team sentiments for how to prepare for a similar conflict in your campus space. The questions will also invite you to reflect more deeply on the leadership strategies presented and how you and your team can integrate these into the context of your work. The questions are laid out in three categories. Feel free to focus on one category, draw questions from all of them, and create your own questions for reflection.

Examine the Scenario from the Outside

1. Who are the key players (individuals and/or groups) in this scenario?
2. What key complexities/challenges are present in this situation?
3. What power dynamics are present in this situation?¹⁹²
4. What complexities are added by the fact that this incident went viral on social media?
5. What are key players experiencing *internally* as the situation is unfolding? (i.e. what might be their nervous system response--see Module 1 for reference)
6. What basic needs - safety, belonging, dignity - are the key players looking to have met in this situation?

Examine the Scenario from Within

1. What is your internal reaction to this scenario (identify thoughts, emotions, sensations)?
2. Which key player(s) do you empathize most with in this situation? Least? Why?
3. How would aspects of your own social identity influence or be influenced by this situation?¹⁹³
4. What campus resources could support the needs of key players in this situation?
5. What campus resources might be harmful?

Leadership Practice Questions

1. What strategies for embodied leadership are you taking away from this case analysis that you can apply in your daily practice?
2. What is your current personal approach to managing conflict? Your department's approach?
3. How do you respond internally and externally when you are interfacing with someone who has clearly different beliefs than you do? What would help enhance your neutral facilitator skills in your professional role?
4. What steps do you need to take in your own self-care and self-reflection to be able to manage a conflict like this one? *Think about your inner reactions to the conflict in this scenario and your current work environment.*
5. What helps you feel grounded? How can these practices help you stay grounded during moments of conflict?

¹⁹² "The term **power dynamic** is used to describe how the relative levels of power of two or more people/groups impact their interactions with one another (Hanna-Wayne, 2019)." In this context it is important as a facilitator to be mindful of social power dynamics which, by their mere existence, influence the direction and outcome of a conflict. **Social power dynamics** are "different degrees of power are sustained and perpetuated through social divisions such as gender, age, caste, class, ethnicity, race, north-south; and through institutions such as family, religion, education, media, the law (Batliwala, 2014)."

¹⁹³ For example: "As a brown woman facilitating a conflict related to race between a white student and a student of color, my own experiences of race and racism can influence this situation and how I am perceived by both students." A social identity is a category that groups people together who share a range of physical, cultural or social characteristics (categories include race, class, gender, religion, sexual orientation, age, size, ability, nationality, etc.).



MODULE 3: YOGA MAT CASE SCENARIO

Leadership Practice: Growth Mindset

The names of all key players in this scenario have been changed to protect the privacy of the students and staff who experienced the series of moments in this conflict.

Julia, a highly reputed Diversity trainer who is Latinx, is a SA professional who supervised a peer-to-peer Diversity Education Program (DEP). The DEP student leaders planned a day-long healing justice retreat for students. The retreat was slated to open with a brief meditation and yoga session, facilitated by Sona, Julia's supervisor. Sona, who identifies as South Asian, is also a wellness program director on the campus.

CONTEXT:

Location: UC Campus

Date: End of Spring Quarter 2018

Time: 12:30pm

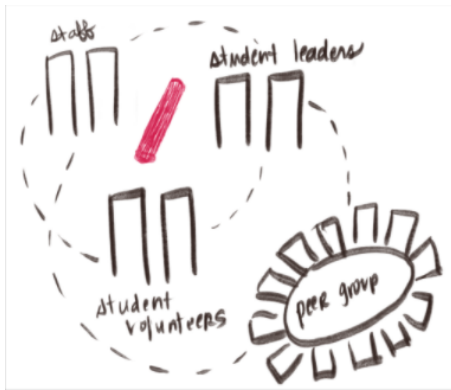
Setting: This conflict occurred in a Student Affairs office.

Larger Context: For students in their final year of school, the end of the school year is a period of major transition and accompanying stress. SA Staff are also quite exhausted by the end of the year, and the potential for burnout is high.

Participants at the retreat would be incentivized with a free yoga mat for attending. A couple of weeks before the retreat, Sona informed Julia that she would not be available to facilitate the opening meditation. In her place, Sona invited two of her students, who are trained in meditation, to facilitate instead.

Three days before the retreat, Sona received a phone call from Julia. Julia, practically in tears, expressed that two of the DEP student leaders aggressively demanded that yoga mats be removed as incentives for the retreat. The retreat was around the corner and Julia had worked hard to secure the yoga mats and bring them to campus from her home two hours away. When she asked for clarification as to why, they told Julia that the yoga mats were cultural appropriation, especially since Sona was no longer available to teach the meditation.

Julia reminded the DEP students that Sona recruited two student volunteers in her place to facilitate the meditation instead. Therefore, the mats would still be useful. Julia named the two student volunteers, who by chance also identified as South Asian. The DEP student leaders reacted with disgust, saying that Julia was now being racist for assuming the student volunteers knew how to teach meditation just because they were South Asian. The conflict heated with back and forth email communication that only aggravated the situation. The yoga mats were not handed out at the retreat and tension remained between Julia, the DEP peers and the rest of the DEP cohort through the end of the academic year, which was a few weeks away. As the conflict escalated, the DEP student leaders demanded that Julia make a formal apology for disrespecting the DEP student leader cohort and the two South Asian student volunteers that Sona recruited.



Configuration of the Conflict

The following reflection is provided by Sona. Here she shares more detail of what happened during her phone call with Julia and the steps taken to work through the conflict in the following weeks. Her inner reflections and reactions are also represented to show the multi-layered complexity of this situation and the impact it had on mental health and well-being.

What Happened?

Julia called me on my day off, exasperated and unsure of how to proceed after the DEP student leaders stated that giving out yoga mats at the healing justice retreat was a form of cultural appropriation.

The DEP student leaders demanded to Julia, their Supervisor, that the yoga mats be returned. Julia was confused because from what she recalls, they had approved these items when the retreat was being planned.

They called Julia racist after she mentioned that the two student volunteers who would take Sona's place were South Asian.

As the supervisor, I had to step in to help both my staff and the students. I had multiple conversations with my own supervisor about the situation. I had many conversations with Julia. I had conversations with my student volunteers.

Inner Reflections by Student Affairs Staff

← At the time, I was the assistant director of the department, I was running a wellness program under the department, and I was overseeing other programs, including Julia's. I was completely overwhelmed. When this situation came up on top of everything else, I didn't know if I could handle it.

← As I heard this, I was surprised and perplexed. "Would it work if we called it an exercise mat?!" I exclaimed in my head. What about the value of making these practices accessible to others so they can find healing?

← I sensed Julia felt deep hurt that she would be so quickly dismissed. She had been working in spaces of dialogue and social justice for decades and was being told she was racist and insensitive. She herself was born to immigrants. I felt upset for Julia.

...At the same time, my resistance to the students' statements told me that there was something I needed to examine within myself.

← The conflict impacted my body and my well-being. It went on for several days, and I remember I went home every day with pain and tension in my jaw and neck. I had a lot of restless nights.

What Happened Later

What proceeded to unfold was many more conversations with the students -- one-on-one, in small groups, and then finally a large group conversation with all of the DEP cohort and Julia - around 18 people. It felt important to try and come to some understanding before the end of the year.

I shared my perspective of what happened in the situation, and where communication broke down on my end. And that, as a wellness educator, my goal is to make the practices accessible to anyone who wants them. I let them know too that I had thought about their perspective a lot in terms of how, going forward, I will acknowledge the history of mindfulness practices when I teach.

The DEP student leaders talked about the moments they felt dismissed. Julia also shared her perspective. Tension was high when we started but as we started to go deeper into our experiences, the space felt less constricted. There would be a final meeting the following week that Julia would lead with the cohort.

In the end, most of the students involved in this conflict graduated. This incident influenced the shape of the program for the next year. Staff updated their contract for incoming student leaders with parameters that more clearly defined professional guidelines and etiquettes for the kind of activism that this program promoted.

Inner Reflections by Student Affairs Staff

← This was helpful to some of the DEP student leaders who were not involved in the conflict but had heard bits and pieces of what was occurring in their space.

← I was scared to tell my part of the story. I didn't want to cause more frustration in the group by saying the wrong thing. I wanted to be seen as an ally to both the students and staff.

← Having the conversation was helpful in clarifying and painting the picture of what happened from multiple perspectives. It was a very intense experience for all of us, but it was necessary for us to be able to move forward.

← It was important to make it clear that while we are activists in this work, we also believe in inclusivity and empathy. Conversation and dialogue around complex issues was a central part of this program, and we wanted to ensure that peer leaders were committed to this process in the next academic year.

Takeaways: A SA Professional's Perspective

I'm not sure how much common ground the student leaders and the staff found by the end of it all. Some students still felt that they were not given what they wanted. It was clear to me that the experience also impacted the morale of my staff. This conflict was multi-layered and had many points of tension. It had to do with mental health, inconsistent or indirect communication, past conflicts, and the already volatile social justice climate on our campus. Students were highly emotional and on edge as they prepared for finals and the huge transition of college graduation. There were other dynamics in their lives that we didn't know at the time, including some family challenges at home. The staff members, who had been coping with an increasing workload over the course of the year, were physically and emotionally drained, while also managing personal responses to the social climate at the time. When looking at this more broadly, it is not surprising that this situation escalated the way it did. Still, I'm glad that we took the steps that we did. It felt right to do this as an educator. It was not easy, but it was necessary. I am now a lot more equipped to handle something like this in the future.

Analysis and Strategy

What we can learn from this situation?

Many complexities exist within this conflict. Burnout in both staff and students influence how the conflict unfolds and escalates. Julia's social and professional identities are challenged suddenly by student leaders who were also her employees since last year. She struggled to find the right action to take between serving as an educator and supervisor to the students. The racial essentialization of the South Asian individuals in the scenario highlighted another common challenge that many affinity groups face. Each of these individuals had different perspectives and emotional responses to the situation. Both the student volunteers and Sona felt that they were being pressured to align with DEP student leaders (one of whom is South Asian) based on their shared racial identity. Sona felt torn as a South Asian-American and a wellness educator whose goal is to make healing practices accessible to all. In the case of Julia, herself a second generation American, she felt that all the years of practice and dedication to the work of equity was not enough for her to be given dignity in her role.

What parts of this story feel familiar or similar to you in your experience as a helping professional?

Leadership Practice: Growth Mindset

As Student Affairs professionals, it is our job to remind students that they are at a university to grow and learn. And this reminder is beneficial to us as well. In fact, Student Affairs professionals are in a constant process of growth as we work with unique individuals and nuanced communities, learning how to best support their needs while navigating the institution. In times of conflict, operating from a **growth mindset** means that we are willing to allow and learn from uncomfortable emotions, our own or those of others. It means that we are respectfully curious to learn new ways of thinking and operating. It means that we can bear witness to critical feedback and reflect on if and how we can grow from it. We can see conflicts as opportunities for growth and action, instead of withdrawing and hyper focusing on what we didn't do "right". Mindsets are key in orienting our biology to stay open to moving through challenges with a willing presence.¹⁹⁴⁴

In this scenario, Sona felt frustrated by the rationale of the students to not provide yoga mats at the retreat. Her initial response was of internal defense. She took time to calm down and reflect on her resistance. She knew her values were centered in supporting both Julia and the students in finding some resolution. In speaking at the large group DEP meeting, Sona set aside her initial dichotomous thinking, and courageously moved forward with opening up a space where all voices could be heard. She first shared her perspective of what happened as the wellness facilitator for the retreat opening, and then stepped back as a supervisor in order to give the students and Julia space to express. Through this, Sona claimed her personal views of the situation -- which was important for her own sense of belonging. And she set up a platform from which Julia and the students could share their recall of what transpired, thereby helping to restore both the dignity lost to Julia and the sense of belonging lost to the students.

¹⁹⁴⁴ For additional information on mindsets, see *Mindset: The New Psychology of Success* (2006) by Carol Dweck.

When we see conflicts on campus arise, we can choose to trust that attitudes of humility, curiosity and compassion will move us through the unknown and bring us to the next step (Gupta, 2018). Applying growth mindset principles help us to not react to our biases and create a container of compassion for those involved. Our mindsets can support us in fostering authentic engagement and modeling healthy freedom of expression. When we create a brave space for the energy of conflict to play out, we can open up opportunities for people to be seen, heard and validated deeply in ways they may have never been before.

Growing Your Mindsets

Mindsets are powerful beliefs that we hold, both consciously and unconsciously, that cue our bodies to react to situations in specific ways. Someone with a fixed mindset of scarcity may not believe that they have the ability to handle a difficult situation when it arises. Behaviorally they may limit themselves from engaging with such situations, thereby reinforcing their belief.

Lessons Learned

- Honor your reactions and let them come up
- Adopt a growth mindset by exploring your reactions and fixed mindsets
- Have difficult and honest conversations
- Gain an understanding of all sides of the perspective
- Claim your own perspective in the process and share it

Mindsets are imprinted into our biology. We all carry both limiting and expansive beliefs. As we recognize the beliefs that operate within us as helping professionals, we can work to revise this programming and update our brain with new seeds of thought that prepare our biology for a new outcome.

The following is a list of Embodied Leadership Mindsets that are often supportive to helping professionals. These affirmation statements can be applied in a number of different ways. Here are some examples:

- State them out loud or internally in the morning to set your outlook for the day
- State them out loud or internally when you feel overwhelmed or anxious (like in a sudden conflict situation)
- Integrate them in your physical space: write them on your mirror (with a dry erase marker) or on a post-it note and stick it in your car to read daily.
- Integrate affirmations in spiritual practices of meditation or prayer

10 Mindsets to Support Embodied Leadership

1. I accept that every challenge is an opportunity to learn and grow.
2. I release my need to be perfect. I honor what I know and what I do not know.
3. I challenge myself to grow my perspectives through critical self-reflection and lifelong learning.
4. I trust my body's innate intelligence to guide me during uncertain moments.
5. I allow myself to make mistakes and trust the process. I am willing to be accountable to my areas for growth.
6. I release the need to "fix" or "know". I allow myself to witness others' stories and learn from their experience.
7. I stay present in my own lane. I will not compare my journey to other people's success.
8. I embrace my potential, even if it makes others feel uncomfortable. I choose to exist fully.
9. I can find support by sharing with others. I am not alone in my experience.
10. I deeply love and honor myself and my basic needs. I am enough.

With repetition over time, your biology begins to operate from the vantage point of these mindsets, and your personal power and leadership will grow.

Have a Team-Supported Plan for Conflict Engagement

In addition to doing the inner work of embodying a growth mindset when facing conflict, we can build a growth mindset practice into the infrastructure of the department. In this regard, a formalized conflict engagement plan for how to navigate interpersonal conflict can allow us to move forward responsibly and effectively with the principles of growth mindset guiding the process. These principles include leaning into challenge, persisting in the face of setback, valuing effort regardless of the outcome, and learning from critical feedback (Dweck, 2006). A conflict engagement plan is a valuable prerequisite to formal grievance procedures that are vetted through typical Human Resources mechanisms. Such a structure reinforces a culture of growth mindset practice and demonstrates a value for the success and well-being of the campus community it serves. 32 2019-2020 Fellows Research

Elements of a Conflict Engagement Plan

1. Come up with guidelines as a department for how you will address conflict when it comes up.¹⁹⁵

- Write out your guidelines for dispute resolution -- a built-in process for handling future conflicts so that you have a system in place when a conflict arises
- Include those guidelines in your start of the year retreats and trainings
- Check in with the team during the year to see if these guidelines are working
- Update your guidelines yearly

For example:

- Within your department, designate a person(s) who you can speak to when you are experiencing tension or a conflict.
- Outline communication guidelines and ground rules to support authentic communication.
- Determine your values around conflict within your department. What does conflict resolution in practice? (i.e. mediated meetings 1x1, small group, or large group)

2. If you work with students, bring conversations of conflict and accountability to those spaces before a conflict occurs

- Talk about conflict. What is conflict? How does conflict make us feel?
- What is accountability? What does it look like?
- What are our guidelines for relating through conflict in our space?
- Give out a document outlining accountability practices at the beginning of the year.
- Encourage students to contribute to the accountability practices in their spaces.
- Check in with the group to address issues and concerns on a consistent basis.

3. Create an infrastructure of practice where 1x1 or small group connection check-ins are routine.

- This will serve to create an atmosphere of authenticity, reduce potential harm and bolster our ability to move through conflict together as a group when it does arise.

4. Carve out time to have important discussions when harm comes up.

- Have one-on-one conversations to get a better understanding of a conflict as a facilitator.
- Have group discussions to create bridges and understanding between people in conflict.

Conflict is a symptom of a problem or dynamic that has already been in existence. It may be a result of something that started long before you got there. That tension that gets passed down to the next group if it is not resolved. Having a plan for managing conflict helps bring ease to the groups currently in place and will set up future groups with a model for constructive engagement and transformation.

¹⁹⁵ For additional information on creating inclusive spaces, see *Healing Justice Practice Spaces: A How-To Guide* by Autumn Brown & Maryse Mitchell-Brody.

Module Debrief Questions

The questions below will help you and your team to walk through the nuances of this case scenario and reflect on your personal and team sentiments for how to prepare for a similar conflict in your campus space. The questions will also invite you to reflect more deeply on the leadership strategies presented and how you and your team can integrate these into the context of your work. The questions are laid out in three categories. Feel free to focus on one category, draw questions from all of them, and create your own questions for reflection.

Examine the Scenario from the Outside

1. Who are the key players (individuals and/or groups) in this scenario?
2. What key complexities/challenges are present in this situation?
3. What power dynamics are present in this situation?
4. What are key players experiencing internally as the situation is unfolding? (i.e. what might be their nervous system response--see Module 1 for reference)
5. What basic needs - safety, belonging, dignity - are the key players looking to have met in this situation?

Examine the Scenario from Within

1. What is your internal reaction to this scenario (identify thoughts, emotions, sensations)?
2. Which key player(s) do you empathize most with in this situation? Least? Why?
3. How would aspects of your own social identity influence or be influenced by this situation?
4. What campus resources could support the needs of key players in this situation?
5. What campus resources might be harmful?

Leadership Practice Questions

1. What strategies for embodied leadership are you taking away from this case analysis that you can apply in your daily practice?
2. What mindsets do you hold about conflicts? Of these, which ones limit your leadership ability? Which ones enhance it?
3. How can you shift your fixed mindsets to ones of growth?
Example: I do not know what to do if a conflict comes up between my students. (Fixed) → I can take small steps to learn how to lead through conflict. (Growth)
4. What are some signs that you have observed in yourself when you are emotionally burning out? What self-care strategies can support you in these times?

How willing are you to communicate how you are feeling to your co-workers and supervisors? What would support you in this process?



MODULE 4: CONFERENCE PROTEST CASE SCENARIO

Leadership Practice: Trauma-Informed Approach

The names of all key players in this scenario have been changed to protect the privacy of the students and staff who experienced this moment.

This situation occurred in January 2020 at an Educational Conference for students, staff and administrators. The conference was held in a medium size room that held around 500 people. The conference stage was slightly raised from the floor, with attendees sitting only a few feet away. As the opening speaker, a high-level Campus official, was delivering her remarks, four students of color moved in front of the speaker's podium. Facing the audience at floor level they held up signs demanding justice.

CONTEXT:

Location: UC Campus

Date: January 2020

Time: 12:30pm

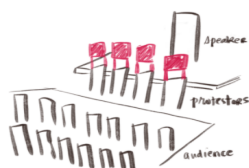
Setting: Educational Conference for Administrators, Staff, and Students

Social Climate: Graduate students had been on strike for months to demand financial aid that would help them mitigate food insecurity, homelessness and massive student debt. Tensions were rising as administrators have not taken steps to meet students' demands.

Such protests were making waves across the U.S. during this time. Students from across campuses rallied in solidarity, demanding policy changes, defunding of campus police, and greater financial aid to support student basic needs, like food and shelter.

The students who were exercising their first amendment right to protest took up the full length of the stage. Their signs were large and were at the same level as the podium. The speaker was hardly visible at times. Police were visibly present in the back of the room, prepared to intervene if needed.

The Campus official continued reciting her speech without pause, introducing the events of the day. After several minutes she concluded and walked off the stage. The conference organizer, who had been alerted ahead of time of a possible protest, stepped in and let the student protestors and audience know that: *"Protest is welcome so long as it doesn't unduly interfere with the ability of the speaker to deliver the message or the ability of the audience to be able to receive the speaker's message."* The protesters were directed to shift their protest to the sides of the stage where they stayed for a while. They were also provided a space outside of the conference room to convene if they chose.



Configuration of the Conflict

The following reflection is synthesized from the perspectives of two SA staff who were attending the conference together. Here they share more detail of what was witnessed during the conflict. Their internal reactions are also represented, revealing their processing of a tense situation in which their empathy and attention was pulled in multiple directions.

What Happened?

Protesters appeared in front of the stage as the Campus official began her speech. Because of the layout of the space and the proximity to the stage, it was impossible for the audience to ignore the protesters' serious facial expressions and the messages on their signs. One student's sign expressed that her father had been deported by ICE. Another protestor periodically snapped their poster -- which demanded defunding of Campus police -- creating a jarring sound that kept the audience engaged with their demands while the speaker continued.

As the protest ensued for several minutes, audience members started pulling out their phones to take pictures and video record the scene. The speaker carried on with her speech. She didn't shift her tone or acknowledge the protestors in any way. She eventually concluded and walked off the stage. There were whispers in the audience. The room felt tense.

The students continued the protest, holding up signs. They were exercising their right to free speech and were respectfully told to move to the sides of the stage. They were reminded of their rights, that they cannot disrupt or block the speaker, however that they have a right to their protest.

Throughout the day protesters exited and re-entered the conference room. They were committed to protesting when certain Campus officials were present in the room either speaking or in the audience. The conference organizer had to re-read the official statement of protest guidelines numerous times throughout the day.

Inner Reflections by Student Affairs Staff

- ← The energy in the room immediately felt constricted. It seemed that the entire audience was frozen, wondering what was going to happen. I was thinking: "Is this going to intensify? Is the speaker going to acknowledge the students? What are the organizers going to do?"
- ← I felt really bad for the student protestors. They are our students, the ones we are here to serve. I was shocked that the speaker carried on as if nothing was happening. It felt as if the protestors were invisible, that there was a wall. I was disheartened by her glaring choice to not recognize the people standing in front of her. The power dynamic here was a very clear too -- white female Campus official, and four students of color.
- ← Students sitting next to me were particularly concerned for the well-being and dignity of the protestors. One of the students got up and spoke to the conference organizer to ask if the protestors could have the opportunity to speak publicly.
- ← I was comforted by the respect and kindness that the conference organizer displayed while being firm about the boundaries of what's allowed under free speech rights.
- ← Even though the event carried on per schedule, whatever the following speakers were saying went in one ear and out the other. I couldn't focus on much at all. I was worried for the physical well-being of one student who held their arms and their sign high without breaking form during the entire protest.
- ← It was an emotionally tough day. I was sad to see that Campus officials reinforced practices of dismissal that students of color face in institutional spaces. It brought up my own emotional pain and past experiences of being dismissed as a woman of color.

Some sessions were more relaxed because the protestors moved to the designated room outside the main one where they could convene and restore.

As the conference continued the protestors persisted. They began actively taunting the speakers and Campus officials in the audience by calling their names, asking for justice. Each time, the campus organizer reminded the protestors that they would have to leave if they disrupted the speakers again.

The situation escalated to where the campus organizer's statement was not enough to keep the protest "peaceful". Some members in the audience got involved. One White man exclaimed "I can't hear the speakers. We are here for a conference." The protester responded by telling that White audience member to check their privilege. The session awkwardly ended. The speakers and protestors left the room.

My attention was fixed with the protestors and how they were doing. I stepped out of one session and went to their protest space. I wanted to acknowledge them as a campus staff member and as a person of color who understands what they want. The students seemed energized around their efforts. They were planning what to do next and we acknowledged each other. I checked in on their well-being and they said they were ok. There was not much more for me to do there, but I felt better knowing that they were supported by each other and within the space of that room.

After such a long day, things had still been escalating. The approach of the conference organizer didn't seem to ease the protestors' growing intensity. This was disappointing too. I felt for the organizer and the people who had put so much work into preparing this event.

What Happened Later

The last session of the conference, in which Campus officials were to return together to the stage for one final panel discussion, ended up being canceled due to time constraints.

After the conference, there was a happy hour outside of the main hall. Conference attendees mingled and reflected on the day. Students and staff talked a lot about the protest, how that impacted their experience of the conference, and what their opinions were about the situation. There was some discussion about the content of the conference, but that seemed to be less important.

Inner Reflections by Student Affairs Staff

While it wasn't formally stated, I'm assuming that the decision was likely influenced by the tension between the protestors and the Campus officials.

Many of us had the initial reaction of "Why couldn't the Campus Officials just have ACKNOWLEDGED the protestors? That's all they had to do!" Others had adverse reactions toward the protestors "It was really too much. They ruined my experience of the conference."

Takeaways: A SA Professional's Perspective

I saw the student protestors talking to some Campus officials at the end of the day. They were able to move forward with getting a meeting with the persons they wanted to speak with. I was curious and asked my colleague what was happening. The role he plays on another campus is to holistically support student protests within the laws of free speech. He shared that he visited the protestors in their debriefspace. He asked them about their well-being. He asked them if they had a plan for what to do if they get arrested. They said no, they had not even thought that far ahead. My colleague proceeded to help them come up with a plan for how they could get what they wanted -- a meeting with Campus officials -- without being arrested. And if they did get arrested, to call him. He handed them his card. He did an amazing job of validating their need for belonging and promoting healthy next steps in support of their activism. There was no longer a need to disrupt the conference because they learned how to move forward in a new way. This is the role we play in the lives of our students. We are their bridge to and through the institution. I felt very proud.

Analysis and Strategy

What we can learn from this situation?

The tension of the conflict between the speaker and the protesters impacted everyone in the room, approximately 500 people, for the entire day. Everyone's nervous systems were on heightened alert. The conference attendees had to filter through a variety of stimuli -- the signs and sounds from the protesters, the intellectual material that the presenters were attempting to share, the internal anticipation of how this tension would play out. Many people experienced diminished capacity to learn from the conference itself because biologically it was not possible.

Much of the escalation could have been mitigated or avoided altogether if steps to intervene mindfully were taken at the beginning. The longer we delay, the more our primal safety system becomes activated and tensions rise. Since social justice conflicts are at their root about the fight for equity and resources and the freedom to exist as a people, we must include in our approach an *assumption of trauma* that marginalized groups carry in their bodies from their lived experiences. This assumption orients our attention to signs of trauma and invites us to behave in ways that are compassionate. It removes the need to justify and rationalize why someone may be responding the way they are. This assumption does not mean that we pity, coddle or enable, but instead we hold others as we come forward together, responsibly and with accountability.

In the case of one of the student protesters, the sign about their father signals that they are connected to the Undocumented community. The struggle to survive and get basic needs met through a system that was not constructed for them is a matter of life and death. The Undocumented community has experienced egregious acts of political, emotional and physical violence under the current administration. These protests are one of the few mechanisms of power that some of these community members can exert in a larger context to find belonging, safety and dignity. While we cannot expect ourselves to fix the history of abusive systems on vulnerable groups in a moment of conflict, we can at minimum create a tiny space of empathy and compassion in which to acknowledge and witness the emotion behind their expression. A trauma-informed approach can successfully de-escalate a conflict in seconds, and it can offer an experience of belonging to someone who was previously denied this need.

Leadership Practice: Trauma-Informed Approach

A **trauma-informed approach** is one in which we, as organizations and individuals, acknowledge the widespread impact of trauma and work to strategically (re)design processes, infrastructures and policies that minimize re-traumatization in our work and community spaces (SAMHSA, 2014). A trauma-informed approach includes an understanding and recognition of trauma and its deep impact at the individual, interpersonal, community and policy levels. It is a conscious investment in dismantling racism, sexism, and other social injustices that are embedded in institutional structures, practices and protocols. It includes leveraging the value of diverse cultural beliefs and practices. It actively promotes environments of healing and recovery, knowing that this will only serve to elevate the culture, outcomes and satisfaction of an organization and its people.

The following is a generalized list of trauma-informed practices an organization can adopt. Each practice contains numerous strategies and processes that can be implemented to reflect these values:

10 Practices of Trauma-Informed Care as an Organization

1. Set up a culture of care.
2. Give space for choice.
3. Create a safer space.
4. Build mutual support.
5. Use language of empowerment.
6. Practice inclusivity.
7. Honor time to process.
8. Acknowledge individual & collective trauma.
9. Practice consistent assessment.
10. Commit to accountability and flexibility.

Upholding a trauma-informed approach in your daily practice will prepare you to apply these principles in a heated moment of conflict. *In this scenario, what could have been done to bring down the tension in the space quickly, before it escalated to the point that it did?*

Address Moments of Disconnection with Authenticity

One way in which trauma and distress are aggravated is by avoiding emotional issues. In the American English language, we have clichés that reflect this all-too-common phenomenon when facing complex situations: “*Pay no attention to the elephant in the room...*” or “*Walking on eggshells...*”. An avoidance of emotional tension is a choice (whether conscious or unconscious) that is valuable in some instances and may backfire in others. It comes from not knowing how to deal with emotional disconnections. It can come from fatigue and burnout. It can be used as a tool for power and control. In this case scenario, there were many factors known and unknown that contributed to the prolonged tension that built in the conference space.

Think of the last time you experienced the very moment of interpersonal disconnection -- maybe at a family dinner when someone offers a political opinion that differs significantly than that of others in the space. *What did that moment feel like in your body? What did that moment do to the space? To your subsequent interactions?*

We must use the cues that our body gives us (the muscle constriction, the sharpening of senses, the icy feeling in the room) to guide us in acknowledging what happened, without necessarily getting into the details of the story. It can take simply a moment. We can diffuse the tension with respectful humor, or by simply naming part of your felt experience. The moment we do this, our biological alarm bells become quieter, and we start to regain trust (Siegel, 2009).

In this scenario, the conference organizer addressed the tension by reading an official statement that acknowledged the protesters' right to demonstrate. These guidelines offered a containment for how the protest could look and what to expect. This helped the protesters understand their rights in the space and

Transforming Moments of Conflict Through Embodied Leadership

assured conference participants that they would still have the opportunity to hear the speakers. By the end of the day, however, the repeated statement was not enough to further resolution or connection between the protesters, speakers and audience.

Later we learn that a SA staff member stepped in to coach the student protesters on a plan of action that ultimately would benefit them and the conference attendees. He validated their needs for belonging through a demonstration of empathy plus practical procedural options that they could choose. This allowed the conference to continue to its end without further disruption from the protesters.

Interrupting the disconnection right from the start would have set a powerful tone for the rest of the day. For example, the moment the first Campus official stepped onto the stage, protesters lined up. Instead of continuing on in her speech as if nothing was going on, she might have responded with a validation statement followed by an action step:

“Let me pause my talk and acknowledge the students here protesting. I see you. And while we are not able to address your concerns immediately, my team here is available to help understand what you need. Would you like to do this?”

Regardless of how the protestors responded, the group would no longer be emotionally frozen in the original moment of disconnection.

It’s normal for any human to freeze at the moment of conflict -- this is a function of our biological safety response. Perhaps that was the speaker’s initial internal response. If one person on the team misses the opportunity to address the point of disconnection because they are themselves coping, someone else can step in and do it at a later moment. A support staff may say something direct, like:

“I noticed that earlier there was a moment of tension and unease in the room when the protesters came up and the presenter continued speaking. We acknowledge that moment and recognize the students here expressing their concerns. We are not able to hear them out in this space, but there is a separate room for gathering if people want to connect on these issues.”

Here the staff member acknowledges the past moment of disconnection and offers a space where people can go to process what is coming up. Recall that witnessing the protesters triggered the SA staff members’ own emotional pain and histories, limiting her biological ability to focus on the conference at all. Such an option can support a return to the present moment and allow her to be present for the conference while embodying a feeling of greater safety and belonging. There would be many others who could also benefit for similar reasons.

A support staff may alternatively stop the Campus official in the middle of her speech and invite them to address the tension. They may say quietly to the speaker:

“Can we take a moment to acknowledge the protesters presence? I think it’s needed in order for us to go forward here.”

Regardless of how the speaker responds, we have taken an important step to advocate for re-creating safety in the entire room. That is a powerful act.

It is important to acknowledge that there may be power dynamics at play preventing a staff support person from approaching a high-level speaker. For example, a young professional, Black transgender woman may understandably feel intimidated to approach a White cisgender man who is several steps above her in the institutional hierarchy for fear of backlash. These are unfortunate realities that SA professionals must continue to navigate within the institution. In spite of this, we must continue to challenge ourselves in gentle ways to grow our confidence in bringing authenticity to campus spaces, and as a team continue to foster a trauma-informed approach so that all members of the campus feel empowered to exist fully.

The following are some practical tips for restoring connection and safety in the group during instances of conflict:

Recognize Signs of Disconnection in a Group

- Participants are restless/fidgeting in their body
- Participants seem tired or spaced out
- Participants seem troubled following a significant national/global event or crisis
- Facilitator feels that their words are not being received
- Sudden silence in the group
- Lack of energy in self and others
- Body language looks shut down, or sad
- Participants look uncomfortable in facial expressions

Statements Acknowledging the Disconnection

Following are some general statements/questions you can verbalize to acknowledge disconnection. Anchor your statement in your experience of that moment. If addressing a single person, state their name first (if you know it), to establish rapport and respect (Gupta, 2017, p. 3).

- I'm noticing that the group feels scattered. How are you all doing?
- (NAME), I noticed that your body language shifted after that discussion. What's going on?
- Are you ok? I'm sensing some frustration in your voice.
- Based on the look in your eyes, it seems like you are in another world today. Am I sensing that correctly?
- I'm feeling a little queasy in my stomach because it feels tense in the space. Is anyone else having a similar experience?

Mindful Inquiry Questions for Deeper Reflection

If you have the opportunity to go deeper with those involved, whether in that moment or at a later time, some mindful inquiry questions include:¹⁹⁶

- Was something said that is impacting you right now?
- What are you feeling right now?
- What angered you about what happened?
- What hurt you about what happened?
- What's familiar about what happened?
- How did that affect you?
- What do you need or want?
- What can we do to support you right now?

Be aware that not all situations warrant deeper reflection for a number of reasons. Maybe you are not the right facilitator for such a space. Or perhaps trust and safety have not been recovered enough to venture deeper. Honor and meet the individual/group where they are at. You will grow in your embodiment and application of these perspectives. Pay attention to the nuances of your interpersonal interactions. Listen for what people most need. Notice body language. Notice shifts in energy within yourself, in others and within the interaction. As we gather more information from the moment, we can use each piece of information as a point of reference for navigating the innate unpredictability of conflicts.

¹⁹⁶ Adapted from Stir Fry Seminars & Consulting: Innovative Tools for Diversity Training by Lee Mun Wah. For additional information, see <http://www.stirfryseminars.com/>.

Module Debrief Questions

The questions below will help you and your team to walk through the nuances of this case scenario and reflect on your personal and team sentiments for how to prepare for a similar conflict in your campus space. The questions will also invite you to reflect more deeply on the leadership strategies presented and how you and your team can integrate these into the context of your work. The questions are laid out in three categories. Feel free to focus on one category, draw questions from all of them, and create your own questions for reflection.

Examine the Scenario from the Outside

1. Who are the key players (individuals and/or groups) in this scenario?
2. What key complexities/challenges are present in this situation?
3. What power dynamics are present in this situation?
4. What are the key players experiencing internally as the situation is unfolding? (i.e. what might be their nervous system response--see Module 1 for reference)
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Examine the Scenario from Within

1. What is your internal reaction to this scenario (identify thoughts, emotions, sensations)?
2. Which key player(s) do you empathize most with in this situation? Least? Why?
3. How would aspects of your own social identity influence or be influenced by this situation?
4. What campus resources could support the needs of key players in this situation?
5. What campus resources might be harmful?

Leadership Practice Questions

1. What strategies for embodied leadership are you taking away from this case analysis that you can apply in your daily practice?
2. In what ways do you practice trauma-informed approaches in your work currently? What areas can be improved?
3. Think of a conflict in which you felt unresolved. What authentic statements could you say in hindsight that would help transform the tension of that moment in order to find greater safety, belonging and dignity?
4. What environment do you want to create for the students you work with? How do you want them to feel? What steps can you take to create that environment?
5. As a SA professional, you can set an example to your students in the ways you incorporate self-care and self-reflection into your spaces. What practices can you bring to your students to support their wellbeing?

Conclusion

Embodied Leadership in Practice

The stories presented in this toolkit offer a window into the complexities of social justice conflict as they occur in our campus spaces and the impact they have on our well-being. There are many more layers within each of these stories that are deserving of unpacking, respectful exploration and reflection. These stories are valuable learning tools for becoming embodied leaders, teams and institutions who can transform moments of conflict while minimizing burnout.

Think of the stories that you have collected over time. How can your stories be told and retold for the benefit of learning for yourself and others?

"Spelling is a spell."

- Erykah Badu

In each of these stories, there was a tussle for power, for the right to exist and for the right to belong. Each story had an object around which the conflict was centered -- the MAGA hat, the yoga mat, the protest signs. Each object held the heaviness of history, emotional pain and pride for the initiates of the conflict. Symbols such as these, are no

different from the symbols of words. Words carry with them power, meaning and vibration. When they are released, they land and create a ripple effect.¹⁹⁷

Free speech is more than an act of freedom. Speech is a biological act that can have system-wide, whole-body implications on the safety, belonging and dignity of ourselves and others. As we continue to engage the practice of upholding free speech policy on our campuses, let us stop pretending that words don't have impact. Let us lean into our inherent interdependence and uplift one another through conflict. Let us actively engage the other side of free speech practice -- creating safe and brave spaces in which to nurture human connection, navigate dissonance, and stimulate growth and thriving for all.

"You have the freedom of speech, but you don't have the freedom of consequences from that speech."

- W. Kamau Bell





Prioritize Self and Team Development

As SA professionals, educators and helpers who are part of institutional spaces, it is important to invest in the kind of mentorship, training and growth opportunities that allow you to enhance your emotional literacy, uplift your mental health, and dream for the future. This can look like working with a therapist or practicing alternative/ancestral forms of healing outside of work. Within your institutional spaces, set aside a budget to dedicate to such work. Through research conducted for this Toolkit, it is clear that SA professionals desire

¹⁹⁷ The law of conservation of energy states that energy cannot be created or destroyed, only transformed: *"Energy cannot be created or destroyed, it can only be changed from one form to another."* - Albert Einstein

training and education specifically in the areas of conflict management, self-care and positive mental health. There are many dedicated healing-centered educators offering this service to institutions today.

Recap of Strategies in this Toolkit

Module 1	Module 2
 <ul style="list-style-type: none"> • Self-Preparation Tips to Support Embodied Leadership 	 <ul style="list-style-type: none"> • Mindful Coaching • Team Preparation
Module 3	Module 4
 <ul style="list-style-type: none"> • Mindsets to Support Embodied Leadership • Elements of a Conflict Engagement Plan 	 <ul style="list-style-type: none"> • 10 Practices of Trauma-Informed Care as an Organization • Addressing Moments of Disconnection

Each of the skills and strategies presented here open up realms of further nuance and exploration. Do not get overwhelmed and feel that you have to know everything in order to be a good leader. Start now by gently holding, in the center of your awareness, that uncertainty is a revelatory part of the human life cycle. And that we are already built with biological capacity for resilience and intuitive intelligence to handle uncertainty. *Relax.* Let these practices and perspectives seep into the fabric of all of your relationships, especially the one with yourself. The rest will come. As we prepare, adapt and mobilize for the long haul, may we continue to find daily joy and inspiration to help us willingly move bravely through the unknown.

Additional Resources

This resource list will help support you in deepening your understanding of conflict, embodied leadership, and self-care.

- *Breakaway Learners: Strategies for Post-Secondary Success with At-Risk Students* (2017) by Karen Gross.
- *Conflict Across Cultures: A Unique Experience of Bridging Differences* (2006) by Michelle LeBaron and Venashri Pillay.
- *Embodied Leadership: The Somatic Approach to Developing Your Leadership* (2013) by Pete Hamill.
- *Leadership Embodiment: How the Way We Sit and Stand Can Change the Way We Think and Speak* (2013) by Wendy Palmer and Janet Crawford.
- *Leading With Emotional Courage: How to Have Hard Conversations, Create Accountability, And Inspire Action On Your Most Important Work* (2018) by Peter Bregman.
- *Mindset: The New Psychology of Success* (2006) by Carol Dweck.
- "SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach" (2014) by SAMHSA.
- *The A-to-Z Self-Care Handbook for Social Workers and Other Helping Professionals* (2016) by Erlene Grise-Owens, Justin "Jay" Miller, and Mindy Eaves.
- *The Choreography of Resolution: Conflict, Movement, and Neuroscience* (2013) by Michelle LeBaron, Carrie MacLeod, and Andrew Floyer Acland.
- *The Conflict Paradox: Seven Dilemmas at the Core of Disputes* (2015) by Bernard S. Mayer.
- "The Future of Healing: Shifting from Trauma Informed Care to Healing Centered Engagement" (2018) by Shawn Ginwright.
- *The Inner Work of Racial Justice: Healing Ourselves and Transforming Our Communities Through Mindfulness* (2019) by Rhonda V. Magee.
- *The Mindful Guide to Conflict Resolution: How to Thoughtfully Handle Difficult Situations, Conversations, and Personalities* (2019) by Rosalie Puiman.
- *The Politics of Trauma: Somatics, Healing, and Social Justice* (2019) by Staci K. Haines.
- *Trauma Stewardship: An Everyday Guide to Caring for Self While Caring for Others* (2007) by Laura van Dernoot Lipsky and Connie Burk.

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FREE SPEECH & PUBLIC SPACES

Videos, Discussion Guides, Curricular Assignments & Other Activity



by **Spoma Jovanovic**
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Democracy depends on public spaces and the expression of free speech in open-air debates, club meetings, town hall meetings, demonstrations and rallies. There, people's voices and bodies visibly engender power and purpose, often through innovative expressions of dissent aimed at challenging prevailing injustices and "promoting progressive change" (Shiffrin, 1999, p. xii). This dimension of communication—how the human spirit continues to invigorate democracy through free speech practices in public places—offers a view of the centrality of voice and activism which occupy renewed interest following the many positive steps taken recently by young people to relieve police-community tensions, address school gun violence, and take charge of climate change conversations (Jovanovic, 2019).

Upholding free speech facilitates civic engagement, promotes human dignity, and offers a path in the search for the truth (Fraleigh & Tuman, 2011). Yet, attempts to limit free speech are aplenty sometimes through the application of regulations and ordinances, other times by normative ideals, and still other times by government sanctions. The *Economist* magazine's Intelligence Unit annual survey of democracies around the world noted, "In the past decade, in fact, no scores in the Democracy Index have deteriorated more than those related to freedom of expression and the presence of free print and electronic media" (2018, p. 5). This is perhaps not surprising in light of world leaders who routinely mock the press and protestors, while asking constituents to believe information that is based neither in fact nor reason. Questions about the value of free speech arise as well when hate groups, including the Ku Klux Klan and Nazis claim the "right" to speak that is instead a ruse to demean and perpetrate horrific and even violent acts against minorities (Baer, 2019).

According to law professors Erwin Chemerinsky and Howard Gillman, the ethical and practical grounding principles for free speech are clear: "Freedom of speech is essential to freedom of thought; it is essential to democratic self-government; and the alternative—government censorship and control of ideas—has always led to disaster" (2017, p. 23). As they explain, freedom of thought emerges from understanding diverse points of view in order to develop an independent position that can resist naïve conformity (Chemerinsky & Gillman, 2017). Further, self-government depends on people's ability to deliberate with all the available information in order to make informed judgments for the good of the community (Makau & Marty, 2013). Finally, restrictions on free speech inevitably deny those most vulnerable or oppressed the opportunity to participate fully in democracy, leading too often to "authoritarianism, conformity, ignorance, and the status quo" (Chemerinsky & Gillman, 2017, p. 27).

At the same time, free speech's pursuit of truth and autonomy requires more than what Chemerinsky and Gillman suggest. Democracy's commitment to freedom, including speech, must necessarily be balanced with democracy's commitment to equality in order for democracy to realize its full potential (Allen, 2014). Absent upholding equality, the abuse of power is likely to limit the very robust discussion intended by free speech that makes language a tool for political empowerment.

The most notable beneficiaries and victims of free speech have been people and groups historically prevented from holding power in society. Women, African Americans, the economically disadvantaged, and the LGBTQ community, among others have used their free speech rights in public platforms to influence public opinion and following that, to change public policy. People in those same groups have also been subject to vile, disparaging remarks and unfair conditions at the hands of those able to compromise their human dignity. Speaking out in defense of truth and equality requires ample degrees of grit and mettle in a world where minorities are often the unjustified targets of retaliatory measures and violence. Still, we hope that "free speech makes it possible for ideas other than our own to gain a hearing" (Arnett, 1990, p. 215) so that we may distinguish fact from falsehood and reason from nonsense.

Democratic life faces unprecedented challenges both locally and in the international arena. We accept that platforms for free speech remain a critical space from which to advance our collective understanding toward mapping a society reflective of the will of the people. Paul Chevigny writes in *More Speech* (1998) that both dialogue and dissent are not dichotomous forces in that effort, but rather intertwined processes necessary to understand, empathize, and appreciate others:

Because meanings are indeterminate, except in the context in which we understand them—and perhaps even there—we find our bearings in the world of interpretation through a dialogue that is essential to understanding (p. xiii).

Thus, to address the plethora of social problems we encounter and make decisions with people who assuredly hold different perspectives than our own, we need to hear and consider competing views and to vet them with the best evidence and knowledge available. This approach allows us to entertain new possibilities, refute dishonest or damaging information, intervene with the political forces that shape our lives, and deepen or change our convictions. Free speech is accordingly a pathway to democracy.

Democracy's Challenges

A cursory look at the history of democracy, however, reveals that it has rarely, if ever lived up to its ideal of rule by the people. Though Athens, Greece in 508 BC is often cited as the original site of democratic self-determination, we know that women, slaves, and non-property owners were excluded from democracy's promise by denying them equality. Fast forward to 1776 and the founding of the United States, and we see the pattern repeats with a Declaration of Independence written to establish a democracy espousing but ultimately betraying its defense of equality and freedom for all. In the 21st century, injustices persist spurred by, among other factors, deepening economic fissures now engrained in laws that give corporations "people status" and elevate property rights above human rights. According to The Next System Project (2019) which used a series of economic indicators to consider the health and vibrancy of democracies around the world, the U.S. is faring poorly. The report says that since 1970, "on many very important indicators of economic, social, and

democratic health there has been little improvement and, in many cases, substantial deterioration over this period” (2019, p. 3). The result is profound according to documentary filmmaker and author, Astra Taylor who adds:

The inequalities that plague us today are not an aberration nor the result of whichever party happens to be in power, but a plausible result of the political system’s very design, which in crucial ways was devised by a restricted and privileged class of men (2019, p. 7).

Indeed, people are unhappy and distrustful of government. According to a 34-nation Pew Research Center survey, 64% of people worldwide believe elected officials do not care what people like them think (Wike and Schumacher 2020). At the same time, support for defending free speech is on the rise, perhaps as an antidote to a general dissatisfaction with democracy and concerns over the rise of misinformation both on the internet and within mainstream media sources (Wike and Schumacher, 2020).

Because of systemic failures of our economic-political systems over a sustained period of time, people are asserting their voices in myriad ways to showcase how free speech as ethical expression is vital to confront explicit and implicit suppression of ideas. Democracies flourish when people are afforded equal opportunities to educate, engage, and activate resources deemed critical for the public good. Robust participation and free speech, as guaranteed in the United States by the First Amendment, and sitting alongside an allegiance to equality, is what propels people to hear and consider others’ views and concerns (Mathews, 2014).

The guarantee, however, is never truly a guarantee unless people speak up and hold officials accountable for ensuring it priority status. That is, absent the vigorous demand to uphold free speech, it is all too easy for government entities to limit its use.

Global and Local Activists Stand Up and Speak Out

In London’s Hyde Park, people from all walks of life have been talking, shouting, pontificating, rebutting, and questioning one another since 1866. At Speakers Corner, people showcase how their voices communicate the passion of their convictions amid differences, all the while recognizing that interruptions and disruptions in



Photo by Spoma Jovanovic, 2019

the public sphere are a common staple of democracy. Importantly, Speakers Corner in London, as well as in locales around the world, is home to anyone who wants to speak, even those who have been excluded from formal political processes and those whose ideas may not be widely shared. Whatever the messages at Speakers Corner, being exposed to competing views, and struggling together, has value. In this venue, people have the opportunity to learn from one another and to hone their arguments in favor of, or in opposition to another's position. Speakers Corner, and like places, promote open discussion and debate among communities of ordinary people.



Photos by Spoma Jovanovic, 2019

In Greensboro, North Carolina, community members have gathered to demand independent police review for over 40 years, most recently staging noontime protests on Mondays in front of city hall each week.



Photos by Spoma Jovanovic, 2020

Greensboro, NC occupies a special place in history giving rise to the nationwide Sit-In Movement launched in 1960 to desegregate lunch counters. The Civil Rights and Black Power movements continued to activate direct, collective action in the city (Jovanovic, 2012).

Still, tensions remain heightened around race and policing following the Dudley High School Revolt in 1969¹⁹⁸, the Greensboro Massacre in 1979¹⁹⁹, and police race-related killings ever since, most notably in 2018 when Marcus Deon Smith was restrained by officers in a position commonly called hog-tying. Though Smith was not under arrest, he died in police custody in what the State's Medical Examiner ruled a homicide. The city's refusal to admit its culpability prompted citywide cries again for police reform.

In U.S. cities from Minneapolis, Atlanta, and Houston to Los Angeles, Denver, Washington, DC, New York, and in between, protestors share concern that too little has been done to recognize that Black Lives Matter, that the economy is failing, and that schools remain under threat from gun violence. Common to all these contested expressions of free speech is a call for democracy, not just in name, but in policy and action.

Today, in the 21st century, civil and human rights continue to advance yet threats to those hard-won rights, remain. An elite few—generally very wealthy people and multinational corporations—continue to hold and wield an unhealthy amount of power, often against the interests of the majority. By pouring millions of dollars into the political processes, a handful of America's upper crust have enshrined neoliberal ideals into government, education, and business circles to promote the free market economy in the extreme (Mayer, 2016). At the heart of neoliberalism is an unfettered belief that the market can, should, and will provide the route to prosperity and thus there is no need for government involvement or interference in private decision making (Chomsky, 1999). This view and strategy dismiss the collective wisdom of the people and its representatives in favor of handing over labor, trade, and finance decisions to those seeking profit above all else, even if that means we have to sacrifice the quality of our lives. Corporations amass staggering profits while they cut jobs and keep wages stagnant. To secure their influence, there are calculated and strategic efforts to infuse dark money into campaign coffers. The investment pays escalating dividends as elected leaders, beholden to those private interests, enact policies and practices that override popular attempts to correct injustices in immigrant rights, marriage equality, food insecurity, racial equality, and climate change, to name but a few areas where protest and organizing action occurs.

That is, by manipulating the institutional levers of control, a relative few have usurped the foundational features of democracy for their own interests. International report cards reveal that the United States occupies a poor position among the list of developed countries in the indicators for a fair and just society. The US childhood poverty rate, for instance, is nearly the highest of all economically advanced countries (Adamson, 2012); incarceration rates (Walmsley, 2016) and death by gun homicide (Quealy & Sanger-Katz, 2016) are

¹⁹⁸ School administrators disallowed student activist Claude Barnes from becoming student body president after his write-in victory. A walkout and protest followed before police called in the National Guard for assistance. Violence ensued with the still unsolved fatal shooting of Willie Grimes (Chafe, 1980).

¹⁹⁹ On November 3rd, 1979, five protest marchers were shot and killed on a Saturday afternoon in a Black neighborhood of Greensboro by members of the Ku Klux Klan and American Nazi Party. No police were present but television crews captured the carnage on video. Despite this, none of the killers ever served time for their crimes (Jovanovic, 2012).

likewise among the highest. US residents have very poor health outcomes, including shorter life expectancies, higher rates of disease and injury, and among the highest obesity and diabetes rates compared to other wealthy nations, despite more spending on health care (Woolf & Aron, 2013). In the civic arena, US voter turnout is regularly among the lowest levels in developed democracies (DeSilver, 2016). The situation is untenable say people in countries around the world.

Yellow Vest Activism Sparks Worldwide Calls for Democracy

France's Yellow Vest movement, for instance, assembled the masses numbering nearly two million people in the six months after their November 17, 2018 Saturday protest launch for greater participatory democracy. The movement was described by historian Christian Delporte of the University of Versailles, as “neither right-wing nor left-wing” and one that did not follow from any organization and did not have any official spokesperson (Mazoue, 2019, para. 5). The high-profile movement sparked others around the world where people adorned the same garment for similar, but differing reasons, despite aggravated instances of police interference. In Taipei, Yellow Vests asked for tax justice, in Italy, citizens marched in opposition to anti-migrant laws, and in Latvia, Yellow Vests protested for higher living standards (Adamson, 2019; Henley, 2018). The Yellow Vests surfaced in the United States in Flint, Michigan where supporters adopted the symbolic dress in weekly protests over the fight for clean water (Hilliard, 2019).

The Yellow Vests, or *gilets jaunes*, surfaced the rumblings of discontent surrounding failed policies of neoliberalism and hyper capitalism, revealing they say, how democracy has deteriorated into a façade of its ideals. With increasing attention and benefits afforded to the elite, France's working class since the mid-1980s has been increasingly forced out of cities and into rural communities where public infrastructure lags (McAuley, 2018).

The movement initially erupted in response to France President Macron's proposed 23% fuel tax hike, along with other economic policies that disproportionately impacted the working class and displaced rural residents of the country. Protestors donned yellow safety vests that since 2008 have been required by the government to be kept in every car. In a bold, colorful sea of neon yellow, they chanted “humanity over money.”



Photo by Spoma Jovanovic, 2019

The Yellow Vests quickly adopted a broader agenda, calling for direct democracy, cost of living increases in wages, better retiree benefits, and lower taxes, especially on essential food. In sum, the movement reflected a comprehensive critique of the instability of capitalism that left people suffering, economically, politically, and socially.

French residents gathered and blocked street roundabouts in nonviolent civil disobedience. They used the traffic circles as an important public space for visibility and unity, and most of all, they claimed, for dialogue and companionship. The police disallowed future protests in the roundabouts, then later in other areas as well where the protests interfered with tourism and spending by consumers.

In response to the protests, Macron suspended for six months the tax increases slated to start in January 2019. He also launched a series of town hall meetings, called the Great National Debate, to encourage what he said should be more civil discourse. Macron understood and promised to lower taxes, stop the unpopular closure of rural schools and hospitals, and adjust pension benefits to inflation (Bouchoucha, 2019). At the same time, Macron defended his earlier decision to eliminate a wealth tax that he says was designed to stimulate production, not offered as a present for the rich as activists asserted.

The Way Forward: Democracy and Student Voices

We are living in a time of renewed activism, driven by a recognition of capitalism's limits, the consequences of the COVID-19 pandemic, the need to intervene in the violence perpetuated against Black lives, a rise in gun use and violence, the decline of economic parity, and mounting frustrations with governments that are detached from the interests of their citizens. Around the globe, people are speaking out to challenge the injustices of our nation and world. They see their responsibility to exercise free speech in order to protect the foundations of democracy, freedom, and liberty.

It requires courage, persistence, patience, and knowledge to stand up and speak out in the public sphere. For those activists and organizers who study, prepare, and present their ideals in public spaces, the work carries risks²⁰⁰. Yet, activists worldwide find that institutional redress measures—writing a letter to government officials and voting, for instance—do not always work to effect change, and thus they take to the streets and other public spaces in protest. In accord with political theorist Chantal Mouffe's thesis in the *Democratic Paradox* (2000), when people are not given authentic time and space to give expression to their treasured and democratic propensities, the only remaining options are state violence on the one hand, or rebellion and insurrection by the people on the other hand. To uphold nonviolence as the best alternative for expressions of dissent, we need to expand the possibilities of speech in public spaces.

Scholars can support efforts to embolden free expression, even in the face of growing surveillance and vague guidelines that serve as deterrents to free speech, in the academy and the communities in which we live. Educators ought to amplify the needs and benefits of free expression, provide students with the skills and talents to speak out, offer instruction on free speech issues and cases²⁰¹, detail the structural and other barriers

²⁰⁰ See videos of activists and discussion guides developed during this fellowship at <http://cst.uncg.edu/activism/>

²⁰¹ Curricular assignments on activism, free speech, and civic engagement were developed to accompany this research program.

to free speech, and research the many instances of people all over the world expressing dissent for the sake of battling injustices (Jovanovic, 2019).



Photos by Spoma Jovanovic, 2016

Dialogue and deliberation are vital, and so are action and dissent to ensure free speech remains robust amid democracy's tensions with other societal values. As Nancy Thomas says, "When deliberative means maintain an undemocratic status quo a more decisive, action-oriented approach is warranted" (2014, p. 3).

Fortunately, activism is on the rise in 2020 to challenge the injustices of our nation and world, principally by using the expression of our voices. There remains among activists and community organizers a deeply felt responsibility to exercise free speech in order to protect the foundations of democracy, freedom, liberty, and equality of opportunity. This is a hopeful trajectory toward speaking out rather than remaining silent that is spreading on high school campuses, at colleges and universities, in our communities, in political circles, and within our workplaces.

This research will be included in the forthcoming book *Contested: Free Speech and Civic Engagement in Public Spaces*, edited by Spoma Jovanovic and published by Lexington Press.

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My research project as a 2019-2020 Faculty Fellow with the University of California National Center for Free Speech and Civic Engagement was designed to introduce students, faculty, and community members to the centrality of voice and activism, lifting up the critical importance of both free speech and civic engagement. More specifically, in this project I considered the ways and means by which people expressed themselves in non-traditional modes of civic engagement as exemplified by people who participate in protests, community organizing, and community-based education. My research involved data collected in international trips to Europe as well as local interviews and events. Contained here is an overview of products created to complement a research report entitled, *Free Speech & Public Spaces: Voice, Activism, and Democracy*.

ACTIVIST VIDEOS

To advance the importance of the work of local community members, I worked with a team of undergraduate students and fellow faculty to **Interview and tell stories of ten activists** who have been at the front lines of protest and civil disobedience in Greensboro, North Carolina. We selected people who were younger, older, white, Black, and Latinx to illuminate the issues with which they are immersed to speak out, assemble in public spaces, organize tirelessly behind the scenes, and sometimes even engage in civil disobedience. We probed for how these champions have coped or adjusted to disappointments and still persevered, what they consider the value of free speech to be, how they define activism, and what they think we should do to best prepare youth for community and civic engagement.

Each activist was interviewed in the University of North Carolina at Greensboro's campus studio on videotape in sessions that lasted 30-45 minutes each. We retained full transcripts and video footage but chose to edit the interviews to 3-5 minutes each in length for maximum use in classroom and community instruction. Closed captioning was added and the videos were uploaded to YouTube.

The videos add to our understanding of the long history of struggle by people in the United States and around the world to assert their voices to advance democratic empowerment. The interviews are designed to be shared in order to recognize that individuals organize and assemble in collective action to resist or challenge prevailing norms, structures and institutions of unequal power. In that way, we draw attention to questions

surrounding why, when, and how the human spirit finds strength to speak out, and how justice is advanced through those actions.

The following individuals are those we interviewed:

NAME	TOPIC
Irving David Allen	Black and youth organizing
Kay Brown	Criminal justice reform
Cherizar Crippen	Bailout movement
Marcus Hyde	Homeless rights
Beth McKee-Huger	Housing justice
Maria Peralta Porras	Immigrant rights
Glenn Perkins	Local history stories
Lewis Pitts	Police accountability and civil rights
Liz Seymour	Food security
Casey Thomas	Neighborhood organizing

The videos are on YouTube and are available with discussion guides as well at <https://cst.uncg.edu/community-engagement/voice-and-activism/>. Plans are in place for a specially designed website to host the materials, designed and developed by the UNCG library staff.

CURRICULAR MATERIALS

To integrate activism and free speech instruction into classrooms, **I developed two distinct sets of instructional materials** during the fellowship year:

- **Ten discussion guides** to accompany each of the activist videos, written and formatted as one-page handouts to assist faculty in guiding conversation and provide students with additional readings and research. Though many faculty are not prepared to teach about activism, the range of videos and discussion guides should provide a starting point for them to use in general freshman courses, as well as in political science, sociology, communication studies, history, African American studies, Latinx studies, anthropology, criminal justice, human development, and social work courses, among others.
- **Six detailed curricular assignments** focusing broadly on civic engagement prepared as stand-alone activities. These focus on free speech boundaries, ethics and activism, participation in municipal politics, voting and elections, news talks, and social movements. The assignments were written to encourage questions in the context of developing knowledge, skills, values, and actions associated with free speech and civic engagement. The assignments include both student instructions and instructor information.

OTHER ACTIVITY

Book

By creating videos and curricular materials surrounding activism and free speech as originally intended, additional products emerged from the fellowship.

Most notably, I am editing a volume for Lexington Books entitled *Contested: Free Speech and Civic Engagement in Public Spaces* with publication planned for 2021. I am honored that the National Center for Free Speech and Civic Engagement Executive Director Michelle Deutchman is writing the foreword and fellow John Wilson is a contributing author. My chapter that flows from the work of the fellowship and summer 2019 travel to London, Amsterdam, and Pisa to observe Speakers' Corners is tentatively entitled "Conversations in Public Spaces: Echoes of Interruptions and Disruptions."

Free Speech Conference

Additionally, on October 24-25, 2019, I organized and hosted a Free Speech conference, with 25 speakers travelling from around the country to present, and approximately 800 attendees, including students, faculty, staff, community members, local activists, and journalists.

ETHICS AND ACTIVISM

Curricular Assignment



by *Spoma Jovanovic*
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Some people, maybe you, believe we need to reclaim our deeply held human values of equality, liberty, community, and respect that a democracy requires. Doing so often requires a call to action at the grassroots level, to work for our collective well-being and to end social inequalities where they persist. Government officials and processes are important to the functioning of our country, but the power of people working together is the root of democratic action and a fundamental right. Per the U.S. Constitution's First Amendment:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Throughout history, people have launched direct actions for change to ensure equality, justice, fairness, and inclusion. For instance, it took nearly 100 years of conversations, protests, and lobbying efforts, but finally women achieved the right to vote in 1920. Carpenters in Philadelphia back in 1791 first raised the issue of the need to limit the workday to 8 hours and by 1937, that goal was signed into law. The Civil Rights Movement in the 1950s and 60s brought sweeping changes for racial equality. High school and college students were at the forefront of integrating lunch counters and then other public spaces. In 1990, people with disabilities cheered when the American Disabilities Act was signed into law to prevent unnecessary discrimination.

Activists and organizers labor to raise attention about issues generally affecting people who on their own do not hold much power. Combining voices, however, creates greater impact over time. Activism can be a powerful, invigorating, creative experience. It is fairly common to see activists cheering, laughing, and celebrating. The work can also be frustrating without quick fixes. Activists commonly feel a sense of moral outrage when the changes they see necessary are slow in coming.

In this activity, you'll increase your *knowledge* by thinking about:

- What injustices persist in your community, state, country, and world?
- Who in your community is working to confront these injustices?

You'll have an opportunity to learn skills by considering:

- What writing and speaking strategies and skills do activists use?
- How is activism part of the tool kit of ethical civic engagement actions?

You can consider your own *values* and that of others by asking:

- What ethical values drive activists?
- What same or different values are important to you in responding to injustices?

Putting what you learn into *action* means asking:

- What kinds of messages and actions do activists rely upon to create change?
- What other forms of expression and action could they use?
- What are the pros and cons of each?

The Activity

Even if you have never signed a petition, you can learn a lot about activism, and yourself, by joining with others, and/or observing activists' work.

Part I: Attend a march or protest (or other direct action such as a letter-writing drive, canvassing event, or political campaign). The key for you is to be in the presence of activists to learn what is happening, what the activists know that you do not, and reflect on the meaning and impact and activist actions. Ask questions, even if that may feel uncomfortable at first. Keep in mind, activists will be eager to talk with you. Plan on spending at least one hour at your event and be prepared to spend more time, depending on the action. If there are speakers, stay and listen to them. Look carefully at what else is happening around you.

Part II: Write a 750-1000-word analysis by first spending some time thinking about how the action you attended connects to your course readings, classroom discussions, and your own values. Remember, you will have met people who are passionate about correcting injustices, people who have grit and determination. Consider what values drive them in their struggle for justice and how they respond to setbacks.

Tips for organizing your paper:

1. Use the introduction to feature a short story, observation, or personal reflection that highlights the main thing you learned about ethics and activism.
2. Provide details of the event/action. You may want to talk about the location and why it may have been chosen for this action. As you consider the many messages you saw (on signs and from talk), see if you can distill them into a theme or two. Who was at this direct action? Young people? Old? Both? Races? Genders? If you went with a classmate, do you think that had an impact on how you acted and what you saw? How so or not?
3. Tell us about what you learned in your conversation(s) with activists. How did their values push you to think about your own? What was inspiring or disappointing to you and why?
4. How was the protest you attended (or other direct action) part of a larger set of actions? Sum up how you see ethics and activism operating best together.
5. Include two or more meaningful references to course readings.
6. Include a photograph of you at the event.

For Instructors:

Rationale

Attending a march or protest is a fundamental democratic right “of the people” per the First Amendment to the constitution. Here, students will witness and/or participate with others who engage in activism to learn what motivates them to pursue justice.

Objectives:

1. Learn what ethics and values drive people to become activists.
2. Identify what injustices exist within the community, how people are responding, and what organizations are involved in creating change.
3. Determine the skills and messages activists rely on to advance their cause.
4. Introduce activism as a civic engagement strategy.
5. For students to reflect on their values and commitments to addressing injustice.

Preparing Students for This Activity:

1. By way of introduction, you may find it useful to show videos of recent protests and marches in their communities or around the world (see CNN Reports video).
2. Students may need help locating protests and other direct actions in the community. You can provide a list of opportunities or create an additional assignment for students to research what events are planned, and then post to an online document for sharing with the entire class.
3. To help prepare students to observe and write for this assignment, you may want to spend 30-45 minutes practicing field note taking. Simple ways to do this include showing a video (maybe of a past protest) and asking students to record facts and impressions then write a summary paragraph/story to share in class.

Discussion Questions

In advance of the assignment:

1. Ask students to provide a one or two-word response to “Activism” and post those on the board. Probe for what ethical values students see underlying the words they shared (ex: tree hugger→commitment; troublemaker→lack of respect for authority; protester→impulsive; change maker→justice).
2. What are historical examples of direct action used to advance social change?
3. What hopes, concerns, and questions do you have about observing or participating?
4. What role do you think you will take—observer or participant—and why?
5. What is your current view of protestors, marchers, and activists? Do their actions work, in your mind, or are their tactics outdated?

Following the completion of the assignment:

1. What was it like to attend a direct-action event? Was this the students’ first time? If so, did the experience match their expectations? If this was not the first time, how did this event compare to others they have attended?
2. What ethics/values were evident in chants and conversations? Equality, justice, fairness, and inclusion are common themes historically at the center of direct-action events. Did students see people come together for these reasons? How could they tell? What does that say about the current state of our world?
3. How do the students’ experiences with protests and other actions connect to other historical events to address the same or similar concern?
4. What were the people like who were involved with the direct action? Were they angry, hopeful, happy, sad? What might contribute to those feelings?
5. What other actions could we, as a society, implement to create the change requested by the direct action the students witnessed?

Time Required

To Set up the Assignment:

- 30 minutes to explain assignment, connect historical context, and questions.
- OPTIONAL: 30-45 minutes to practice ethnographic observation and writing.

After the Assignment and Paper are Completed:

- 45 minutes for follow-up discussion and sharing of students’ experiences.

Class Size

This assignment can be adapted to any class size. Discussion with the whole is best with class sizes of 30 or less. Larger classes would benefit from discussions organized into small groups after instructions and viewing of videos are offered.

Alternative Assignment

Choose one of the protests featured in CNN's 2019: A year of major protests and ask students to find 3 additional sources, including a combination of video and credible articles, as research, and complete the writing assignment.

Suggested Readings/Videos:

- CNN Report (2019). 2019: A year of major protests. Available at <https://www.youtube.com/watch?v=oHJ5MLPhWBs> (6.59).
- Drew, C. (2020). 5 principles of “thick description.” Available at <https://helpfulprofessor.com/thick-description/>
- Hessel, S. & Morin, E. (2019). The path to hope. A. Shugaar, Trans. New York: The Other Press.
- Jovanovic, S. (2019). Communication, dialogue, and student activism. In J. L. DeVitis & Pietro A. Sasso (Eds.), Student activism in the academy: Its struggles and promise. Gorham, ME: Myers Education Press.
- Jovanovic, S. (2014). The ethics of teaching communication activism. In L. R. Frey & D. L. Palmer (Eds.), Teaching communication activism: Communication education for social justice (pp. 105-138). New York, NY: Hampton Press.

WHAT FREE SPEECH BOUNDARIES DO WE WANT?

Curricular Assignment



by **Spoma Jovanovic**
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When people talk about free speech or freedom of expression, does that mean we can or should say anything we want? Like most important values, the answer is not simple. Free speech as a First Amendment right means that we cannot be punished by the government for what we say (though it's important to know that there are some time and place restrictions). Our democracy in theory protects us from those who would not want us to talk about unpopular ideas or criticize the government. This protection is not one held as a universal value in other parts of the world.

Democracy depends on public spaces and the expression of free speech in open-air debates, club meetings, town halls, demonstrations, and rallies where people voice their hopes, dreams, or dissent toward customs, institutions, and authorities. In doing so, free speech may confront competing values surrounding morality, diversity, public safety, and notions of a just society. Yet, for all the struggles that define and emerge from free speech, we continue to protect its prominence as a cherished American freedom.

Some argue that since the First Amendment encourages us to seek truth and liberty without fear of punishment or government restrictions, we must tolerate hate speech and racist discourse. Others argue that our speech should be self-monitored to uphold respect and dignity for all people. In response to the practical difficulty of distinguishing the boundaries of hate speech, our U.S. Supreme Court has ruled repeatedly, that such restrictions would suppress the public debate that democracy requires.

We know that tolerating hate speech, speech that intentionally demeans the value of other human beings, not only hurts the individuals to whom the speech is targeted, but also undermines a foundational equality principle as stated in the Declaration of Independence, namely that all people (not only men) are created equal.

We are living in a time where people are speaking up, as demonstrated in our cities and around the world recently by young people taking charge of conversations for police accountability, climate justice, immigration reform, and the elimination of school gun violence, to name just a few of the topics around which they have galvanized wide support.

To stand up and speak out in the public sphere requires courage and persistence in the face of inevitable resistance, dismissiveness, rudeness, and sometimes even threatening responses. Thus, all of us, students, teachers, community members, elected leaders, and judges, need to ask what are the tasks we need to

undertake as part of our evolving standards of creating an ethical, just world? How do our cherished ideals of free speech, equality for all, and democracy best operate together? It is clear from our community actions that we are never far from debates and disputes over the scope and meaning of how speech can and should be used in public spaces.

On college campuses, for example, when, if ever should speakers be disinvited or prevented from being on campus? Or, under what conditions, if any, should we insist on safe spaces and/or trigger warnings to protect students? How should we respond to hate speech on campuses? Why has taking a knee during the national anthem elicited both support and outrage?

In our communities, people like you have considered if stepping on the American Flag as a teaching moment is prudent, even if it is a protected right. They have also discussed panhandling, and asked is begging for money protected free speech? Is it different from unsolicited requests for donations? How and why?

In this activity, you'll increase your *knowledge* by thinking about:

- What is permissible according to the First Amendment and what are its limits?
- What different speech responses are best surrounding a public issue and why?

You can consider your *values* and that of others by asking:

- How do you balance the legal protections afforded to free speech with a consideration of other legal protections and ethical obligations?
- Who benefits most and who bears the burdens most from free speech?

Putting what you learn into *action* means asking:

- How and where can you speak out on an issue?
- What actions can you take to demonstrate you tolerate or appreciate how others speak out on issues with which you may or may not agree?

The Activity

Read about a free speech issue of concern. Then, write up to 750 words in a statement that identifies the free speech concern, how the first amendment is related, what ethics and communication might suggest, and your views about the demands and limits of free speech. The goal of your writing is to educate others and assert your position with regard to ethics and the boundaries of free speech.

Tips for organizing your paper:

1. Use the introduction to detail the free speech concern. Provide enough details so the reader understands the background and current state of affairs.
2. Discuss how specifically the first amendment is related to this case.
3. Detail what ethical perspectives/theories and issues need to be considered and why.
4. Conclude with a discussion of how ethics and First Amendment legal protections should be weighed in this case to assert your view.

For Instructors:

Rationale

Many students will be unfamiliar with the boundaries of free speech. As a nation, we are not in agreement about those boundaries or even if the First Amendment (free speech) or the Fourteenth Amendment (equal protection) should take precedence. For a discussion of the latter, see <https://www.forbes.com/sites/daviddavenport/2017/10/18/the-culture-wars-latest-battlefront-the-1st-versus-the-14th-amendments/#7847435f683f>. Thus, this activity encourages students to learn about current and historical instances of free speech and employ critical thinking skills to better understand how and why speech is protected.

Objectives

1. Learn about free speech cases and outcomes.
2. Evaluate the usefulness of the first amendment in consideration of other legal protections and ethical obligations of living in a free society.
3. Determine who benefits and who bears the burdens of free speech.
4. For students to reflect on what they consider to be issues worthy of free speech activity and protection.

Preparing Students for the Activity

Students will benefit by discussing in advance of this activity that the human spirit invigorates democracy through the myriad voices and in so doing, builds the political and cultural commitments necessary for us to sustain our communities, even as we grapple with the meaning and impact of our differing views and values.

Discussion Questions

In a debrief with the class once the assignment is completed, the instructor may ask:

- What emerged as your biggest concerns about freedom of speech?
- How would you like to see responses to offensive speech handled?
- What policies or rules guide free speech and expression on our campus?
- How do you feel about campus free speech legislation? See <http://www.icnl.org/usprotestlawtracker/> for where legislation exists or is being introduced.
- How do you balance the need for uncensored expression with the responsibility for its impact?
- How do norms of civility make freedom of expression possible and also limit expression?
- What should a community (or university) do to protect people from hate speech and also protect the free expression of ideas?
- On what issues would you be willing to stand up and speak out?

Time Required

To Set up the Assignment:

- 20 minutes to explain assignment, introduce readings, and field questions.
- 30-45 minutes for follow-up discussion.

Class Size

This activity can be adapted for any size class, in face-to-face or online instruction.

Alternative or Additional Assignment

Have students read their papers in small groups to prompt further discussion. A discussion worksheet is available to help students carefully listen and evaluate positions.

Suggested Readings

- Anderson, Greta (2020, May 5). Contradictions on free speech. <https://www.insidehighered.com/news/2020/05/05/gallupknight-foundation-survey-shows-students-conflicted-about-free-speech>
- Chemerinsky, E & Gillam, G. (2017). *Free Speech on Campus*. New Haven, CT: Yale University.
- Downes, S. (2016, September 10). Trigger warnings, safe spaces, and free speech, too. <https://www.nytimes.com/2016/09/11/opinion/trigger-warnings-safe-spaces-and-free-speech-too.html>
- Milo Yiannopoulos countering political correctness <https://www.cnn.com/2017/02/02/us/milo-yiannopoulos-ivory-tower/>
- Rose, F. (2017, March 30). Safe spaces on campuses are creating intolerant students. *Huffington Post*. <https://www.cnn.com/2016/09/21/health/teacher-flag-lesson-trnd/index.html>)
- Dewberry, D. R., Burnette, A., Fox, R. & Arneson, P. (2018). Teaching free speech across the communication studies curriculum. *First Amendment Studies*, 52 (1-2), 80-95.
- <https://www.insidehighered.com/advice/2018/09/21/colleges-and-politicians-promote-free-speech-some-insist-civility-others-opinion>
- <https://www.aaup.org/article/balancing-classroom-civility-and-free-speech#.XNg-WWS6Px4>
- <https://www.thenation.com/article/freedom-of-speech-v-civility/>

Discussion Worksheet

As you listen to others read their statements on free speech, use this worksheet to listen carefully so that you can respond with specific comments.

	Writer #1	Writer #2	Writer #3	Writer #4
What about the issue was not represented as fairly or completely as you would have liked?				
What questions do you have that the writer did not address sufficiently for you?				
What specific ethical values were used or implied by the writer to justify the reasoning offered?				
What other ethical values or theories do you think apply here?				
On what basis should this issue receive 1 st amendment protection, or not?				

HISTORY LESSONS: SOCIAL MOVEMENTS

Curricular Assignment



by **Spoma Jovanovic**
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Social movements, large scale efforts by everyday people to invoke changes in behaviors, norms, and laws are central to democratic life. An historical look at social movements reveals that their successes are dependent upon moral suasion that is expressed in the communication and coordinated action by collectives to resist or correct injustices harming the public good. Unfortunately, traditional textbooks often leave out or minimize the impact of these movements. Just a few examples in history that have influenced how we live today include:

- Women's Suffrage, US, 1848-1920
- Salt March, India, 1930
- Civil Rights, US, 1955-1968
- United Farmworkers, US 1962-1972
- Vietnam Draft Resistance, US, 1965-1972
- Americans with Disabilities, US, 1973-1990
- Three Mile Island Anti-Nuclear, US, 1979-1985
- Tiananmen Square, China, 1989
- Apartheid Divestiture, South Africa, 1990
- MeToo Movement, US, 2006
- Occupy Wall Street, US, 2011
- Arab Spring, Egypt, 2011
- Black Lives Matter, US, 2013
- Umbrella Revolution, Hong Kong, 2014
- Brexit, United Kingdom, 2016-2020
- Women's March, US, 2017
- Yellow Vests, France, 2018
- Hong Kong Protests, China, 2019

What an important impact these social movements have had in leading towards justice. For example, we wouldn't have environmental protections or LGBTQ rights without them. We wouldn't have regular workdays limited to 8 hours a day or child labor protection laws. By studying these movements, you will learn how people like you have spoken and acted in concert with their ethics in collective action. The more you learn the history of these movements, the more it will become clear how current day movements are relevant to you.

Social movements use many approaches to amplify their messages with campaigns that may include one or more of the following: petitions, posters, bumper stickers, living room meetings, film showings, street painting, leaflets and brochures, mass meetings, rallies, protests, social media blasts, staged newsworthy events, strikes, speeches, and civil disobedience to name a few (Bowers, Ochs, Jensen & Schulz, 2010)²⁰².

In this activity, you'll increase your *knowledge* by thinking about:

- How can we change our communities to make them more just?
- Who has sacrificed for justice?

You'll have the opportunity to learn new *skills* by considering:

- What writing and speaking strategies and skills do social movements use?

You can consider your *values* and that of others by asking:

- How are the values of people involved in social movements reflected in the ways the movement communicates in flyers, posters, manifestos, social media, and/or brochures?

Putting what you learn into *action* means asking:

- What new and creative ways to communicate can you consider using today that may not have been available to past social movements?
- What advantages and disadvantages do new communication forms have over traditional modes of outreach?

The Assignment

Part I: Research a social movement of your choice. Provide some detail of the movement's messages or rhetoric, the people driving the action (who were they as a group), the counter forces that made the work challenging, and the outcomes. This section should be 400-500 words.

Part II: Provide an analysis of the social movement that considers how the communication advanced an ethical stance. Be sure to consider the written and oral messages of the movement and its goals. You might critically examine the mission of the movement, for instance, or recruiting materials. Use the class readings to help you in the analysis (making meaningful connections between your research and the readings). This section will likely be 300-500 words.

²⁰² Bowers, J. W., Ochs, D. J., Jensen, R. J., Schulz, D. P. (2010). *The rhetoric of agitation and control*, 3rd ed. Long Grove, IL: Waveland Press.

Part III: Conclude with some creative suggestions of your own for how to improve the movement if you were to launch it today (recognizing that conditions are somewhat different, yet maybe similar). By focusing on communication, you might consider the movement's main message, vision, objectives, and actions. You could think of alternative messages and create a poster or public service announcement if you like. This section should be at least 150 words.

For Instructors:

Rationale

Ensuring the health and vibrancy of our democracy requires an entire community's effort to be sure, but there are many small and large projects contributing to this goal that are most often started by just a few. With only a handful of people who are persistent and clear in their vision, rests the opportunity for more people to be included in determining their collective fate. The elected establishment may not (always) agree with the creative and courageous actions inspired by "people power." The elected leaders and established community members (a.k.a. influential business owners, wealthy philanthropists, real estate developers) may even resist the intrusion. Among others, acclaimed writers and activists including James Baldwin, Henry Giroux, MLK, Jr., Noam Chomsky, Howard Zinn, and Fannie Lou Hamer all famously spoke out, organized others, and participated in social movements through their speeches, actions, and writings.

As professors, we have the opportunity and responsibility to reframe the discussion away from a "rhetoric of blame" that is ubiquitous in public spaces, and towards positive dialogue and deliberation, informed by historical precedents for positive, collective action for social change.

Objectives

1. Learn about the processes and impact of social movements.
2. Analyze writing and speaking strategies used to promote social change.
3. Critically examine social movement messages to consider their basis in ethics and justice.
4. Imagine new, creative ways to communicate to audiences about the need for social change.

Preparing Students for This Activity

1. You may want to show a video clip of recent action surrounding Black Lives Matter or the #MeToo movement to demonstrate how collective action emerges and develops into social movements.
2. A number of blockbuster films tell the stories of social movements that may inspire students, including: Norma Rae, Milk, Selma, Gandhi. Other documentaries that are lesser known yet detail how people organized for action include: Cesar Chavez: History is Made One Step at a Time (2014, 102 minutes); Crip Camp: A Disability Revolution (2020, 108 minutes); Greensboro, Closer to the Truth (2007, 60 minutes); or Bringing Down a Dictator (2002, 56 minutes).

Discussion Questions

In advance of the assignment:

1. Where does power come from in our society? What forms exist within formal offices of government on the one hand, and people on the other hand, and how is that expressed (how do students see it)?
2. If you will show a movie or film clip, consider asking students to note the different methods employed to advance social change. Do they consider some productive and ethical? Why? Are other approaches less attractive? Why?

Following the completion of the assignment:

1. What lessons can we glean from past social movements in addressing contemporary concerns?

Time Required:

To set up the assignment:

- 30 minutes to 2 hours, depending on how much time is spent viewing films.

After the assignment is completed:

- 30 minutes for follow-up discussion.

Class Size

This activity can be adapted to any class size.

Alternative Assignment

Ask students to research a social movement and then edit a Wikipedia page to add details and depth to what might be provided there already.

Suggested Readings

- Bowers, J. W., Ochs, D. J., Jensen, R. J., Schulz, D. P. (2010). *The rhetoric of agitation and control*, 3rd ed. Long Grove, IL: Waveland Press.
- Brooks, M. P. & Houck, D. W. (2011). *The speeches of Fannie Lou Hamer: To tell it like it is*. Jackson, MS: University Press of Mississippi.
- Jovanovic, S. (2012). *Democracy, dialogue and community action: Truth and reconciliation in Greensboro*. Fayetteville, AR: University of Arkansas Press.
- Zinn, H. (2003). *A people's history of the United States*. New York: HarperCollins Publishers.

NEWS TALKS

Curricular Assignment



by *Spoma Jovanovic*
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Following the news gives us information, ideas, and inspiration. From learning what is happening, to why events unfolded as they did, you might wonder how are people responding and how did a certain story evolve over time? Reading the newspaper provides insight into questions of local politics, state happenings, national news, and global affairs.

The newspaper and other news sources provide a basis from which to learn what your elected officials are doing, how people respond to those actions, and how recent events impact us, the more than 330 million people living in the United States together. Understandably, researchers are worried, then, about declining newspaper readership, reasoning that:

In the absence of a local news organization, social media and internet sites often have become the default media for reading, viewing and sharing news—as well as rumor and gossip—exacerbating political, social and economic divisions in a polarized nation (Abernathy, 2020, p. 10).

Though newspaper circulation and readership are admittedly on the decline, newspapers remain a vital resource for local stories, providing residents with more crucial information than other news outlets.

A Duke [University] study of 100 mid-sized communities in 2016 found that newspapers accounted for 60 percent of stories produced in a typical week that addressed a critical information need. By comparison, only 15 percent of the stories produced by other outlets – television, radio, and online news sites – were both locally produced and met a critical information need. (Abernathy, 2020, p. 93)

When you have information about your community and its concerns, you have a foundation for conversation or news talks, which in turns provides a gateway to thinking about and taking action both alone and with others. Reading the newspaper increases your civic knowledge, enhances your ability to talk clearly about issues of the day, and deepens your understanding of how people evaluate the complexity, importance, and value of events, sometimes differently, in accordance with different ethical values.

In sum, local news remains a vital link to freedom of expression and civic engagement:

The coronavirus pandemic has reminded us, yet again, of the vital importance of local news. Interest in and appreciation for local news has surged in recent months, as residents in cities and rural communities have searched for accurate, reliable and comprehensive information about what is occurring in their own neighborhood. Yet, at this very moment, local news organizations, large and small, for-profit and nonprofit, are confronting a dire economic threat to their existence. Even in their drastically diminished state, surviving local newspapers still remain a vital source of local news and information. A recent study found that local newspapers produce more than half of all original local stories that address a critical information need – such as education, the environment and the health

and safety of our community. This suggests the importance of public policy and philanthropic efforts that support the viability of strong local newspapers, as well as digital-only news outlets, ethnic media and public broadcasting. In order to replenish and revive the local news ecosystem, and address the information needs of underserved communities, there needs to be both a significant increase in funding and a recommitment to journalism's civic mission. (Abernathy, 2020, p. 53)

With this activity, you'll increase your *knowledge* by considering:

1. What values undergird and influence news and opinion pieces?
2. How do newspapers and news outlets best serve our communities?

You'll have the opportunity to learn *skills* by considering:

1. What ways, orally and in writing, can you respond to a story over time?
2. How to shape a message that meets the requirements for writing a letter to the editor?

You can consider your own values and that of others by asking:

1. Whose perspectives are highlighted in a story and why?
2. What other views could be considered to better understand the whole story?
3. What would you say about this news issue in line with your values?

Putting what you learn into *action* means asking:

1. What groups or people could you work with to advance a community initiative featured in the news?
2. Who could you talk to about the news to deepen your understanding and theirs?

The Activity

1. Read the newspaper during the course term and select articles to discuss in class (the number of required articles will be determined by your instructor).
2. Prepare a short 2-3 page paper for each article that includes an introduction, review of the article and issue, brief but significant application of two course readings to the article or issue, and your take-away, position, or lingering questions as a conclusion. The paper(s) will be the basis of small group discussions in class.
3. Write one letter to the editor in response to a newspaper article. Be sure to adhere to the requirements as set forth by your local newspaper for submission.

Reflection Instructions

1. Discuss your newspaper article with others in a small group of up to 5 people.
2. As you present your newspaper issue, be sure to inform others sufficiently about the issue, and demonstrate how communication ethics is expressed in everyday news events.
3. Where else could you look for information or who else could you talk to, to expand what you learned in the newspaper?

For Instructors

Rationale

Newspapers provide information, depth, and resources for people to effectively participate in political processes, particularly at the local level (Schuefele et al. 2002)²⁰³. Newspaper readers benefit in multiple ways: they feel a greater connection with their community (McLeod, et al., 1999)²⁰⁴, they increase their formal associations (Rothenbuhler et al., 1996)²⁰⁵, and they volunteer more often (Putnam, 2001)²⁰⁶. Despite the myriad benefits, newspaper readership is on the decline and with it, important civic consequences.

Objectives

1. Articulate how reporting serves communities by providing information, connecting people, and acting as a watchdog to government action.
2. Practice both talking about and writing about news concerns, highlighting ethical issues and values.
3. Compose a letter to the editor.
4. Critically examine reporting styles to determine whose perspectives are featured and what other views could and should be considered.
5. Determine what local groups have a stake in the issue(s) featured in the news.

Materials Required

Students will need access to a daily newspaper. Consider that many daily papers limit online content.

Discussion Questions

Most often, questions will emerge from the students' discussions with one another in small groups to amplify key issues and/or connect to other issues previously discussed in class. General discussion questions might also include:

1. What was it about that issue that captured your attention and interest?
2. What organizations in the community do you think support (or critique) the issue?
3. How have these concerns, programs, or issues been addressed in other communities or in other times, historically?
4. What policies and practices stand in the way of moving toward better solutions?
5. Who benefits most from and who pays the most costs of the issue you're discussing, and how so?
6. What information or perspective was not considered fully in reporting?

²⁰³ Scheufele, D. A., Shanahan, J. and Kim, S-H. (2002). Who cares about local politics? Media influences on local political involvement, issue awareness, and attitude strength. *Journalism and Mass Communication Quarterly*, 79 (2), 427-444.

²⁰⁴ McLeod, J. M., Scheufele D. A. and Moy, P. (1999). Community, communication, and participation: The role of mass media and interpersonal discussion of local political participation. *Political Communication*, 16 (3), 315-336.

²⁰⁵ Rothenbuhler, E.W., Mullen, L. J., DeLaurell, R., and Ryu, C. R. (1996). Communication, community attachment, and involvement. *Journalism and Mass Communication Quarterly*, 73 (2), 445-466.

²⁰⁶ Putnam, R. (2000). *Bowling alone: The collapse and revival of American community*. New York: Simon & Schuster.

Duration

Each small group discussion will require approximately 25 minutes, with students first using 3 minutes each to present their newspaper article then leaving 10 minutes for questions and discussion.

Class Size

This activity can be adapted for small, large, and online instruction.

Special Considerations/Alternatives

- This assignment can be modified as an opportunity to for each student to present their article to the entire class (to promote public speaking) with an optional full sentence outline prepared by the student.
- To encourage regular reading, instructors can suggest students create a mini portfolio of 6 articles/news issues spaced out throughout the term, possible according to distinct topical areas such as: culture and the arts; government decision making; schools and education; public safety; immigration and diversity; gender/sexuality; finance and economics.
- This assignment can be modified as a one-day class session where students bring in a newspaper, select the article, prepare an outline, and discuss in small groups.

Suggested Readings

- The local, daily newspaper.
- Local, weekly newspapers.
- Abernathy, P. M. (2020). News deserts and ghost newspapers: Will local news survive? Available at <https://www.usnewsdeserts.com/reports/news-deserts-and-ghost-newspapers-will-local-news-survive/>
- Jovanovic, S., DeGooyer, D., and Reno, D. (2011). News talks: Critical service-learning for social change. *Proteus: A Journal of Ideas*, 27 (1), 7-21.
- Knight Foundation & Gallup (2019). Putting a price tag on local news. Available at: <https://knightfoundation.org/wp-content/uploads/2019/11/Putting-a-Price-Tag-on-Local-News-final-updated.pdf>

PARTICIPATING IN MUNICIPAL POLITICS

Curricular Assignment



by **Spoma Jovanovic**
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To see democracy in action, you do not have to look far. Everything from parking rules to water quality and park amenities emerges from local decision making. But, if you don't know how to best interact with the mayor or other government officials, you may be like a lot of other people who simply throw their hands up and say, there's nothing we can do. Well, our democracy is not called "rule by the leaders," is it? Our democracy is literally, "rule by the people." To fulfill our obligations as citizens or residents, we need to know how to insert ourselves into participation with local or municipal politics.

When we talk about municipal politics, we're referring to the most local of political action that takes place in municipalities such as cities, counties, towns, special districts and school districts. For most of us, our greatest opportunity to meet elected representatives, staff members, and appointed officials is at the local level. There, we may relay our own experiences and stories in hopes of effecting change (Britt & Alexander, 2019).

How and where you decide to participate in democracy will likely depend on the range of options with which you are familiar. For instance, most of us know that by the time we reach 18 years of age, we will have the right to vote. That's a basic, foundational way to use your voice and engage in civic matters.

There are so many more ways, however, to influence local matters. People who are active in municipal politics work together to make sure the right stakeholders and decision makers meet. They understand that good decision making depends on good participatory processes (Carlee, 2019). You can jumpstart your learning curve in discovering how municipal politics works by putting yourself in the middle of some of the action, watching what others say and do, asking questions, and investigating the many options for you to engage with others in the public sphere (Nabatchi & Leighninger, 2015).

With this assignment, you'll increase your *knowledge* by considering:

1. How and where do local meetings take place and what opportunities exist for resident involvement there?
2. What resources exist that you can research to help you better understand controversial local issues?

You'll have the opportunity to learn *skills* by considering:

1. What is required of you to construct fieldnotes with facts and impressions as a form of ethnographic research?

You can consider your own *values* and that of others by asking:

1. In what ways do elected and appointed leaders express respect (or not) toward residents seeking to be engaged in municipal politics?
2. As you review your fieldnotes, what did you focus on and how did that reveal what values your brought into the observation?

Putting what you learn into *action* means asking:

1. What formal and informal routes exist for citizens to express themselves?
2. How are different views invited into (or not) civil discourse?

Activity Instructions

Attend a public meeting. Doing so is a simple, accessible way to see your elected officials and staff members at work, as well as to see how citizens interact with them. For this assignment, consider going to a meeting of your city council, county commissioners, or board of education, for instance. These meetings are open to the public, often have time for public comments on any subject, and operate by formal procedures for addressing agenda items, typically following Robert's Rules of Order. Plan on staying for 1-1/2 to 2 hours. Look to your government web sites to determine days and times of upcoming meetings

Once you get to the meeting location, make sure you've allowed ample time to find parking and be prepared to pass through security checks, if required. You may need to turn off your phone and other devices, and, leave food and drink behind.

Find a seat and begin taking detailed notes on the content and the talk/conversation(s) that arise in the meeting. These fieldnotes are a form a research used by ethnographers who study different cultures, groups, and organizations to understand how they operate, their rules of interaction, and the values that permeate their talk (Goodall, 2000). You will use your fieldnotes to help you write the paper to complete the assignment. Don't worry if you don't understand everything that is being discussed about, for instance, zoning or achievement tests or wastewater treatment. Keep taking notes and then later, you will do an additional archival search to learn more about you were introduced to at the meeting. If you are nervous about attending a public meeting, it may help you feel more comfortable by watching a prior meeting online, if they are recorded and digitally archived in your municipality.

As you observe the meeting, consider how local government officials involve or dismiss residents that are speakers from the floor. Look at officials speaking and not speaking. How do they invite and respond to questions from the audience? How to they listen to stories presented, and through other communicative means. You may also want to consider how residents interact with their local officials. Are they deferential to the political power? How can you tell? Are they disruptive and if so, in what ways? How did they construct their stories or facts to provide a compelling presentation?

Reflection Instructions

1. Write a paper of 3-5 pages, typed and double-spaced.
2. First, recap the main ideas presented at the meeting in no more than 1 page.
3. Second, go deeper into discussion about one topic. To do this, include additional research (archival search) about a concept with which you heard about at the meeting but were not entirely familiar to gain additional knowledge about the history, controversies, and regulations surrounding the local matter you heard discussed. Include this research (and cite it) by integrating it with what was discussed at the meeting.
4. Third, connect what you learned from the meeting and additional research with course ideas, concepts or theories.

For Instructors

Rationale

Civic participation by youth has waxed and waned through the years. To ensure students are provided instruction on how to engage with public issues in ethical and effective ways, it is incumbent upon higher education instructors to provide pathways for students to learn and understand how politics operates to consider competing views and values in a democracy. For many students, practical government operations and concerns sound like a foreign language. This assignment is designed to help students overcome the barriers to civic participation that arise from unfamiliarity with civic processes. Asking students to move from the comfort of the classroom to the territory of a public meeting may seem daunting at first, however, for most students the experience is eye-opening and an important and meaningful introduction to local officials who set policy and direct funding for municipal concerns.

Objectives

1. To familiarize students with locations, people, and processes by which government operates close to home.
2. To introduce fieldnotes, ethnography, and archival search as research methods.
3. To notice and examine how ethics are expressed by public leaders and everyday citizens.
4. To highlight the values important to the student-writer.

Materials Required

It will be helpful for students to complete the readings cited about the role of citizens as community agents. Students will also need to arrange for transportation to the public meeting.

The instructor can post times and locations for city council, county commissioner, school board, or other meetings.

Discussion Questions

In a debrief with the class, you may want to pose questions including:

- What values did you see communicated by the local officials? How were those values expressed (words, gestures, policies, etc.)?
- Imagine you have 3 minutes as a speaker from the floor at the next meeting. What will you say and why?
- How can/do citizens participate in local politics in ways other than attending local government meetings?

Duration

The activity requires as little as 15 minutes and as much as 45 minutes of class time after students have attended the meetings and written their papers to discuss interesting experiences, new knowledge gained, and challenges encountered.

Class Size

This activity can be adapted for a seminar, mid-size group, or online class.

Special Considerations/Alternatives

If transportation or other obstacles prevent students from attending a meeting in person, most city and county public meetings are aired on public television as well as livestreamed and archived on government web sites. Instructors may assign a certain meeting to watch and analyze as an alternative.

Suggested Readings:

- Britt, Lori L. and Rob Alexander (2019). Stories Communities Tell: How Deliberative Practitioners Can Work with Community Narratives. *Journal of Public Deliberation* 15 (3), Article 6. Available at: <https://www.publicdeliberation.net/jpd/vol15/iss3/art6>
- Carlee, R. (2019, Spring). The Arlington Way: Public engagement as a community expectation. *National Civic Review*, 108 (1), 25-32.
- Goodall, H. L. (2000). *Writing the new ethnography (chapter 2)*. Lanham, MD: AltaMira Press.
- Nabatchi, Tina and Matt Leighninger (2015) "Good or bad? Charming or Tedious? Understanding Public Participation," in *Public Participation for 21st Century Democracy*. Hoboken, chapter 2. NJ: Jossey-Bass.

VOTING, ELECTIONS, AND ME

Curricular Assignment



by **Spoma Jovanovic**
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Voting is a defining feature of our democracy. It is a right and a responsibility that came for many after long-fought battles. Voting rights have been expanded from the time our country was founded. For instance, in 1920, the 19th Amendment to the U.S. Constitution secured the right for women to vote. In 1965, President Lyndon Johnson signed the Voting Rights Act to eliminate restrictive state laws involving such things as poll taxes and literacy tests that were barriers constructed to keep African Americans, Latinos, Native Americans and Asian Americans from voting, particularly in the South. In 1971, the 26th Amendment lowered the voting age from 21 to 18. Though securing and keeping the right to vote has been a struggle over time, many Americans fail to cast their ballots in federal, state, and local elections. Some argue that it's just not worth their time since corporate interests essentially "buy" elections with campaign contributions and heavy advertising. Others say, if we give up voting, we give up the possibility of influencing who our next leaders will be. To learn more about your upcoming elections, use the newspaper, Facebook, campaign web sites, and other resources to help you identify candidates and issues that will be decided upon at the ballot box.

With this assignment, you'll increase your *knowledge* by considering:

1. What is the job and what are the responsibilities associated with the election race you researched?
2. Who are the candidates running for that office? What are their positions on education and two other issues important to you (you might consider gun control, voting rights, policing and race, the economy, immigration, or other topics)?
3. What is the geographic area for which the candidates in the race are responsible?

You'll have the opportunity to learn *skills* by considering:

1. How can you register yourself and others to vote?
2. How can you apply for an absentee ballot? Where can you vote early and when?

You can consider your own *values* and that of others by asking:

1. What candidate espouses the values you hold as most important? Be sure to define the values by which you are judging the candidate (you might consider justice, inclusion, government transparency, etc.).

Putting what you learn into *action* means asking:

1. Which candidate for the race you researched do you think people should vote for and why?
2. What organizations endorse the candidates and how can you contribute to their communication efforts?
3. What upcoming opportunities exist in the community to learn more about the candidates?

Assignment Instructions

- Since voting requirements and processes are established at the state level and carried out differently at the local level, it is important for you to understand how your home state oversees elections. Go to this website for that information: <https://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx>.
- In class, Individually or in a small group, as directed by your instructor, research on your computer, tablet, or smart phone the ways in which people in your community can register to vote. Find out how you can confirm your voter registration information on-line. Find out the deadlines for registering for the next election in your community, how to get a sample ballot, and the ways you can vote in the upcoming election (by mail, in person, early voting, etc.). In doing so, you're expanding your voter skills.
- Out of class, choose an upcoming electoral race to research and write a short 2 or 3-page paper detailing what you learned about the candidates, based on at least 3 sources (Facebook pages, newspaper articles, candidate web sites, voter election guides, etc.). Provide answers to the questions posed above regarding knowledge, values, and action. Finally, be prepared to provide a 3-minute presentation in class on the day designated by your instructor, based on your research and writing

Reflection Instructions

While listening to your classmates give their presentations, determine what other information you would like to make informed decisions in the upcoming election. If you hear something troubling or promising, make note of that as well. Use your notes for small group or large class discussion following the presentations.

For Instructors

Rationale

Some faculty are surprised to learn that students do not know how to vote, where to vote, and what is at stake in voting in an upcoming election. This assignment is designed to introduce students to those voting basics and demonstrate that one vote is one voice in expressing the public will. For the in-class portion of this assignment, you can help students engage in basic research to understand voting how-to in their communities. For the out-of-class portion of the assignment, students will do additional research on the issues and candidates involved in an upcoming election. This activity offers preparation for students to discuss electoral issues so that they can cast their votes with greater knowledge and confidence.

While students may not call their permanent home the location where your university or college is located, it may be easiest to use the campus location as a starting point for all your discussions. You can remind students that if they are living on campus, they can register to vote with that address.

Objectives

1. Introduce students to the process of voting including how and where to register to vote.
2. Learn where to access information for ballot items, using the newspaper, web sites, and other election resources.
3. Highlight the values communicated in campaigns affecting individuals and public life.
4. Share learning about candidates and/or issues with classmates.
5. Prompt critical questions, encourage discussion, and discuss action options surrounding an upcoming election.

Materials Required

For the day of presentations, you may want to prepare a “sample ballot” based on the races discussed by students to hand out to all so the students can follow along, take notes, and keep the paper for future voting, if they so desire.

Discussion Questions

- For races with candidates who affiliate with a political party (recognizing that some races are deemed non-partisan), what impact did that have on you and how you presented your information, if at all?
- Is there an incumbent running in the race you discussed? What impact do you think that will have on the election outcome and why?
- What do you consider the most important values we should consider in evaluating a candidate or election issue?
- What obstacles do people in our community face with voting?
- What could help boost voter turnout?

Duration

- 45 minutes for the in-class portion of the assignment.
- A full class period, or two, for presentations and discussions.

Class Size

This assignment is best suited for class sizes of 35 or less but can be adapted for larger class sizes with the use of more small groups.

Suggested Readings

- <https://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx>



Community Organizing and Activism: Confronting Injustice in Public Spaces



Bailout Movement, Organizing, and Balancing Work

"Everything felt important, which it was. But I'm one person. So, the struggle was for me to hone in on, or narrow down, where I wanted to most put my energy when everything is quite literally on fire."

– Cherizar Crippen, Facilitator and Youth Advocate

OVERVIEW

Most people in America's prison system have not been convicted of a crime. While some are released quickly, paying their bail within hours or days, many others are too poor to make bail and thus remain behind bars until trial. "The median felony bail bond amount (\$10,000) is the equivalent of 8 months' income for the typical detained defendant. Poverty is not only a predictor of incarceration; it is also frequently the outcome, as a criminal record and time spent in prison destroys wealth, creates debt, and decimates job opportunities"

(<https://www.prisonpolicy.org/reports/pie2020.html>).

Cherizar helped organize the first *Black Mama's Bail Out* in Greensboro, NC to post bail for Black caregivers of any gender and provide supportive services. In 2019, the National Bail Out Movement freed more than 100 people and raised over a million dollars to reunite caregivers with their families in time for Mother's Day. This movement hopes to end pre-trial detention entirely.

Cherizar considers radical self-care and self-love as crucial parts of anti-oppression work. She rejects the idea that people have to choose to either take care of themselves or organize and fight oppression.

To learn more about money bail and the movement to abolish it, visit <https://nationalbailout.org/>

DISCUSSION QUESTIONS

1. How does mass incarceration impact your community and our country?
2. If a caregiver in your family was suddenly incarcerated, what effect would that have on other people in your family or community?
3. What reforms could we implement to reduce the number of people incarcerated in the U.S. and to confront racial and ethnic disparities in the criminal justice system?
4. How can we best support people in their hard work to be activists and organizers?
5. How can you balance your own responsibilities with staying civically engaged?

Discussion Guide Prepared by: Dr. Spoma Jovanovic, Marcus Hyde, and Cherizar Crippen | 2020

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Community Organizing and Activism: Confronting Injustice in Public Spaces



➡ Police Accountability & Civil Rights

“Be mindful of that glorious legacy from all the different movements.”

– Lewis Pitts, Retired Civil Rights Attorney

OVERVIEW

Police violence in the U.S. has risen 50% since 2008 with Black Americans 2-1/2 times more likely to be killed by the police as compared to whites, according to a Rutgers University study (<https://www.pnas.org/content/116/34/16793>). Though the information is alarming, it is not new. Injustices aimed at African Americans have persisted since the time of slavery. White supremacist violence, disenfranchisement, and exploitation have woven their way into inequitable punishments meted out as early as elementary school, policing practices, and incarceration policies.

According to the Sentencing Project, “Sentencing policies, implicit racial bias, and socioeconomic inequity contribute to racial disparities at every level of the criminal justice system. Today, people of color make up 37% of the U.S. population but 67% of the prison population” (<https://www.sentencingproject.org/>).

As communities grapple with how to hold police accountable, individuals like Lewis Pitts and groups including Black Lives Matter, the NAACP, the ACLU, and the League of Women Voters are calling for greater community oversight of police actions through Civilian Review Boards. Such boards would put democracy back in the hands of citizens to: determine public safety policies and procedures best suited for their communities; confront and curb the upward trend in use of police force; and redress incidents of racial bias through training and other mechanisms.

DISCUSSION QUESTIONS

1. How can citizens and the police work together to improve public safety?
2. What is community policing and how does it work?
3. How can police body cameras and citizen cell phone recordings be used to improve policing?
4. What has been the impact of federal funds used to provide military equipment to local police agencies?
5. What ideas do you have to improve police-citizen relationships?

Discussion Guide Prepared by: Dr. Spoma Jovanovic, Marcus Hyde, and Lewis Pitts | 2020

Contact: s_jovano@uncg.edu



Community Organizing and Activism: Confronting Injustice in Public Spaces



➤ Criminal Justice Reform

“Activism is going after something that you feel will make your community better.”

– Kay Brown, Executive Committee Member
Greensboro’s Criminal Justice Advisory Commission

OVERVIEW

Community safety refers not only to modes of effective crime prevention, but also to programs that promote the public’s well-being so that residents can build strong, cohesive, vibrant, and participatory communities. Law enforcement remains a central feature of community safety, though turning to the police is not always considered the safest option for some communities. “Repeated and highly publicized incidents of police use of force against persons of color and people with disabilities, combined with a lack of accurate data, lack of transparency about policies and practices in place governing use of force, and lack of accountability for noncompliance foster a perception that police use of force in communities of color and the disability community is unchecked, unlawful, and unsafe” (<https://www.usccr.gov/pubs/2018/11-15-Police-Force.pdf>). Motorists, too, are subject to disproportionate stops and searches based on race (see data at www.opendatapolicing.com).

Kay Brown is a member of Greensboro, NC’s Criminal Justice Advisory Commission that recommends policy changes to redress racial bias and disparate outcomes in policing. She also works with community organizers who want to re-imagine the idea of “public safety” to make their communities better. Kay says that for things to change and become more just, people need to take action, vote, and be included in decision making. For more information on citizen oversight committees, see <https://www.nacole.org/>.

DISCUSSION QUESTIONS

1. What are the most common reasons people in your community call the police?
2. Do police and other first responders treat everyone in your community the same when they answer emergency calls?
3. When you need help, who can you call other than the police?
4. Who determines the policies, functions, and practices for police in your community?
5. What could non-police emergency response look like?
6. What stakeholders should be involved in public safety discussions and why?
7. What programs and policies are needed to ensure community safety for all?

Discussion Guide Prepared by: Dr. Spoma Jovanovic, Marcus Hyde, and Kay Brown | 2020

Contact: s_jovano@uncg.edu



Community Organizing and Activism: Confronting Injustice in Public Spaces



➤ Food Security

“My interest is in grassroots. My strong belief is that people know best what's best for themselves. So, every project I get involved in is one where it's starting with people coming together.”

– Liz Seymour, Community Organizer

OVERVIEW

More than 37 million people – and 11 million children – lacked adequate nutrition in the United States in 2019. Households that are considered “food insecure” have limited or uncertain access to quality food that can support a healthy lifestyle. Children are more likely to face food insecurity than any other group in the United States. About half (56%) of food-insecure households participate in some form of federal food-assistance program such as the Supplemental Nutrition Assistance Program (SNAP/ formerly “Food Stamps”), the National School Lunch Program or the Special Supplemental Nutrition Program for Women, Infants and Children (often called WIC), yet healthy food options remain limited for many.

Rather than asking an outside group to come into her neighborhood to address food insecurity, Liz Seymour helped start a neighborhood market by asking her neighbors to share the food they were already accustomed to growing and making. Today the weekly People’s Market, one of the most eclectic markets in North Carolina, has a matching SNAP program that allows recipients to double their benefits, offers locally produced vegetables and foods, and features neighborhood specific cuisine. She says, “One thing that I’ve found in organizing is that it helps a lot to only grow as fast as your own capacity—and understand who you are accountable to. Too often a project will start with a big grant and you forget that you’ll still have to sustain after the grant is gone, and that your real accountability is the community you’re in, not to the funders.” See more on food insecurity at feedingamerica.org.

DISCUSSION QUESTIONS

1. What barriers exist in your community to accessing healthy food?
2. How would you rate the nutritional value of the food in your neighborhood?
3. How does a lack of nutritious food impact people’s capacity to function in other areas of their lives?
4. Who owns the grocery stores closest to where you live?
5. Do you think the food that is available for purchase in your neighborhood comes from your neighborhood?
6. What would it mean if your neighbors and you participated in choosing what food was available in your neighborhood?
7. Does the food that is available in your neighborhood reflect the cultural and ethnic diversity of your neighborhood?

Discussion Guide Prepared by: Dr. Spoma Jovanovic, Marcus Hyde, and Liz Seymour | 2020

Contact: s_jovano@uncg.edu



Community Organizing and Activism: Confronting Injustice in Public Spaces



Homeless Rights

"People experiencing homelessness are like the canary in the coal mine. If they don't have rights, then none of us do. We are only as healthy and as free as the most politically unpopular people in our society are."

– Marcus Hyde, Homeless Rights Advocate

OVERVIEW

Homelessness today is a national crisis. The emergence of modern mass homelessness in America coincides with two connected historical phenomena; progressive legislation passed to ban racial discrimination in housing policy - i.e. the Fair Housing Act of 1968 - and a conservative backlash to legislative wins culminating in the withering of social safety programs. For instance, from 1979 to 1983, the federal affordable housing budget was cut by over 90% (<https://www.cityofsanrafael.org/history-modern-homelessness/>).

The criminalization of homelessness, through policing and laws that ban activities like panhandling and sleeping on the sidewalk exacerbate the problem of homelessness by burdening poor people with fines, fees, and criminal records. "These laws, designed to move visibly homeless people out of commercial and tourist districts or, increasingly, out of entire cities, are often justified as necessary public health and public safety measures. The evidence shows, however, that these laws are ineffective, expensive, and often violate homeless persons' civil and human rights" (https://nlchp.org/wp-content/uploads/2019/02/No_Safe_Place.pdf). Homeless rights organizers believe that everyone, has a right to housing and access to public spaces. Homelessness ends with a home, not a jail cell. To learn more about homelessness and housing policy history visit www.homelessunion.org.

DISCUSSION QUESTIONS

1. What would it take to ensure that everyone in your community had access to safe and stable housing?
2. Many communities have laws that criminalize loitering (to stand around without an apparent purpose) or panhandling (asking for help and money). What happens when unpopular speech is criminalized and when the physical presence of unpopular people is criminalized? What ramifications does this have on other people's rights?
3. What improvements in your community could be made to protect poor and homeless people from being treated as criminals?
4. Why is lack of affordable housing a growing issue and concern?

Discussion Guide Prepared by: Dr. Spoma Jovanovic and Marcus Hyde | 2020

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Community Organizing and Activism: Confronting Injustice in Public Spaces



➤ Housing Justice

"Housing justice means that people have opportunity for a good place to live, of their choice."

– Beth McKee-Huger, Housing Advocate

OVERVIEW

Advocates for housing justice believe that everyone deserves access to safe, stable and affordable housing. In 2019, 47.4% of renters struggled to afford their monthly housing costs. In fact, 1 in 6 households pay more than half their monthly income for housing. African Americans are disproportionately burdened by unaffordable rents, evictions and homelessness. What are some solutions? Some say local zoning reform could help build the supply of housing at lower prices. Other ideas include restructuring tax breaks and incentives to help lower-income renters and first-time homebuyers. For more information, see Habitat for Humanity's 2019 State of the Nation's Housing Report at <https://www.habitat.org/costofhome/2019-state-nations-housing-report-lack-affordable-housing>.

DISCUSSION QUESTIONS

1. What housing issues do you see in your community?
2. When people do not have safe, affordable housing what other issues are likely to arise?
3. How could your community benefit from a greater amount of safe and stable housing options?
4. What do you consider to be affordable rent in your community?
5. What resources and options do people have when facing eviction for failure to pay rent?
6. If renters have issues with their landlords, who can they call for help?
7. What programs and policies are your local government officials pursuing to ensure everyone has a safe, stable place to live of their choice?

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Community Organizing and Activism: Confronting Injustice in Public Spaces



Immigrant Rights

"We don't have to be alone. We can support each other."

– Maria Peralta Porras, Siembra NC Volunteer

OVERVIEW

Immigrants and their children comprise 28% of the United States population according to the Council on Foreign Relations (<https://www.cfr.org/social-issues/immigration-and-migration>). Following 9/11, the debate over immigration shifted as fear of terrorism spread. In 2003, Immigration Customs Enforcement (ICE) was established within the Department of Homeland Security and today operates 400 offices around the world with 20,000 law enforcement and staff members under a \$6 billion annual budget (<https://www.ice.gov/>).

While some politicians believe there should be stricter limits on immigration, others consider ICE actions and raids to be inhumane and detrimental to the economic, social, and political well-being of the country. As a result, in recent years, some 700 cities and states have refused to cooperate with ICE's secret raids, opting instead to promote greater diversity and inclusion within their communities.

Siembra NC is a grassroots group working to protect Latinx residents through education and organizing efforts to affect change in local immigration policies. Documented and undocumented members of the community, as well as their allies, collectively resist programs of deportation, fight back against wage theft, and assist K-12 families in navigating educational goals for undocumented children (<https://siembranc.org/>).

DISCUSSION QUESTIONS

1. What is the history of immigration practices and policies in the United States?
2. What reforms are needed to ensure immigrant rights are protected?
3. In what ways do immigrants and their work impact the economy?
4. What paths for citizenship exist for immigrants?
5. Why and how are large companies allowed to employ undocumented immigrants?
6. How can we make sure immigrants are treated fairly and humanely in all areas of their lives?

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Community Organizing and Activism: Confronting Injustice in Public Spaces



Local History Storytelling

"It took struggle from a lot of people and a lot of movements to ensure that people could get the [right] to vote that was promised to them."

– Glenn Perkins, Curator of Community History Greensboro History Museum

OVERVIEW

History is always in the making. When we investigate the past, we learn about why and how things evolved then to create the world we inhabit today. Sometimes, though, what we learn in textbooks or see in museums may be incomplete. That is, history is complex and contested. Not everyone's stories are accounted for in historical documents or exhibits. The job of finding and telling more stories to create a full, true accounting of history is one of the many tasks of community historians. Today, there is a focus on fostering diversity and inclusiveness in history that was largely absent in the past. To do that work, historians may explore individual accountings of the past, or examine archives to learn more about events, festivals, and traditions for which a community took pride. Since history is always a product of many stories, experiences, and events, the more we share that rich heritage and knowledge, the more insight we have into one another. Finding out what others experienced, gives us the opportunity to understand them better. As we uncover more information about our community, we can better recognize and even appreciate why institutions and practices evolved as they did. Understanding our history helps us see and appreciate our own place in that history, as well.

Making history relevant and useful is the goal of local history museums. The more stories of our past that are incorporated into exhibits and events, the more all of us benefit and learn from one another. For more information on local history see the American Association for State and Local History, <https://aaslh.org/about/>.

DISCUSSION QUESTIONS

1. What stories in our history do you imagine have not been fully told?
2. Why do you think that some stories are left out of our historical remembrances?
3. What current events, festivals, and traditions define your community today? What values are espoused in those activities?
4. How can we seek out untold stories, and to whom should we turn for that information?

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Community Organizing and Activism: Confronting Injustice in Public Spaces



➤ Neighborhood Organizing

"I think it's important that we recognize that there are a variety of roles that people can play in movement work and getting us towards the future that we deserve."

– Casey Merie Thomas, President
Greater Glenwood Neighborhood Association

OVERVIEW

Neighborhood Associations that bring people together to determine their collective fate demonstrate how democracy in action begins at home. As people discuss what works and what needs improving in their lives, they learn from the experiences of others about common concerns and opportunities that can lead to combining energies. Neighborhood associations are often powerful agents of change that can impact how a city develops. They offer an important training ground for residents to learn how to activate the interests of others to work toward goals to benefit the public welfare.

Neighborhood Associations provide a platform, too, to build social capital, the bonds and networks that lead to a better quality of life. Through expressions of care and responsibility, neighbors build trust and a stronger community base by working together to ensure the health and well-being of residents, educate each other on voting and other civic matters, express themselves as a strong voice in city politics, plan fun activities, and introduce programs for social change (see more about neighborhood work at <https://www.yesmagazine.org/health-happiness/2020/01/01/american-health-people/>).

DISCUSSION QUESTIONS

1. What issues could you see a Neighborhood Association working toward to make the lives better for residents?
2. What are the distinctions between community organizing and neighborhood organizing? What are the benefits and challenges of each?
3. What are the different ways you can think of to be civically engaged?
4. When justice is at the center of organizing action, what topics would emerge in your neighborhood to address?

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Community Organizing and Activism: Confronting Injustice in Public Spaces



➤ Black Youth & Organizing

“Everyone is the organizer.”

– Irving David Allen, Community Organizer

OVERVIEW

Organizing and activism focus on restoring democracy at the grassroots level where people advocate and work for change, recognizing that systems of power advantage some more than others. As might be expected, this kind of work looks different depending on the context and the community in which the organizing takes place. And sadly, some communities are overlooked and even dismissed in our political processes. For instance, Black and youth members of our communities may be mischaracterized as apathetic, leading officials to underestimate or devalue their potential contributions. Irving David Allen thinks differently—he says the reason why Black and young people do not always participate in civic activities is because structural impediments and political corruption keep them out at the same time injustices persist. For them, the system is not working to make life better.

However, even when people are excluded from official political processes, there are still ways to take action. First, build relationships. Second, make connections with others in the community. Third, visualize what you want. Fourth, make a plan to create the change(s) you see as necessary for a more just world. Communities everywhere face challenges and many are finding ways to mobilize in order to get the changes they want. To learn more about skills and tools for organizing for change, consider the many resources available through the Community Tool Box, <https://ctb.ku.edu/en>.

DISCUSSION QUESTIONS

1. What changes are needed in your community to eliminate lingering injustices?
2. What barriers does your community need to overcome to be actively involved in the political process?
3. What issues that your community cares about need to be discussed in upcoming political campaigns?
4. In what ways can you make your voice heard in public decision making?
5. What people and groups in your community can help you bring about needed changes?
6. What would success look like if you were able to lead the way for positive social change?

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RECLAIMING FREE SPEECH

for Democracy and Human Rights in a Digitally Networked World

by *Rebecca MacKinnon*²⁰⁷

Introduction

As I write in mid-2020, the United States faces a high-stakes election in the midst of a global pandemic. Democracies around the world are struggling with the question of how to stem the flow of online disinformation and extremism without compromising citizens' freedom of expression and other human rights. While few institutions are completely un-affected by our society's growing political polarization, those that serve in some manner as conduits, incubators, and amplifiers of information, ideas, opinions, civic participation, and activism have become the focal points not only of heated policy arguments, but some of the country's most intense political and ideological battles.

Social media platforms and universities are two such spaces for discourse and engagement, albeit with very different purposes, roles, and histories. Yet both are at the center of heated debates over the relationship between free speech, social justice, diversity and inclusion. On university campuses, conservatives complain that they are discouraged from voicing opinions inconsistent with majority liberal views.²⁰⁸ At the same time public university administrators, bound to respect the First Amendment, are powerless to stop student groups from inviting speakers who advocate racist ideologies. Amidst campus protest and upheaval over the invitation of white supremacist speakers in 2017, UC Berkeley professor John A. Powell wrote of the implications: "The more we recognize that certain kinds of speech can not only offend but can cause mental and physical harm, and that the harm can be lasting, the more we will be able to properly protect the rights of all — not just of people to speak, but also of their very existence and right to survive and thrive."²⁰⁹ Yet at the same time human rights, and democracy cannot be achieved or maintained — let alone expanded and

²⁰⁷ Founding Director, Ranking Digital Rights at New America; 2019-2020 Fellow, UC National Center for Free Speech and Civic Engagement. Andrea Hackl, Correy Miller, Isabel Steinmetz, Zhiyan Li, and Houston Davidson contributed original research. David Kaye and Sofia Jaramillo Otoy of UC Irvine Law provided invaluable support and generously enabled my research collaboration with the International Justice Clinic. UC San Diego's Center on Global Transformation at the School of Global Policy and Strategy hosted inter-disciplinary conversations through the Pacific Leadership Fellows program in October 2019, helping to shape the project's focus and direction. Many UC Irvine and San Diego faculty, staff, and students offered invaluable insights and assistance over the course of the fellowship year. Colleagues at New America and Ranking Digital Rights (RDR) assisted in organizing a workshop and participated in discussions about many of the issues covered in this paper, which also draws on RDR research.

²⁰⁸ Sean Stevens, "Spirals of silence: Expressing a minority political view on some campuses is difficult," *FIRE*, May 20, 2020, <https://www.thefire.org/spirals-of-silence-expressing-a-minority-political-view-on-some-campuses-is-difficult/>

²⁰⁹ John A. Powell, "On speech and belonging," *Berkeley blog*, September 18, 2017, <https://blogs.berkeley.edu/2017/09/18/on-speech-and-belonging/>

improved – without robust free speech protections, including tolerance of ideas and opinions that many find upsetting and repugnant.²¹⁰

Parallel debates are also raging over how to balance free speech and social justice online. Social media companies have pledged to crack down on extremist groups, hate speech, disinformation about voting, and false information related to COVID-19. Yet such content remains widespread.²¹¹ The political right accuses social media platforms of political bias and censorship, with President Trump threatening legal retaliation and regulation.²¹² On the left, progressives complain that right-wing extremists have weaponized the cause of free speech online, using social media to drive political outcomes that perpetuate socio-economic inequality and disenfranchisement of minorities. Civil rights advocates condemn Facebook in particular for enabling the spread of hate speech and violent extremist organizations that threaten the safety of Black Lives Matter activists and members of other vulnerable groups.²¹³ In response to an advertising boycott by major brands, Facebook has made repeated pledges to tighten its rules and strengthen enforcement. But the political arguments over whether, and to what extent, social media companies should police hate speech and disinformation have only intensified. In Congress, draft bills with support from both sides of the aisle seek to rescind or drastically reform Section 230 of the Communications Decency Act, which shields internet platforms from liability for users' speech. Yet there is no consensus on the fundamental underlying question: How should a democracy hold commercial social media platforms accountable to the public interest – and if so, to whose vision of the public interest?²¹⁴

“At what point may, or must, the tolerant stop tolerating the intolerant?” asked educator, cyberlaw scholar, and MacArthur Foundation president John Palfrey in his 2017 book *Safe Spaces, Brave Spaces*.²¹⁵ When faced with speech that pushes boundaries, democratic governments seeking to regulate social media platforms in the public interest, and university administrations tasked with providing an environment for learning and research that serves all of society (not just its elites) are faced with the same basic problem, even though the contexts are very different. Palfrey suggests that lessons learned in one domain can be helpful in the other: “getting it right in the intentional community of a campus can be instructive,” he suggests, as we grapple with

²¹⁰ Suzanne Nossel, “Op-Ed: Those who exercise free speech should also defend it — even when it’s offensive,” *Los Angeles Times*, June 19, 2020, <https://www.latimes.com/opinion/story/2020-06-19/protests-free-speech-first-amendment>

²¹¹ Sydney Fussell, “An Audit Slams Facebook as a Home for Misinformation and Hate,” *WIRED*, July 8, 2020, <https://www.wired.com/story/audit-slams-facebook-home-misinformation-hate/>

²¹² Tyler Sonnemaker, “President Trump suggested that Twitter’s trending topics are ‘illegal’ because they make him look bad,” July 27, 2020, <https://www.businessinsider.com/trump-twitter-trending-topics-are-illegal-and-unfair-2020-7>

²¹³ David Cohen, “Civil Rights Groups Urge Large Facebook Advertisers to Boycott the Platform in July,” *Adweek*, June 17, 2020, <https://www.adweek.com/programmatic/civil-rights-groups-facebook-advertiser-boycott-stop-hate-for-profit/>

²¹⁴ Matt Bailey, “Three and a half ways not to fix the internet,” *Pen America*, July 1, 2020, <https://pen.org/three-and-a-half-ways-not-to-fix-the-internet/>

²¹⁵ John Palfrey, *Safe Spaces, Brave Spaces*, (The MIT Press, 2017), “1. Introduction,” Open access, <https://bravespaces.org/1-introduction/>

how social media platforms should protect free speech while also upholding values of social justice, inclusion, and tolerance.²¹⁶

Taking up Palfrey's suggestion, my focus as a 2019-2020 Fellow with the UC National Center for Free Speech and Civic Engagement has been to examine the inter-connections between campus, national, and global debates about the relationship between free speech, social justice and democracy. I have used insights gained during the fellowship year to inform an analysis of how U.S. policy related to online speech – domestically and internationally – needs to evolve in service of democracy and human rights.

I am neither an educator nor expert on campus speech. I have approached the subject as a student of the intersection of technology and human rights, and advocate for the governance, design, and deployment of technology for the advancement of democracy. During the course of my work over the past several years, I have been increasingly struck by the absence of a clear, progressive vision for how robust free speech protections can also support the advancement of democratic, open, inclusive, and just societies. The absence of such a vision has helped to empower and exacerbate attacks against free speech across the globe, in all types of political systems. Authoritarian politicians and governments use the label “fake news” as an excuse to censor critics and deny facts. China offers an attractive model of “internet sovereignty” to governments seeking to assert greater control over internet platforms and citizens' online activities. At the same time, many democratic governments are responding to the serious public safety and social justice problems caused by online disinformation and hate speech with regulations that are too broad and blunt. In democracies in Europe and elsewhere, laws are being proposed and passed that require companies to proactively police users' speech without sufficient safeguards to prevent the silencing of speech such as journalism, activism, and peaceful albeit uncomfortable and controversial debates, all of which are vital to democracy's survival.²¹⁷

While basic domestic consensus around how to sustain democracy and also protect citizens' First Amendment rights has broken down, the U.S. no longer even tries to offer the world a coherent or credible vision or strategy for advancing a free and open global internet. Ten years ago, the U.S. Government launched an agenda for advancing freedom online based on the idea that human rights standards apply to the online world as much as they do to our analog, physical world. While the U.S. did not live up to this ideal any better (or worse) than it has generally lived up to its international human rights commitments, at least there was a commitment despite its flawed and often contradictory implementation.²¹⁸ Today, as President Trump threatens to ban the video-sharing app TikTok due to its Chinese ownership, the U.S. Government is unable to make a coherent case for why a free and open global internet is even desirable.²¹⁹

The time has come for a reboot of U.S. internet policy in support of democracy and human rights, at home and around the world. The process begins with some basic questions: What policies affecting online speech, data

²¹⁶ Ibid., “7. Why the Diversity and Free Expression Debate Matters,” <https://bravespaces.org/7-why-the-diversity-and-free-expression-debate-matters/>

²¹⁷ David Kaye, *Speech Police: The Global Struggle to Govern the Internet*, (Columbia Global Reports, 2019), pp. 76-81.

²¹⁸ Rebecca MacKinnon, “Rebooting Internet Freedom,” *New America Weekly*, January 23, 2020, <https://www.newamerica.org/weekly/rebooting-internet-freedom/>

²¹⁹ Brian Fung, “Trump says he will ban TikTok,” *CNN Business*, August 1, 2020, <https://www.cnn.com/2020/07/31/tech/tiktok-trump-bytedance-sale/index.html>

and information flows are needed to make democracy work for all members of society? What are the necessary actions and circumstances that can help inoculate an open and democratic society from being vulnerable to threats like disinformation?

The next step towards a renewed vision for free speech and democracy is to identify the key factors that make it possible for virtual or physical institutions and platforms to support free speech, tolerance, and social justice as complementary and mutually reinforcing values. Frustratingly, in my search for insights I have found that scholarship, advocacy, and policy conversations about campus speech and online speech are generally conducted in different siloes by different groups of experts who seldom interact (with the notable exceptions of people like Palfrey who have worked across all of these domains). Furthermore, conversations about social media governance in the U.S. policy context tend to be disconnected from conversations about online freedom of expression and human rights in the global context.

This paper thus attempts to connect insights and lessons from three different silos: campus free speech debates; debates about social media governance in the U.S.; and debates about how social media affects global flows of information and opinion. It draws from a range of activities across the fellowship year.

To better understand the issues and debates around free speech, diversity and inclusion on campus, I reviewed key works of scholarship and journalism on the topic. During the Spring semester I worked with students from the International Justice Clinic at the UC Irvine School of Law who interviewed students, faculty, and administrators at UC Irvine, UC San Diego, UC Riverside, and UCLA about the overlap and interplay between campus speech and online speech.²²⁰ I also interviewed most of this year's UC National Center for Free Speech and Civic Engagement fellows, all experts on different aspects of free speech and civic engagement on university campuses.²²¹

Regarding how online speech should be governed and designed to support human rights and democratic discourse, this paper draws from commissioned research and convenings that I organized or attended. A faculty workshop at UC San Diego's School of Global Policy and Strategy and a workshop of policy practitioners hosted by New America in Washington DC, both focused on the question of how the U.S. global internet freedom policy agenda could be rebooted by a new Administration in support of democracy and human rights at home and around the world. UC Irvine Law clinic student Houston Davidson produced an internet freedom policy literature review,²²² and internet governance scholar Andrea Hackl conducted a mapping of global civil society and multi-stakeholder internet policy consensus documents.²²³ This paper's conclusions were further informed by attendance at an annual meeting of the Freedom Online Coalition, an alliance of governance

²²⁰ Correy Miller, Isabel Steinmetz, and Zhiyan Li, "Memorandum for Rebecca MacKinnon: Intersection of Campus and Online Speech," UC Irvine School of Law, International Justice Clinic unpublished student paper, May 2020.

²²¹ 2019-2020 Class of Fellows, *University of California National Center for Free Speech and Civic Engagement*, <https://freespeechcenter.universityofcalifornia.edu/fellows-19-20/>

²²² Davidson, Houston "Internet Freedom Literature Review," (UC Irvine School of Law, International Justice Clinic, unpublished student paper, December 2019.

²²³ Andrea Hackl, "Internet policy stakeholder consensus documents," unpublished research memo and spreadsheet, completed May 2020.

committed to advancing a free and open internet, held in Accra, Ghana in February 2020.²²⁴ Finally, insights about how the major U.S. social media platforms and other tech companies function and implement their policies domestically and around the world are drawn from my work as director of the Ranking Digital Rights research program at New America.²²⁵

Synthesizing insights from research, interviews, and meetings over the course of the fellowship year, this discussion paper lays a foundation for future work, including possibly an academic article and several shorter articles for mainstream publication. It may also point to projects in which some of the ideas can be further explored and applied.

The first section offers an analysis of how international human rights standards apply to U.S. campuses as well as social media platforms, primarily in relation to free speech issues. I build on the arguments of UC Irvine Law professor David Kaye, outgoing UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, that international human rights standards should be applied domestically in the U.S. and that U.S.-headquartered internet companies should be held to human rights standards in relation to their domestic impact as well as their global operations.²²⁶ I discuss why international human rights standards and frameworks complement the First Amendment and discuss why leaders of U.S. companies, universities, and communities should use them more proactively to govern venues and platforms for speech in a manner that takes the full range of human rights into account.

This paper's second section draws from the research and conversations conducted during the course of my fellowship year. It addresses three challenges common to universities and internet platforms, if the goal is to protect free speech alongside other fundamental human rights including non-discrimination:

Challenge 1:

In an inequitable and unjust world, “neutral” platforms and institutions will perpetuate and even exacerbate inequities and power imbalances unless they understand and adjust for those inequities and imbalances. This fundamental civil rights concept is better understood by major universities than by those who lead commercial social media platforms that have clear impact on public discourse and civic engagement.

Challenge 2:

Rules governing speech, and their enforcement, can be ineffective and even counter-productive unless they are accompanied by values-based leadership and institutional cultures that take context and circumstances of unique situations, individuals, and communities into account.

Challenge 3:

Different types of discourse that serve different purposes require differently designed spaces – be they

²²⁴ Program, *Freedom Online Accra 2020*, February 6-7, 2020, last accessed August 3, 2020, <https://freedomonlineconference.com/program/program-overview/>

²²⁵ *Ranking Digital Rights*, <https://rankingdigitalrights.org>

²²⁶ United Nations Office of the High Commissioner for Human Rights, “Governments and Internet companies fail to meet challenges of online hate – UN expert,” press release, October 21, 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx>

physical or digital. It is important for communities to be able to negotiate and set their own rules of engagement, design and define their spaces for different types of discourse.

In light of these challenges, the paper's third and final section then addresses the question: what types of policies affecting how people can access and use the internet – at home and around the world – are needed to make democracy work for all members of society? In the paper's remaining sections I discuss proposals for policy frameworks that can better protect human rights and strengthen democracy at home and around the world. I conclude with suggestions for how the University of California system can contribute to the creation of a more diverse and robust information ecosystem supported by a policy environment that protects human rights and strengthens democracy.

I. Applying universal human rights standards²²⁷

Universal human rights standards complement the First Amendment in ways that can help leaders and communities protect free speech in tandem with other human rights enshrined in international human rights law including privacy, non-discrimination, assembly, and political participation. U.S. institutions and civil rights advocates rarely invoke or refer to the human rights standards enshrined in the Universal Declaration of Human Rights (UDHR) and other international human rights covenants and frameworks in the domestic context. In this section, I will describe how human rights standards and frameworks can help institutions and activists address speech-related policy issues that bump up against the imperatives of dismantling racism and advancing social justice.

Human rights have been integrated into U.S. foreign policy (with varying degrees of emphasis under different administrations) since the creation of the United Nations human rights system, and Congressional ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination. But as UCI's David Kaye reminds us, Congress worked to ensure that these commitments could not be applicable in U.S. courts without further legislation. "Racism and white supremacy drove the American refusal to enforce human rights at home," he writes, "and that legacy of hypocrisy shapes human rights policy today."²²⁸ The executive and legislative branches should act to apply international human rights frameworks to U.S. governance.²²⁹

Yet even in the absence of government action, American institutions, communities, and advocates can and should use human rights standards and frameworks to advocate for rights, advance social justice, and protect free speech. This paper focuses on two very different types of speech venues: university campuses and social media platforms. They are very different animals, with very different relationships both to the First Amendment and to international human rights standards. The First Amendment applies directly to public

²²⁷ This section draws heavily upon the unpublished student memo written by UC Irvine Law International Justice clinic students Correy Miller, Isabel Steinmetz, and Zhiyan Li, advised by David Kaye and Sofia Jaramillo Otoyá.

²²⁸ David Kaye, "America the Unexceptional," *Foreign Policy*, June 10, 2020, <https://foreignpolicy.com/2020/06/10/american-exceptionalism-human-rights-democracy-unexceptional/>

²²⁹ David Kaye, prepared testimony, *Human Rights at Home: Media, Politics, and the Safety of Journalists*, U.S. Helsinki Commission, July 23, 2020, <https://www.csce.gov/sites/helsinkicommission.house.gov/files/Helsinki%20Commission%20Testimony%20David%20Kaye%20230720.pdf>

universities, which can only restrict the content of speech in narrow situations including inciting imminent lawless action,²³⁰ true threats,²³¹ obscenity,²³² and defamation.²³³ Public universities do, however, have the right to restrict the time, place, and manner in which speech takes place, as long as such restrictions are content-neutral, narrowly tailored to a significant governmental interest, and leave open alternative channels for communication.²³⁴ Private universities are not bound by the First Amendment; they can and do regulate the speech of their members based on their own rules.

Social media platforms, operated by private corporations (or non-profit entities in the case of platforms like Wikipedia which is maintained by a community of volunteers), are free to set rules governing speech within their platforms as they see fit. Section 230 of the Communications Decency Act shields social media companies from liability for user-generated content.²³⁵ A range of politicians, advocates, and legal scholars across the political spectrum have called for rescinding or revising Section 230 for various reasons: some seek to hold companies directly responsible for certain types of illegal activity by users of their services; some aim to prohibit political bias in the way that companies enforce their rules; some seek to force companies to be more aggressive about blocking or removing speech that causes significant social harm, such as disinformation and hate speech, even if it is otherwise protected by the First Amendment.²³⁶ However defenders of Section 230 argue that shielding internet intermediaries from liability for third-party speech is essential to protecting freedom of expression online. Without it, start-up companies and non-profit organizations seeking to create alternatives to the dominant commercial behemoths like Facebook, Google and Twitter would face prohibitive legal risks as well as costs of proactively monitoring and policing users.²³⁷

Intermediary liability also has serious implications for human rights across the globe. Experts in human rights law, and human rights groups from across the world, have long argued that immunity from liability for internet intermediaries, including social media platforms, is essential for the protection of freedom of expression online.²³⁸ The Ranking Digital Rights program at New America, which I founded in 2013 to evaluate and track internet companies' respect for users' rights, recently published a series of papers arguing that lawmakers can more constructively advance corporate accountability without altering Section 230. Instead of imposing liability on platforms for users' speech, legislation should address platforms' abusive data practices,

²³⁰ *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

²³¹ *Virginia v. Black*, 538 U.S. 343 (2003).

²³² *Miller v. California*, 413 U.S. 15 (1973).

²³³ *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

²³⁴ *Ward v. Rock Against Racism*, 491 U.S. 781 (1989).

²³⁵ Daisuke Wakabayashi, "Legal Shield for Social Media Is Targeted by Trump," *The New York Times*, May 28, 2020, <https://www.nytimes.com/2020/05/28/business/section-230-internet-speech.html>

²³⁶ Matt Bailey, *Op. cit.*

²³⁷ Emma Llansó, "Clearing Up Misinformation about Section 230," *Center for Democracy and Technology*, July 11, 2019, <https://cdt.org/insights/clearing-up-misinformation-about-section-230/>

²³⁸ David Kaye, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, para 40, A/HRC/32/38.

targeted advertising business models, and anti-competitive behavior that has made it possible for too few platforms to have too much power over information flows and public discourse.²³⁹

While the First Amendment does not apply to social media platforms, some (though by no means all) U.S.-based internet companies including Facebook, Google, Microsoft, and Twitter have made public commitments to respect users' freedom of expression. Facebook, Google, and Microsoft are members of the Global Network Initiative (GNI), whose members commit to protect and respect users' privacy and freedom of expression when faced with government demands that conflict with international human rights standards.²⁴⁰ Twitter is not a GNI member but it adheres to a policy framework similar to that articulated by GNI's implementation guidelines.²⁴¹ In addressing censorship demands by most governments around the world, these companies have grounded their policies and actions to varying degrees on their users' freedom of expression rights as articulated in Article 19 of the UDHR. Also laudably, these same companies have sometimes stood up for users' privacy rights (as articulated in Article 12 of the UDHR) against government surveillance demands that violate or have the potential to cause violations of users' human rights—including by U.S. government agencies.²⁴² But they have failed to address the impact of their own business practices on users' human rights. With billions of users around the world they have largely failed to acknowledge and address the human rights implications of their own private content moderation rules and enforcement processes. Nor do they acknowledge or address the full range of human rights harms caused by targeted advertising business models and commercial exploitation of users' personal data.²⁴³

While private companies are not bound by international treaty law in the same way that governments are, they and other non-governmental entities nonetheless bear human rights responsibilities. The UN Guiding Principles for Business and Human Rights (UNGPs) offer a framework for businesses to respect human rights. Under the UNGPs, the private sector—including all private universities and private online platforms—must address human rights issues and abuses by publishing policy commitments identifying their human rights risks and processes for mitigating them, in addition to implementing an adequate due diligence framework and a grievance process for any abuses. Policy commitments must be approved at the most senior level of the business and communicated publicly so employees can act accordingly.²⁴⁴ Appropriate due diligence requires a recurring process of assessing potential and actual human rights impacts, tracking responses, and

²³⁹ "It's the Business Model: How Big Tech's Profit Machine is Distorting the Public Sphere and Threatening Democracy," *Ranking Digital Rights*, June 2020, <https://rankingdigitalrights.org/its-the-business-model>

²⁴⁰ "Core Commitments," *Global Network Initiative*, <https://globalnetworkinitiative.org/core-commitments-2/>

²⁴¹ "Twitter, Inc.," 2019 Ranking Digital Rights Corporate Accountability Index, Ranking Digital Rights, May 2019, <https://rankingdigitalrights.org/index2019/companies/twitter/index/>

²⁴² Justin Sherman, "Russia orders tech platforms to remove coronavirus 'fake news'," *New Atlanticist*, Atlantic Council, March 27, 2020, <https://www.atlanticcouncil.org/blogs/new-atlanticist/russia-orders-tech-platforms-remove-coronavirus-fake-news/>

²⁴³ Jessica Dheere, "RDR pilot study underscores the need for rights-based standards in targeted advertising and algorithmic systems," *Ranking Digital Rights*, March 16, 2020, <https://rankingdigitalrights.org/2020/03/16/rdr-pilot-study-underscores-the-need-for-rights-based-standards-in-targeted-advertising-and-algorithmic-systems/>

²⁴⁴ OHCHR, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04 (2011), note 29, principle 16.

communicating how impacts are mitigated.²⁴⁵ People whose human rights have been violated by governments or private companies are entitled to an appropriate remedy.²⁴⁶

The UNGPs expect companies to take appropriate responsibility for the full range of human rights covered by the UDHR and associated covenants, as further clarified and elaborated as societies and technologies have evolved over the past half century by subsequent human rights council resolutions and guidance by special rapporteurs. For social media platforms, the fundamental rights to free expression (UDHR Article 19) and privacy (UDHR Article 12) must be protected and respected so that people can use technology effectively to exercise and defend other political, religious, economic, and social rights. How social media platforms govern speech and manage personal data has implications for other rights including the right to life, liberty, and security of person (UDHR Article 3), the right to non-discrimination (UDHR Article 7, Article 23); freedom of thought (UDHR Article 18); freedom of association (UDHR Article 20); and the right to take part in the government of one's country, directly or through freely chosen representatives (UDHR Article 21).²⁴⁷

It is also notable that Article 19 of both the UDHR and ICCPR take a broader approach to speech and information flows than the First Amendment. In addition to spelling out the right to freedom of opinion and expression, Article 19 includes the right to “seek, receive and impart information and ideas,” thereby placing greater emphasis on the right to *receive* information. The UDHR also includes the right to “freedom to hold opinions without interference.” Scholars of human rights law point out that this aspect of Article 19, articulated in more detail by the ICCPR, has been largely overlooked because, until the advent of social media platforms, it was unclear how a person's ability to think and form opinions could be directly interfered with.²⁴⁸ That has changed with the advent of targeted advertising business models that rely on the collection and monetization of personal information, enabling paying customers to target specific people with tailored messages, using algorithmic amplification to maximize the reach of paid content and to capture more people's attention. Legal scholar Evelyn Aswad argues that such business models “undermine individual autonomy”²⁴⁹ because they involve “disclosure of one's opinions, manipulation in the forming and holding of opinions, and penalization for one's opinions,” all of which constitute interference in the right to hold opinions.²⁵⁰

²⁴⁵ *Id.*, principle 17.

²⁴⁶ *Id.*, principle 22.

²⁴⁷ See Nathalie Maréchal, Rebecca MacKinnon, and Jessica Dheere, “Human Rights: Our Best Toolbox for Platform Accountability,” in “Getting to the Source of Infodemics: It's the Business Model, A Report from Ranking Digital Rights,” New America, May 2020, <https://www.newamerica.org/oti/reports/getting-to-the-source-of-infodemics-its-the-business-model/human-rights-our-best-toolbox-for-platform-accountability/> and “CONSULTATION DRAFT Human Rights Risk Scenarios: Targeted Advertising,” *Ranking Digital Rights*, February 2019, <https://rankingdigitalrights.org/wp-content/uploads/2019/02/Human-Rights-Risk-Scenarios-targeted-advertising.pdf>

²⁴⁸ Evelyn Aswad, “Losing the Freedom to Be Human,” *Columbia Human Rights Law Review*, Vol. 52, 2020, (February 29, 2020), Available at SSRN: <https://ssrn.com/abstract=3635701>

²⁴⁹ Aswad p. 3

²⁵⁰ Aswad p. 1

The right to non-discrimination is also clearly implicated when such interference targets categories of people who share the same socioeconomic status, religious belief, or ethnicity.²⁵¹ Social media platforms have failed to fully respect human rights by failing even to fully recognize — let alone prevent or counter — discrimination and bias.

II. Three challenges common to universities and internet platforms

There is much that people who design and manage social media platforms can learn from American universities' experiences over more than half a century as they have evolved and responded to society's changing expectations of them. There is also much that social media platforms can learn from ongoing campus debates over how to address social injustices while also protecting free speech. While universities and social media represent very different types of spaces for human discourse, they face three common challenges.

Challenge 1:

The pretense of neutrality amplifies bias in an unjust world

In their 2020 book *#HashtagActivism*, authors Sarah Jackson, Moya Bailey and Brooke Foucault Welles tell the story of how Twitter has been used successfully over the past decade by historically disenfranchised populations to advance grassroots social justice movements. They document how movements such as *#blacklivesmatter* and *#metoo* have succeeded in creating “counterpublics,” — networks of solidarity that are not possible through mainstream, dominant group media. Yet the authors observe that despite the company's claims of neutrality, “decisions on whether and how to curate content are not neutral.” Rather, Twitter's content moderation rules and enforcement processes play out in ways that are “mired in the same racism and sexism that hashtag activists are addressing in society.”²⁵²

At a time of intense social and political division in American society, fierce debates are raging on university campuses about how to address the ongoing effects of racism throughout all institutions. The most powerful Silicon Valley CEO's have not yet learned the lesson that major American universities have internalized from a half century of battles over their roles and responsibilities in advancing civil rights in this country — not least the University of California, home to the Free Speech Movement launched from Berkeley in 1964.

In an inequitable and unjust world, “neutral” platforms and institutions (that is, perceived to be neutral by those who create and manage them) will perpetuate and even exacerbate injustice if they fail to compensate for society's power dynamics and inequities.

While public university administrators are required to uphold the first amendment rights of faculty and students, they are acutely aware of how society's injustices and power dynamics shape all students' ability to learn and thrive, and affect whether faculty of all backgrounds are genuinely free to pursue independent and sometimes controversial research. Awareness of these dynamics has by no means resolved contentious

²⁵¹ “Summary of revisions to the final 2020 Ranking Digital Rights Corporate Accountability Index methodology,” *Ranking Digital Rights*, June 2020, pp. 6-7 <https://rankingdigitalrights.org/wp-content/uploads/2020/06/2020-methodology-revision-final-summary.pdf>

²⁵² Sarah J. Jackson, Moya Bailey and Brooke Foucault Welles, *#HashtagActivism: Networks of Race and Gender Justice*, (MIT, 2020) p.191, open access, <https://direct.mit.edu/books/book/4597/chapter/211099/Conclusion-HashtagActivism-Here-to-Stay>

debates about how to address the power dynamics surrounding campus speech.²⁵³ But at least there is broad understanding that the faculty, students, and staff within educational institutions cannot be managed in a “neutral” generic fashion that fails to recognize and react to who these people are - as individuals and as members of groups who hold varying degrees of power, privilege, vulnerability, or disadvantage. Public universities, and many of the major private universities that take seriously their role in shaping society, also recognize that diversity among those who manage and lead institutions is critical to prevent the perpetuation of society’s historic and ongoing injustices by institutions of higher education. The absence of censorship by government officials or university authorities does not automatically result in an environment in which all people feel equally free to speak, or able to be heard. The ease with which people are able to speak without fear is shaped by the power dynamics of the specific context in which they are speaking. Some people are freer, and more empowered, to speak than others. Many have reasons to fear the consequences of speaking; not everybody’s speech is equally likely to receive positive affirmation, or amplification, by the communities and institutions within which they speak.²⁵⁴

The contexts and roles of universities and social media platforms are obviously very different. Universities are intentional communities that curate their members – faculty hiring and advancement system, staff hiring, student recruitment and admissions. They serve an inherently public interest purpose, and public universities are beholden to taxpayers, not shareholders. Social media platforms, by contrast, are run by corporations driven by the need to maximize profits for shareholders. Platforms like Facebook, Twitter and YouTube have profited from scaling quickly and admitting as much of the world as possible, kicking people out if they break rules that are enforced unevenly. Yet because the leaders of globally ubiquitous and politically influential social media companies also make frequent public claims to be facilitators of public discourse for democracy, they fail to understand — let alone take responsibility for — the human rights harms caused by their business operations.

Leaders of companies that operate the world’s most powerful social media platforms have long claimed that their products and services are neutral conduits for human activity. In a 2013 book, *The New Digital Age*, Google’s Eric Schmidt and Jared Cohen (who has worked for both Google and the U.S. State Department as an advisor on internet freedom and counter-terrorism) declared what they saw as the “central truth of the technology industry — that technology is neutral but people are not.” Problems arise, they argued, when people blame technology for human shortcomings.²⁵⁵ Facebook’s CEO and founder Mark Zuckerberg repeatedly takes similar positions in his public statements, insisting that Facebook is just a “technology company” that builds tools for people to connect with each other.²⁵⁶ In 2017, in response to concerns about how

²⁵³ “Chasm in the Classroom: Campus Free Speech in a Divided America,” *Pen America*, April 2, 2019, <https://pen.org/wp-content/uploads/2019/04/2019-PEN-Chasm-in-the-Classroom-04.25.pdf>

²⁵⁴ Carlos E. Cortés, “Diversity and Speech Part 5: Interculturalism,” *American Diversity Report*, August 29, 2019, <https://americandiversityreport.com/category/diversity-and-speech-part-5-interculturalism-by-carlos-e-cortes/>

²⁵⁵ Eric Schmidt and Jared Cohen, *The New Digital Age: Transforming Nations, Businesses, and Our Lives*, Vintage; Reprint edition (March 4, 2014) p. 66

²⁵⁶ Giulia Segreti, “Facebook CEO says group will not become a media company,” *Reuters*, August 29, 2016, <https://www.reuters.com/article/us-facebook-zuckerberg-idUSKCN1141WN>

his platform had been weaponized for disinformation campaigns in the 2016 presidential election, he insisted that Facebook aims to be a “platform for all ideas and a force for good in democracy.”²⁵⁷ Nick Clegg, Facebook’s Senior Vice President of Global Affairs and Communications (and a former UK Deputy Prime Minister) put it in 2019 takes the argument further: “our role is to make sure there is a level playing field...How the players play the game is up to them, not us.”²⁵⁸ More recently, Clegg argued that Facebook merely holds a “mirror to society” and that Facebook’s users are ultimately responsible for hate speech and extremism on the platform.²⁵⁹

Such claims, as media scholar Jathan Sadowski has astutely pointed out, follow a similar logic to the National Rifle Association’s slogan: “guns don’t kill people, people kill people.”²⁶⁰ Ironically, the NRA’s use of Facebook is a classic example of how Facebook’s design and business model privilege the speech of some people over others. Those with superior resources, organization and online marketing acumen can achieve greater visibility by purchasing advertising and boosting organic posts to target messages at specific individuals and groups. The result is anything but a neutral conduit for speech and attention in the American national discourse. Case in point: In September 2019 *The Intercept* reported that for three weeks after mass shootings in El Paso, Texas, and Dayton, Ohio, the NRA’s lobbying arm, the Institute for Legislative Action, nearly doubled its spending on pro-gun advertising on Facebook.²⁶¹ Victims of gun violence across the country lack the same marketing and lobbying budget. Under such circumstances, to argue that Facebook serves as a neutral arbiter in a marketplace of ideas about America’s most contentious and consequential public policy issues could not be more specious. A business model based on targeted advertising, which prioritizes content that is most likely to go viral and thereby maximize engagement, now shapes the operation and design of one of society’s most widely used information platforms. The implications for democracy and human rights are clear.²⁶²

In July 2020, the final report from a two-year civil rights audit further underscored the toxic consequences of Facebook’s pretense of neutrality. While the report’s lead author Laura W. Murphy commended the company for agreeing to undertake the audit in response to calls from members of Congress and civil rights groups, she pointed to decisions made by company leadership that have resulted in “significant setbacks for civil rights.” Zuckerberg’s “selective view of free expression” justified policies that exempt politicians from content

²⁵⁷ Mark Zuckerberg, “I want to respond to President Trump’s tweet,” Facebook Story, September 27, 2017, https://m.facebook.com/story.php?story_fbid=10104067130714241&id=4

²⁵⁸ Nick Clegg, “Facebook, Elections and Political Speech” Facebook Newsroom, September 24, 2019, <https://about.fb.com/news/2019/09/elections-and-political-speech/>

²⁵⁹ Nick Clegg, “Facebook’s Open Letter to the Ad World: We Don’t Profit From Hate,” *Ad Age*, July 1, 2020, <https://adage.com/article/digital/facebook-open-letter-ad-world-we-dont-profit-hate/2265331>

²⁶⁰ Jathan Sadowski, “Google-Eye View: Eric Schmidt and Jared Cohen’s ‘The New Digital Age,’” *Los Angeles Review of Books*, July 5, 2013, <https://lareviewofbooks.org/article/google-eye-view-eric-schmidt-and-jared-cohens-the-new-digital-age/>

²⁶¹ Sam Biddle, “NRA ramped up Facebook advertising immediately after mass shootings in El Paso and Dayton,” *The Intercept*, September 16, 2019, <https://theintercept.com/2019/09/16/nra-facebook-ads-mass-shootings/>

²⁶² Alexis C. Madrigal, “The False Dream of a Neutral Facebook,” *The Atlantic*, September 28, 2017, <https://www.theatlantic.com/technology/archive/2017/09/the-false-dream-of-a-neutral-facebook/541404/>

moderation rules applied to all other users, in addition to a further policy decision not to fact-check political advertisements. While the company has repeatedly invoked its commitment to protect freedom of speech as justification such decisions (even though the First Amendment does not apply to Facebook and its rules ban many types of content that is protected under both the First Amendment and arguably Article 19 of the UDHR), Zuckerberg has effectively granted broader freedom of speech to privileged and powerful people than to ordinary citizens who must abide by community guidelines or risk having their postings deleted or accounts deactivated. In particular, the company's decision to allow posts by President Trump that violated the company's policies against the propagation of hate speech and facilitation of voter suppression "exposed a major hole in the company's understanding of civil rights." In making these decisions, Zuckerberg made no meaningful efforts to seek out civil rights expertise, with results that Murphy described as "devastating" and a "terrible precedent."²⁶³

Facebook has failed to conduct a thorough assessment, in accordance with the UN Guiding Principles, of the full range of ways that the company's policies and practices affect human rights. Murphy's civil rights audit concludes that Facebook's failure to elevate a commitment to non-discrimination to the same level as its commitment to freedom of speech must have been a deliberate choice:

*For a 21st century American corporation, and for Facebook, a social media company that has so much influence over our daily lives, the lack of clarity about the relationship between those two values is devastating. It will require hard balancing, but that kind of balancing of rights and interests has been part of the American dialogue since its founding and there is no reason that Facebook cannot harmonize those values, if it really wants to do so.*²⁶⁴

In any community, platform, or institution, disputes around the relationship between freedom of speech, diversity and inclusion — and where the ideal balancing point should be — are longstanding and inevitable. Indeed, the tension between these values comes most sharply to the fore when non-discrimination is elevated to the same level of importance as freedom of speech. The challenge for those who design spaces for discourse, as well as those who manage and lead them, is to embrace the tension and work in good faith to prevent one value from overwhelming others in ways that infringe upon peoples' rights.²⁶⁵

A 2019 Knight-College Pulse study of attitudes toward free expression on college campuses identified precisely such tensions over the extent to which free speech should be protected at the expense of inclusivity. While more than half of students surveyed believed that "hate speech" should be protected under the First Amendment, "students who belong to historically marginalized groups — African American students, gender nonconforming students, and gay and lesbian students — are far more sensitive to unrestricted free speech, particularly hate speech"²⁶⁶ Interviews conducted in March and April 2020 on four UC campuses by UCI Law clinic students found a similar dynamic at play. "Despite widespread agreement that the university should not

²⁶³ Laura W. Murphy, "Facebook's Civil Rights Audit – Final Report," published by Facebook, p. 9, <https://about.fb.com/wp-content/uploads/2020/07/Civil-Rights-Audit-Final-Report.pdf>

²⁶⁴ *Ibid.*, p.12

²⁶⁵ Suzanne Nossel, *Dare to Speak: Defending Free Speech for All* (HarperCollins, 2020)

²⁶⁶ "Free Expression on College Campuses: A College Pulse Study Commissioned by the Knight Foundation," *College Pulse*, May 2019, p. 3, https://kf-site-production.s3.amazonaws.com/media_elements/files/000/000/351/original/Knight-CP-Report-FINAL.pdf

overly restrict speech either on campus or online,” the interviewers found, “there appears to be a trend of ensuring all speech is respectful toward fellow members of the campus community.”²⁶⁷ One professor “acknowledged the importance of creating safe spaces for some groups but also advocated for brave spaces—spaces that respectfully bring people together in order to challenge their beliefs and critical thinking skills.”²⁶⁸ Interviews described campus environments in which norms and ground rules for speech in different contexts are subject to constant debate, negotiation, and adjustment.

Social media platforms must also expect perpetual tension and negotiation over how and where to set the balancing point between freedom of expression and other human rights including non-discrimination. But as Murphy pointed out, harms result when there is no negotiation because the institution or platform is designed and operated in accordance with an interpretation of free speech formulated by leaders who by all measures do not represent or actively seek input from a diverse range of communities and lived experiences — and who are willfully and arrogantly blind to how their purported neutral platform affect society, in ways that are far from neutral.

Such blind spots are exacerbated by attempts to apply and enforce rules without sufficient leadership around values and norms that enable communities to take specific circumstances of situations and individuals into account when trying to ensure that the intent of rules does not fall victim to unintended consequences. Interviews with students, faculty and administrators across four UC campuses, and with most of the UC National Center for Free Speech and Civic Engagement fellows point to the dangers of excessive focus on rules and their enforcement.

The next two challenges discussed in this section examine how lessons learned from university campuses can inform efforts to envision, design, and govern digital spaces for human discourse that are more likely to support outcomes that advance human rights, social justice, and democracy.

Challenge 2:

Rules and enforcement are inadequate without strong leadership and cultural norms

UC Berkeley professor John A. Powell reminds us that law and rules are necessary but insufficient: “Because we are moral beings, our actions cannot stand solely on legal footing. We must operate, teach, and practice from a set of shared beliefs that honor our commitment to a society built on belonging.”²⁶⁹ In her 2020 book *Dare to Speak*, PEN America CEO Suzanne Nossel similarly argues that the “affirmative right to speak out” is “a liberty that cannot be fully guaranteed in law and must be enabled by society through education and opportunity.” Leaders and institutions committed to free speech must make efforts to maximize open discourse, lowering obstacles and broadening participation.²⁷⁰ This includes addressing harassment, disinformation, and other

²⁶⁷ Miller, Steinmetz, and Li, *Op. cit.* pp 1-2.

²⁶⁸ *Ibid.*, p. 12

²⁶⁹ Powell, *Op. cit.*

²⁷⁰ Nossel, *Op. cit.* p. 6

types of speech can chill and deter participation. But measures to address such problems can be counterproductive without an overall “climate that protects open discourse writ large.”²⁷¹

UC National Fellows interviewed for this project all agreed that universities are struggling to set, implement, and enforce appropriate rules that protect the First Amendment rights of students and faculty while also ensuring that members of vulnerable and minority groups can learn and live in an environment that is not hostile and traumatizing. Universities’ experience with campus speech issues suggests that while rules and guidelines are needed, particularly in relation to the appropriate time, place, and manner for certain types of speech, it can be dangerous to focus too heavily on rules and enforcement in addressing problems of discrimination and injustice. More than one fellow observed that while members of vulnerable groups are demanding rules and procedures to establish and protect safe spaces, enforcement can have unintended consequences for students who depend on financial aid and work-study jobs, staff, and even faculty who are economically insecure. Furthermore, UC National Fellows were not surprised to learn that interviews conducted by UCI Law clinic students on the four UC campuses identified a pattern whereby senior tenured faculty are much more comfortable exercising their First Amendment right to make controversial and even offensive statements in the classroom or on social media, while non-tenured faculty and adjuncts are much more careful about what they say due to job insecurity.²⁷²

Certain types of comments by instructors or fellow students can create an environment in which some students feel targeted or triggered, making it more difficult for them to learn and engage in classroom discussion. But how does a university constructively address this discrimination problem without infringing on freedom of speech? PEN America’s program director for Campus Free Speech Jonathan Friedman has cautioned that campus “bias response systems” through which students can report incidents of bias or hate in the classroom can chill genuinely good-faith discussions of controversial issues and incidents if they are implemented without great sensitivity to the complex socioeconomic power dynamics at play on a campus.²⁷³ Universities’ enforcement of social media policies can also be problematic even when they are created with the intention of fostering an inclusive and supportive campus environment for all students. While constituencies from the left of the political spectrum are more likely to support the creation of social media policies, UC National Fellow John Wilson, co-editor of *Academeblog.org*, who has tracked university enforcement of social media use policies for faculty, “the victims are overwhelmingly on the left and attacked by right-wing critics.”²⁷⁴ Another fellow observed in an interview that “the moment you start to regulate even if out of benevolent intent, it can be abused.”

In interviews, other UC National Fellows agreed with Friedman who said he is concerned that “ways of thinking and speaking are not only being criticized, but penalized” on some campuses, when what is really

²⁷¹ Nossel, *Op. cit.* p. 8

²⁷² Miller, Steinmetz, and Li, *Op. cit.* p. 18

²⁷³ Jonathan Friedman, “When Diversity and Inclusion Clash with Free Speech—and Why they Don’t Have To,” *Higher Ed Connects*, February 15, 2020, <https://higheredconnects.com/diversity-and-free-speech>

²⁷⁴ John K. Wilson, “The Right to Social Media,” in Foundation for Individual Right in Education (FIRE) Faculty Conference Papers 2019 (forthcoming, 2020 at <https://www.thefire.org/resources/free-speech-resources-for-faculty/>)

needed in many cases is “forgiveness, understanding, and empathy.”²⁷⁵ UCLA’s Nikita Gupta, whose fellowship focused on helping student affairs staff respond appropriately to polarizing incidents on campus, observed that when staff apply rules and generic guidelines about what to do in response to different types of situations, the result can chill participation and discourse by students who feel unsupported. “This is not about rules and knowing what to do when it happens,” Gupta said. “It’s about leadership. How do you protect and speak up for the people you’re trying to serve?” The key is for campus leaders to actively foster conversations about the impact of speech, educating people about how their speech affects others.²⁷⁶ As Emerson Sykes of the ACLU put it, “you may have a First Amendment right to say something racist but people also have a right to call you a jerk” – and for leaders committed to civil rights, an obligation to do so if the speech in question has made others feel demeaned or silenced.²⁷⁷ Fellows all agree that better guidance and training is needed to help campus leaders encourage productive discourse about tough issues. Spoma Jovanovic, Professor of Communication Studies at University of North Carolina, Greensboro, believes that leadership is key. “When somebody goes out on a limb to assert or counter an incident of harassment, have their back. Jump in.” Students and faculty need better education on “very intentional” tactics for “how to speak up and support one another.”²⁷⁸

Thus while rules have their place, experts on campus speech issues agree that excessive focus on rules and enforcement is counterproductive if one’s goal is to protect free speech while also fostering inclusive and respectful discourse on campus. Yet public debates about speech-related issues on social media platforms have focused heavily on the need for better rules, and stronger, more consistent and thorough enforcement. For example, the “Change the Terms” coalition, comprised of many of the same groups behind the *#stophateforprofit* advertising boycott, has published a detailed set of recommendations for companies should amend their policies in order to curb “hateful activities” on their platforms.²⁷⁹ Others are calling on Facebook and others to devote a much larger proportion of their resources to hire and train more effective content moderators.²⁸⁰ A range of bipartisan and partisan proposals are mounting in Congress to reform the law to hold companies liable to varying degrees for harmful content appearing on their platforms.²⁸¹

Yet there is little evidence that Facebook is capable of enforcing rules – no matter how they are improved or sharpened – without making mistakes that will silence civic engagement, particularly speech that is edgy and

²⁷⁵ Jonathan Friedman (Director of PEN America’s Campus Free Speech Project), in conversation with the author via Zoom, April 24, 2020.

²⁷⁶ Nikita Gupta (Director of the GRIT Coaching Program at UCLA), in conversation with the author via Zoom, April 24, 2020.

²⁷⁷ Emerson Sykes (Staff Attorney for the American Civil Liberties Union), in conversation with the author via Zoom, May 1, 2020.

²⁷⁸ Spoma Jovanovic (Professor of Communication Studies at the University of North Carolina, Greensboro), in conversation with the author via Zoom, April, 24, 2020.

²⁷⁹ “Adopt the Terms,” *Change the Terms*, <https://www.changethetterms.org/terms>, accessed August 3, 2020.

²⁸⁰ Gilad Edelman, “Stop Saying Facebook Is ‘Too Big to Moderate’,” *WIRED*, July 28, 2020, <https://www.wired.com/story/stop-saying-facebook-too-big-to-moderate/>

²⁸¹ Zoe Bedell and John Major, “What’s Next for Section 230? A Roundup of Proposals,” *Lawfare*, July 29, 2020, <https://www.lawfareblog.com/whats-next-section-230-roundup-proposals>

whose context requires understanding of complex subcultures, or obscure and fast-evolving dialects and slang. Events of June 2020 illustrate the problem. In response to a boycott by advertisers concerned about having their brands appear alongside hate speech on the platform, combined with mounting bipartisan threats of regulation, Facebook announced a host of new measures to address their concerns. Measures included flagging false and hateful content posted by public figures as “newsworthy” and applying its rules against hate speech to advertising content – measures that civil liberties groups in the coalition of civil rights groups who organized the boycott deemed insufficient.²⁸² The company also announced it was redoubling efforts to enforce its existing policies against hate speech: in late June it shut down hundreds of groups, pages, and accounts associated with the extremist white supremacist “boogaloo” movement, although journalists continued to identify content that remained online.²⁸³

But while Facebook has failed to enforce its rules consistently and comprehensively, its efforts to ramp up enforcement have been rife with errors and collateral damage. A classic example played out shortly after Facebook reported with fanfare that it had deleted hundreds of accounts linked to white supremacist hate groups.²⁸⁴ Many Facebook users who identify as being part of an anti-racist skinhead subculture, including that of Jamaican-born Neville Staple of The Specials, a well-known UK ska band, suddenly found themselves unable to log in, their accounts deactivated for having allegedly violated community standards. After Staple’s and other cases were reported in the media, Facebook acknowledged that it had made an error, apologized, and restored the accounts.²⁸⁵ The algorithms designed to flag problematic accounts were too blunt and too broad to take into account the wide variety of people and views that skinhead culture contains.

Facebook’s response to concerns about how the platform enforces its rules has been to establish a Content Moderation Oversight Board, filled with distinguished international experts on free speech and human rights, whose mandate is to make independent rulings about how Facebook’s terms of service should be applied in specific difficult cases. The Oversight Board will also make recommendations for how the rules should be amended and enforcement improved.²⁸⁶ It remains to be seen, however, whether this newly-established body will accomplish much more than confirm a frustrating reality: no matter how many people are employed to review content or how sophisticated its algorithms become, Facebook’s content moderation systems and processes are simply not capable of handling the endless complexities and geographies of the entire world’s

²⁸² “Stop Hate for Profit Update to Advertisers,” *Stop Hate For Profit*, June 29, 2020, <https://www.stophateforprofit.org/update-to-advertisers>

²⁸³ Dara Kerr, “Facebook bans boogaloo groups, but some smaller groups remain,” CNet, June 30, 2020, <https://www.cnet.com/news/facebook-bans-boogaloo-groups-but-some-smaller-groups-remain/>

²⁸⁴ David Klepper, “Facebook removes nearly 200 accounts tied to hate groups,” *AP News*, June 5, 2020, <https://apnews.com/91c1868557ba6e88e32b2607b26724d6>

²⁸⁵ Sarah Emerson, “Facebook Deplatforms Hundreds of Anti-Racist Skinheads and Musicians,” *OneZero*, June 10, 2020 <https://onezero.medium.com/facebook-deplatforms-hundreds-of-anti-racist-skinheads-and-musicians-6b57bef204e1>

²⁸⁶ Oversight Board, <https://www.oversightboard.com> accessed August 3, 2020.

cultures and languages.²⁸⁷ Be that as it may, companies like Facebook actually have an incentive to keep civil rights advocates and policymakers focused on questions of speech-related rules and their enforcement. Such a focus distracts from the more fundamental conversation about why the American public is so dependent on a handful of platforms whose business models are not particularly compatible with civil rights, or with thoughtful approaches to expanding civic participation.

Many activists believe that better solutions lie in digital spaces beyond Facebook and the other commercially dominant social media platforms. The authors of *#HashtagActivism* suggest that the answer lies in designing and organizing a better future by “expanding the public sphere” beyond a few commercial platforms and developing “critical interventions and guidelines for responding to the weaponization of networks.”²⁸⁸ As university leaders need better tools to support those affected by harmful speech, leaders who engage in online communities need better tools to support those who have been affected by online harassment, hate speech, and disinformation — and to fight back against those who are able to weaponize such content with the help of commercial platforms’ algorithms and behavioral targeting systems. More fundamentally, the public sphere must be expanded — society must find a way to support the creation and development of a much more diverse range of digital platforms, virtual venues for discourse that can be custom tailored and designed by communities with different needs, priorities, and objectives.

Challenge 3:

Communities need agency in shaping their spaces for discourse and learning

As the COVID-19 pandemic has driven teaching, learning, and all other campus activities online, UC community members and UC National Center for Free Speech and Civil Engagement fellows interviewed for this project all agreed that the dominant commercial platforms are ill-suited for the many types of interactions needed the full range of conversations that people on a university campus need to have. Different types of interactions for different purposes require differently designed spaces — be they physical or digital. It was striking that even for “digital natives,” social media platforms were described as being unfit for purpose, or requiring unsatisfactory tradeoffs.

Students interviewed across four UC campuses by UCI law clinic students were selected because they are active in campus civic organizations, or involved with projects related to free speech and civic engagement. A common perspective was that social media platforms are of limited value for student leaders or organizations seeking to bring people together for constructive conversations. Interviewees tended to describe social media as a place for disagreement that does not support successful academic discussions, community problem solving, or political debate. Instead, students said they mainly use social media platforms as tools for planning, organizing, and promoting activities. A common reason that students gave for this problem was the difficulty

²⁸⁷ Casey Newton, “Facebook’s independent oversight board could be overwhelmed by the challenge,” *The Verge*, May 7, 2020, <https://www.theverge.com/interface/2020/5/7/21249154/facebook-oversight-board-membership-announcement-history-challenges>

²⁸⁸ Jackson, Bailey, and Welles, Op. cit., “Afterword,” p. 204, <https://direct.mit.edu/books/book/4597/chapter/211101/Afterword-Ethics-Backlash-and-Access-in-Twitter>

of interpreting context online, in contrast to in-person interactions, where it is easier for individuals to infer social context.²⁸⁹

With classes and student life forced completely online by COVID-19 in the middle of the Spring 2020 semester, student interviewees worked to create private, safe spaces for interaction among people who know one another in real life, using private Facebook groups as well as chat apps like Slack and Discord.²⁹⁰ Even so, interviewees reported discomfort about having become completely dependent on online platforms for discussing controversial topics, retaining a strong preference for holding such discussions offline because face-to-face discussions are typically more civil and respectful.²⁹¹ The confidentiality of online discussions in zoom video conferences, slack chats or e-mail groups can more easily be violated when bad-faith participants — or uninvited eavesdroppers who breach platforms' digital security settings — make transcripts or recordings, or forward confidential communications.

Facebook shapes how students organize protests and interact with broader social and political movements through its design, behavioral targeting for paid content, recommendation algorithms, terms of service, and enforcement mechanisms. This situation is far from ideal. Several UC National Center for Free Speech and Civil Engagement fellows stressed in interviews how important it is for communities to be able to negotiate and set their own rules of engagement; and for members of a community to be able to design and define their spaces for different types of discourse. Physical campuses offered many opportunities for agency and control by students as well as faculty over different types of conversations and interactions. Going online, everyone now depends on commercial platforms — from Zoom, to Slack, to Google Docs — that were not designed with the needs of university communities in mind. Campuses must adapt their activities to the tools; there is little opportunity for co-evolution or co-creation of spaces for learning, discourse, or activism.

UC National Fellow Nikita Gupta asked how platforms can be re-molded and re-imagined to meet the community's needs. "Social media emerged and now we are finally understanding it. Now we need to wrangle it and shape it to make it more helpful for humanity: we need to be able to use it for dialogue. We need room for learning and education" and we need to "restructure how we use the platforms — and even what they are."²⁹² American University's Lara Schwartz observed that campus communities need platforms that work better for brainstorming, with visual cues. "We need to shift the paradigm from combat to collaboration." Universities need to facilitate the creation of spaces that enable joint inquiry and brainstorming. Problem-solving conversations, she points out "have to start with a session of exploration to determine the nature of the problem." Platforms need to facilitate such conversations.²⁹³

One of the UC National Fellows pointed to an innovative open source platform run by a non-profit organization called Living Room Conversations, which according to its website is a "conversational model

²⁸⁹ Miller, Steinmetz, and Li, *Op. cit.*, p. 13.

²⁹⁰ Miller, Steinmetz, and Li, p. 13

²⁹¹ Miller, Steinmetz, and Li, p. 19

²⁹² Gupta, *Op. cit.*

²⁹³ Lara Schwartz (Director of American University's Project on Civil Discourse), in conversation with the author via Zoom, April 17, 2020.

developed by dialogue experts in order to facilitate connection between people despite their differences, and even identify areas of common ground and shared understanding.²⁹⁴ When a new group is set up, the platform proactively offers resources about human rights and civil liberties, in addition to guides about intentional conversations. It is not set up for activism but rather for intentional dialogue. Other tech-savvy educators known for early adoption and experimentation with technology such as Howard Rheingold²⁹⁵ point to open source tools like BigBlueButton²⁹⁶ with whiteboard and brainstorming capabilities, and Discourse for real-time and asynchronous discussion.²⁹⁷ But these tools are not well known, and for most educators and students require levels of institutional support that would require universities to make substantial new investments into tech support and even software development, ideally with the active participation of students and faculty.

Addressing the broader question of how digital communications technologies should be designed, operated and governed in service of democracy, MIT's Ethan Zuckerman argues that as long as policy solutions center around holding Facebook, Twitter, and Google accountable to the public interest, "the solution space we consider for combatting mis-/disinformation, polarization, and promotion of extremism is overly constrained. Our solutions cannot be limited to asking these platforms to do a better job of meeting their civic obligations – we need to consider what technologies we want and need for digital media to have a productive role in democratic societies." The answer is what Zuckerman calls "digital public infrastructure."²⁹⁸

Zuckerman proposes a one percent tax on "highly surveillant advertising," by which he means the type of targeted advertising used by companies like Google and Facebook "that incorporates user tracking, combines demographic and psychographic data to create user profiles, or targets using factors other than a user's stated intentions and geography." If targeted advertising were to be taxed in such a way, \$1-2 billion could easily be generated for a fund that would support the development of digital platforms whose purpose is to serve the public interest.²⁹⁹ Zuckerman also points out that platform development and community-building must be accompanied by research that helps us understand how the various digital platforms are affecting communities, and society more broadly. Because all platforms require varying degrees of rules development and enforcement, organizations and communities require research as well as coaching on techniques to broaden participation and reduce the silencing effect of online harassment. One example of how such research and coaching can work can be found at Cornell University's Citizens and Technology Lab, which works

²⁹⁴ <https://www.livingroomconversations.org/>

²⁹⁵ Tweet by Howard Rheingold, <https://twitter.com/hrheingold/status/1285323429659328512>, accessed August 3, 2020.

²⁹⁶ <https://bigbluebutton.org/>

²⁹⁷ <https://www.discourse.org/about>

²⁹⁸ Ethan Zuckerman, "The Case for Digital Public Infrastructure," *Knight First Amendment Institute at Columbia University*, January 17, 2020, <https://knightcolumbia.org/content/the-case-for-digital-public-infrastructure>

²⁹⁹ *Ibid.*

with Reddit and other online communities to help volunteer moderators design rules and interventions that help to reduce harassment and bolster the effectiveness of fact-checking.³⁰⁰

Such programs could be duplicated and expanded across the country (and potentially in other countries with supportive policy environments) in a systematic way. Universities, in collaboration with the cities and towns where they are located, are an ideal starting point for incubating and piloting new types of platforms for shared learning, community-building, and problem solving. These initiatives could help to incubate new businesses as well as non-profits across the country. Platform innovations would also benefit public interest journalism by enabling communities to develop new mechanisms for reporting and storytelling to inform community deliberation, local policymaking and activism.

III. Policy responses

A policy environment that supports civil rights objectives and is compatible with human rights standards is essential to ensure that the digital public sphere evolves in a way that genuinely protects free speech and advances social justice. One example of a strong policy framework that meets those objectives can be found in a set of policy recommendations, aimed at the next U.S. Presidential Administration and Congress, recently published New America's Open Technology Institute (OTI), which works closely with a broad coalition of advocacy organizations working in the fields of civil rights, media justice, and public interest technology policy.³⁰¹

OTI's recommendations can be grouped into four basic categories that describe the types of legal and regulatory reforms necessary to support an equitable and rights-protecting online public sphere:

- **Access:**
Internet access must be universally available and affordable as a basic condition for public participation and economic opportunity; net neutrality rules must be restored and enforced to ensure equal access to audiences by non-profits, small startups, and multinational media behemoths.
- **Free speech:**
Platforms must remain shielded from liability for user speech; at the same time platforms must be required to be transparent about how content is moderated, prioritized, targeted, and amplified.
- **Privacy and data protection:**
The right to private and secure communications must be protected through strong privacy law and

³⁰⁰ <https://citizensandtech.org/>

³⁰¹ 2020 Party Platform Recommendations, Open Technology Institute, July 13, 2020, https://newamericadotorg.s3.amazonaws.com/documents/OTIs_2020_Party_Platform_Recommendations.pdf

other legal provisions that reinforce the right to offer and use encryption³⁰² technologies; surveillance laws must be reformed to ensure sufficient accountability and oversight.³⁰³

- **Competition and innovation:**

Strong anti-trust laws must be enforced to increase competition and decrease the power of a small handful of companies over the national public discourse; platform inter-operability³⁰⁴ should be incentivized so that people can share content and exchange messages between different platforms that perform similar functions; and data-portability requirements³⁰⁵ should enable people to move their content and personal data from one platform to another.

These policy elements are consistent with the types of human rights-protecting internet policy principles that human rights organizations and global coalitions civil society groups from across the world have been calling for — for over fifteen years.

1. Embedding human rights standards into the global digital public sphere

As the global adoption of the internet reached critical mass around the turn of the century, new questions emerged about how fundamental rights should apply online, and what the shifting roles of states, private companies and civil society mean for citizens' human rights in the online environment. In December 2003 and November 2005, governments, private sector representatives, and other stakeholders including civil society and technical experts came together for UN-sponsored World Summit for the Information Society (WSIS) meetings in Geneva and Tunis. Two of the outcome documents of these meetings, the Geneva Declaration of Principles and the Tunis Agenda for the Information Society, provided a first roadmap for the information society.³⁰⁶ While these documents make references to fundamental rights, a report by the Association for Progressive Communications (APC), the world's oldest global digital rights organization, noted that the WSIS left several critical issues related to human rights unaddressed, including the question of how the internet and other information technologies may shift relations between states and their citizens.³⁰⁷ A key theme that emerged from the WSIS process was that a multi-stakeholder approach should be taken to the governance of the internet, with governments, private actors and civil society all having a role to play in decision-making

³⁰² Danielle Kehl, "Encryption 101," *Slate*, February 24, 2015, <https://slate.com/technology/2015/02/what-is-encryption-a-nontechnical-guide-to-protecting-your-digital-communications.html>

³⁰³ Danny O'Brien, "EU Court Again Rules That NSA Spying Makes U.S. Companies Inadequate for Privacy," *Electronic Frontier Foundation*, July 16, 2020, <https://www.eff.org/deeplinks/2020/07/eu-court-again-rules-nsa-spying-makes-us-companies-inadequate-privacy>

³⁰⁴ Becky Chao and Ross Schulman, "Promoting Platform Interoperability," *Open Technology Institute*, May 13, 2020, <https://www.newamerica.org/oti/reports/promoting-platform-interoperability/>

³⁰⁵ Ross Schulman, "A Tech Intro to Data Portability," *Open Technology Institute*, June 15, 2018, <https://www.newamerica.org/oti/blog/tech-intro-data-portability/>

³⁰⁶ "World Summit on the Information Society, First Phase: 10-12 December 2003" World Summit on the Information Society, <https://www.itu.int/net/osis/geneva/index.html> and "Tunis Agenda for the Information Society," November 18, 2005, WSIS-05/TUNIS/DOC/6(Rev. 1)-E, <https://www.itu.int/net/osis/docs2/tunis/off/6rev1.html>

³⁰⁷ David Souter, "Whose Summit? Whose Information Society? Developing countries and civil society at the World Summit on the Information Society," Association for Progressive Communications, 2007, https://www.apc.org/sites/default/files/whose_summit_EN.pdf

processes related to the development of norms, standards, and processes that shape the internet's global functioning. The WSIS process also conceived the Internet Governance Forum (IGF), organized annually by the United Nations and a multi-stakeholder advisory council, as a forum for multi-stakeholder dialogue on issues related to the governance of the internet.

Civil society organizations from around the world have thus played a critical role in shaping debates on human rights at the Internet Governance Forum and other UN-sponsored fora. At the same time, independent civil society-driven initiatives and coalitions have come together over the past two decades to address emerging human rights issues in the online environment. These efforts have yielded consensus declarations, charters, and lists of principles, containing policy recommendations that apply international human rights standards to the online environment – some focusing on specific issues, while others address a broader policy spectrum. An analysis of the policy positions advocated by ten such initiatives reveals a striking overlap with OTI's internet policy recommendations.³⁰⁸

Several of the policy documents analyzed for this paper offer broad global policy frameworks for human rights-compatible internet governance, regulation, and design. One of the earliest civil society initiatives to offer principles for applying human rights standards to the internet was the APC Internet Rights Charter³⁰⁹ published in 2006 by the Association for Progressive Communications in collaboration with advocates and organizations from Europe, Africa, Asia and Latin America. Five years later in 2011 The Charter of Human Rights and Principles for the Internet was published after three years of drafting by a multi-stakeholder working group affiliated with the IGF was led by civil society, including NGOs and academic experts from the Global South.³¹⁰ More recently, the 2019 Contract for the Web was produced through another multi-stakeholder consultation and drafting process organized by the World Wide Web Foundation.

Other documents are regional in nature, including those that elevate the concerns of Global South stakeholders struggling to address economic inequality, colonial legacies, and authoritarianism and/or weak government in many of their own countries. The African Declaration on Internet Rights and Freedoms³¹¹, a Pan-African initiative first launched in 2014 at the Internet Governance Forum in Istanbul, provides a human rights-protective roadmap for internet policy on the African continent. The Toronto Declaration on the Right to Equality and Non-discrimination, first introduced at the RightsCon Toronto conference in May 2018, was developed by the global digital rights NGO Access Now and Amnesty International with participation from conference participants representing a range of Global South-based organizations, seeks to address issues related to equality and discrimination in the context of governments' and private companies' development and use of machine learning systems.³¹² The Charter of Fundamental Digital Rights of the European Union,

³⁰⁸ See Appendix for full list of the ten consensus documents. Detailed analysis and mapping of the contents of global internet policy documents was conducted by Andrea Hackl with support from the UC National Center for Free Speech and Civic Engagement.

³⁰⁹ APC Internet Rights Charter, APC, November 2006, <https://www.apc.org/en/pubs/about-apc/apc-internet-rights-charter>

³¹⁰ "IRPC Charter" Internet Rights and Principles Coalition, <https://internetrightsandprinciples.org/charter/> accessed August 5, 2020.

³¹¹ African Declaration on Internet Rights and Freedoms, November 2014, <https://africaninternetrights.org/en/file/216/download>

³¹² "The Toronto Declaration: Protecting the right to equality and non-discrimination in machine learning systems," May 2018, https://www.accessnow.org/cms/assets/uploads/2018/08/The-Toronto-Declaration_ENG_08-2018.pdf

drafted by a group of German journalists, academics and politicians under the invitation of the Zeit Stiftung and first published in 2016, responds to what the drafters perceive as gaps and shortcomings in the EU regulatory landscape and seeks to establish a universal framework for fundamental rights in the digital environment for EU citizens.³¹³

A third category of documents addresses specific issue areas with broad support from organizations across the world. The Necessary & Proportionate Principles, first launched in 2013 and revised in 2014, lay out a set of thirteen principles that provide a framework for governments to ensure their surveillance activities comply with international human rights standards.³¹⁴ The 2015 Manila Principles on Intermediary Liability reflect a broad consensus position that online intermediaries (including social media platforms) should not be held liable for third party content, and lay out guidelines for governments and internet companies to ensure that their requests and actions around content moderation comply with international human rights frameworks.³¹⁵ Other civil society efforts have emerged that more particularly address the role that both governments and companies should play in strengthening encryption standards. Most recently the Global Encryption Coalition³¹⁶ was launched in April 2020 by a coalition of several dozen civil society groups from around the world, dedicated to defending encryption against policy efforts to ban or weaken technology that enables secure end-to-end communication.

Added together, these global civil society consensus documents reflect broad, long running civil society demand for policy environments consistent with OTI's policy proposals: regulations must not only protect freedom of expression and privacy as human rights. They must enable universal access to the internet as a prerequisite for full and equitable participation in the public discourse. They also reflect a strong demand that governments and companies be held appropriately accountable, and be subject to transparency and oversight requirements, to ensure that they make and live up to clear commitments to protect human rights, regardless of frontiers or technology used. Governments must not bar people from using encryption and related secure communications technologies that protect political dissent and investigative journalism – upon which the exercise of human rights and the survival of democracy ultimately depend.

Furthermore, expansion of the digital public sphere needs a policy environment that enables, supports, and incentivizes greater diversity of platforms and communication services. While the U.S. and other major democracies worked together through much of the past decade to advance the common policy goal of a free and open global internet, they failed to make or implement clear commitments to protect other human rights on the internet, including privacy and non-discrimination. They also lacked the political will to integrate domestic and foreign policies into a coherent approach to internet policymaking grounded in international human rights standards. Had they done so, one can only wonder whether many countries might have

³¹³ Charter of Fundamental Digital Rights of the European Union, (Revised version of 2018) <https://digitalcharta.eu/wp-content/uploads/DigitalCharter-English-2019-Final.pdf>

³¹⁴ Necessary & Proportionate On the Application of Human Rights to Communications Surveillance, Electronic Frontier Foundation, Final Version May 2014 <https://necessaryandproportionate.org/principles/>

³¹⁵ Manila Principles on Intermediary Liability, March 2015, website <https://www.manilaprinciples.org/principles>; full document, March 24, 2015, https://www.eff.org/files/2015/10/31/manila_principles_1.0.pdf

³¹⁶ Global Encryption Coalition, last updated July 7, 2020, <https://www.globalencryption.org/>

experienced different political trajectories over the past five years, and how the world today might be different as a result.

2. Rebooting U.S. internet policy

In January 2010, Secretary of State Hillary Clinton delivered her seminal “internet freedom” speech at the Newseum in Washington D.C., elevating the promotion of a free and open global internet as a priority for U.S. foreign policy. In a speech the following year, as the Arab Spring uprisings against dictatorships played out across the Middle East and North Africa, she invited “countries everywhere to join us in a bet we have made—a bet that an open Internet will lead to stronger, more prosperous countries.”³¹⁷

Many critics, (myself included) voiced concerns that U.S. “internet freedom” diplomacy as articulated at the time lacked honesty about the United States’ own domestic shortcomings in respecting and protecting human rights online. Critical observations were also made about the role that companies and policymakers in Western democracies themselves were playing in the development and expansion of censorship and surveillance systems around the world. Yet it is important to acknowledge that despite its many inconsistencies, U.S. internet freedom policy nonetheless drove a decade of policy activity across a range of spheres promoting the notion that people have rights to freedom of expression and privacy online that are to be defended and protected. It also supported civil society advocacy, research, and provided a focal point for broader policy debates about the internet’s future.³¹⁸

Among the major U.S. initiatives was the 2011 launch, with the Netherlands, of the Freedom Online Coalition (FOC) along with thirteen other countries who shared a “commitment to respect human rights and fundamental freedoms online.”³¹⁹ While the FOC received little press attention and has gone largely unnoticed even by many foreign policy opinion leaders, it did coordinate significant diplomatic activity that laid down some baseline principles for internet policymaking, particularly during Clinton’s tenure in the first term of the Obama administration. Most notably, FOC members played a central role in getting a resolution passed in the UN Human Rights Council, affirming that human rights apply online as well as offline.³²⁰ While this resolution has been honored by governments no better than various governments tend to honor other human rights commitments, its passage has nonetheless empowered global stakeholders to flag online censorship and surveillance as human rights violations when such measures have failed to meet a “necessary and proportionate” test under human rights law.³²¹ As the FOC gradually expanded its membership, its main focus has been around diplomatic policy coordination behind the scenes at the United Nations and in multilateral

³¹⁷ Secretary of State Hillary Rodham Clinton Remarks on Internet Freedom, February 15, 2011, speech archived by the Electronic Frontier Foundation, https://www.eff.org/files/filenode/clinton_internet_rights_wrongs_20110215.pdf

³¹⁸ Rebecca MacKinnon, “12: In Search of “Internet Freedom” Policy,” *Consent of the Networked: The Worldwide Struggle for Internet Freedom* (Basic Books, 2012) and MacKinnon, “Rebooting Internet Freedom,” *Op. cit.*

³¹⁹ “History,” The Freedom Online Coalition, accessed August 3, 2020, <https://freedomonlinecoalition.com/about-us/history/>

³²⁰ Human Rights Council, The promotion, protection and enjoyment of human rights on the Internet, A/HRC/RES/32/13 (2016).

³²¹ See for example “France: Analysis of draft hate speech bill,” *Article 19*, July 3, 2019, <https://www.article19.org/resources/france-analysis-of-draft-hate-speech-bill/>

negotiations and processes especially related to trade and cybersecurity, to ensure that internet-related human rights concerns are at least considered. FOC members also give financial support to an emergency fund for “digital defenders” – online activists who face persecution in their home countries.³²²

FOC member countries worked actively to counter efforts by other governments that supported a doctrine of “internet sovereignty” led by China and Russia. Their vision of internet governance espouses that it is the “sovereign rights of states” to control and shape all networked technologies that operate within or across territory and entities over which they have legal jurisdiction. Such a vision has no room for the use of technology to challenge state power, and thus has great appeal to authoritarian governments and incumbent demagogues around the world seeking to stifle opposition and retain power.³²³ But a fatal flaw of the U.S.-led internet freedom doctrine was that the diplomatic efforts were not backed up by meaningful efforts by member governments to align their domestic policy, law and regulation with human rights standards. A further flaw was that the emphasis on a global free flow of information helped to maximize U.S. internet platforms’ global dominance without any meaningful interrogation of – let alone effort to check – the ways that they exacerbate power imbalances and inequities in many societies, with harmful implications for human rights.

Social media has been an important tool for many other movements against political repression and authoritarianism. In countries where the press is heavily censored, social media platforms that operate globally are sometimes the only vehicle for independent journalism and activism that can reach significant audiences.³²⁴ Yet the dominance of a small number of U.S.-based internet platforms in a vast range of societies around the world – from Germany to Myanmar to Egypt and Tunisia – has created vulnerabilities to disinformation and extremist movements everywhere. In countries where platforms owned by Facebook and Google dominate, communities have no say in how the U.S. tech giants handle their data, shape their access to information, or police their speech. Populist autocrats have become increasingly successful in using social media to discredit and even silence critics by organizing supporters to threaten and even attack them. For example in the Philippines, social media has been used by the Duterte regime to sway public opinion against journalists who investigate the regime, framing them as criminals.³²⁵ In Myanmar, Facebook (which is so dominant that many people in the country have never used any other internet-related service) has been used by members of the military leadership to foment genocide against the Muslim Rohingya minority.³²⁶

³²² “How We Work,” *Freedom Online Coalition*, accessed August 3, 2020, <https://freedomonlinecoalition.com/how-we-work/>

³²³ Joe Uchill, “Russia and China get a big win on internet “sovereignty,”” *Axios*, November 21, 2019, <https://www.axios.com/russia-china-united-nations-internet-sovereignty-3b4c14d0-a875-43a2-85cf-21497723c2ab.html>

³²⁴ Sarah Repucci, “Media Freedom: A Downward Spiral,” and Adrian Shahbaz, “Why Social Media Are Still Worth Saving,” *Freedom and the Media 2019*, Freedom House, June 2019, https://freedomhouse.org/sites/default/files/2020-02/FINAL07162019_Freedom_And_The_Media_2019_Report.pdf

³²⁵ Craig Silverman, “The Philippines Was A Test Of Facebook’s New Approach To Countering Disinformation. Things Got Worse,” *Buzzfeed News*, August 7, 2019, <https://www.buzzfeednews.com/article/craigsilverman/2020-philippines-disinformation>

³²⁶ Paul Mozur, “A Genocide Incited on Facebook, With Posts From Myanmar’s Military,” *The New York Times*, October 15, 2018, <https://www.nytimes.com/2018/10/15/technology/myanmar-facebook-genocide.html>

Digital rights advocates based in the Global South have for years raised concerns about a new form of digital colonialism through which data is extracted from users in poor countries to generate profits for rich country companies and their shareholders. As researchers with the India-based NGO IT for Change concluded in a recent report, the failure by states and international bodies to govern data as an economic resource has enabled “the private capture and enclosure of data resources” extracted from people in countries unable to reap the economic benefits of such data.³²⁷

The result is that communities are dependent on platforms with no agency to shape how they are governed, but whose leaders are able to leverage power dynamics that Facebook amplifies to their political advantage. In *Digital Democracy, Analogue Politics: How the Internet Era is Transforming Politics in Kenya* Nanjala Nyabola recounts how Cambridge Analytica was hired by the campaign of incumbent president Uhuru Kenyatta to influence voters on Facebook for his successful if highly contentious and controversial 2017 reelection bid. The story she recounts reinforces the findings of Facebook’s independent civil rights audit in the United States: freedom of expression is distorted when people can pay to manipulate social media discourse, and win elections. “The lesson from Kenya in 2017,” she writes, “is that detaching political technology from social contexts can have devastating effects.”³²⁸

Promoting a free and open internet has helped to facilitate the global dominance of U.S.-based internet companies. While the global free flow of information is without question necessary for the protection and enjoyment of human rights, the FOC nations’ failure to address the human rights harms caused by what Harvard scholar Shoshana Zubov has dubbed surveillance capitalism³²⁹ has helped to entrench digital colonialism. “The solution to constraints on democracy in the developing world therefore cannot be more technology,” Nyabola concludes, especially not technology for profit.” Top-down deployment of platforms from Silicon Valley without engaging communities that use the technology produces results that do not necessarily benefit those communities even if the technology was intended to benefit them. The rules and norms of discourse must be shaped and driven by a clear understanding of a community’s power dynamics and existing inequities. Only then can a platform’s design and governance be adjusted to ensure that the technology will not serve to amplify and strengthen those who are already powerful, offering them a sophisticated channel through which to abuse their power further.

The lessons of Myanmar, Kenya, and the civil rights audit in Facebook’s home market all lead to the same conclusion. If control over data is what gives platforms their power and that power has come to hinder the advancement of human rights, the U.S. Government has a duty to step up and protect the human rights not only of its own people. The future of human rights in much of the world depends heavily on whether the U.S. can regulate how social media platforms collect and monetize data, and can at the same time enact policies outlined in the previous section that maximize competition and support decentralized innovation.

³²⁷ Anita Gurumurthy, Deepti Bharthur, Nandini Chami with Jai Vipra and Ira Anjali Anwar, “Platform Planet: Development in the intelligence economy,” IT for Change, 2019, https://itforchange.net/sites/default/files/add/Report-Platform%20Planet_Development_in_the_intelligence_economy.pdf, p. 92.

³²⁸ Nanjala Nyabola, “Chapter 8: Politics, Predators, and Profit: Ethnicity, Hate Speech, and Digital Colonialism,” in *Digital Democracy, Analogue Politics: How the Internet Era is Transforming Politics in Kenya (African Arguments)*, (Zed Books, 2019), pp. 157-178.

³²⁹ Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*, (PublicAffairs, 2019).

The next U.S. Administration should commit to work with global allies to foster a more diverse and decentralized information sphere — not only for the sake of human rights around the world but in order to prevent a further exacerbation of global inequality. FOC governments should publicly recognize that the human rights they have committed to protect involve much more than freedom of expression or freedom to connect — but also other rights discussed earlier in this paper including freedom of information and non-discrimination. They must commit to advance policy frameworks in their own countries that support the expansion of the digital public sphere by a diverse range of organizations.

As I have long argued, internet freedom starts at home.³³⁰ At a workshop titled “Rebooting global internet policy for democracy” held under the Chatham House rule on December 10, 2019 at New America in Washington DC, approximately 30 participants from a range of organizations focused on domestic and global internet policy, press freedom, and human rights, all agreed that U.S. global internet policy will suffer from a deficit of legitimacy and credibility with global stakeholders unless and until the U.S. can implement domestic policies that support human rights and strengthen democracy at home.³³¹ At a time of polarization, pandemic, economic crisis and social upheaval, we face the daunting political challenge of developing and building consensus around domestic policies that genuinely support free speech and social justice as complementary and mutually reinforcing objectives. Meeting this challenge requires a clearly articulated vision and strong leadership.

Conclusion:

How universities can drive innovation in support of free speech and social justice

At the 2018 UN Internet Governance Forum in Paris, French President Emmanuel Macron lamented that the global internet is dominated by two polar opposite approaches to governance: an authoritarian state-dominated “hegemonic” Chinese internet, and a “Californian form of internet” dominated by the major U.S.-based internet platforms which are largely un-unregulated. He called for a “new path where governments, along with Internet players, civil societies and all actors are able to regulate properly” in support of democracy and innovation.³³² But what does it mean to “regulate properly?” While Europe has taken a more heavy-handed approach to regulation, freedom of expression has taken a back seat to other objectives and priorities.³³³ This paper has addressed many of the ways that human rights and democracy are ill-served by the “Californian internet,” a mode of internet governance that many Americans no longer support for good

³³⁰ Rebecca MacKinnon, “Internet Freedom Starts at Home,” *Foreign Policy*, April 3, 2012, <https://foreignpolicy.com/2012/04/03/internet-freedom-starts-at-home/>

³³¹ “Rebooting global internet policy for democracy,” invitation-only workshop convened under Chatham House Rule, December 10, 2019, noon-5pm, New America, Washington DC.

³³² Speech by M. Emmanuel Macron, President of the Republic at the Internet Governance Forum, Unesco – Paris, *Élysée*, November 12, 2018, <https://www.elysee.fr/en/emmanuel-macron/2018/11/12/speech-by-m-emmanuel-macron-president-of-the-republic-at-the-internet-governance-forum>

³³³ Jennifer Daskal, “Internet Censorship Could Happen More Than One Way,” *The Atlantic*, September 25, 2019, <https://www.theatlantic.com/ideas/archive/2019/09/europe-gives-internet-speech-reprieve/598750/>

reasons.³³⁴ But a new path, one that truly protects human rights and helps democracy better serve all citizens, will not be brought to us top-down by the president of France, or the U.S., or any other world leaders.

The new path requires a strong, shared commitment by governments and the private sector to protect human rights. Their commitment cannot be mere lip service; we need viable and effective legal and other mechanisms through which people can hold governments and companies accountable. The governance, design, and management of venues and platforms for speech — online or otherwise — must be grounded in a clear understanding of the UDHR's Article 19, which encompasses not only the freedom to speak, but the right to access information and formulate opinions without interference. The commitment must include all human rights, including privacy, non-discrimination, assembly, the right to political participation, the right to security of person, as well as basic economic and social rights.

The policy principles outlined in the previous sections of this paper offer a clear path for protecting and enabling people's ability to exercise their human rights through the internet and related technologies. The next U.S. Administration and Congress — regardless of the outcome in November 2020 — will not rapidly or easily embrace a fully coherent national and global internet policy agenda that reflects all of those principles. Powerful people in business and government will continue to view technology, and technology policy, as a tool to advance and protect a range of interests and policy objectives. Human rights will be a competing objective among many, even for those who are committed to human rights.

In 2012 I published a book in which I argued that a human rights-compatible internet ultimately needs to be advanced by a global digital rights movement as broad and deep as the global environmental movement.³³⁵ The ten consensus documents described in this paper and listed in the Appendix are products of a global digital rights movement that has grown exponentially over the past decade, with strong participation by U.S. advocacy organizations. Some participants in this movement have held government positions, and a few have held elected office. Authors and signatories of the ten documents also include people from the world of academic research and scholarship, many of whom are connected to universities and think tanks that are part of the Global Network of Internet and Society Research Centers.³³⁶

The digital rights movement faces the daunting challenge of convincing lawmakers to advance an internet policy agenda that both protects free speech and upholds civil liberties. Success is by no means assured. In the meantime, universities, public interest groups, and communities around the country have an opportunity to undertake the hard work of building the institutions and platforms for speech and discourse that serve the public interest first and foremost.

The COVID-19 pandemic has forced universities largely online for the foreseeable future. The fundamental problem of economic disparity and unequal internet access has laid bare a basic barrier to instruction and learning, let alone civic engagement. Students, faculty, and administrators are all struggling to make the digital tools readily available to them meet their needs with mixed and often frustrating results. We lack

³³⁴ Shira Ovide, "Big Tech's Backlash Is Just Starting," *The New York Times*, July 30, 2020, <https://www.nytimes.com/2020/07/30/technology/big-tech-backlash.html>

³³⁵ Rebecca MacKinnon, "Building a Citizen-Centric Internet," *Consent of the Networked*, *Op. cit.*, pp. 221-248.

³³⁶ Network of Centers, <http://networkofcenters.net/> accessed August 3, 2020.

control over how platform features are designed, how information and access is policed and prioritized within them, and what types of interactions the platforms are built to enable or encourage.

Universities and local communities can do much more to leverage our power as voters and consumers to press the companies that run commercial platforms to make changes that better protect our members' rights and serve our needs. We can send clearer messages to our elected representatives about the policy environments that we require in order to ensure that the digital public sphere serves the public interest. There is also a need for a wider variety of digital platforms and models for private design and governance of online discourse.

The challenges and resources needed to develop and maintain such platforms are indeed significant. But universities can play a leading role in supporting the development of new spaces for discourse and learning that meet their own needs, protecting free speech while promoting diverse and respectful participation. A new field of public interest technology – modeled after public interest law – is already starting to be built with the goal of training technologists who work in the public interest.³³⁷ Innovative hubs for civic technology are also emerging across the country. The New York-based nonprofit Civic Hall has created a useful Civic Tech Field Guide that indexes many civic tech projects, with a subsection devoted to “engagement tech” that many student activists may find useful in thinking about how civic engagement must evolve in the pandemic era when physical engagement is restricted.³³⁸

The University of California participates in the Public Interest Technology University Network through its founding member UC Berkeley as well as UC Santa Cruz.³³⁹ To date, network members have been focused largely on public interest objectives and problems in the world outside of the campuses themselves, working with local communities and governments. But at this time of crisis and reinvention in academia there is an urgent need — indeed and opportunity — to build projects and programs that solve challenges around free speech and inclusion for academic teaching and research, as well as campus and community discourse. Departments and centers involved with public interest technology work across the UC system could collaborate with faculty and students to address their specific frustrations and problems.

Visionary national and global leadership for a supportive policy environment would be ideal. But while we are waiting for that leadership to emerge, we must at the same time take greater responsibility for our own digital future. Few if any institutions are better suited to lead this effort than the University of California, birthplace of

³³⁷ Natasha Singer, “Top Universities Join to Push ‘Public Interest Technology,’” *The New York Times*, March 11, 2019, <https://www.nytimes.com/2019/03/11/technology/universities-public-interest-technology.html>; Susan Crawford, “Why Universities Need ‘Public Interest Technology’ Courses,” *WIRED*, August 22, 2018, <https://www.wired.com/story/universities-public-interest-technology-courses-programs/>; “5 reasons you might be a Public Interest Technologist,” Ford Foundation, October 23, 2018, <https://www.fordfoundation.org/ideas/equal-change-blog/posts/5-reasons-you-might-be-a-public-interest-technologist/>; Bruce Schneier, Public-Interest Technology Resources, <https://public-interest-tech.com/> accessed August 3, 2020.

³³⁸ “Engagement tech,” Civic Tech Field Guide, <https://civictech.guide/engagement/> accessed August 3, 2020.

³³⁹ “About the Public Interest Technology University Network,” *New America*, <https://www.newamerica.org/public-interest-technology/university-network/about-pitun/> accessed August 3, 2020; “Public Interest Technology at UC Berkeley,” Berkeley School of Information, <https://www.ischool.berkeley.edu/public-interest> accessed August 3, 2020; Jennifer McNulty, “UC Santa Cruz joins national ‘tech for social good’ network,” UC Santa Cruz News Center, February 21, 2020, <https://news.ucsc.edu/2020/02/benner-network.html>

the Free Speech Movement, and before that, home to the loyalty oath controversies.³⁴⁰ For seven decades, the UC system has grappled with the never-ending challenges of living up to a Constitutional duty to protect free speech while also providing all members of its campus communities with supportive and respectful environments for learning, civic engagement, and academic inquiry – even around controversial and unpopular subjects. Companies and other organizations that run online platforms — as well as the lawmakers seeking to regulate them – have much to learn from these experiences. Universities in turn have much to learn about how to better design, deploy, and govern (and participate in the governance of) technology that better serves their needs for learning, research, engagement and discourse.

There will always be disagreement about how to balance different rights and interests, which is why ensuring broad participation in the creation of venues and platforms for speech, as well as in the governance, and management of them, will be vital to democracy's survival in the internet age. Universities, and the communities with which they are interconnected, are an ideal laboratory for experimentation and innovation in shaping the future of digital platforms for public discourse, learning, and collaboration that can help to strengthen democracy.

³⁴⁰ "August 25, 1950: 31 University of California Faculty Fired in Loyalty Oath Controversy," *Today in Civil Liberties History*, <https://todayinclh.com/?event=31-university-of-california-faculty-fired-in-loyalty-oath-controversy> (accessed August 4, 2020).

APPENDIX:

List of global digital rights consensus documents

- **2006 - APC Internet Rights Charter.**
Published by the Association for Progressive Communications in collaboration with advocates and organizations from Europe, Africa, Asia and Latin America, this comprehensive document covers seven themes: internet access for all; freedom of expression and association; access to knowledge; shared learning and creation; privacy, surveillance, and encryption; governance and encryption; and awareness and realization of rights. <https://www.apc.org/en/pubs/about-apc/apc-internet-rights-charter>
- **2011 - The Charter of Human Rights and Principles for the Internet.**
Produced by a multi-stakeholder working group led by civil society, including NGOs and academic experts from the Global South who were members of the Internet Rights and Principles Dynamic Coalition organized by participants of the UN Internet Governance Forum. <https://internetrightsandprinciples.org/charter/>
- **2013 (revised 2014) - Necessary & Proportionate Principles.**
Thirteen principles provide a framework for governments to ensure their surveillance activities comply with international human rights standards. Drafted by a global coalition of groups including the Electronic Frontier Foundation and Privacy International, the Principles were first introduced in 2013, and endorsed by organizations and experts from around the world. <https://necessaryandproportionate.org/>
- **2014 – NetMundial Principles.**
An outcome document from the Multistakeholder Meeting on the Future of Internet Governance which took place in April 2014 in São Paulo, these principles emphasize the importance of human rights online with a focus on internet access, freedom of expression, and protections from unlawful surveillance. <https://netmundial.org/principles>
- **2014 - African Declaration on Internet Rights and Freedoms.**
This Pan-African initiative provides a human rights-protective roadmap for internet policy on the African continent, signed by more than 300 individuals and organizations. It addresses thirteen issue areas, including those covered by the APC charter with additional emphasis on marginalized groups, gender equality, right to due process, and cultural/linguistic diversity. <https://africaninternetrights.org/en/declaration>
- **2015 - Manila Principles on Intermediary Liability.**
Launched in 2015 at RightsCon Manila, these principles were drafted by an international coalition of human rights organizations that include the U.S.-based organization the Electronic Frontier Foundation, the British organization Article 19 and the Centre for Internet & Society based in Bangalore, and were endorsed by organizations from around the world. They focus on how online

intermediaries should not be held liable for third party content and lay out guidelines for governments and internet companies to ensure that their requests and actions around content moderation comply with international human rights standards.

<https://www.manilaprinciples.org/principles>

- **2016 (revised 2018) - Charter of Fundamental Digital Rights of the European Union.**

Drafted by a group of German initiators that include journalists, academics, and politicians and first published in 2016, the twenty-three articles of this document seek to establish a more universal framework for fundamental rights in the digital environment for EU citizens. It addresses the responsibilities of both state and non-state actors and has been endorsed by 75 supporters representing diverse sectors including academia, civil society and the media.

<https://digitalcharta.eu/sprachen/>

- **2018 - Toronto Declaration.**

Protecting the right to equality and non-discrimination in machine learning systems. This document addresses issues related to equality and discrimination in the development and use of machine learning systems. Prepared by Amnesty International and Access Now, it was endorsed by Human Rights Watch and Wikimedia Foundation when launched at RightsCon 2018 in Toronto.

<https://www.accessnow.org/the-toronto-declaration-protecting-the-rights-to-equality-and-non-discrimination-in-machine-learning-systems/>

- **2019 - Contract for the Web.**

This document seeks to inform global debates on digital rights and addresses the responsibilities of governments, companies and citizens in preserving a free and open web. It was drafted by a multi-stakeholder process led by Tim Berners Lee's World Wide Web Foundation with a range of civil society organizations around the world, Wikimedia, some governments, and also several private companies. Over 160 organizations endorsed it upon launch. <https://contractfortheweb.org/>

2020 - Global Encryption Coalition.

This coalition is organized around a short statement about the responsibilities of governments and companies in upholding one basic principle: "encryption is a critical technology that helps keep people, their information, and communications private and secure." Global civil society members include the APC, the Colombia-based organization Fundación Karisma and the Citizen Lab based in Toronto. <https://www.globalencryption.org/>

Examining Free Speech and Civic Engagement Among UC Muslim Students: What Role Does Campus Safety Play?

by **Saugher Nojan**

View and download both infographics at: freespeechcenter.universityofcalifornia.edu/fellows-19-20/nojan-research.

LET FREEDOM (AND RESPECT) RING:

Fostering Civil Discourse and Free Speech in the Classroom and Beyond

Four Modules for Classroom Instructors

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Introduction

In an increasingly polarized era when college campuses are often the backdrops for clashes over controversial ideas, we are often told that higher education's values of intellectual freedom and commitment to diversity and respect are in tension with one another. As professors who have developed many courses and worked with thousands of college students, we disagree.

Rather, we believe that robust, respectful, and effective discourse in a diverse learning community is a skill to be mastered—not a limitation on liberty. When we offer students the tools and framework for college-level inquiry and communication, we are engaging in a core function of our roles as teachers—much like when we teach them to write a clear and provable thesis or a well-structured paragraph. And like the other learning objectives we pursue in our courses, college-level discourse can (and should) be taught.

This is a unit for faculty, teaching assistants, and peer leaders who want their classrooms to be communities of trust where open and respectful communication flourishes; where students have multiple ways to engage in collaboration and listening; and where all members practice the fundamentals of engaging with new ideas as readers, listeners, speakers, and writers. In the four written modules and accompanying videos, we offer practical approaches for courses in any discipline, whether in-person or online.

Our unit is based on the following ideas, which infuse each module:

- Respectful academic discourse is a skill to be mastered, not a limitation on freedom
- Common purpose is what makes tough conversations possible

- Discourse is about more than speech
- Listening, inquiring, reading, and questioning are all elements of college discourse
- Faculty teach best when we are explicit, transparent, and define our terms to students
- Investing time to build trust and lay the groundwork for a course is always worth it

With these ideas in mind, we have developed four modules that cover distinct elements of a college course where robust discourse thrives. An overview of each of the modules is presented here:

Module 1: Re-imagining course engagement in person and online

Many courses include a grade for “class participation.” Most often, students assume this means a combination of attendance, preparation, and volunteering to speak. In this section, we offer methods of defining, fostering, and assessing student engagement in the course, including through traditional in-person engagement as well as online participation, both synchronous and asynchronous. From syllabus language to learning management system tools, this lesson provides multiple ways to get students speaking and listening.

Module 2: Creating and maintaining inclusive classroom communities

Discussions about inclusive classrooms start with a frame of mind and a deep-seated understanding that inclusion is at the core of an educational journey. Tense interactions and diverse opinions are a crucial part of these inclusive spaces. In this section, we identify important elements of an inclusive teaching experience, provide tips for interrupting bias during class discussions, and offer techniques for responding to hot moments in class. We show that it is entirely possible to create inclusive classrooms regardless of the course delivery platform.

Module 3: Setting community standards for learning

Community standards created as a collaboration between a faculty member and their students can serve as a framework for inclusive classroom learning. Once these standards are adopted, they become the framework for accountable classroom communication. Not only do community standards for learning inform the tenor of classroom discussions, but they also encourage students to reach outside of their comfort zones and engage in discourse across differences. In this section, we suggest themes and ideas for creating community standards for both in-person and online formats.

Module 4: Assessments and assignments for collaboration and productive dialogue

Many students dread group work because of concerns about unequal burdens and contributions. But collaboration can build respect and trust; require effective communication skills and compromise; and provide an opportunity for productive discourse. In this module, we explore assignments and assessment methods that foster and reward collaboration and help students practice the “community skills” that are essential to a learning community where robust discourse thrives.

MODULE 1:

Re-imagining course engagement in person and online

Many students report that they learn the most in college through engagement with peers – whether in class discussions, working on projects, or socially. Our courses can be places where students learn to engage deeply with material and with each other; tackle challenging ideas; and practice perspective taking and listening. Speaking, listening, collaborating, asking great questions, and engagement with others are all college-level skills that we also recognize as essential to post-graduate education, careers, and civic engagement. But if we simply give a grade for “class participation” without explaining what that means, students often assume that mere hand-raising is all we want. And because class participation is generally a small part of the grade, it is not always a sufficient inducement even to do that.

There is a more effective way.

We can and should design our courses to encourage, recognize, assess, and reward engagement. In this module, we'll explore new definitions of course engagement that work with course objectives, offer ways to build this work into assessments, and provide discussion guidelines to maximize student engagement.

Learning objectives

1. Re-define course engagement to engage more learners and tie to course objectives
2. Consider collaborative models of defining and assessing course engagement
3. Explore discussion practices and prompts (synchronous and asynchronous) that maximize course engagement

Re-define course engagement to engage more learners and tie to course objectives

Does this sound familiar? A student stays quiet in class throughout the semester, then writes a final paper that is sophisticated, thoughtful, passionate, and demonstrates deep engagement with the course materials—including ideas shared in class discussion. When this does happen, it's natural to have mixed feelings—it's good to know that students really are learning even if we're not seeing it, but also feels like a missed opportunity for other students to learn from such a thoughtful peer. For many instructors, stories like this one join other powerful reasons not to assess so-called class participation or to weigh it very lightly.

Other reasons include:

- Concern that some eager students will dominate the discussion in pursuit of a good grade
- Anxiety created among shy students
- Unfairness toward students with language disabilities or language learners
- Recognition that other skills such as listening are just as important to the learning process.

Professors who have de-emphasized “class participation” out of recognition of these or other concerns, are already part of the way toward designing for greater engagement. Our next step is to re-embrace course engagement by replacing “class participation” with a definition of course engagement that harmonizes with the course learning objectives.

An alternative definition of course engagement might include any or all of the following actions:

- Attendance[1]
- Communicating with professor or TAs in office hours or by email
- Supporting peers, such as by helping them catch up on missed material, offering or accepting peer review of assignments[2]
- Researching course topics and doing additional readings (encourage students to share interesting readings on the course Learning Management System (LMS)[3]page or on a shareable document created for that purpose)
- Preparing for class every day
- Listening respectfully
- Setting and meeting individual goals for course engagement (see below)
- Contributing in small-group discussions and exercises (see below)
- Contributing to discussions on LMS discussion boards
- Applying course concepts and ideas to current events
- The *quality* of classroom contributions, for example:
 - Engaging thoughtfully with peers’ contributions
 - Considering multiple perspectives on an issue
 - Asking thoughtful questions

Next steps

As faculty, we should first consider our course learning objectives – both content and skills. How can course engagement action items like those above (or others) align with our overall objectives? This will depend upon the type of course being taught. For example, “applying course concepts and ideas to current events” might be important in a political science course.

Second, for each content and skills learning objective, we should consider a mode of course engagement that would support that objective. For example, if the course objectives include developing research methods skills, finding and contributing additional readings could reinforce that objective.

We will now have a list of course engagement action items to add to the syllabus and discuss with students on the first day of class (or in the first recorded online lecture). It is often helpful to have a separate document of [class policies and procedures](#) that includes course engagement.[4] In the next section, we will explore how to

add students' individual engagement goals to these. After that, we will look at discussion prompts and class exercises that encourage these other forms of engagement.

Consider collaborative models of defining and assessing course engagement

Professors should introduce students to an expanded definition of course engagement both through the syllabus language and in the first class meeting. But it doesn't end there. Course engagement goals can differ from student to student—and setting and meeting these goals can help students become more committed to the course in general.

LMS tools can help us turn course engagement planning and assessment into a collaborative process. One strategy is to use an online syllabus quiz at the beginning of the semester. For the first or second course meeting, the professor might assign the syllabus and the quiz. In the quiz, students might be asked to consider the syllabus language on course engagement and then have the opportunity to:

- Identify challenges and barriers they might have to course engagement (for example, students in other time zones might have a hard time with synchronous elements of an online course)
- Reaffirm they understand the course expectations and policies (for example, attendance, extensions) outlined in the syllabus (and if applicable, the class policies and procedures document)
- Introduce themselves and describe their interest in the course
- Identify a goal or goals for course engagement (from among a list or something original)
- Identify other goals—for example, improving their writing or time management.

We recommend that this quiz is a non-graded but mandatory assignment.

Some LMS (such as Blackboard) also offer an anonymous survey option. It is easy to view and download answers in the aggregate and get a sense of the class as a whole and elicit information about, for example, whether students are concerned about expressing unpopular views. Professors could check in with students about their goals through additional quizzes or surveys; in office hours; or in class discussions.

A mid-semester discussion about course engagement and progress toward goals can be particularly useful for first-year students, who are also adjusting to the new expectations and practices of college. It is also helpful to informally evaluate students' course engagement at mid-semester and offer advice about how to continue to improve.

It is helpful to acknowledge when students are demonstrating great classroom engagement. This encourages others to do the same. Here are some suggested ways of communicating about student progress:

- Noting when a student asks an important question; letting students know that asking questions can raise the level of discourse in a classroom, and can be a sign of higher-order thinking—not ignorance
- Highlighting student contributions to online discussion boards in lessons (or recorded lectures)
- Directing students' attention to contributions on the suggested readings document

- Indicating when students have participated in great discussions during office hours, and encourage students to join in
- Pointing out when students have been thoughtful in navigating difference or acknowledging nuance

At the conclusion of the course, it is good practice to ask the students to suggest their own course engagement grades based upon the syllabus language and their personal goals. It might be helpful to use a quiz on your LMS to do so. Students should explain their reasoning, and if applicable, incorporate attendance and frequency of contributions to online discussion boards. This exercise not only enables us as professors to incorporate many modes of engagement into students' course grade; it provides useful feedback about how students pursue their goals; which elements of the course attracted most students; and how they perceive their own progress in the course. The professor retains the power to set the final grade, and we recommend providing written feedback on course engagement, just as if it were a paper or essay. This is an advantage of using an online quiz or assignment as well. Using a rubric is also an available option.

Next steps

First, plan to ask students about their individual goals. This can be done online or as a reflection during class time. Professors should plan to check in with students about their progress toward their goals, soliciting their feedback and offering their own. Students must know that course engagement is being assessed, what it consists of, and that they will need to suggest a grade and explain their reasoning. And finally, assign students a course engagement reflection that becomes the basis for their final grades.

In the next section, we will explore ways to maximize engagement across the course.

Explore discussion practices and prompts (synchronous and asynchronous) that maximize course engagement

When we define engagement broadly and collaborate with students in setting engagement goals, we set the stage for more robust conversations. Next, we look at ways to maximize engagement in each class session (or online discussion assignment). We recommend preparing students for class discussion in advance, frequently utilizing small groups, and encouraging students to engage directly with peers' contributions.

Class participation prep prompts

The typical syllabus entry tells students what they will read or write for a given class period. Some faculty add a descriptive title for each class session, week, or segment of the course. For many students, particularly first-year students unaccustomed to college-level discourse, it is challenging to see the connection between assigned readings and class discussion topics in advance. Students report that it can be hard to take notes without knowing what the instructor hopes they take away from the reading. Some students who comprehend the reading might still lack confidence about contributing in class without some sense of how to prepare. The syllabus can do some heavy lifting here and prepare students to contribute. In addition to assigned readings and writing prompts, consider adding a statement about what the class discussion will be.

Here are some examples of class participation preparation language from a government course on speech (each is from a different class session):

- Consider how the executive order on free speech could promote or inhibit the goals of higher education and the values of the campus free speech movement.
- Prepare to discuss the relationship (if any) between guest speakers and the university's mission. Prepare to discuss Ahmadinejad's speech at Columbia and how the university chose to respond.
- Prepare to discuss what it means to think historically. Consider what types of evidence we should consider in determining what the Confederate Flag means.
- Prepare to discuss whether and when a commercial transaction constitutes "speech."

These prompts can be quite useful for students who set a goal of speaking up more in class. In our classes, office hours, or mid-term check in, we as professors can encourage students to select a few topics to prepare for and plan to volunteer.

Small groups

In years of seeking and reading feedback from students about their course engagement experience, we have found that students enjoy small group discussions. For some instructors, the decision not to be at center stage feels like not doing the work. But just as students' course engagement is about more than speaking up, so is our teaching about more than taking center stage. Here are some ways to maximize the benefit of small group work.

First, tie small group work to the day's learning objectives and class participation prep prompts. Preparation raises confidence and makes it less likely that only the bigger personalities will engage.

Second, give students time to reflect upon the question individually before moving to small groups (or pairs). Students might spend a few minutes writing their initial thoughts.

Third, it can be helpful to remind students to take the time to explore the threshold question, "what do we need to know in order to answer the question before us?" Which course readings apply? What additional research would we have to do to become experts on the topic at hand?

Engaging with peers' contributions

Even in classes where many students are enthusiastically and actively engaging, sometimes we can feel like the hub on a wheel—with each student attempting to talk to the professor rather than with one another. There are simple ways to make the course work more like a web, with connections from student to student.

For courses with synchronous class discussions, professors should explain to students that we do not call on anyone whose hand is up while another student is talking. Ask students to explain the purpose of that practice. Second, we should make clear that we would like people to engage with the points their peers make rather than wait their turn to engage with us.

Even in purely face-to-face class, LMS tools such as course reading journals and discussion boards can help direct students' attention to each other's perspectives and elevate the less forceful voices. For example, if we assign a course reading journal, we may choose a particularly thoughtful comment from a student and introduce it in our course discussion.[5] We recommend putting a quote on a slide and giving the students time to process it. Example:

David says:

“The expansiveness of Pinker’s argument leaves it more vulnerable to criticism. Why, for example, if free speech is inseparable from education and the pursuit of knowledge, does authoritarian China lead the world in college graduates and contributions to scientific journals?”

The original student could have time to explain or expand upon their contribution before we open class discussion on the statement.

We can also prompt students to engage with one another’s ideas after class discussions. The following exercise has yielded thoughtful reflections: provide small groups a problem to solve or question to answer. Ask one member of each small group to share that group’s solution or answer on the LMS discussion board. Assign the students to select a solution or answer that they feel is better in some way than their own group’s answer, and identify something in particular the other group did that or considered that would be an improvement on their own solution, and why.



1. For online or hybrid courses, attendance includes viewing recorded class sessions and posting on the relevant discussion forum for a given class session.
2. We recommend setting peer critique guidelines for students consistent with the institution's academic integrity code. For example, if you would like to offer credit for peer critique, we might offer several options for paper topics and have students review and critique papers on a different topic than their own.
3. For example: Blackboard or Canvas.
4. It is also possible to include language about free speech and expression in a document like this.
5. We suggest that professors let their students know at the beginning of the semester that they might want to share their contributions and tell them that if they do not want a particular journal entry shared, students should indicate that on the entry.

MODULE 2:

Creating and maintaining inclusive classroom communities

Discussions about inclusive classrooms begin with a frame of mind and a deep-seated understanding that inclusion is at the core of an educational journey. In addition to teaching the content and skills specific to our disciplines, our role as college professors is to help our students—all of our students—to learn and thrive. All members of an inclusive classroom should be provided access to an educational environment where they can freely and safely listen and speak.

Regardless if you believe that higher education can be “the great equalizer,” it is clear that truly inclusive teaching takes work. Inclusive teaching puts the onus on instructors to recognize our students as young adults with varied life experiences and learning challenges. This module provides ideas for creating classrooms that accommodate our diverse students by identifying some of the important characteristics of inclusive college classrooms and discussing welcoming and respectful listening and speaking.

Learning objectives

1. Define inclusive classrooms and their core role in an educational journey
2. Discuss some important characteristics of inclusive teaching
3. Identify techniques to interrupt bias and discriminatory language in the classroom learning environment

Inclusive college classrooms and their core role in an educational journey

Teaching inclusively requires embracing the diversity among our students, which includes but is not limited to their race, ethnicity, immigration status, gender, gender identity, socioeconomic status, religion, political ideologies, disabilities, and first-generation status. In addition to their diversity, college students enter our classes with diverse learning differences, educational and professional preparation for college, and language backgrounds.

The diverse demographics and personal experiences students bring to our classrooms all provide the potential for more nuanced class discussions. This diversity also challenges us as instructors. When making a decision related to our teaching, we should ask ourselves if any of our students will be disenfranchised by our choices. For example:

- If a student with a documented processing issue retreats during a graded in-class debate while other students find the fast pace exciting, is the student’s participation grade lowered on this activity? Are they provided an opportunity to improve their grade through a differently formatted assignment?
- If a classroom simulation requires students to be assigned roles that symbolize underrepresented populations, are these roles assigned randomly or is there careful consideration as to the roles assigned to students of color, religious minorities, women, and first-generation students in your classes?

- If American English idioms such as, “thinking outside the box,” or “hitting the nail on the head,” are used in a lecture, class discussion, or assigned reading or film, are you making sure to define them so that students who are not first language English speakers can equitably understand the material?

One important question we need to ask ourselves is: *As professors, are we viewing the success of our students as central to the success of our own teaching?*

A welcoming and structured learning environment

Undergraduate students thrive in a structured classroom environment where the syllabus, assignments, and grading mechanisms are driven by clear learning objectives. As faculty, we need to ensure that our teaching methodology, assigned texts and film resources, and assessments are all universally designed with the diversity of our learners in mind. We should not view this scaffolding as hand-holding, but instead as an element of inclusion in our teaching practices. Students who are most at need benefit disproportionately from structure, and those who do not require as much structure are not harmed by its presence in our teaching.

Inclusive environments also welcome all who enter our physical and virtual learning environments, including the teaching assistants, faculty members, guest speakers, and perspective-students who might be visiting. The audio/visual technicians who set up and fix the technology in our classrooms and the staff who clean our spaces should be included in this welcoming environment as well. As faculty members, we are responsible for modeling and normalizing an open and respectful environment for our students.

Important characteristics of inclusive teaching

There are shared characteristics that can be seen across inclusive college classrooms, regardless of the subject matter being taught. These elements include teaching speaking and listening skills, interrupting offensive language and faulty assumptions made by students in class, taking time to connect with students on a personal level, and being willing to pivot in our teaching methods if we find they are not working for our students. Although this list is in no way exhaustive, here are five important elements of inclusive teaching:

Listening deeply when others speak

We should be teaching our students what active listening means in the classroom. College students who listen thoughtfully to their peers can strengthen relationships and friendships. They can also grow to appreciate how their classmates might approach the course material differently than they do. Students who are trained to listen to their classmates create a place where people feel safe to share their opinions and offer suggestions in an environment built on trust.

As instructors, we should model thoughtful listening for our students. We should explain that one of the greatest barriers to communication is listening to reply, rather than listening to understand. Encouraging listening skills in class is not always an easy task. It takes effort for our college students to quiet their own thoughts in order to really hear what others are saying. If we add structure to our teaching by not allowing students to raise their hands when a classmate is speaking, for example, we are taking steps toward inclusive listening behavior. It's important to remind our students of the appreciation and respect we all feel when we are heard without distractions.

Identifying needed improvements in our teaching

Regularly asking our students for feedback in writing and in person is important so that we can grow as educators and continue to make sure our classrooms are as inclusive as possible for all students. By finding out what activities and teaching methods work best for the students in our class, you'll be able to increase student engagement for many different kinds of learners. For example, a mistake many faculty members make is to routinely lecture through an entire class meeting. The intent is a positive one: after all, isn't it our job to cover as much detailed material as possible in the limited time we have with our students? If we receive feedback from our students about our classes being too lecture-heavy, perhaps we should be questioning our techniques: how will our students really understand the material if all they have done is listen?

Most typically, instructor evaluations are distributed at the end of the semester, leaving little room for improvement in our teaching. By asking students for regular feedback throughout the semester, we'll be able to troubleshoot methods that are not working for all learners and create activities and assignments that are more inclusive. Grades and test scores don't tell the whole story of a student's success in our courses; by asking our student how well our teaching fits their abilities as learners, we can continue to adjust our instruction to better meet student needs.

Respecting silence

Silence is critical, both as a teaching technique and as a mechanism to help students process new information and gather their individual thoughts and opinions. Some students are more focused on actively participating in class discussions than they are in listening to others. In addition, quieter students might prematurely accept the ideas of their more extraverted peers before considering their own. An inclusive classroom uses purposeful silence to benefit all students.

Professors are sometimes concerned about "wasting" precious class time in silence. Others feel that even a few minutes of silence in a classroom feels like an uncomfortable eternity. But short silences, especially following the presentation of difficult material, or after a heated class discussion is a tool used by many seasoned educators. Simply stating, *"Let's take two minutes to think or write silently, and then we'll break into small discussion groups/return to the larger class discussion"* will most often generate richer dialogue.

Recognizing the humanity in others

Taking time to connect with our students on a personal and emotional level will show them that they are valued and worthy. To the extent we are comfortable, it's important that we share both challenging and joyous stories from our own lives with them. We should feel comfortable letting our students know what is important to us, both inside and outside the classroom.

Using students' chosen names (pronounced correctly) and preferred pronouns; acknowledging stressful times in their lives, on campus, or in the larger society; asking how they are feeling after they have been ill; and sending a quick note to express concern if their behavior in class seems "off" are all crucial to building trusting, caring relationships. Modeling the concern we show to our students should, in turn, help them to see us as humans with responsibilities, passions, families, feelings, and emotions.

Speaking only your truth

There is a difference between speaking your truth and speaking the truth, and we should teach this distinction to our students. We should encourage our students to confidently share their own voices in class. It's our job as faculty members to remind our students to speak only for themselves, however, not for a larger group in which they are a member, and certainly not for others.

As professors, we should also model the importance of asking about the experiences of others rather than making assumptions about their lives. Hearing others' answers to the questions we pose (sometimes preceded by asking them if we may ask these questions), is the clearest and most honest way of learning about other individuals' thoughts, emotions, and lived experiences—in their own words.

Interrupting bias and discriminatory language in the classroom learning environment

Inclusive teaching includes holding ourselves and our students accountable for the words and the opinions they share. It also means teaching our students to hold themselves and their peers accountable and to apologize for their own hurtful speech. Both conflicts between individuals sharing dissenting opinions and the use of offensive language by a student are to be expected in our college classrooms. Although often uncomfortable, these incidents are an appropriate part of college-level learning. If we can manage these situations well, they can be excellent ways for students to grow.

Faculty self-reflection and education

It's important to ask ourselves why so many of us are uncomfortable in the presence of a person expressing a high level of emotional intensity in a classroom setting. As faculty, we want our students to be passionate and engaged, so what is it that scares us? When we hear a student say something that may be hurtful or discriminatory to a peer, to us, or to a specific group of people, what is our reaction? Facilitating inclusive classroom discussion means that we have thought through some of these possible classroom scenarios and have made a plan to address the situation at hand.

Inclusive classrooms also require faculty to educate ourselves on the classroom biases reported by the students across the university who feel marginalized on our particular campus. This includes microaggressions—verbal or behavioral indignities which communicate racial or ethnic antagonism, whether intentional or unintentional. We must remember that a learning environment which a student perceives as hostile can dramatically and negatively affect their ability to learn and thrive on campus.

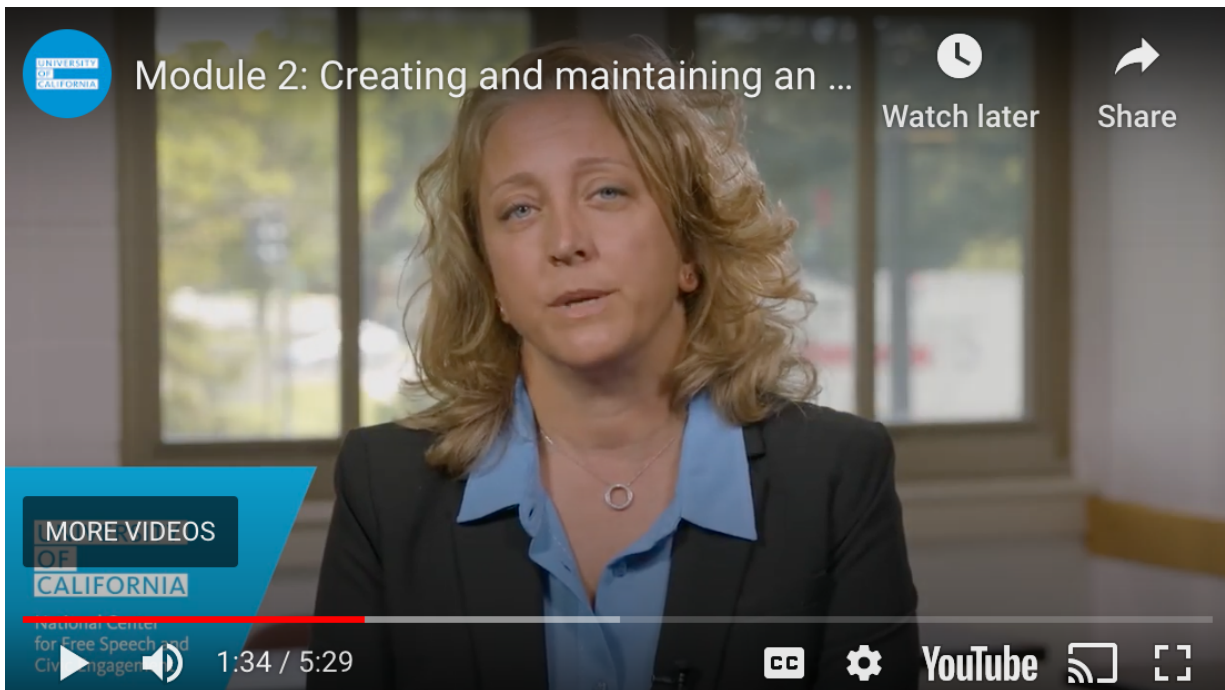
A step-by-step plan for interrupting bias

Do you have a plan to respond if a student in your class makes a sexist, racist, or homophobic remark? Are you ready to act quickly and provide a teachable moment so that communication does not shut down? These can be some of the most difficult and important teaching moments of a semester. Handle it wrong (or not at all) and our authority in the class can be significantly compromised. Handle it appropriately, and we model an appropriate response in a profoundly meaningful manner.

Many colleges and universities have created guidelines for their instructors to interrupt bias when it arises in the classroom. Here is a user-friendly resource which can be applied in varied college classroom settings. It was

created by the Office for Inclusion and Intercultural Initiatives at Michigan State University in 2018 and adapted by many U.S. colleges and universities.

- **Quickly pause the conversation** after you have heard a biased, disturbing, or offensive word or comment from a student (with “wait a second” or “excuse me”) to let the speaker know that you’re interested in learning more about something they just said. Make sure to keep your focus on the student(s) who verbalized the offensive language. Most importantly, be willing to shift from your scheduled teaching plan for the sake of our students learning from the experience.
- **Ask the speaker(s) for clarification** (with, “what I hear you saying is”) to let the speaker(s) know what you think you heard them say. This returns the power in the situation back to the student, offers them a minute to gather their thoughts, and gives them the floor to more clearly explain their language or what they meant to express, and perhaps offer an apology.
- **Listen carefully to their response in an engaged manner.** Give the speaker(s) an opportunity to correct your interpretation and/or apologize for the offensive language. Make sure to use eye contact, observe your body language, and interrupt the speaker only for further clarification.
- **Speak with confidence, describing your objection to what was said.** Explain why the language was offensive to you, with the goal of educating, not embarrassing the student(s). Within your comfort level, share your own experiences or learning related to the offensive term or biased opinion. Students are often moved to consider other perspectives when they hear the personal experiences of their professors and mentors.
- **Follow up** with the student or group who was offended or potentially offended. Reach out privately by conversation, email, or phone following the class. Ask for their opinion about the in-class experience and their interpretation as to how the interaction was handled. Offer the opportunity for further follow-up and confirm that they feel comfortable, included, and heard in your classroom environment.



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MODULE 3:

Setting community standards for learning

Community standards, sometimes referred to as classroom guidelines, serve as a collaborative framework for inclusive classroom learning. These guidelines encourage inclusive and productive dialogue in the learning environment. Unlike a classroom contract in a K-12 environment which imposes rules on students and punishes those who disobey, community standards for college learning require that the faculty member and the students in the course work collaboratively to design a living document for the benefit of all members.

Interactively producing these guidelines encourages college students to feel that they have a stake in their own learning. Once they are agreed upon and adopted, the community standards can become the framework for accountable classroom communication.

Learning objectives

1. Define community standards for learning and explain their importance
2. Appraise suggested community standard themes for universal use
3. Identify methods for creating, revising, and amending community standards for learning and customize by course delivery format

Community standards for learning and their importance in the college classroom

The community standards for learning form the framework of the class. Once adopted, they will be distributed to all students, referenced frequently, and amended when appropriate. The practice of creating the standards is just as important. If our students feel they are truly co-creators of their class community standards, not only will they be more inclined to follow them, but the guidelines can also significantly improve the tenor of our classroom discussions.

The practice of creating the standards encourages students to reach outside of their comfort zones to share opinions and engage in discourse across differences—skills they will practice throughout the term. The way that professors introduce the community standards activity sets the tone for communication in the class. The in-class activity of creating the community standards works best as a required but non-graded assignment. It is good practice to first engage students in a short discussion about some of their insecurities about the course (or about college in general if the class is composed of first-year students), and ask what communication challenges have arisen in their previous high school or college courses.

Classroom contracts help explain the power dynamics of learning environments

Most college students have learned about the stratified nature of the society in which they live, but fewer have been taught about how classroom spaces are highly stratified as well. It is often an eye-opening experience (especially for first-year college students) to be asked to think about college classrooms as hierarchical microcosms. Traditionally, the professor as the “sage on the stage” displays all the power from the front of the

room, imparting their knowledge to the seated students. In turn, the students furiously record the information being handed down and at some point are asked to relay that knowledge back.

In a less traditional classroom, educators can feel free to experiment with alternative ways of distributing power. The focus can be on equitability, inclusivity, and encouraging varied student voices. Working with students to set classroom community guidelines is a way for faculty to demonstrate to our students that their thoughts and suggestions are valuable to us and to the class as a whole. This activity is one of many ways students can have input in creating their own productive learning environments. Simultaneously,

Previous teaching mishaps and challenges benefit the generation of new ideas

So many semesters pass when we as faculty fail to learn from our own classroom challenges and teaching mishaps. Perhaps we are quick to put an unfavorable experience behind us, or maybe we don't realize the importance of learning from our classroom mistakes. However, after a class discussion that felt out of our control, or a class debate where students were treating each other disrespectfully, we should be asking ourselves what went wrong.

Many of our classroom challenges could have been avoided, or at least minimized, if we had community standards in place. For example, if there were guidelines for interrupting a student's biased language, would we or another student have used them to diffuse a situation that got out of control? If we had approached a student who spoke too frequently during class discussions early in the semester and reminded them of agreed-upon class guidelines for participation, would that student have been better connected to classmates? If students had helped to create policies for shared responsibility in group project work, would they have felt more empowered to approach a group member they felt wasn't pulling their weight in the assignment?

Suggested community standard themes for universal use

Rather than asking our students to begin brainstorming ideas during the in-class activity where students create community standards for learning, it is best to introduce a general list of themes that are important to us. In addition to saving significant classroom time, introducing the activity on community standards with some themes ready for discussion will be especially useful for first-year students unfamiliar with college-level speaking and listening expectations.

Themes that instructors suggest for inclusion in classroom community standards will vary based on the content of the course, our teaching style, and our course learning objectives. Reviewing our syllabi in advance of creating community standards with our students will ensure that we are taking into account the learning opportunities we have chosen for the course. For example, in a class with in-class debates where we anticipate opposing opinions will most likely be raised, we might want to suggest that students set guidelines related to these activities.

Five sample themes for community standards

Here are five suggested themes that will work to spark conversation about community standards in most discussion-based classes:

1. **Active listening:**

When creating community standards for learning, the class should collectively decide how they will define active listening and how they will choose to encourage the practice. Perhaps standards will discourage students from raising their hands while others (both faculty and peers) are talking? Will there be rules for laptop and cellphone use during class discussions, and if so, how will they be enforced?

2. **All voices welcome to speak:**

How will the class define “inclusive voices”? Will there be guidelines for balancing the participation of different speakers in the class? Will there be rules for how frequently students speak? How will the community ensure that students differentiate between facts and opinions? Will community members be required to defend their claims with verifiable evidence, and how will it be handled if they do not?

3. **A diverse and inclusive community:**

How will the class define “diverse” and “inclusive” and how will they explain differences between the terms? Will the community standards for learning address ideas of how to respond to speech that is hurtful? Will students be expected to interrupt bias when they hear it, or is this the responsibility of the instructor? Will the class expect apologies from those who offend others? Must these apologies be accepted from class members who felt hurt or wronged?

4. **Confidentiality and community:**

Will the group set guidelines about confidentiality? If so, how will they be enforced? May personal stories that have been shared in class be repeated to others outside of class? If so, will there be rules about anonymity? How will the same rules about confidentiality apply to social media? How will rule-breaking be addressed?

5. **Student Responsibility:**

What responsibility and commitment will students have to the class readings, individual assignments, and due dates? Are there particular rules for group projects? How will it be handled if a student is not pulling their weight in a collaborative assignment? How will community members be responsible for presenting their concerns about specific academic course material or the class environment?

Creating community standards and the impact of course delivery format

When planning for creating community standards, it is important to consider the manner in which the particular class will be taught: in person or online, synchronous, asynchronous, or a hybrid model. The delivery of the course will influence how the group will actually gather to create the community standards, how the guidelines will be edited, and what the themes of the document itself will be. For example, community standards for participating in class discussions will look quite different for in-person versus online classes.

Students' deep sighs of frustration or shifting in seats, easy to spot in classrooms taught in person, provide a lot of information for instructors; they are tell-tale signs of student discomfort with the material or opinions being presented. Given the difficulty of reading the gestures or body language of our students over video conferencing, it could be argued that community standards for learning might be even more important in classes taught online. If there is the possibility that a class might change from in-person to virtual over the course of the semester, or if students will be attending the class in different formats, the course community standards should reflect this to remain inclusive of all students.

Collecting ideas as a class

There are many different methods for collecting student ideas to create classroom community standards for learning. Suggestions can be recorded by hand on a blackboard, white board, or large Post-it and then photographed to be transcribed later. They can be created in a Google Doc that can be reworked as the ideas are tweaked and later edited by all. Teaching assistants can take the lead in both facilitating the collection of ideas and in further editing the document.

If the class size prohibits creating the document as a full group, breaking the class into small working groups to tackle the language of specific standards and report back to the entire class is a great option. This method also works well in a class being taught in a hybrid format. Students who are meeting in person can work together to brainstorm ideas and create guidelines while students taking the class virtually can be assigned collaborative work on creating select community standards by video chat. Regardless of how ideas for community standards are collected, the timing for the completion of the document is critical. The standards should be in place within the first two weeks of the semester in order to set the tone for the teaching and learning ahead.

Revising and amending the document

Once the community standards document is in a draft format, it can be edited and refined by all members of the classroom community. If the revising and editing takes place during another scheduled class time, it's important to set that time aside so that the working session will not be rushed. One way to approach the exercise is to ask the students to take a few minutes to read specific community standards you have assigned to them and suggest wording that they want to change, remove, or add.

You can then pair students up with a classmate to discuss the edits each student wants to propose. Using a shared laptop or a document in hard copy, the partners can work together to further edit the specific community standards they have been assigned. After a set amount of time, each pair can report their additional proposed edits back to the class.

Once all suggestions have been incorporated, the entire revised document should be distributed to the class. Since all students should feel that the community guidelines accurately represent their interests and are principles by which they are willing to abide, you might consider giving them a few days to offer final feedback. A date that your class community standards for learning will be "ratified" should be clearly delineated on your syllabus.

Professors should promote an understanding that the classroom community standards are a living document that can (and should) be amended as specific situations arise and as the students in the course grow to know each other as classmates and colleagues. Addressing the need to amend collaboratively created community

standards should be presented as the responsibility of all classroom members. In fact, amending the standards can become the framework for accountable classroom communication.

Distributing and displaying the community standards for learning

After they are finalized, the community standards can be distributed to students virtually or in hard copy. The benefit of having them distributed virtually is the ease with which they can be amended at any point in the semester and immediately be accessible to students. If the faculty member and teaching assistant regularly reference the standards, they model how the guidelines are embedded in the learning environment.

Some professors choose to add the community standards to their class syllabus on the school's online learning platform. Others carry them to class on a poster and hang them at the front of the classroom for the entire semester—others just for the first few weeks. Still other instructors ask students to read some or all of the community guidelines aloud occasionally as a reminder to the group that they have set a collective agreement. Distributing and displaying agreed-upon guidelines in an accessible location is crucial for students to understand their impact on the class and how seriously the community standards are expected to be followed by the learning community.

Sample Community Standards for Learning:

- **Respect**—Give undivided attention to the person who has the floor (permission to speak).
- **Openness**—We will be as open and honest as possible without disclosing others' personal or private issues (e.g., family, roommates, friends). It is okay to discuss situations, but we won't use names or other identifiers. For example, we won't say, "My older brother...", instead we will say, "I know someone who..."
- **Right to pass**—It is always okay to pass (meaning "I'd rather not" or "I don't want to answer").
- **Nonjudgmental approach**—We can disagree with another person's point of view without putting that person down.
- **Taking care to claim our opinions**—We will speak our opinions using the first person and avoid using 'you'. For example, "I think that kindness is important", instead of "You are just mean".
- **Sensitivity to diversity**—We will remember that people in the group may differ in cultural background, sexual orientation, and/or gender identity or gender expression and will be careful about making insensitive or careless remarks.
- **Anonymity**—It is okay to ask any question by using the suggestion box.
- **Acceptance**—It is okay to feel uncomfortable; people feel uncomfortable when they talk about sensitive and personal topics, such as sexuality.
- **Have a good time**—It is okay to have a good time. Creating a safe space is about coming together as a community, being mutually supportive, and enjoying each other's qualities.
- **Respect each other's personal space**—Ask for consent before touching another person, ensure that you are giving people their desired space.

Teaching Assistants' Training Program, University of Toronto, 2020



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MODULE 4:

Assessments and assignments for collaboration and productive dialogue

As campuses and communities seek tools for addressing political polarization and division, we are often asked to provide advice and training about how to encourage “civil debate” among students. But civil debate is another way of saying “fighting politely.” Although fighting politely is preferable to fighting with malice, it is not necessarily more likely to serve course learning objectives or foster understanding across difference. A paradigm shift from combat (gentle or otherwise) to collaboration makes our courses fertile ground for communication and robust inquiry.

Much has been written about the value of collaborative learning—from building relationships among students, to preparing them for the workforce where teamwork is often required. But instructors and students alike can have concerns about group work—particularly how to assess it.

This module provides ideas for building collaborative work and mindset into a course, designing projects and assessments that involve dialogue across difference and assessing group work.

Learning objectives

1. Learn to build collaborative learning into the fabric of a course
2. Collaborative assessments and presentations
3. Define successful collaborative work and build methods of assessing it

Build collaborative learning into the fabric of a course

Collaboration—much like active engagement in a course—is something that professors often want to encourage and assess but do not always define. Students arrive at college suspicious about group work. Many report bad experiences where they felt they had to carry the burden for an entire group. And those of us who assign collaborative projects know there’s another side to that story too—that for every student who *had* to do all of the work, there is one who felt boxed out of the decision-making process and gave up. Collaboration is a skill worth knowing, but we need to define it, model it, and teach it—not just assign one group project and hope all goes well.

The following are some ways to build collaboration and listening into the fabric of the course, even outside of assessed collaborative projects:

Take time for students to introduce themselves

Don’t skimp on introductions. In a hybrid or online course, ask students to share something about themselves on the LMS. Professors can lead the way by sharing something about themselves. Remember that students are in several classes and will not take the time to learn everyone’s name unless they understand that this is a priority.

It can be worthwhile to create stable small groups for discussion exercises—particularly in hybrid or online classes. That way, students are sure to become familiar with a subset of their class. Remind students to state their names at the beginning of small group breakout discussions and when they volunteer to speak, at least for the first few weeks of the class.

Include problem-solving exercises in class discussions

Problem-solving exercises give students a common purpose. They shift class engagement from “I” to “we,” helping students get to know one another’s competencies and skills.

Some guidelines for problem-solving exercises:

- Remind students that the goal is inquiry, not debate. They should spend time determining what they would need to know and what research they would have to conduct in order to answer the question well. This exercise also builds basic research design skills
- Avoid yes/no questions (e.g., should police unions be abolished) in favor of open-ended questions (e.g. what steps might we take to ensure police were held accountable for misconduct)
- Ask students to identify their points of agreement, including their shared goals
- Remind students to look to course readings and concepts in their discussions and to cite sources much like they would in a paper
- Ask for a final product: this can be a list of relevant research questions; a set of course readings or concepts that inform their problem solving, or a proposed answer. Have small groups share what they come up with on the LMS discussion board or share back in class.

Peer critique and editing

Students can also collaborate by reviewing one another’s work, consistent with academic integrity codes. If we choose to have students offer feedback on one another’s works in progress, we must remember that it’s important for students to understand our assignments and expectations thoroughly, and assign students the very specific task of helping their peers evaluate the extent to which their drafts or proposed theses meet the assignment standards.

Provide a rubric or checklist that reflects goals for the assignment and the standards by which it will be assessed

- Have a classroom or discussion board dialogue where students can ask questions about the assignment
- Offer students a clear mandate as peer reviewers, such as:
 - Helping a peer clarify their thesis statement
 - Brainstorming course readings and concepts the peer could use to support their claim
 - Identifying potential opposing arguments their classmate should address in the paper

Collaborative assessments and presentations that emphasize collaborative process and communication across difference

The typical group project assignment asks students to solve some problem together and present it to their peers. The following are tools for maximizing the power of these group assessments to foster communication with peers and value collaborative processes

Incorporate a hypothetical audience into the problem-solving assignment and have students assume the role of that audience

Considering diverse perspectives is a foundation of productive dialogue across difference. And as every writer and writing instructor knows, understanding one's audience is a foundational writing skill. Adding a target audience to group projects and presentations helps the presenting students and their student audience build both skills.

Examples of specific target audiences for student presentations:

- Business owners
- Faith leaders
- Voters in a state that is unlike theirs (ex: a red, blue, rural, diverse)
- The university's board of trustees
- Union members
- A segment of voters such as suburban parents
- Gun owners or hunters
- Homeowners

Ask students who will watch the presentation to play the role of that audience and ask questions from that perspective.

Consider a dialogue across difference assignment

Problem-solving exercises are enormously useful. Outside of school, however, often difference is intractable (and without an assignment to reach consensus by a certain date, lawmakers and community members let problems go unsolved for a very long time). Students can benefit from exploring the nature of their disagreement and present their findings.

This is the “dialogue across difference” assignment prompt from a government course:

Sign up to work with a partner to explore a policy proposal about which you disagree. Your mission is to explore your understanding of the topic, tracking and documenting what you discuss. It is not necessary to reach a common-ground solution; you may explore and explain the nature of your disagreement.

The partners should engage in the following inquiry:

- Identify what you agree you need to know
 - in order to be fully educated about the issue (ex- what do you need to know about bail reform?)
 - in order to fully comprehend your partner's position (ex- what aspects of my partner's experience, such as military service, faith, or identity, might inform her preferences about bail reform?)
- Identify what you do not agree is relevant (ex- Sparkie doesn't believe cost is a relevant factor to consider in establishing alternatives to imprisonment; Penelope believes it is relevant);
- Identify shared values and interests (ex- we both want to eliminate racial bias in criminal justice);
- Identify goals that diverge (ex- only one of us wants to move toward abolishing incarceration);
- Be able to articulate each other's initial positions and concerns in a way that makes the other person feel heard;
- Collaborate on a presentation that explains the challenges of working across disagreement when it comes to this issue and offers advice to policymakers about how to work across difference on this topic. Remember to include course concepts and readings in your exploration.

We as professors can apply the same assessment standards to this project as any other group project. The partners should treat their statements as primary source documents or interviews, and refer to them specifically (ex: "Michelle said her school was almost all white") rather than using blanket characterizations ("as a rural American Michelle doesn't have experience with diversity").

Defining success in collaborative work

If we are assigning group work to foster collaboration and communication, we should assess those objectives, and not only the final product. Self-assessment and peer assessment can all contribute (and ensure that all members of a group are equally accountable for completing the assignment).

Online LMS grading platforms enable us to create rubrics that incorporate any criteria we choose. For a group project, we suggest grading the overall work product and presentation for the group as a whole, and grading collaboration separately. To do so, have all students complete a quiz on the LMS that includes questions such as: did you complete all of your assigned tasks in a timely fashion? Would your group members want to work

with you again? Why? Would you want to work with this group again? Why? Give students an opportunity to describe the group dynamic in detail.

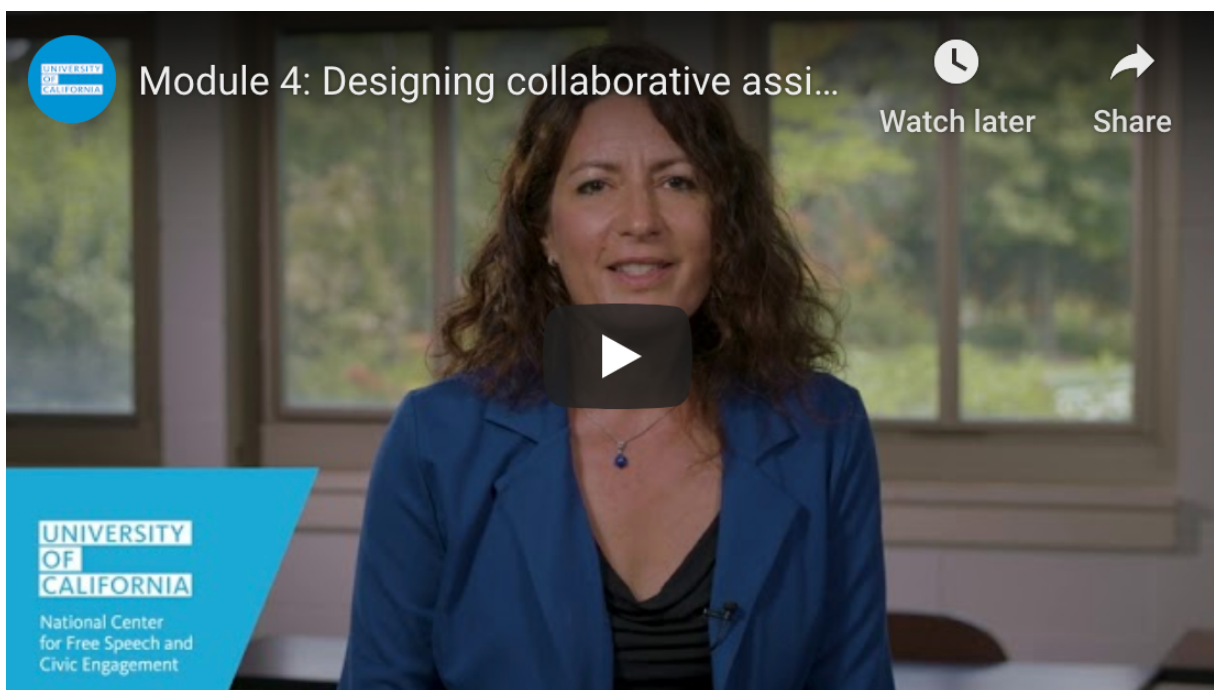
It's important to let students know at the beginning of the semester that they will be graded both on what they submit and on their performance as a colleague, as described by themselves and others. It is also helpful to let all groups and individuals know that if there is any concern about a group member, or if they have a barrier to participating fully themselves, they should communicate with faculty or a teaching assistant as soon as possible.

This mode of assessment does take some extra time. When we grade group projects, we need to look at all members' LMS quiz entries before assigning a grade to any individual. The process has rewards, however. It helps us learn more about students' learning process (including what modalities of communication and planning work for them), avoid penalizing students for peers' negligence, and recognize and reward effective collaboration. These reflections can also be extremely useful for faculty who are writing recommendation letters.

Next steps

Review the syllabus and identify opportunities to build collaboration into the fabric. Consider adding introductions—whether in person or on the discussion board. Look for class sessions that would benefit from collaborative problem-solving exercises. Consider dedicating class time to peer discussion of papers and projects in progress.

Collaborative assessments require a grading rubric that includes collaboration. This should be explicit in the syllabus, prompt, and communications with students.



Resources

Sample collaborative project rubric (Blackboard):

Rubric Detail
Select Grid View or List View to change the rubric's layout. [More Help](#)

Name: **Group project**
Description: **This will be how your group project is scored.** Exit

Grid View | List View

	Novice	Competent	Proficient	Good	Very good	Excellent	Superior
Organization and presentation	2.625 (10.50%)	2.8125 (11.25%)	3 (12.00%)	3.1875 (12.75%)	3.375 (13.50%)	3.5625 (14.25%)	3.75 (15.00%)
Supports solution with evidence it will work	5.25 (21.00%)	5.625 (22.50%)	6 (24.00%)	6.375 (25.50%)	6.75 (27.00%)	7.125 (28.50%)	7.5 (30.00%)
Higher-order thinking	6.125 (24.50%)	6.5625 (26.25%)	7 (28.00%)	7.4375 (29.75%)	7.875 (31.50%)	8.3125 (33.25%)	8.75 (35.00%)
Colleague rating	3.5 (14.00%)	3.75 (15.00%)	4 (16.00%)	4.25 (17.00%)	4.5 (18.00%)	4.75 (19.00%)	5 (20.00%)

Name: **Group project**
Description: **This will be how your group project is scored.** Exit

Activate Windows
Go to Settings to activate Windows.

Two tools for peer critique: A [writing checklist](#) and [guide to editing](#).

FREE SPEECH FOR STUDENT ACTIVISTS:

A First Amendment workshop for campus leaders



by Emerson Sykes
Staff Attorney, American Civil Liberties Union

I. INTRODUCTION

As a 2019-2020 fellow at the University of California National Center for Free Speech and Civic Engagement (UC National Center), I implemented a yearlong project to enhance campus activists' understanding of the First Amendment. The centerpiece of the project, a "Free Speech for Student Activists" workshop, brought together a dozen student activists from a variety of organizations at the University of California San Diego (UCSD) for a series of three learning sessions about how to navigate common free speech situations on campus. Each session lasted two and a half hours, included guided discussions and actionable information for student leaders, and featured a guest speaker from the ACLU of San Diego and Imperial Counties (ACLU-San Diego). The workshop was rated "very good" or "excellent" by every participant.²

The first session introduced key ideas and common controversies surrounding the First Amendment and free speech on campuses. The second session featured a simulation where students, in character as campus leaders, crafted their rapid response plans after a fictionalized racist incident on campus. The third session further developed the simulation, focusing on practical questions they are likely to face in the short to medium term, including how to respond to national media coverage and unexpected developments [Spoiler: POTUS sets his sights on UCSD!]. ACLU-San Diego Legal Director David Loy, Senior Staff Attorney Mitra Ebadolahi, and Lead Organizer and UCSD recent alum Graciela Uriarte served as informative and inspiring guest speakers.

In addition to the workshop, my fellowship included a variety of other interventions at UCSD, collaborations with other fellows, and events hosted by the UC National Center. Over the course of three separate visits to UCSD (a fourth was cancelled because of COVID-19), I was able to build a strong collaborative relationship with Cynthia Davalos, former Chief of Staff for the UCSD Vice Provost for Student Affairs, and make connections with key faculty, administrators, and student leaders. All of the legwork was necessary, and thankfully it paid off. I learned an enormous amount about campus speech and UCSD and shared my expertise on free speech and activism. The ongoing support from the UC National Center has been invaluable as we work to shift the narrative regarding campus speech towards empowering and encouraging activists to make positive change.

II. BACKGROUND

While some observers have argued that these incidents are symptoms of a free speech crisis on today's university campuses,³ the research does not support this idea.⁴ Notwithstanding numerous high-profile incidents, most universities are home to a variety of student groups and speakers on a daily basis and community members engage in vigorous debate and protest without resorting to violence or de-platforming. But that's not to say that difficult challenges with regard to free speech do not arise on campus. Today's students are increasingly engaged in activism, especially aimed at promoting equity, diversity, and inclusion on campus. At the same time, civic education has been virtually eliminated from schools and students arrive on campuses without ever having learned about the First Amendment guarantees of free speech and assembly.⁵ It should not be surprising that students struggle to understand how our Constitution protects speech.⁶

UCSD is no stranger to racist incidents. Nearly everyone that I spoke to referenced the “Compton Cookout” in 2010 where a mostly white fraternity held a Compton-themed party full of offensive racial caricatures and stereotypes. A decade later, the incident and the fallout afterwards continues to hang over the campus.⁷ Students of color complain that the administration is still too hesitant to act against bigotry on campus. Meanwhile, administrators have been scarred by the crisis, overwhelmed by student's continuing demands for more equity and inclusion work while also being frustrated that the First Amendment precludes decisive action against hateful speech.⁸ Anecdotal reports indicate that hateful incidents have increased since 2016, with white supremacist stickers, flyers, and flags appearing on campus at least once or twice per year. Just this past fall, a graduate student hung a noose outside their window at Halloween before taking it down and apologizing for invoking lynching imagery.

Many UCSD administrators expressed their earnestness in trying to improve the climate on campus. Since 2010, seven community resource centers have been created to support Black, Latinx, women, Indigenous, LGBT, and Asian/Pacific Islander/Middle Eastern/Desi students.⁹ And UCSD has tried more creative approaches including creating a Graffiti Art Park where students can express themselves on a designated wall.¹⁰ Despite these efforts, the sentiment was universal that there is ample room for improved dialogue and understanding around free speech and racial justice on campus.

III. APPROACH

The idea for this project was borne out of frustration. In campus speech debates, the binary choice between punishing offensive expression and doing nothing in the name of “neutrality” is a false one. Many schools have hosted talks, workshops, and other one-off events addressing campus speech.¹¹ However, there are not currently resources or programming specifically targeting student activists who are likely to be important decision-makers after racialized or other hateful incidents on campus. It is rare for free speech events to both hold racial justice as an explicit aim, while also standing firm on robust protections for free speech. This project sought to fill that void.

The “Free Speech for Student Activists” workshop was designed to encourage and empower student leaders by sharing the ways in which the First Amendment protects their right to speak up and help them understand

why school officials so often say that their hands are tied because of that same First Amendment. The goal was to impart knowledge, make room for difficult discussions, and apply general principles in practical scenarios through engaging exercises. The workshop curriculum provides a replicable template for future iterations at UCSD, other UC campuses, and other universities.

IV. THE WORKSHOP

a. Recruitment and logistics

The “Free Speech for Student Activists” workshop was designed to include a small but diverse group of student leaders. We were aiming for 12-15 students because with that size group, robust plenary discussion can take place as well as small group break out activities. It was imperative that participants represent the leadership of important student groups that are likely to be at the center of any response to a hateful incident on campus. Based on previous experience facilitating events at other schools, we knew that significant effort would need to be devoted to recruitment and relationship-building in order for the workshop to be successful.

To that end, I traveled to UCSD once before the fall semester began to introduce the project to key administrators and once during the fall semester to guest lecture a class and host an informal roundtable. During these trips I learned a great deal about the UCSD campus culture and built a strong working relationship with Cynthia Davalos, my primary on-campus contact. During the fall semester, we worked together to identify organizations and individuals that might benefit from the workshop and Cynthia sent invitations in late November. She continued to follow up with student groups and their advisors all the way up until the workshop was held January 21-23, 2020. RSVPs were slow at first, but through Cynthia’s tireless efforts, a phenomenal group of students participated.¹²

The workshop took place over three mid-week evenings from 6-8:30p at the Price Center at the heart of UCSD student life. This location and time were chosen to be as convenient as possible for students, based on discussions with campus contacts. While not every student was able to participate in all three nights, we always had a critical mass. We offered dinner to participants to encourage their attendance and to foster the communal feeling of eating together. The room was fully outfitted with audio/visual capabilities which I used to project PowerPoint slides and it was large enough to fit everyone around a large table or circled up in groups of 3-4. Student facilities staffers were helpful at every step to ensure the event ran seamlessly.

b. Day 1: Introducing Key Ideas

The first session on the first night focused on personal introductions, setting group norms, and giving a roadmap of the sessions ahead.¹³ We also took a few minutes to set group goals for the workshop that were entirely generated by students and written on the whiteboard throughout the workshop. Because we dove relatively quickly into thorny issues of identity, belonging, and hateful speech, it was critical that students first felt comfortable and fully seen in the workshop space. It is worth noting here that while participants came from a variety of backgrounds and organizations, they were all generally politically progressive. Conservative student leaders were also invited, but they declined to participate. Building trust and candor among a more ideologically diverse group would likely have been much more difficult.

After goal-setting, I led a lecture and discussion introducing key ideas regarding free speech and the First Amendment. We began with the text of the First Amendment, noting that it is aimed at restricting government's ability to regulate speech. We then discussed content- and viewpoint-based regulations on speech and how courts essentially never allow speech to be punished purely based on the views expressed. We discussed why that principle is important for individual liberty and the protection of unpopular ideas. Next, we talked about the particular contours of free speech on college campuses – colleges are breeding grounds for new and sometimes controversial ideas, while also being students' home, school, workplace, and social community. We ended the opening discussion by talking about the narrow categories of speech that are not protected by the First Amendment, such as harassment, defamation, and true threats. We then reviewed University of California and UCSD policies and procedures regarding speech on campus, evaluating the existing rules in light of the constitutional principles that had just been introduced. Students were able to identify provisions in the policy that were required by the First Amendment, and others that they thought went too far or not far enough in regulating speech.

For the latter half of the evening, we welcomed our first guest speaker, David Loy, the Legal Director at the ACLU-San Diego.¹⁴ He discussed his long career defending First Amendment rights, highlighting his representation of the *Koala* newspaper in an ongoing lawsuit against UCSD.¹⁵ After David's presentation, we continued our group discussion about the costs and benefits of robust protections for speech, especially offensive or hateful speech. The *Koala* controversy is relatively far removed from current student's minds, so we were able to have a vibrant discussion that felt relevant without invoking raw emotions that can make these kinds of doctrinal discussions difficult. At the end of the discussion, I reserved a few minutes for quiet reflection and writing to help students process the big and complicated ideas with which we had been wrestling.

c. Day 2: Rapid Response Simulation

The second day began with a recap of the first day's content, a roadmap update, and personal check-ins before introducing the simulation exercise. In part one of the simulation, students were given a fictionalized fact pattern involving a group of individuals that were overheard shouting racial epithets in front of Marshall College, seemingly as part of a game.¹⁶ In the simulation, a professor then recounted the story in class, using the epithet, and it was captured on video and posted on social media. Students then divided into three groups: the Graduate Students Association (GSA), the Black Resource Center (BRC), and Triton Voice, a new student group devoted to civic dialogue. Each small group included people who were actually in that organization and others who were not. They were asked to craft a rapid response to the incident, in character, including what communications and actions need to be taken in the first days after the incident came to light. The differences in approach were illuminating. The GSA prioritized leveraging its institutional power to push the administration toward productive action, the BRC's primary focus was creating a safe space for the black community on campus to be together, and Triton Voice decided that it should support others efforts at this initial phase with the goal of promoting dialogue once things calmed down a bit.

Halfway through the exercise, a fictionalized UCSD administration response was introduced as well as news that the people accused of saying the epithet were being criminally charged. The fictional UCSD response focused on how public universities are precluded from disciplining students based on their viewpoints, while the criminal charges were criticized by the fictional ACLU-San Diego who promised to challenge the

underlying law. Moving from rapid response to short term planning, students went back into their small groups and worked through how they should adjust their approach in light of these latest developments. GSA decided to try to meet with senior administrators, BRC decided to hold a public protest against the insufficient response from the university, and Triton Voice decided to start planning a public forum on free speech and belonging at UCSD. By the end of the session, students were enthusiastically in role and thinking through practical questions around what to do, what to ask for, who to engage with, and what their desired outcome would look like.

The second day closed with another guest speaker, ACLU-San Diego Senior Staff Attorney Mitra Ebadolahi, who focused on the ways in which the First Amendment impacts her work. She litigates cases to protect peoples' rights at the US-Mexico border, an important advocacy issue on UCSD campus. Mitra talked about how troubling the legal landscape is at the border, highlighting the targeted surveillance of journalists and activists by CBP. She and her colleagues have made First Amendment arguments that the government is trying to silence criticism of its immigration policy in violation of the Constitution. Mitra is an inspiring speaker who gave students insights from the frontlines. We again closed the evening with quiet personal reflection. Students' appreciated the practicality of the simulation as well as hearing from such an impressive litigator.

d. Day 3: The Unwelcome Visitor Simulation

The final day of the workshop began with our third guest speaker, Graciela Uriarte, an ACLU-San Diego organizer and UCSD recent alum. She shared advice based on her experience as a UCSD student activist and how one can pursue a career in organizing. Workshop participants were excited to hear from someone early in their career who has intimate knowledge of UCSD. After a break, students began the final session of the workshop which was part two of the simulation exercise. I reminded students of the racist incident in question, the initial response from the university, the state, and the ACLU-San Diego. I then introduced a new set of facts wherein President Trump, seeking to capitalize on national attention to the controversy at UCSD, decides to hold a rally on campus in a few weeks.

Students again divided into three groups, this time it was the GSA, BRC, and College Democrats. Each organization was encouraged to think in detail about what communication and actions they would undertake internally and externally. Students reported that this part of the simulation felt entirely plausible¹⁷ and the dry run was informative. The GSA decided to think creatively about the ways it might be able to block the rally on procedural or administrative grounds, while the BRC planned mass mobilizations and media statements to make sure the broader public understood that the president and his supporters are not welcome on campus. The College Democrats were eager to respond forcefully, but they were sensitive to the fact that any restriction on political events on campus might negatively affect them. The difference in approaches taken by each groups was noteworthy to all participants.

The workshop closed with group reflection and feedback. In order to allow plenty of time for in-person sharing, I decided to distribute the written feedback form via email a few days later. Students reported that the final feedback and reflection session was not as useful as the substantive exercises. This may have been because the discussion needed to be more structured, but it also may be a result of having had reflection interwoven throughout the workshop. In any case, the workshop ended on an upbeat note, with participants expressing their gratitude to each other and the facilitators and speakers for taking the time to engage with

these important and challenging issues in practical terms. Students expressed interest in keeping in touch and I promised to check in later in the spring term to see how things were going.

e. Follow-up

In the weeks and months after the workshop, I have provided specific resources and advice to nearly half of the workshop participants to help them address issues within their organizations and communities. I have also shared relevant news articles, podcasts, and documents via email with the entire group. I had planned to visit UCSD one more time in April to check in with everyone on how and if they had put any of their knowledge into practice, but the trip had to be cancelled because of COVID-19. Instead, we convened via Zoom and nearly everyone was able to join. We talked about how we were holding up during lockdown and how different aspects of student activism had been affected. In general, students reported that their organizations continued to meet and communicate online with relatively little disruption, but cancelling in-person events had made recruitment and campus visibility much more difficult. Notably, some students said that their work had actually benefited from everything moving online in some ways. For example, San Diego City Council meetings are being live streamed and they are now more accessible to students who had trouble getting from La Jolla to downtown on a weekday morning. Graduating students expressed particular unease about the implications of the pandemic, but most people were in relatively good spirits and happy to reconvene.

V. OTHER ACTIVITIES

The workshop for student activists was the centerpiece of the fellowship, but it was far from the only activity undertaken. Over the course of the year, I wrote to, spoke with, and met approximately 100 professors,¹⁸ alums,¹⁹ students,²⁰ and staff.²¹ Most significantly, I facilitated a 90 minute session for students serving as RA/HAs in residential colleges on campus. I provided a brief overview of relevant First Amendment principles and reviewed relevant university policies, but the majority of the time was dedicated to answering students' specific questions. Nearly every question addressed RA/HAs' unique dual roles as students and government representatives. They were unsure how to navigate expressing their own free speech rights and respecting other students' rights in the residential university context. Their questions were insightful and their attention was fixed, but the group was large—about 40 students—so deep discussion was challenging. Unfortunately, many students left the session without having had their questions answered.

Aside from my work at UCSD, I have engaged broadly with the UC National Center community. I have participated in fellowship-related public events by Executive Director Michelle Deutchman,²² and fellows Lara Schwartz²³ and Jon Friedman.²⁴ Rebecca McKinnon interviewed me for her fellowship project and I was also interviewed for the "Activist in Training" podcast which is supported by a UC National Center Voice grant.²⁵ I've had the pleasure of working with former fellow and ACLU alum Ellis Cose.²⁶ My predecessor as a fellow at UCSD Carlos Cortes and I are in frequent touch and he is now a dear friend.

VI. LESSONS LEARNED

It takes a great deal of time and energy to prepare for a successful short, intensive workshop. I had no prior connections to UCSD, so it took me numerous conversations and trips to campus before I built the relationships necessary to attract the right students. None of the workshop activities would have been possible

without the exceptional work of Cynthia Davalos. Her commitment to the fellowship and the principle of free speech made executing the fellowship possible. In consultation with Cynthia, I realized that my initial proposal to hold the workshop in the fall semester at UCSD and at another school in the spring was not feasible. By August, I had adjusted my project timeline to include additional UCSD interventions to build relationships with faculty, staff, and students, and piloted the workshop in January. Preparation time was time well spent.

VII. NEXT STEPS

The world seems to have changed so much since I was at UCSD in January. The global pandemic has transformed our understanding of a college campus and a whole new host of free speech scenarios are playing out online, from Zoom bombing to offensive comments on class message boards. Harder still are questions about when students can and should face punishment for their “off-campus,” but online, speech. I will continue to work with UCSD faculty, staff, and students after my fellowship, as needed. I’ve already been approached to help provide resources for training next year’s RA/HAs.

The campus speech team at the ACLU hopes to offer the workshop on free speech for student activists at least one campus during the 2020-21 academic year, most likely virtually. The workshop at UCSD was so well-received²⁷ that we are eager to work with more students and spread our message.

¹ Special thanks to ACLU National colleagues Adeline Lee for her thought-collaboration, Nicolas Aramayo and Daniela Wertheimer Del Rosario for their research and logistical help, and Ben Wizner and Anthony D. Romero for their advice and encouragement. And deepest gratitude to the ACLU-San Diego team that contributed enormously to the fellowship project. This project would not have been possible without the support of Michelle Deutchmann and Brenda Pritcher at the UC National Center and Cynthia Davalos and Kirby Knipp at UCSD Student Affairs.

² The participant feedback form asked “Overall, how would you rate the event?” and the options were “Excellent” (10 votes), “Very good” (2 votes), “Good” (0 votes), “Fair” (0 votes), or “Poor” (0 votes). The full feedback dataset is available at <https://www.surveymonkey.com/results/SM-HX55GR537/>.

³ For example, Haidt, J. and Lukianoff, G. (2018). *The Coddling of the American Mind*. Penguin Books.

⁴ Sachs, J. A. (January 25, 2019). The “Campus Free Speech Crisis” Ended Last Year. Retrieved from <https://niskanencenter.org/blog/the-campus-free-speech-crisis-ended-last-year/>.

⁵ See Howard Gellman and Erwin Chemerinsky, *Free Speech on Campus*, Yale University Press (2017) and Howard Gillman, Lightning Talk. Speech presented at #SpeechMatters at UC, Washington Center, Washington, DC (March 21, 2019).

⁶ Chokshi, N. (March 12, 2018). What College Students Really Think About Free Speech. Retrieved from <https://www.nytimes.com/2018/03/12/us/college-students-free-speech.html>.

⁷ <https://ucsdguardian.org/2020/01/05/remembering-the-compton-cookout-analyzing-our-coverage/>.

⁸ During the fellowship, I met with a handful of faculty members, upwards of 20 administrators, and nearly 100 students.

⁹ UCSD Community Centers: <https://diversity.ucsd.edu/centers-resources/community-centers.html>.

FREE SPEECH FOR STUDENT ACTIVISTS

¹⁰ UCSD Art Park: <https://universitycenters.ucsd.edu/about/Art-Park.html>.

¹¹ By the ACLU's informal count, at least 10 major events on campus free speech have been held each month of 2019.

¹² See attached registration list. This list is not for distribution as it includes contact information and demographic details.

¹³ See attached agenda and .ppt presentation for more details about the run of program and content covered.

¹⁴ ACLU-San Diego bios for all guest speakers: <https://www.aclusandiego.org/about-us/board-and-staff-information/>.

¹⁵ ACLU-San Diego press release for Koala v. Khosla (June 1, 2016) <https://www.aclu.org/press-releases/defending-freedom-speech-everyone-aclu-sues-ucsd-enforce-first-amendment-rights>.

¹⁶ The hypothetical was loosely based on an incident at University of Connecticut. <https://www.washingtonpost.com/nation/2019/10/22/uconn-video-white-students-arrested-yelling-n-word/>.

¹⁷ Earlier in the school year, the real UCSD College Democrats had invited several presidential candidates to campus, so the issue of campaign rallies struck a familiar chord. In future iterations of the workshop, the fact pattern will be tailored to the particular university.

¹⁸ For example, Prof. Jorge Mariscal (Literature and Chicano Studies), Prof. Dana Nelkin (Philosophy), Prof. Amy Binder (Sociology), and Prof. Robert Horwitz (Communications).

¹⁹ For example, Graciela Uriarte and Jonathan Markovitz of ACLU-San Diego, Niall Twohig, and Gabe Schneider.

²⁰ I guest lectured a "Law and Society" class (about 25 students), hosted an informal roundtable (about 7 participants), and held advertised "office hours" in a campus café (5 students).

²¹ I was a featured guest at meetings of the interdepartmental Sensitive Issues Response Team and Free Expression Working Group. I also spoke with UC Berkeley staff Dan Mogulof (Office of Communications and Public Affairs) and Marissa Celine Reynoso (Leadership, Engagement, Advising, and Development Center).

²² UC National Center webinar on "The Shifting Landscape: What will speech and activism look like in higher education?" (June 10, 2020) <https://freespeechcenter.universityofcalifornia.edu/programs-and-resources/webinar-the-shifting-landscape/>.

²³ American University's Project on Civil Discourse hosted a lunch talk on "Free Speech, Student Activism, and Racial Justice: An ACLU lawyer's perspective" (February 28, 2020) <https://www.american.edu/spa/civildiscourse/events.cfm>.

²⁴ PEN America and the Communications Studies Program at Borough of Manhattan Community College presented "Negotiating Difficult Conversations: When Free Speech is in the Job Description" (May 2, 2019) <https://pen.org/campus-free-speech-conversation/>.

²⁵ Episode 2: "Protest in a Pandemic" (May 23, 2020) <https://anchor.fm/activistinprogress>.

²⁶ Brooklyn Historical Society virtual program: "Democracy, If We Can Keep It: The ACLU's 100-year fight for rights in America" (July 8, 2020) <https://www.brooklynhistory.org/events/virtual-program-democracy-if-we-can-keep-it-the-american-civil-liberties-union-at-100/>.

²⁷ Fellowship project featured in InsideHigherEd.org "When Free Speech and Racist Speech Collide" (June 23, 2020) <https://www.insidehighered.com/news/2020/06/23/first-amendment-response-first-response-racism-campus>.

SEX.TALK.TOOLKIT

CALIFORNIA STATE UNIVERSITY *by Shira Tarrant*
LONG BEACH *Professor of Women's, Gender and Sexuality Studies*

Goals

[Sex.Talk.Toolkit](https://sextalktoolkit.com) (sextalktoolkit.com) is an online resource designed to promote free speech and data-driven dialogue about sex and politics on campus. The toolkit:

- Facilitates exploration about sexual pleasure and sexual safety while avoiding moral panic or misinformation.
- Encourages public dialogue about deeply private matters that have very real-world consequences.
- Incorporates intersectional, inclusive issues spanning a range of topics and concerns.
- Provides resources for teaching about sexual politics in university classrooms without dampening honest questions, free speech, and open debate.



Toolkit Organization

Sex.Talk.Toolkit is designed specifically with remote and hybrid learning in mind. Faculty can smoothly incorporate various topics into existing syllabi, while the toolkit also provides robust prompts for curious people beyond college classrooms.

The toolkit is organized into three main themes: Safety, Pleasure, and Consent. Toolkit users can explore specific topics including pornography, hookups, sexual consent, Title IX, and more. The topics selected for this toolkit highlight key issues of interest for adult students at colleges and universities. Think of this as a starting place to promote robust and smart conversation, especially across ideological divides.

Each topic in the toolkit provides an Activity, Resource, and Data. This accessible format is designed for students' personal use and for faculty to easily incorporate into course experiences. The Resources tab provides a glossary and a curated selection of books, websites, and organizations. This tool can be used for further research and exploration.

Wheel of Questions

The Wheel of Questions, located under the Conversation tab, lets users click-and-spin, landing on randomly selected and provocative questions. These questions are designed as ice breakers and conversation starters about topics that are both personal and political.

FREEDOM OF THE PRESS ON CAMPUS

by **John K. Wilson**

Co-editor of AcademeBlog.org

Executive Summary

Freedom of the press is under fire on college campuses, threatened by a wide range of restrictions. This report includes a study of the general media policies at the top 25 universities in America (as ranked by U.S. News & World Report), finding that many elite colleges impose a ban on journalists on campus unless the administration gives permission to them. These prohibitions are unnecessary to protect students and faculty (and several private universities have no such restrictions). Colleges seeking to protect their “brand” identity try to control the media, and often require “minders” to accompany the press on campus.

Colleges also limit freedom of student media by exercising direct censorship control, punishing media advisors, failing to protect publications from theft, and cutting funding for student media. As the importance of social media as a tool for citizen journalists increases, attempts by colleges to restrict or punish students for the use of social media also endangers freedom of the press.

At a time when Donald Trump denounces reporters as “fake news” (and is joined by other authoritarian-minded leaders around the world), universities ought to be standing for the principle of a free press. When colleges require permission for reporting on campus and restrict student media, they violate the rights of their students and employees and send a chilling message against freedom of expression.

This report includes nine policy recommendations for colleges to help protect freedom of the press:

POLICY RECOMMENDATIONS:

1. Colleges should reject restrictive media policies requiring permission for the press to be on campus. Colleges should use Washington University’s [policy](#) as a model for protecting freedom of the press.
2. Colleges should explicitly state that they do not use escorts or minders, unless the media specifically request such assistance.
3. Colleges should adopt the exact language of the Student Press Law Center as their formal statement of intent for a campus student media policy.
4. Colleges should voluntarily adopt the New Voices language as media policies for their institution.
5. Colleges should have explicit policies prohibiting prior review or restraint of student publications, and protecting media advisors against retaliatory acts.

6. Colleges should adopt policies to ensure adequate funding for student publications and to prevent retaliation against student journalists. When student media are part of the formal curriculum, colleges should make sure student journalists control the publication.
7. Colleges should inform students and staff that stealing “free” newspapers is a crime and also punishable under campus discipline.
8. Colleges should not regulate defamation in campus conduct codes, and should help students and student publications when they are subjected to defamation lawsuits for reporting misconduct or reporting the news.
9. College social media policies should defend free expression and prohibit censorship by stating that social media is evaluated the same as all other forms of expression, rejecting the need for disclaimers on personal social media, and protecting the rights of all students, faculty, and staff to use social media.

Introduction

The monumental, life-and-death events of 2020, from a global pandemic to massive worldwide protests against police brutality, may make an issue such as freedom of the press seem trivial by comparison. But these global convulsions actually reveal just how important media freedom is. The rapid spread of Covid-19 was due in part to the repressive policies of China’s government restricting media coverage of the looming crisis and punishing whistleblowers who tried to sound the alarm. The millions of protesters for racial justice and dramatic changes in public opinion would have never happened without 17-year-old Darnella Frazier recording a video of police murdering George Floyd and posting it on social media.

Freedom of the press is a core First Amendment value, but it is particularly important to protect it on college campuses. Universities must have a unique moral commitment to freedom of expression that is essential for the open exchange of ideas that higher education stands for.

This study examined the media policies of the top 25 National Universities (as ranked by US News & World Report) to provide a glimpse into how college campuses deal with the professional media. Perhaps no area of campus policies has wider variation across campuses than the media policy. (For a complete list of these policies and letter grades rating them, [see the Appendix](#) at the end.) Some colleges have no campus media policy and no formal restrictions on the press. Other colleges have absolute bans on the media stepping foot on campus without permission.

Although there are sometimes many nuances, college media policies generally fall into three different categories:

1. A total ban on all media anywhere on campus without the explicit permission of the administration, often imposing strict limits and escorts for those media outlets allowed on campus.
2. Sharp restrictions on filming and photography, but few limits on reporting or interviews.
3. No media policy at all, or simply a voluntary approach that requests for the press to contact the media office without compelling it.

The worst kind of media policies on campus are those that simply declare a university to be private property and require anyone in the media to get advance permission to step foot on campus, without any recognition of the unique commitment a university must have to freedom of expression and the special concern for freedom of the press that all universities should protect.

One example is Harvard University. [Harvard's media policy](#) declares, "Reporting, photographing, and videotaping are prohibited on campus without prior permission." Why is Harvard's media policy so problematic? The demand to grant permission always implies the right to deny it. It sends a signal to reporters that negative media coverage might result in future difficulties.

Like all private universities with restrictive media policies, Harvard [invites](#) the public to its campus: "Every year Harvard University welcomes thousands of visitors from around the globe to our campus." Harvard freely allows people to take pictures and video in public areas with only a few reasonable restrictions: "Visitors are expected to respect the privacy of students in residential buildings and in classroom settings. We specifically ask that visitors not hold cameras up to dorm rooms or classroom windows." As is the case at virtually every American college, everyone is welcome to walk in Harvard's public areas and take video and photos — except for the media, who are the only group expressly forbidden by Harvard unless they are granted permission.

Even if Harvard never enforces these restrictions (Harvard's media office did not respond to questions asked about its policy or how it is applied), the existence of them sends a terrible signal about freedom of the press.

Harvard President Lawrence Bacow in 2019 [wrote](#) after protesters tried to shout him down at an event that "the freedom to exchange ideas" is one of the values "essential to the nature of our enterprise." Bacow added, "We should strive to model the behavior we would hope to see in the rest of the world. Now is the time to ask ourselves: What kind of community do we want to be? The choice is ours."

That's a good question to ask about Harvard's media policy. What kind of community does Harvard want to be? A community that embraces freedom of the press, or a community that says the media is banned without permission? At a time when authoritarian governments around the world are trying to silence and control the press, does Harvard want to be a model to the rest of the world for freedom of the press, or a model for repressive rulers?

Washington Post executive editor Martin Baron gave the 2020 Commencement Address at Harvard, [noting](#) that Harvard and journalists share a common goal of "pursuit of truth" and warning that "efforts in this country to demonize, delegitimize, and dehumanize the press give license to other governments to do the same — and to do far worse." If demonizing the media is a dangerous step, banning the media unless they have permission to do reporting is a far greater threat.

Harvard is not alone in having a very restrictive campus media policy. Among the Top 25 American universities, Brown, Columbia, Cornell, Duke, Emory, Northwestern, Notre Dame, Princeton, Stanford, and Yale all require permission from a news office before journalists are allowed on campus. Some of the restrictions are rather extreme. Stanford's policy, for example, bans members of the media not only from campus but also from "the surrounding faculty neighborhoods without prior permission from University Communications." It might surprise some Stanford faculty to find out that they're not allowed to invite journalists to their homes without permission from the administration.

The second category of campus media policies involves restrictions on video and photography. These colleges require “Permission to film or photograph” (Dartmouth), “Permission to film any exterior or interior spaces on university property” including “reporters with cameras” (Georgetown), and “a location agreement must be signed” (MIT). While not as extreme as requiring all journalists to have permission to step foot on campus, limits on photos and videos are still a severe and unnecessary limitation on the media.

One particularly alarming provision in many college media policies requires permission from students before filming. For example, Harvard requires that “Permission must be secured in advance from students who appear in wide shots on campus.” This extreme version of protecting the privacy of students has many disturbing implications. For example, if there is a large protest on campus, it would be impossible for anyone to get permission in advance from a crowd before taking a picture or video of the scene. This effectively bans anyone from filming or photographing any crowds at Harvard. Considering that video and photos of crowds of protesters have been crucial to the effectiveness of political demonstrations, Harvard’s attempt to protect students actually violates their right to take photos of student protests.

Most public universities have no restrictive media policies because they are obligated to follow the First Amendment and allow the press on campus without permission. Still, the universities in this study did have some troubling exceptions to this in their policies. The University of California at Berkeley policy refers to “required permission to conduct documentary, educational, and long-form news productions on campus.” It is highly questionable whether public universities are allowed to ban “long-form news” on campus, since the First Amendment makes no mention of protecting only the “short-form” press.

The third type of media policy is the best one, which offers no mandatory restrictions on the press and instead makes media contacts with a news office voluntary for public events or outdoor activities. The media resources page for Johns Hopkins University offers no formal policy restricting the media, but simply a kind invitation to the press: “Johns Hopkins is a big place. Let us make your job a little easier by connecting you with the right media representative.” At the University of Chicago, the policy also appears to be voluntary: “Journalists who wish to visit or film on the UChicago campus should notify the News Office with details of their request.” The University of Pennsylvania and Vanderbilt University both limit filming for “non-news purposes” but put no restrictions on the press. Rice University has no policy restricting the media (although a worrisome line in its social media guidelines for staff says, “If a member of the news media contacts you through social media for comments or interviews, direct all inquiries to the News and Media Relations team,” indicating a troubling expectation that all media inquiries should go through the PR team). CalTech’s policy states, “News media covering an active or breaking news story do not require a permit.” In the most extreme case, the University of Southern California lists no policy at all on its media page.

However, the absence of policy is not ideal, because it can easily be replaced with restrictions and may not reflect actual practice. In 2018, University of North Alabama’s communications staff asserted an unwritten “protocol” that “requires all media inquiries be sent through” the office of communications and marketing, in order to ensure that statements to the media have “been vetted by administrators.”

Carnegie-Mellon’s policy has no mandatory limits on the press, but an email to the news office about the subject led to this response: “We don’t have a published policy about media coming to campus. However, b/c we are private, they can’t just come on campus and roam without us knowing. So we encourage media to

contact our office to coordinate.” This kind of uncertainty in policies can create confusion. Where campus policies fall short, students can sometimes step up. In 2005, the Carnegie-Mellon Student Senate passed a campus events media policy that was one of the first of its kind in the country. The [policy](#) “grants student media unrestricted and open access to all publicly promoted, student-funded campus events.”

It’s better for colleges to adopt an explicit affirmative policy protecting freedom of the press on campus, rather than leaving the subject blank. One good model of an affirmative campus policy protecting freedom of the press is at Washington University. The [policy](#) explicitly gives media access to public spaces and events on campus: “News media are welcome in all public areas of the Danforth Campus and may attend all non-ticketed events open to the public without prior permission.” Advance contact is not required, only recommended: “we suggest checking with the Office of Public Affairs in advance.” The policy explicitly protects the ideal of free expression by students, faculty, and staff: “Washington University supports the free and open expression of ideas and opinions by our faculty, students and other members of the university community.” The policy explicitly protects the right of people to contact the press: “Faculty, staff and students have the right to speak with news media without the presence or permission of university officials.” Even when permission must be required for media to enter classrooms, labs, or other restricted spaces not normally open to the public, Washington University creates an expectation that the media should have access: “Such permission generally will be granted....”

Although Washington University has a dubious policy (discussed later in this report) about escorts for the media on campus, even that section is far better than any other campus policy about minders for the media. Overall, Washington University provides a model for colleges to protect freedom of the press.

POLICY RECOMMENDATION #1:

Colleges should reject restrictive media policies requiring permission for the press to be on campus, Colleges should use Washington University’s [policy](#) as a model for protecting freedom of the press.

The Battle Over Campus Media Policies

Donald Trump has infamously called the media who dare to report critical news about him “the enemy of the people” and dreamed of repressive measures to silence the press. But if you want to find a place where freedom of the press is increasingly restricted by official policies, you need look no further than America’s leading universities. As colleges have become increasingly worried about PR, some have concluded that the easiest way to stop negative media coverage is to ban the media from campus unless the administration gives its approval.

Campus policies restricting media access are a growing threat to freedom of the press on college campuses, and a dangerous step at a time when we need more transparency in higher education. In an era when scandals afflicting higher education have made national headlines — from illicit admissions schemes at USC and other elite universities to sexual assaults committed by a doctor at Michigan State and a coach at Penn State — the free flow of information at universities is more important than ever. Instead, the corporatization of higher education has led colleges to adopt the bureaucratic practices of private companies that carefully manage and manipulate news in order to control their brand identity and prevent whistleblowers from revealing the truth about their college.

One recent example of repressive campus media policies [reported on by the Student Press Law Center](#) is at the College of Saint Rose. Since 2017, *The Saint Rose Chronicle* reported, many employees have stopped speaking to the campus newspaper. In 2019, a new media policy was enacted, and now requests for comment by reporters are rejected with these words: “All media requests should be directed to the marketing department.”

The College of Saint Rose explained its [media policy](#) by noting that it “is similar to the policies of numerous colleges and universities.” And, sadly, they are absolutely correct. Many private colleges have adopted incredibly restrictive policies on freedom of the press. In fact, many elite universities have media policies worse than the College of Saint Rose, with the media banned from campus without permission and minders required to follow reporters on campus. Still, few colleges have been so successful as the College of Saint Rose in pressuring their employees to be fearful of talking to the press.

That reflects the ongoing threat to academic freedom there. The administration of the College of Saint Rose was [censured by the American Association of University Professors \(AAUP\)](#) in 2016 in response to the 2015 termination of 23 tenure-line faculty jobs despite setting records for new student applications and enrollment that fall. The College of Saint Rose had also imposed a new and much more restrictive mass email policy in 2015 that faculty objected to. The repressive media policies there reflect a general lack of respect for free expression.

A group of Saint Rose alumni [wrote a letter](#) calling on alums to withhold donations to the college until the restrictive “media blockade” is rescinded. In some cases, the advocates of press freedom have been successful in fighting against repressive media policies. The AAUP chapter at Nassau Community College led the way in [forcing the reversal of a media policy](#) in 2018.

Media Policies at Public Colleges

Private colleges have the legal power to silence the press, even if it violates the ethical foundations of what a free university must stand for. But public colleges increasingly also think they can target the media for suppression, in spite of their legal obligations under the First Amendment.

One example is Nassau Community College (NCC) in New York, which in 2017 suddenly adopted a [News Media Relations Policy](#) that violated the First Amendment (for both news media and employees), endangered academic freedom, and undermined the basic ethical obligations of openness at a college. The policy included a requirement that employees “must” first contact the media relations office before contacting the media about a “College program, event or achievement,” and an enforcement section detailing that any violations of this policy may be subject to disciplinary action.

Another part of the NCC media policy included the requirement for minders: “While on College property or upon entering College facilities, all news media representatives must be accompanied by a staff member designated by the Office of Governmental Affairs and Media Relations.”

The policy also declared: “If a College event attracts news media interest, all press releases and statements to the news media must be routed through, approved and disseminated by the Office of Governmental Affairs and Media Relations.” Prior restraint of speech by the government is a clear First Amendment violation. This rule allows the administration to not only control the content of certain communications with the media, but even to ban any “statements” to the press about an event. The College is free to encourage people to work with a particular office and offer its assistance, but not to ban contact with the media about events. The policy does not define what a “College event” is, and it could include even an event criticizing the News Media Policy.

The original NCC policy also banned discussion of certain topics: “Under no circumstances should information pertaining to a case that is in litigation be discussed publicly without the prior approval of the Office of General Counsel.” Under this rule, if an employee is the victim of discrimination or sexual abuse, that employee can be fired for discussing this wrongdoing publicly with anybody. In fact, if anyone sued Nassau Community College over an unconstitutional media policy, any professor could be fired for saying anything to the media about how the media policy should be changed, presenting research about the media policy, or even organizing an event to discuss freedom of the press and the media policy, unless the administration gave permission for such freedom of speech.

Fortunately, the Nassau Community College Board of Trustees unanimously approved a [new News Media Relations policy](#) on Nov. 13, 2018 that is a tremendous victory for freedom of the press, reflecting the struggle of the AAUP and other groups fighting for campus liberty. At the Board meeting, President W. Hubert Keen [declared](#), “We’ve gone through two rounds of revision of the policy. I think that we are finally to the point where it now assures First Amendment rights as well as addressing the College’s role in communicating its image to the public.”

In nearly every way, the repressive aspects of the old media policy were revised and improved to conform with the First Amendment. By removing the mandatory rules and replacing them with voluntary language, NCC fixed a terrible policy while still communicating its desire to have employees work with public relations staff in

dealing with the media. While not everything is perfect about the new policy (it's dubious that a college should be urging news media to have a staff minder follow them everywhere on campus), it is a great model for other colleges to follow at a time when bad campus media policies are proliferating across the country. Perhaps other colleges will learn the lesson of shared governance, too: If NCC had simply sought the advice of faculty before imposing a new media policy, they could have avoided this entire embarrassing debacle. In February 2017, the Academic Senate Executive Committee submitted comments noting that "Policy 3100 forbids our contact with the press, thereby silencing our voices as professionals," and the Academic Senate passed a resolution asking for the policy to be changed. FIRE wrote letters to the NCC administration demanding changes as did the AAUP.

Because of this national and campus pressure, NCC administrators scuttled a plan to have the Board pass minor revisions to the media policy without addressing its most serious problems. Instead, the administration was forced to back down completely and adopt the new policy in light of the critiques.

There's an important lesson here: Colleges such as NCC are creating repressive media policies because they are obsessed with public relations and brand management. The only way to get them to change these terrible policies is by imposing a public relations cost and tarnishing their brand as censorship.

Defeating the Media Policy at Loyola

Students have also shown that they can force changes in restrictive media policies, even at private institutions that have no obligation to follow the First Amendment. In 2019, [student journalists at Loyola University of Chicago](#) persuaded the administration to overturn a restrictive policy that caused a top administrator to demand that student reporters stop contacting employees directly for comment on stories. In February 2019, the Loyola Phoenix, the student newspaper of Loyola University Chicago, published [a remarkable editorial](#) about the repressive media policy on campus.

Loyola's communications spokesperson, Evangeline Politis, had written to the student newspaper, angry that student journalists had dared to ask questions directly to faculty and staff at Loyola: "This is disrespectful and unacceptable. As I indicated in my email this morning (attached), I am the first point of contact for the Phoenix for University-related requests. I can get in touch with administration and faculty to answer your questions."

Politis was simply following Loyola's official policy at the time, which declared that every single question from the news media (including the student newspaper) must be channeled through the University Media Communications (UMC) office, who will then decide if faculty or staff will be allowed to answer. (In [another editorial](#), the Loyola Phoenix published a long list of questions they actually had given to the communications office but never received an answer.)

These college students at Loyola began to reminisce about the good old days, two years earlier, when they were free to ask questions like journalists are supposed to do: "It didn't used to be like this. Even just a couple of years ago, when many of the people on this Editorial Board were just starting at Loyola, Phoenix reporters were more than allowed to reach out to professors, administrators, department heads, Campus Safety

personnel, heads of facilities and student activities coordinators.” According to the Loyola Phoenix, “dealing with Rooney’s administration is no better than a White House press briefing led by Sarah Huckabee Sanders.”

[Loyola’s media relations policy](#) gave total control over media to the PR office: “UMC is responsible for initiating and/or responding to news media requests and managing those interactions.” That threatens the academic freedom of faculty, staff, and students to contact the media, and to respond to questions from the press.

Loyola’s restrictive media policy also affected the rights of students and faculty to promote their own events: “If an event attracts news media interest, press releases and statements to the news media will be routed through, approved, and disseminated by the appropriate UMC team member.” What if the administration decides it doesn’t want to publicize an event that criticizes its policies? Under this rule, it was a violation of university policy if anyone outside the PR office tells a journalist about an event happening on campus.

Loyola’s media policy also included a requirement for minders to follow news media: “While on Loyola University Chicago property or upon entering residence halls and other University facilities, news media representatives must be accompanied by a UMC staff member or a University employee designated by UMC.”

But the policy also said that “‘news media’ refers to newspapers (including the Loyola Phoenix), magazines, newsletters, online publications, and broadcast outlets such as radio, television, and podcasts.” So this meant, literally, that Loyola student reporters must be accompanied by minders from the administration anywhere on campus they go to report a story. In fact, the way this policy was written, administrators aren’t even allowed to exercise any discretion; they “must” assign a minder to every journalist working on campus.

And if the student journalists refuse to obey? According to [Loyola’s speech code](#), “The University reserves the right to investigate and adjudicate any case in which a student is alleged to violate any policy published by the University ...” So a student journalist could even be punished for refusing to help the administration put them under surveillance.

Some might think that universities have restrictive media policies because of experiences with negative and unfair media coverage. But Loyola had the most positive media coverage of any college in the country, thanks to a Cinderella Final Four run in the men’s basketball tournament and the blessings of [Sister Jean](#), a nun with her own bobblehead who was the most tweeted-about person at the most profitable event in higher education. If repressive media policies can happen at Loyola, they can happen anywhere.

As the Loyola Phoenix [noted](#), “Loyola is more than a brand. It’s a university.” Universities have an obligation to transparency and openness as a part of being free institutions. Brand management is always going to be a part of the modern university. But when branding is enforced by restrictive policies, it indicates that free expression isn’t part of that university’s identity anymore. Universities with repressive media policies are declaring that freedom is no longer part of their brand.

In response to the criticism from the student newspaper, Loyola dramatically changed its media policy in 2019. The [new policy](#) states that faculty and staff are “encouraged” to contact the media office, but they are no longer required to do so. Escorts are no longer required in all cases. And the press no longer must receive permission to visit campus: “Members of the news media are welcome to visit our lakeside campuses.

However, in order to ensure the privacy of our students, faculty, staff, and guests, we request that all external news media contact a member of the communication team prior to visiting.”

Repressive campus media policies are spreading rapidly across higher education. Restrictive campus media policies are not the only threat to freedom of the press on campus, and often not the biggest danger. But they are a growing phenomenon, and one that is easily solved by adopting better policies that recognize how important openness and freedom of the press is to higher education.

Ironically, these restrictive media policies are growing at precisely the moment when they have the least utility. Cellphones and social media make it possible for anyone to become the media, and to post news, photos, and video that’s readily available to the public and easy for the media to use. The media often no longer need to appear on campus because a student with a phone will record video of an event or a controversy.

At the same time, massive budget cuts threaten the viability of news media. According to a 2020 [Pew Research Center study](#), US newspapers shed 51% of their newsroom employees between 2008 and 2019. The Covid-19 budget crisis has only accelerated this decline. It was rare in the past for news media to cover colleges, but now higher education reporters are even harder to find.

While the professional media covering higher education have largely disappeared, the staff of campus media relations offices has increased substantially in recent decades, as with other administrative positions in higher education. Media policies that sharply limit media access reflect the fact that media relations offices have the staff to monitor the press and to produce positive news that can be fed to media outlets directly.

Minding the Minders

The Nassau Community College media policy (like Loyola’s) included a requirement for minders: “While on College property or upon entering College facilities, all news media representatives must be accompanied by a staff member designated by the Office of Governmental Affairs and Media Relations.”

The use of minders, even if well intentioned, can suppress the free speech of staff and students by having a staffer overhear anything they might say to the media, much like similar “minders” are used in North Korea and totalitarian countries to control press access and discourage honest response. This provision could also be used to ban the media from campus if a staffer is unavailable to serve as a minder.

Several colleges use the term “escort” in their media policies. Brown University requires “an escort of an appropriate representative of the University” for all reporting on campus. Yale University notes that it “may require that media members be escorted or display a Yale-issued media credential. No media members may enter a Yale building or gated courtyard without OPAC’s permission and escort.” Columbia University requires that all media contact its office “for permission, guidance, and escort assignments.” Cornell University warns that it “may escort members of the media at all times while on university property.”

Washington University offers an interesting model for colleges that assign minders on campus: “Video and sound crews on Danforth Campus property usually are accompanied by a member of the Office of Public

Affairs or the office's designee. When requests are made to conduct on-camera intercept interviews with students, faculty or any other members of the university community, the accompanying Office of Public Affairs staff member will ask the proposed interviewee for her or his permission to proceed. The staff member will identify the reporter, describe the request for an on-camera interview and explain that the university sees the decision to be interviewed as each individual's choice. When the requested source makes a decision to be interviewed, she or he may ask that an Office of Public Affairs representative remain throughout that interview. Otherwise, the Office of Public Affairs representative will absent himself or herself from Danforth Campus interviews. (Because of federal laws protecting patient privacy, all Medical Campus interviews will be conducted with a member of the Office of Medical Public Affairs present.)"

It is noteworthy that Washington University does not require minders to be used by media engaged in recording; it only says they are "usually" used. And these minders are given a specific expectation that they should not be present at interviews unless specifically requested to stay. However, the whole use of minders needs to be challenged. Minders can have an intimidating effect on some interviewees, even with the careful restrictions given in this policy. Individuals who might wish to speak off-the-record to reporters could easily be intimidated by having representatives from the administration aware that they have been interviewed. Likewise, it's simply not true that federal privacy laws require minders to be present for any media interviews with patients or others on a medical campus.

While Washington University has the best policy for its campus minders, it is still better for a college not to have minders at all except at the specific request of the media. Any people on campus asked to do "intercept interviews" surely are already aware that they have the choice to do an interview, and they hardly need staff members to inform them of the fact that they can decide for themselves to speak to a reporter. Few colleges have a policy requiring minders, and there is no good reason for a college to have a minder.

POLICY RECOMMENDATION #2:

Colleges should explicitly state that they do not use escorts or minders, unless the media specifically request such assistance.

Stifling Press Liberty at Liberty

The most repressive college in America toward the media is Liberty University, which under the leadership of president Jerry Falwell, Jr., is notorious for its censorship, despite the absence of a restrictive media policy. Bad practices can matter more than policies.

No university reveals the efforts of college administrators to suppress freedom of the press more than Liberty University. Liberty University has a [long history of repression](#), including suppressing freedom of the press on campus by [censoring its student newspaper](#). Will Young, a recent editor of Liberty University's student newspaper, *The Champion*, recounted in the *Washington Post* how the faculty advisor ordered him to apologize to the campus police chief for asking for crime information. The faculty advisor also prohibited publication of

articles that made Liberty or the friends of Jerry Falwell Jr. look bad. The administration even censored an editorial about campus sexual assault nationwide because it failed to say that Liberty was different. Young reported that Liberty officials imposed an “oversight” system — read: a censorship regime — that required us to send every story to Falwell’s assistant for review. Any administrator or professor who appeared in an article had editing authority over any part of the article; they added and deleted whatever they wanted.”

In 2018, Young quit, and Liberty turned the student newspaper into a faculty-run newspaper where student journalists must sign a nondisclosure agreement that forbids them from talking publicly about “editorial or managerial direction, oversight decisions or information designated as privileged or confidential.” The form also states that the students understand they are “privileged” to receive “thoughts, opinions, and other statements” from university administrators.

Panyard, the deposed editor, launched a new independent newspaper, [the Lynchburg Torch](#), with the help of other refugees from the campus weekly. Meanwhile, Dean of Communications Bruce Kirk [said](#) to new journalists on the *Champion*, “Your job is to keep the LU reputation and the image as it is.”

But Liberty reached a new low for liberty in 2020 when president Jerry Falwell Jr. announced that the university has issued [arrest warrants](#) against two journalists for the crime of writing critical news about Falwell and Liberty for the [New York Times](#) and [ProPublica](#). Liberty’s demand to arrest reporters reflects a disturbing trend on college campuses to try to control media coverage.

Liberty University had attracted media attention because Falwell made numerous public comments stating his skepticism about the pandemic problem and declaring that he wouldn’t shut down the campus, even though he did eventually move all classes online after the state banned large gatherings. On March 10, 2020, [Falwell](#) appeared on “Fox & Friends to say, “It’s just strange to me how many are overreacting” to the pandemic, adding, “maybe now this is their next attempt to get Trump.”

Liberty University [complained](#) that they received excessive scrutiny for an approach similar to those made by other universities who wanted to provide housing for some students. But criticism is part of living in a free society. Liberty is perfectly free to [criticize](#) news reports if it thinks they are wrong. However, real universities don’t threaten their critics or arrest reporters for doing their jobs.

The *New York Times* declared in a statement, “Our freelance photographer was engaged in the most routine form of news gathering: taking a picture of a person who was interviewed for a news story. We are disappointed that Liberty University would decide to make that into a criminal case and go after a freelance journalist because its officials were unhappy with press coverage of the university’s decision to convene classes in the midst of the pandemic.” In-house counsel David McCraw has [said](#) that the Times freelance photographer, Julia Rendleman, was invited to campus by the student who was photographed.

Katie Townsend, legal director for the Reporters Committee for Freedom of the Press, [noted](#): “These arrest warrants appear to be intended to harass journalists who were simply, and rightly, doing their jobs — reporting on the impact of Liberty University’s decision to partially reopen during a pandemic — and to intimidate other reporters from doing the same type of reporting. People across the country are relying on the news media for accurate information about the coronavirus and how institutions are responding to it. Journalists should not face retaliation or threats of criminal penalties for fulfilling that responsibility.”

The *Washington Post* editorialized, “it is more than a little jarring to see this tactic of criminalizing journalism being employed in the United States — and by a university whose name celebrates American freedom.”

Professional journalists are not the only ones threatened by [Liberty's long record of suppressing free speech](#); those at Liberty are also silenced by attacks on the media. One student wrote to the [New York Times](#), “I’m not allowed to talk to you because I’m an employee here.” Another student, [Calum Best](#), wrote a Facebook post criticizing Falwell’s declaration that “I don’t see us doing the same thing that other schools have done” in shutting down the campus. Liberty’s head of PR, Scott Lamb, quickly called Best that evening and put Best’s boss for his on-campus job on the call, for no apparent reason other than to make an implicit threat to his employment.

Liberty University’s attempt to persecute journalists for the crime of questioning Jerry Falwell Jr. is morally indefensible. It’s also legally incoherent. Falwell claimed that the journalists were guilty of violating anti-trespassing signs on campus. But in fact there was no legal case against the reporters.

Liberty University does not appear to have any policy that restricts reporters (Liberty did not respond to my request for more information), and its [newsroom page](#) fails to prominently provide any media policy required for the press (and a short, inadequate mention in its media kit about checking in is not adequate notice).

Without a media policy, journalists are treated like anybody else. Liberty may try to say that it has no trespassing signs around campus, but those don’t apply if Liberty openly invites people on to its campus. And Liberty did exactly that: In the section of its website on “visiting opportunities,” Liberty explicitly said, “Be Our Guest.” and [added](#), “we can’t wait to welcome you to campus — no matter how you choose to visit!” A section on daily campus tours says, “Anyone is welcome to join.”

So finding out more about Liberty was one of the clear examples of what Liberty itself considers “official university business.” Perhaps Liberty will one day adopt and publicize a media policy that allows it to ban reporters (although even then a trespassing charge would be difficult to sustain under these circumstances). But Liberty’s attempt to arrest journalists, and the widespread negative reaction to it, should make universities question whether repressive media policies have any place at institutions committed to freedom of expression.

If seeing a university try to arrest journalists [shocks](#) the conscience, and it does, then shouldn’t we also be appalled that hundreds of private universities have adopted policies that ban the media from campus without permission? Liberty University’s attack on the media exposes the kind of censorship demanded by Jerry Falwell, Jr. But it should also cause us to worry about the tactics of media manipulation and control that have become increasingly common in higher education.

Protests and Freedom of the Press

The right to report on protests is under serious threat on college campuses. Ironically, one threat to the press comes from protesters themselves, who distrust the media and seek to control reporting about them. A Knight Foundation [survey](#) of college students in 2019 found that 48% think it is “always” or “sometimes” acceptable

for students to deny the news media access to cover campus protests or rallies, up dramatically from 39% in 2017.

One example of the conflict between protesters and the press came in 2015 at the University of Missouri. In response to racist incidents on campus, a student group called Concerned Student 1950 organized a protest encampment on the quad. Protesters chanted "Hey hey, ho ho. Reporters have got to go," and some supporters tried to [block](#) student journalists from the area, including a professor, Melissa Click, who jostled a student's camera while keeping him out.

The next day, protesters reconsidered their position and put out a new flyer: "The media is important to tell our story and experiences at Mizzou to the world. Let's welcome and thank them." The protesters at Mizzou deserve a lot of credit for immediately recognizing this fact, reversing their policy, and welcoming the media in. And Click herself has acknowledged she was wrong, publicly apologizing for her actions.

That was not enough to save Click's job, and under political pressure she was quickly suspended and fired in a violation of due process that was [censured by the AAUP](#). While there are some principled defenders of free speech and freedom of the press who called for taking a hard line against Click, that does not really describe the 117 Republican legislators who demanded her firing and threatened to cut the university's budget, the trustees who ordered her suspension, or the prosecutor who pressed charges against her. Instead, what is happening to Click is retaliation for her political views. These people dislike the protesters, but since the protest is protected speech, they instead target a high-profile sympathizer who made a mistake in her zealous support of the protesters.

The Mizzou Board responded to the AAUP report, "Dr. Click assaulted one of our students and encouraged others to physically intimidate him; she excluded people from a public space where they had a right to be present; and she interfered with freedom of the press at the university." While freedom of the press is an essential value, plenty of campus administrators have interfered with it and never suffered any consequences, let alone a dismissal.

The University of Missouri case provides an effective lesson to protesters for why they should defend freedom of the press rather than seeking to silence the media. The press may not always depict protesters in a sympathetic manner. But communicating with the media is the best way for protesters to get their voices and their priorities heard.

Freedom of Student Publications

The core principles of freedom of the press on campus have been explained in detail by leading national advocacy organizations. The [Student Press Law Center declares](#) that public colleges cannot "censor or confiscate a publication, withdraw or reduce its funding, withhold student activities fees, prohibit lawful advertising, fire an editor or adviser, 'stack' a student media board, discipline staff members or take any other action that is motivated by an attempt to control, manipulate or punish past or future content." [PEN America's free speech guide states](#): "For student press, universities may regulate only non-content based aspects of a student publication; they cannot censor, reduce funding, or engage in any other disciplinary action in an effort

to control the published content. Student government officials must also adhere to these guidelines when considering action against student news groups.”

The 1967 [Joint Statement on Rights and Freedoms of Students](#) by the AAUP and other organizations noted: “Student publications and the student press are valuable aids in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world at large.”

POLICY RECOMMENDATION #3:

Colleges should adopt the exact language of the Student Press Law Center as their formal statement of intent for a campus student media policy.

The Legal Basis for Freedom of the Press on Campus

A 2016 [report](#) by the AAUP and other organizations noted, “Student journalists and their faculty advisers work in a gray zone of legal uncertainty.” The failure of courts to protect freedom of the press on campus makes it even more important for colleges to adopt clear policies that protect the media against censorship.

In *Papish v. University of Missouri*, 410 U.S. 667 (1973), the US Supreme Court ruled against the University of Missouri for expelling graduate journalism student Barbara Papish over a self-published newsmagazine, *Free Press Underground*, that contained political cartoons the university claimed were “indecent.” The *Papish* decision is one of the landmark cases protecting freedom for students, as well as freedom of the press on campus.

In *Schiff v. Williams*, 519 F.2d 257 (5th Cir. 1975), the 5th Circuit Court of Appeals overruled the president of Florida Atlantic University who dismissed the editors of the student newspaper and had administrators publish it instead. This case established the independence of student newspapers even if they are officially published by a public university. In *Rosenberger v. University of Virginia*, 515 U.S. 819 (1995), the US Supreme Court struck down a campus ban on funding for *Wide Awake* student religious magazine. And In *Kincaid v. Gibson*, 412 F.3d 731 (6th Cir. 2001), the 6th Circuit Court of Appeals ruled that student-produced media in college is a “public forum” entitled to the highest degree of protection against content-based censorship.

But what the courts have given to freedom of the student press, the courts have also taken away. The worst case was *Hazelwood School District v. Kuhlmeier* (1988), when the US Supreme Court upheld censorship of a high school newspaper produced as part of a class if it is done for “legitimate pedagogical reasons.” Unfortunately, that narrow ruling has been greatly expanded by some courts to apply to higher education and give administrators enormous authority to censor. In *Hosty v. Carter*, 412 F.3d 731 (7th Cir. 2005), the 7th Circuit Court of Appeals ruled that *Hazelwood* is the “starting point” for analyzing college papers after administrators at Governors State University demanded prior review of the campus newspaper.

In reaction to the Hosty ruling, the Student Press Law Center launched a lobbying effort that continues to this day to pass “New Voices Legislation” to give college journalists their fundamental rights that courts took away.

Illinois enacted the [College Campus Press Act](#) (2007) which stated: “All campus media produced primarily by students at a State-sponsored institution of higher learning is a public forum for expression by the student journalists and editors at the particular institution. Campus media, whether campus-sponsored or noncampus-sponsored, is not subject to prior review by public officials of a State-sponsored institution of higher learning.” The law added, “A collegiate media adviser must not be terminated, transferred, removed, otherwise disciplined, or retaliated against for refusing to suppress protected free expression rights of collegiate student journalists.”

The New Voices laws have been passed in 14 states in an ongoing campaign led by the SPLC, and bills were introduced in 11 states in 2019. In California, the state [amended](#) its Leonard Law, which requires private colleges to protect the free speech rights of students by prohibiting discipline for their viewpoints. The 2006 amendment requires private colleges in California to ban “prior restraint” of the student press.

But a legislative solution has some flaws. Not every state will want to protect student journalism. And it’s potentially dangerous to encourage legislators to intervene in the decisions made by public universities, since many of these interventions may tend to limit freedom on campus rather than supporting it. And outside of California, none of these laws apply to private colleges, which typically present the greatest threats to freedom of the campus press. A better approach is to demand that colleges improve their campus policies to ensure protections for freedom of the press.

POLICY RECOMMENDATION #4:

Colleges should voluntarily adopt the New Voices language as media policies for their institution.

Attacks on Campus Media Advisors

In *Coppola v. Lawson*, 2006 WL 2129471 (D.N.J. July 26, 2006), a court overturned the firing of the media advisor at Ocean County Community College (NJ). In *Moore v. Watson*, 838 F.Supp.2d 735 (2012), a court ruled that Chicago State University fired the campus media advisor in retaliation for the content of the student newspaper. However, at private universities there are few existing protections. In *McKown v. Butler University*, No. 1:17-cv-04659-JRS-MJD (2019), the court made a summary judgment dismissing the case. McKown was removed as advisor of the Butler Collegian and ordered to have no further contact with its staff after sharing an email about impending institutional budget cuts with the student editors. After she filed a grievance for this, she was fired as an adjunct faculty member.

A 2016 survey of media advisors by the College Media Association found that more than 20 media advisers reported suffering administrative pressure to control, edit, or censor student journalistic content. None of these cases had been publicly reported, and only the survey had uncovered this censorship under the surface.

Many other cases of universities retaliating against college media advisors have been publicly reported on. At Fairmont State University (WV), journalism adviser Michael Kelley was [removed](#) in 2015, after the newspaper reported on mold in a campus dorm. At Diablo Valley College (CA), administrators [dismissed](#) Fernando Gallo, adviser to the student newspaper The Inquirer, 11 days before the fall 2019 term.

The University of North Alabama was [censured](#) by the College Media Association in 2018 after the student newspaper, the Flor-Ala, was denied access to personnel records for a professor banned from campus during a Title IX investigation. Advisor Scott Morris was removed by having his job description rewritten to require a doctorate.

At Mount Saint Mary's University (MD), newspaper adviser Ed Egan was [fired](#) in 2016 for “disloyalty” after students published an article about the university president telling faculty to fail underperforming first-year students which quoted the president saying: “You just have to drown the bunnies . . . Put a Glock to their heads.” After protests, Egan was rehired and the president resigned, showing that fighting against censorship of the campus press can work.

POLICY RECOMMENDATION #5:

Colleges should have explicit policies prohibiting prior review or restraint of student publications, and protecting media advisors against retaliatory acts.

De-Funding of Student Publications

One of the looming threats to freedom of the campus press is the trend toward budget cuts. Professional newspapers have faced massive reductions in advertising revenue and many smaller newspapers have folded in recent years, leaving campus newspapers in some communities among the few remaining news outlets. But student newspapers have faced a similar threat to their advertising, which means that many student newspapers are more dependent than ever on student fee funding.

Courts have frequently ruled that universities (including student governments) cannot withhold funding from student newspapers as a punishment for their views or their reporting. In *Joyner v. Whiting*, 477 F.2d 456 (4th Cir., 1973), the 4th Circuit Court of Appeals overturned the decision of the president of a historically black public university, North Carolina Central University, banning funding of the Campus Echo because it criticized the growing number of non-white students and promised not to run “white” advertisements.

Offensive humor has been a common excuse for censorship. In *Stanley v. Magrath*, 719 F.2d 279 (8th Cir. 1983), the 8th Circuit Court of Appeals overturned a University of Minnesota board of regents policy allowing students to request a refund of student activity fee for the Minnesota Daily in response to a controversial humor issue.

In *The Koala v. Khosla*, No. 17-55380 (9th Cir. 2019), the 9th Circuit Court of Appeals ruled that the University of California at San Diego violated the First Amendment when the student government cut all funding for student publications in an effort to defund the *Koala* humor magazine because of various racial slurs.

Funding cuts are one of the biggest current threats to the future of student newspapers. Lindenwood University shut down *The Legacy*, an award-winning student-run magazine, due to funding cuts and made it online only. Southern Methodist University's *Daily Campus*, was an independent nonprofit newspaper until 2018, when financial issues left it bankrupt, and it [became](#) an online-only publication under the control of the journalism department. This event prompted student journalists around the country to launch the Save Student Newsrooms campaign to help protect student media. But the closures continue: In December 2019, the University of Colorado [decided](#) to stop funding an independent student news website and instead create a faculty-led “student multimedia enterprise.” Faculty-supervised student media are a worrisome development, particularly because it may be easier for administrators to justify censorship under Hazelwood’s curricular doctrine, and also because they can be used at some institutions (such as Liberty University) as a tool for silencing student expression.

POLICY RECOMMENDATION #6:

Colleges should adopt policies to ensure adequate funding for student publications and to prevent retaliation against student journalists. When student media are part of the formal curriculum, colleges should make sure student journalists control the publication.

Trashing Newspapers

One of the ongoing threats to freedom of the press is the mass theft of student newspapers. Incidents of newspaper theft have declined dramatically in recent years, as student papers are published less often and the internet provides an easy alternative that makes theft a less effective tool for censorship. But the threat still exists. During the 2019-20 school year, several cases occurred. At Capital University (OH), a campus police officer was [fired](#) for stealing copies of an issue of *The Chimes* that reported on the DUI arrest of another officer. At Radford University, the administration [refused](#) to name a staff employee it determined had stolen the student newspaper, and suggested prior review of the student paper by the faculty advisor. At Florida Atlantic University, an issue of the student paper was [trashed](#) which featured a cover story about an allegation of rape against the quarterback.

One longer-term danger is that many colleges design new buildings to prohibit the distribution of newspapers by providing no place for them (in the same way that new buildings are often designed without bulletin boards to prevent any flyers from being posted). By prohibiting newspapers in buildings, administrators can effectively limit their distribution without legal difficulties. But this approach has First Amendment implications. In *OSU Students Alliance v. Ray*, 699 F.3d 1053 (9th Cir. 2012), the 9th Circuit Court of Appeals ruled that Oregon State violated First Amendment by throwing out newspaper racks and papers of a conservative student group to “beautify” the campus.

POLICY RECOMMENDATION #7:

Colleges should inform students and staff that stealing “free” newspapers is a crime and also punishable under campus discipline.

The Danger of Defamation Law

One growing danger to freedom of the press comes from defamation law. In the past, defamation law rarely posed a major threat to student publications because their lack of money did not make them attractive targets for lawsuits, and courts have traditionally granted universities exemptions from libel suits over student publications. In *Mazart v. New York*, 441 N.Y.S.2d. 600 (1981), a New York court ruled that SUNY-Binghamton could not be sued for a letter in the student newspaper because it lacked control over the content. In *Lewis v. St. Cloud State Univ.*, 693 N.W.2d 466 (Minn. App. 2005), the court held that a university not liable for defamation in the student newspaper because system policy prohibited school officials from exercising any control over student-funded publications. At private colleges,

Gallo v. Princeton University, 656 A.2d. 1267 (N.J. Super. A.D. 1995) established that a private university was protected from liability for material published by a student newspaper because it did not control or censor the paper.

However, the doctrine that universities are not responsible for defamation committed by their students has come under fire in the 2019 case (currently under appeal) of *Gibson’s Bakery v. Oberlin College* (2019), where a \$31.5 million [judgment](#) against Oberlin College was imposed after students accused a local bakery of being racist.

The story began on November 9, 2016, when an Oberlin College student went into Gibson’s Bakery, tried unsuccessfully to buy wine with a fake ID, and then shoplifted it. When Allyn Gibson physically stopped him and put him in a choke hold, the student (and two other Oberlin students with him) began punching Gibson, and the three students (all African-American) were arrested. Some Oberlin students claimed Gibson’s bakery was racist, held a protest of 200 people at the store for two days, and called for a boycott, which the Student Senate endorsed in a resolution. Gibson’s Bakery never sued any of the students who called them racist, preferring instead to go after the deep pockets of Oberlin College on the questionable grounds that they supported the accusations of racism.

Gibson’s Bakery sued Oberlin on the theory that it was aiding and abetting defamation. Lee Plakas, the lawyer for the bakery, actually [admitted](#) that Oberlin didn’t commit the defamation, but “aided and abetted defamation, the same as one would in a crime.” Plakas told the jury, “If you’re an aider and abettor, whether it’s a crime or a civil wrong, then you have the same type of responsibility.” This is incorrect. There is no concept established in the law of “aiding and abetting defamation.” There is only defamation, which Oberlin clearly did not commit.

Allowing aiding and abetting defamation as a legal standard would be an incredibly repressive expansion of libel law (for example, bookstores could be sued if they help distribute a libelous book). Under aiding and abetting defamation, someone alleging libel by a newspaper could sue not only the article author and the publisher, but also any retail outlet that sold a few copies of the paper. Allowing “aiding and abetting defamation” would be enormously destructive to freedom of the press in America.

The basis for that “aiding and abetting defamation” charge was incredibly weak. As [Legal Insurrection reported](#), “There was testimony during the trial that Raimondo handed out at least one of the flyers and that the college facilitated the posting of the student resolution on campus.” An administrator handing out a flyer to a reporter who asks what the protest is about is not aiding and abetting anything. And allowing a student senate resolution to be posted on campus is perfectly normal for any college. As [Gertsmann noted](#), “The student senate is not controlled by the college and allowing the senate to post its resolution on college property is not tantamount to an official endorsement of that resolution. To hold otherwise would force colleges to proactively censor student governments.”

[Legal Insurrection summarized](#) the bakery’s legal argument this way: “The school did not initially ‘publish’ the material in question, but did help students distribute the defamatory material in various ways at and after the protest: punishing the business for not dropping the shoplifting charges against the three who plead guilty eventually, helping the students find ‘quiet space’ during the protests and feeding them and buying them mittens, caving in to students who threatened to “stomp” on Gibson’s bakery items if they were still served in the cafeteria, and never putting out any statement that Gibson’s is not racist.” None of these things have anything to do with defamation, but they were used to smear Oberlin and create sympathy with the jury for Gibson’s Bakery. The notion that providing mittens and “quiet space” to students is a form of defamation is incredible.

The danger of this ruling is that colleges will face legal liability for the opinions of their students and faculty, unless they decide to censor them. That’s why the Oberlin College defamation ruling is so threatening to free speech and academic freedom. The right to protest and freedom of the press are deeply intertwined in American history. *New York Times v. Sullivan* (1964) is a landmark case in First Amendment law protecting freedom of the press against defamation charges. But the case also was crucial to protect the right to protest. In the *Sullivan* case, segregationist politicians sued not only the New York Times but also civil rights leaders over an ad criticizing government repression of human rights. The civil rights movement could have been bankrupted by defamation lawsuits brought before segregated juries in the South if not for this essential ruling in defense of the First Amendment.

The ruling against Oberlin endangers freedom of the press on campus because student publications are a common source of controversial news and viewpoints that could lead to threats of a defamation suit. And most student publications receive assistance from a college, whether it’s in the form of student fee funding, office space and equipment, or access to campus. Under the ruling against Oberlin College, any form of aid to a student newspaper could prompt a defamation lawsuit against a university.

Ironically, one lesson for colleges from the Oberlin ruling is that they need to eliminate all controls over student publications and other student groups, as well as regulations on defamation in their campus codes of conduct. One of the factors used against Oberlin in this trial was its campus policy. The bakery’s [complaint](#)

declared, “Oberlin College provided the Student Senate with assistance and encouragement even though the Student Senate’s actions violated the Student Code of Conduct, which prohibits defamation, libel, and slander and which classifies said conduct as constituting harassment.” The bakery’s lawyer argued that because Oberlin banned defamation, it was obligated to take action against the student protesters to stop them from defaming the bakery. [Oberlin’s student code of conduct](#) does indeed list “Defamation, libel, or slander” as examples of harassment. Colleges need to remove defamation from student codes of conduct or risk greater liability.

Unfortunately, some colleges appear to be moving in the opposite direction.

Middlebury College in 2019 adopted a new [policy](#) declaring, “there are legal limits on the range of expression permitted. Speech that incites or threatens physical violence, speech that is defamatory, and forms of expression that violate our Anti-Harassment/Discrimination policy, are inconsistent with our educational mission and our shared community values.”

The highly influential 2014 [University of Chicago Principles](#) on free expression may help spur more restrictive defamation policies. Its report noted: “The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University.” The idea that a university can punish students and staff for defamation (and associating it with illegal acts, threats, and harassment) is a dangerous step that endangers free expression. More than 60 colleges have adopted the Chicago Principles, which magnifies the impact of this one small flaw in its report.

Why shouldn’t colleges regulate defamation by their students? Fundamentally, defamation is a civil violation that should be addressed by individuals in civil court. Universities don’t normally punish students for civil harms they cause against others (for example, by failing to pay rent to their landlord). But regulating defamation poses a special danger at a university, because defamation litigation is often used to try to silence freedom of the press and free expression. Adjudicating defamation complaints is also a tricky endeavor for a university. Many libel suits are overturned on appeal, and few are successful. Understanding the nuances of defamation law is a difficult undertaking for most student conduct hearing bodies, which rarely have any experience with the topic.

Defamation rules also raise questions about the hypocrisy of free speech regulations. If universities cannot regulate hate speech that espouses false, harmful ideas against targeted minorities, why should they be able to regulate defamatory speech that espouses false, harmful ideas against individuals?

Instead of seeking to punish students for defamation, universities ought to consider trying to help students who face defamation lawsuits in retaliation for their speech or filing of complaints. A 2020 investigation by [Mother Jones](#) found that at least 100 defamation lawsuits have been filed in America since 2014 against victims of sexual assault, with about half of them coming from male college students and faculty. These litigants use defamation suits to try to gain leverage for their lawsuits against universities. By suing their accusers for defamation, these men hope to pressure a settlement where the accusers agree to withdraw their accusations in exchange for dropping the suit. With the accuser no longer standing behind these claims, those

accused of sexual assault find it easier to win lawsuits or settlements against the universities that disciplined them.

While universities will usually help defend faculty and staff who are accused of defamation in the performance of their official duties, students who face defamation suits are often unprotected, even when the lawsuit is the result of filing a formal complaint with the university about misconduct.

Student publications are also highly vulnerable to defamation lawsuits, even though they rarely have the deep pockets to make such suits profitable. Some litigants use the cost of libel suits as a tool to demand censorship.

The [Michigan Daily](#) was sued for \$1 million in 2012 by the Kitchener Rangers (a minor-league hockey team in Canada) over a story about a recruited athlete. They settled the lawsuit by removing the article, since most campus newspapers lack the resources to fight a libel suit. The defamation lawsuit has become the more effective form of trashing newspapers for the 21st century.

Merely reporting on campus news can bring student newspapers into defamation lawsuits aimed at their universities. In 2019, Elmhurst College professor Timothy Hays [sued](#) the Elmhurst College *Leader*, the student journalist, its faculty advisor, and the school president after he was investigated for his seating chart that included physical descriptions of students such as “black,” “Hispanic,” and “cute.”

In [Jon Butcher vs. University of Massachusetts](#), the Massachusetts Supreme Judicial Court [ruled](#) in 2019 that a student journalist at the University of Massachusetts at Boston could not be sued for defamation for printing information from a police blotter about a suspicious man taking photos.

POLICY RECOMMENDATION #8:

Colleges should not regulate defamation in campus conduct codes, and should help students and student publications when they are subjected to defamation lawsuits for reporting misconduct or reporting the news.

Defending the Right to Social Media

In 2013, David Guth, a University of Kansas [professor](#), tweeted, “Next time, let it be YOUR sons and daughters” about the National Rifle Association in the wake of one of those mass shootings in America (a couple thousand mass shootings ago). Chancellor Bernadette Gray-Little placed Guth on indefinite administrative leave. Eventually, Guth’s job was spared, but the Kansas Board of Regents enacted an extraordinary policy restricting social media by all employees. The Board [declared](#) in a press release, “Because of the proliferation of social media use for communication purposes, and its particular susceptibility to misuse and damage to our universities, the Board believes that a provision outlining improper uses of social media will be beneficial to all parties....”

This belief that there’s something uniquely evil about social media that requires special regulations is part of a growing trend toward censorship on campus. That Kansas policy, which is still in effect today, [states](#) the social

media can be punished if it “impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, impedes the performance of the speaker’s official duties, interferes with the regular operation of the employer, or otherwise adversely affects the employer’s ability to efficiently provide services.”

In response to criticism, the Kansas regents did add a statement of their devotion to free speech. But the policy says, “the interest of the employer in promoting the efficiency of the public services it performs through its employees must be balanced against the employee’s right as a citizen to speak on matters of public concern.” So in Kansas, campus employees don’t have a clear right to extramural utterances, they only have a balancing test: Efficiency vs. free speech.

What’s particularly flawed about the Kansas Regents policy is the double standard, that it demands censorship only of social media. Professors at Kansas are still free to publish their opinions in the *New York Times* without penalty, but if they post the exact same words on their Twitter account, even if they don’t have any followers, they can be punished under this separate social media policy.

The Kansas case also was part of a disturbing trend where politicians, almost always Republican lawmakers, demand the firing of controversial professors for their social media utterances. In 2020, another trend developed to punish students and faculty for their social media statements deemed racist or offensive about the George Floyd murder. And a 2020 [survey](#) of over 200 public colleges by the Foundation for Individual Rights in Education found that most colleges filter or block content and users on their official Facebook and Twitter, potentially in violation of the First Amendment.

Frank LoMonte of the Brechner Center for Freedom of Information at the University of Florida [argues](#) that regulatory authorities “are policing speech on social networking sites as if social media constituted a ‘First Amendment-free zone’ to which traditional free-speech principles no longer apply. The phenomenon is perhaps most pronounced in public schools and colleges, where students’ speech on social media is being subjected to greater scrutiny and control than any other form of expression.” At colleges, censorship of student athletes is particularly intense, with a 2020 Brechner Center [study](#) finding that 50 of 58 public universities categorically prohibit athletes from speaking to the press without first getting approval.

One reason why colleges suppress social media is because they have policies that explicitly endorse censorship. Although a comprehensive analysis of all social media policies was beyond the scope of this study, many colleges have terrible social media policies that are usually a mix of prohibitions and recommendations for self-censorship, rather than protections for free expression.

Brown University, for example, has an extensive [social media policy](#) giving advice such as “Remember that what you post on your personal page could haunt you professionally” and “If you discuss higher education on your own social media site, include a sentence similar to this: The views expressed on this [blog, Website] are mine alone and do not necessarily reflect the views of Brown University.”

Stanford University’s [policy](#) warns, “When engaging on social media on Stanford’s behalf, do not express political opinions or engage in political activities. Your political opinions can only be expressed in your individual capacity on your own social media accounts and, even then, avoid the appearance that you are speaking or acting for the university in political matters.”

These guidelines for required disclaimers are dangerous to intellectual freedom because they create a culture of aversion to controversial ideas. And this is peculiar to social media. No university has ever enacted a policy that says if you go to a conference, you must write on your nametag, “My views are my own,” yet it’s becoming very common for academics to do that on their Twitter account or blog at the insistence of university policy.

The University of California at Davis has one of the best [policies on social media](#) that actually supports using it: “As a university committed to the highest standards of freedom of speech and expression, we encourage everyone to get involved and participate in social media.” And UC-Davis guidelines explicitly do not apply to personal social media, but only for “participation on UC Davis-hosted social networks or online in your official capacity tied to the university.” Yet even the UC-Davis policy urges the unnecessary disclaimer, “When referencing UC Davis online, make it clear that you’re sharing your personal opinion and are not communicating on behalf of the university.”

Colleges need to revise and improve their policies and social media to explicitly protect social media, and say that social media will be evaluated according to the same standards as other extramural utterances. A good social media policy should explicitly protect free expression and prohibit censorship. It should reject the need to use disclaimers on personal social media. And it should protect free expression even when the social media is owned by the university itself, such as when the University of Iowa in 2019 [banned](#) departmental Facebook pages from mentioning a local appearance by climate activist Greta Thunberg.

Social media represents the future of expression on campus, and the means by which citizen journalism operates and people can become the media themselves. Special regulations on social media threaten free expression on college campuses.

POLICY RECOMMENDATION #9:

College social media policies should defend free expression and prohibit censorship by stating that social media is evaluated the same as all other forms of expression, rejecting the need for disclaimers on personal social media, and protecting the rights of all students, faculty, and staff to use social media.

Conclusion

Private universities can, as private entities, legally ban the press from campus, just like a private corporation can ban the media from its premises. But private universities also have the legal authority to abolish freedom of speech for their students and to eliminate academic freedom. Universities choose not to make those restrictions because they understand that an atmosphere of liberty is essential for the goals of higher education. Colleges should have the same perspective toward student media and the professional press, and ensure that freedom of the press is fully protected on campus and the values of a free press are publicly affirmed.

Universities have an obligation to reform policies and practices that infringe upon freedom of the press, whether these are restrictions on professional news media seeking to cover stories on campus or limitations placed on student publications. But universities should go beyond merely refusing to censor freedom of the press. Higher education needs to take an affirmative stand to promote and aid the press in their work to expose wrongdoing reporting the news. When universities recognize that the media are not a threat to their brand identity, but a partner in the pursuit of truth, they can make changes to help rather than hinder than press. Freedom of the press on campus is an essential component supporting academic freedom, the right to protest, freedom of speech, and all the other liberties that are fundamental to the work of higher education.

Appendix:

Excerpts from Media Policies at the Top 25 American Universities (alphabetical order)

Explanation of grading standards by John K. Wilson: Colleges that place no formal restrictions on the media (or only restrictions on accessing classrooms, offices, dorms, labs, and other private spaces) were given an A grade. Colleges that require permission for any media on campus were given an F grade. Colleges that place partial restrictions on the media (such as limits on filming and photography) were given grades in between an A and an F, depending on the severity of regulations.



BROWN

Brown University

<https://www.brown.edu/university-communications/news/journalists/access>

Grade:

F

Non-Brown agencies and individuals – including the news media – require permission to come on campus at any time to capture still

or video images, and require an escort of an appropriate representative of the University. All members of the news media interested in capturing images or conducting interviews on University property must consult with the Office of University Communications before entering campus.

Caltech

California Institute of Technology

<https://filming.caltech.edu/guidelines>

Grade:

A

News media covering an active or breaking news story do not require a permit. Contact Caltech Media Relations to coordinate news media requests.

During your stay at Caltech, all persons involved with the filming will adhere to the Professional Filmmaker's Code of Conduct as outlined by the California Film Commission at

http://www.film.ca.gov/CommunityFilmInfo_FilmmakersCode.htm.

Personnel in any way connected with the production can be ejected from the campus for displaying behavior that is deemed to be disruptive to the operation of the Institute, or for being offensive in language or behavior to students, faculty, staff, administrators, or Institute guests.



Carnegie Mellon University

<https://www.cmu.edu/news/media-resources/index.html>

Grade:

A

The Office of Media Relations offers assistance to print, broadcast and online media. Our staff connects reporters with faculty experts, assists news crews with campus visits, arranges video and radio

feeds, and helps members of the media locate archived photos, news stories and press releases.

(Email from media relations: "We don't have a published policy about media coming to campus. However, b/c we are private, they can't just come on campus and roam without us knowing. So we encourage media to contact our office to coordinate.") However, CMU's website states, "We welcome you to our campus."

<https://www.cmu.edu/visit/index.html>



Columbia University

<https://news.columbia.edu/press-room>

Grade:

F

Members of the working news media must contact the Office of Communications and Public Affairs at columbianewsrequests@columbia.edu or call 212-854-5573 for

permission, guidance, and escort assignments. The rights of students not to be photographed, filmed, or interviewed must be respected. Advance written permission from each student is required.

Student groups who wish to allow external media access to campus events should first consult their group advisor or the dean of students of their school and participate in the advance event review process.

Media are not allowed inside classrooms, libraries, dormitories, or other interior spaces unless special permission is granted in advance by the Office of Communications and Public Affairs as well as the Office of Public Safety.

Media seeking to use any type of camera on campus must contact the Office of Communications and Public Affairs in advance at 212-854-5573.



Cornell University

Cornell University
<https://news.cornell.edu/media-relations/work-with-us>

Grade:

F

Cornell University is private property. Members of the media planning to conduct interviews, capture images or record audio on campus must request permission from our Media Relations Office

before arriving at the university. Journalists who have not obtained permission from the Media Relations Office to work on campus may be asked to leave university property.

Our goal is to ensure that faculty, students, staff and visitors on campus can carry out their activities with a reasonable expectation of privacy and normalcy. Members of the media may not interview, capture images or record audio of faculty, students, staff or visitors without specific permission of the individuals involved. Members of the news media are not permitted to enter buildings without permission of the Media Relations Office or the communications office of the relevant college or school, and may not enter classrooms without also securing advance permission from the instructor. Members of the media are not permitted to enter residential living areas at any time.

To protect the safety, privacy and proprietary work of faculty, students or staff, a representative from Media Relations may escort members of the media at all times while on university property. Permission to conduct interviews, capture images or record audio on university property may be revoked at any time by the Media Relations Office if those actions are deemed disruptive to faculty, students, staff or visitors.

The Media Relations Office may provide The Cornell Daily Sun with special access to information or events in recognition of its unique role as an independent student-run campus newspaper.

The university may grant members of the media general access to outdoor spaces on campus to photograph or video record environmental campus shots and building exteriors. Faculty, students, staff and visitors who appear in images of campus may not be easily identifiable without specific permission of the individuals involved.

Print and online journalists without special equipment may attend events designated as open to the public or open to the media, while separate broadcast permissions may have to be secured in advance for other media.

Rules regarding access to other campus spaces, interviewing faculty, students, staff and visitors, and capturing images or recording audio apply to public events as well.



DARTMOUTH

Dartmouth College

<https://communications.dartmouth.edu/media/filming-and-photography-dartmouth-campus>

Grade:

C

We are a private institution, and most of our facilities are not open to the public. Dartmouth's credentialing procedures for news media are intended to facilitate access to campus for those who wish to

film or photograph on the campus and to support the free and open expression of ideas while ensuring that such filming or photography does not interfere with the educational, scholarly, or administrative functions of the institution. In order to maintain an environment that is conducive to teaching and learning, we ask all news media who would like access to campus for filming or photography to fill out a Campus Access Request Form and submit it to the Office of Communications to secure permission before visiting. Permission to film or photograph and related arrangements must be made through that office in advance.



Duke
UNIVERSITY

Duke University

<https://commskit.duke.edu/policies/dukes-news-policies/>

Grade:

F

Members of the media must obtain permission in advance to film, report or broadcast live from Duke property.

Media who wish to attend an event organized by students must contact University Communications in advance. Media must obtain permission from University Communications in advance to take exterior still photographs of Duke's campus for news purposes.



EMORY
UNIVERSITY

Emory University

<https://news.emory.edu/press/media-information-and-guidelines.html>

Grade:

F

Members of the news media are welcome to the Emory University campus but must arrange all visits through the Office of University Media Relations, 404-727-6216.

Permission is required from the appropriate communications office for news media access to all university facilities including classrooms, medical facilities, laboratories and residence halls.

Broadcast crews must obtain prior permission from the Office of University Media Relations to videotape or broadcast live from campus since broadcast vehicles and equipment may interfere with traffic and/or university activities. All media must park in designated areas. Media access may be denied or limited, and pool cameras or reporting may be required, during an emergency or in situations when university communications officers determine that unrestricted media access may interfere with the routine operation of the university.



Georgetown University

Georgetown University

<https://www.georgetown.edu/media-resources/>

Grade:

C

News media are welcome to photograph or shoot video of university buildings and scenes using public ways. For permission to shoot on university property, please contact the Office of Strategic

Communications at (202) 687-4328 or gucomm@georgetown.edu. Permission to film any exterior or interior spaces on university property must be approved by and coordinated with the Office of Strategic Communications.

This policy applies to any type of photography – stills, video and film – and to any reporters with cameras.



HARVARD UNIVERSITY

Harvard University

<https://www.harvard.edu/media-relations/policies>

Grade:

F

Reporting, photographing, and videotaping are prohibited on campus without prior permission.

Filming restrictions include the following:

- Commercial filming is not allowed anywhere on campus
- News media are not permitted inside classrooms, dining halls, or dormitories
- Permission must be secured in advance from students who appear in wide shots on campus.
- Tripods are prohibited in Harvard Yard.
- News media may also use public sidewalks to photograph or film campus.



JOHNS HOPKINS UNIVERSITY

Johns Hopkins University

<https://hub.jhu.edu/media/>

Grade:

A

Johns Hopkins is a big place. Let us make your job a little easier by connecting you with the right media representative.



Massachusetts Institute of Technology

<http://news.mit.edu/press/filming-guidelines>

Grade:

C

When the details of a given request have been agreed upon, a location agreement must be signed and returned to the MIT News Office prior to the crew's arrival. Once a location agreement is

approved, video crews are welcome to film on campus property, as long as the reporting activities do not disrupt Institute activities, interfere with the privacy of students, faculty or staff, or jeopardize the safety of Institute personnel, visitors or facilities.

When filming students, we ask that the media respect the right of students not to be interviewed, if they so decline. Media may not take or use pictures of students or film students without first getting their permission to be filmed. Students must also be given complete details about what is being filmed and how their photograph might be used. All other locations/subjects must be approved prior to filming.



Northwestern University

<https://news.northwestern.edu/for-journalists/on-site-reporting/>

Grade:

F

If you plan to conduct on-site reporting on Northwestern University's campus, our team is happy to help coordinate. Below you will find campus maps, parking information and answers to

frequently asked questions about visiting campus. All filming and photography for non-personal use requires expressed permission from the University. Media wishing to shoot video or photos, or interview members of the university community on campus or inside campus buildings, should notify Northwestern media relations by calling (847) 491-5001 or emailing media@northwestern.edu.

<https://news.northwestern.edu/for-journalists/filming-photography/> Expressed permission is required before any reporting, filming or photography can take place on Northwestern's private property.



Princeton University

<https://communications.princeton.edu/media-public/campus-access>
<https://www.princeton.edu/news/media-inquiries>

Grade:

F

Journalists who want access to campus must contact the media relations team at mediarelations@princeton.edu or 609-258-5733 to

secure credentials before coming to campus. The University's Campus Access Authorization Form (.pdf) is required for all filming and photography by journalists.

Princeton welcomes visitors to our beautiful central New Jersey campus. As a private higher-education institution, the University's primary responsibility is to its research and teaching missions and its students. This is a residential campus, and we seek to protect the privacy of our students in their living environment.



Rice University

<https://publicaffairs.rice.edu/policies/filming-photo-policy>

Grade:

A

The photographic needs of the print, broadcast, and on-line media can be accommodated at no charge with the assistance of the Office of News and Media Relations.

To minimize the likelihood of interruptions by campus security, prior to shooting, photographers wishing to shoot images on the campus after dark should stop by the Rice University Police Department (just inside campus gate 8, University Boulevard at Stockton) to announce their intent, and, in the case of any kind of photography besides personal photography, to show written proof of permission and to have their photo IDs copied by the officers on duty.

We ask that all campus photographers:

- Respect the privacy of campus residences. With the exceptions of Cohen House, the Rice faculty club, and Huff House, the location of the Office of Alumni Affairs, these are any buildings on the CAMPUS MAP whose names include the words "house" or "college."
- Avoid disruption of classes or other university functions. In particular, we ask that you refrain from imaging the interiors of any buildings unless you have secured prior permission (using the form available under the Commercial Use heading below).
- Respect the rights of Rice students, employees and visitors not to be photographed without their knowledge and permission. Also, please note that use of any recognizable image of an NCAA athlete in conjunction with any commercial promotional purpose other than university self-promotion could jeopardize the scholarship eligibility of the student athlete(s) so depicted, and thus is prohibited.

<https://publicaffairs.rice.edu/policies/social-media-guidelines>

Press inquiry — If a member of the news media contacts you through social media for comments or interviews, direct all inquiries to the News and Media Relations team.



Stanford University

<https://ucomm.stanford.edu/policies/>

<https://ucomm.stanford.edu/policies/film-photo-video-requests/>

Grade: **F**

Stanford University Communications accommodates reasonable requests for journalistic, news-related, non-commercial shooting,

but reserves the right to deny permission when the request runs contrary to university policies—especially those that protect student privacy.

The subject of all news-related filming or photography must be directly related to the university. Profiles of individuals using Stanford as a backdrop location are not allowed. <https://ucomm.stanford.edu/policies/film-photo-video-requests/news-photo-film/>

Journalists must notify the Office of University Communications, or a school or institute media relations office, to obtain permission to come onto Stanford University property.

Journalists must adhere to the university's privacy policies. No one at Stanford can be filmed without his or her permission, except at public events to which the public and media have been invited.

<https://ucomm.stanford.edu/policies/privacy/>

In accordance with the university's policies, members of the media are prohibited from entering student residences or dining halls. Members of the media are prohibited in all residential areas of the university, including student residences and the surrounding faculty neighborhoods without prior permission from University Communications. Media are prohibited inside classrooms, libraries, laboratories and other academic buildings without prior permission from University Communications and instructors. Recognized student groups and official units of the university will be granted such permission so long as they do not violate the privacy or property interests of others.



University of California at Los Angeles

<https://newsroom.ucla.edu/ucla-guide-for-journalists>

Grade: **A**

Media camera crews may gather news in public areas of UCLA.

Classrooms, residence areas, health facilities and research labs require approval to enter. Contact UCLA Media Relations for assistance. Permits are required for commercial filming.



University of California, Berkeley

<https://news.berkeley.edu/broadcast-studios-and-services/>

Grade: **B**

For assistance in arranging access to on-campus studios, campus video footage, expert faculty, and seeking required permission to conduct documentary, educational, and long-form news productions on campus...



University of Chicago

<https://news.uchicago.edu/media-resources>

Grade: **A**

Journalists who wish to visit or film on the UChicago campus should notify the News Office with details of their request.



University of Notre Dame

<https://news.nd.edu/for-the-media/media-policies/>

Grade: **F**

At the University's discretion, journalists may report from the campus on news of public interest. They are expected to obey Notre

Dame parking and other regulations and to conduct themselves in accord with the code of ethics of the Society of Professional Journalists....Journalists must gain permission prior to coming onto the Notre Dame campus.....Entry to classrooms, offices and places of worship by journalists must be cleared in advance either with occupants of the respective offices, the professor in charge of a class, or Media Relations.

Students, faculty and staff may, without permission, shoot video and still photos on campus for academic purposes. The resulting videos and photographs may not be used or distributed for commercial, marketing or promotional purposes. Student, faculty and staff who record video or shoot photos should respect the privacy of others and gain permission to record or shoot. They also should abide by University policies and avoid disrupting normal campus operations.



University of Pennsylvania

<https://penntoday.upenn.edu/node/154744>
<https://penntoday.upenn.edu/for-the-media>

Grade: **A**

Anyone who wishes to film on campus for commercial, non-news purposes must submit in writing detailed information about the proposed project....



University of Southern California

<https://pressroom.usc.edu/>

Grade: **A**

[No policy mentioned.]



Vanderbilt University

<https://news.vanderbilt.edu/resources/photography/>

Grade: **A**

Anyone wishing to film, tape or photograph on Vanderbilt's campus for non-news purposes must submit a written request to the Division of Public Affairs.



Washington University

<https://wustl.edu/about/compliance-policies/media-policies/media-visits-campus/>

Grade: **A**

News media are welcome in all public areas of the Danforth Campus and may attend all non-ticketed events open to the public without

prior permission. For members of the news media planning a campus visit, we suggest checking with the Office of Public Affairs in advance so that your trip here will be productive. We will work with news media to arrange interviews, provide access and parking, locate information and research helpful data.

Washington University supports the free and open expression of ideas and opinions by our faculty, students and other members of the university community, and we encourage members of our community to agree to interviews and to participate as expert resources in news stories. Faculty, staff and students have the right to

speak with news media without the presence or permission of university officials.

News media are required to seek permission through the Office of Public Affairs if they want to enter classrooms, medical facilities, laboratories or similar facilities for the purpose of reporting on any of the university's campuses. Such permission generally will be granted, as long as those in charge of these areas agree and if the reporting activities do not disrupt university activities; do not interfere with the privacy of students, patients, faculty and staff; and do not pose any risk to the safety of members of the university community, visitors or facilities.

Video and sound crews on Danforth Campus property usually are accompanied by a member of the Office of Public Affairs or the office's designee. When requests are made to conduct on-camera intercept interviews with students, faculty or any other members of the university community, the accompanying Office of Public Affairs staff member will ask the proposed interviewee for her or his permission to proceed. The staff member will identify the reporter, describe the request for an on-camera interview and explain that the university sees the decision to be interviewed as each individual's choice. When the requested source makes a decision to be interviewed, she or he may ask that an Office of Public Affairs representative remain throughout that interview. Otherwise, the Office of Public Affairs representative will absent himself or herself from Danforth Campus interviews. (Because of federal laws protecting patient privacy, all Medical Campus interviews will be conducted with a member of the Office of Medical Public Affairs present.)

Yale

Yale University

<https://communications.yale.edu/media>

Grade:

F

The Yale Office of Public Affairs & Communications (OPAC) requires all media outlets wishing to visit the Yale campus for any purpose to notify OPAC and receive permission. Depending on the purpose of

the visit, OPAC may require that media members be escorted or display a Yale-issued media credential. No media members may enter a Yale building or gated courtyard without OPAC's permission and escort.

The background is a solid blue color with a collage of various white and light blue icons. These icons include a video camera, a laptop, a newspaper, a megaphone, a hand holding a smartphone, a circular 'I VOTED' stamp with stars, a laptop, a keyboard, a computer monitor, a speaker, and a hand holding a pen. The icons are arranged in a scattered, overlapping manner.

UNIVERSITY OF CALIFORNIA

National Center
for Free Speech and
Civic Engagement