

Vincent Munoz:

I think what we need to do is explain how our principles of free speech, free inquiry, will help serve the cause of justice.

Betty Friedan:

The First Amendment, the constitutional freedom of speech and freedom of conscience, that is the bulwark of our democracy.

Bettina Aptheker:

There was a passion in what was being said, affirming what people considered a sacred constitutional right, freedom of speech and freedom of association.

Michelle Deutchman:

From the UC National Center for Free Speech and Civic Engagement, this is SpeechMatters, a podcast about expression, engagement, and democratic learning in higher education. I'm Michelle Deutschman, the Center's executive director and your host. Welcome to episode nine.

Today we will conduct an in-depth exploration of recent state legislation and its detrimental impact on higher education and democracy writ large. Our two guests are not only national experts, but also longtime friends of the Center. In fact, both Jonathan Friedman of PEN America and Emerson Sykes of ACLU were 2019-20 Fellows at the Center.

Before I tell you too much more, let's turn to Class Notes: a look at what's making headlines. What happens when the "26 words that created the internet" are under threat? That's the question being asked in light of the Supreme Court recently agreeing to hear Gonzalez versus Google, a case focused on Section 230 of the Communications Decency Act, the legislation that exempts social media companies from being held legally liable for the content posted on their platforms.

The Gonzalez case was initiated by relatives of Nohemi Gonzalez, a US citizen killed by ISIS terrorists in a November, 2015 attack at a Paris restaurant. The case against Google was brought under the Anti-Terrorism Act with Gonzalez's relatives arguing that YouTube's role in recommending ISIS videos to its users constitutes illegal support of a terrorist organization, surpassing Section 230 protections. This case presents the Supreme Court with an opportunity to determine whether targeted recommendations by social media companies can still be considered protected speech or whether they can be held liable for the consequences of their recommended content.

As one of the first cases the Supreme Court has agreed to hear since Section 230's passage in 1996, there was a lot hanging in the balance. Regardless of the ruling, this case is poised to have a vast impact on the internet law landscape.

Last month, the University of Idaho made national headlines after faculty members received an email from the institution's general counsel stating, among other things, that "faculty or others in charge of classroom topics and discussion" must "remain neutral on the topic of abortion." The email warned that failing to do so could result in criminal charges under a state trigger law that went into effect following the Supreme Court's decision in Dobbs.

The blowback to the missive was swift and fierce coming from University of Idaho students and employees, the American Association of University Professors and even President Biden. Two weeks later, the University responded with an email to the entire campus outlining how their academic freedom policies had not changed. They explained that the original email was an attempt to protect

faculty from an evolving legal landscape where enforcement of laws like Idaho's No Public Funds for Abortion Act remains unclear. Incidents like this one illustrate academic freedom is never far from the headlines, especially at the state level.

Those headlines provide us a perfect segue to today's topic: curricular censorship by state legislators. We have two seasoned professionals to help us understand all the nooks and crannies of this vital issue. Jonathan Friedman is the Director of Free Expression and Education programs at PEN America, a 100 year old nonprofit that works to ensure that people everywhere have the freedom to create literature, to convey information and ideas, to express their views, and to access the views, ideas, and literature of others.

In his role, Jon oversees research, advocacy and education related to academic freedom, educational gag orders, book bans, and general free expression in schools, colleges, and universities. Emerson Sykes is a senior staff attorney with the American Civil Liberties Union, a 102 year old nonprofit dedicated to defending and preserving the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country.

As part of ACLU'S Speech, Privacy, and Technology Project, Emerson focuses on First Amendment speech protections. Emerson is no stranger to podcasting - from 2019 to 2020, he served as the host of At Liberty, the ACLU'S weekly podcast. Welcome to both of you, both former Fellows. So fun to have you on SpeechMatters.

Jonathan Friedman:

Great to be here.

Emerson Sykes:

Thanks so much, Michelle.

Michelle Deutchman:

Okay, so before we dig into the issue at hand, I'd like to ask people about their career stories and journeys and dedicating one's career to protecting the First Amendment isn't necessarily a common pathway. And I'm curious to know what inspired each of you to spend your livelihood working to protect this fundamental right. Emerson, do you want to kick us off?

Emerson Sykes:

Sure. Thanks for having us. It's always nice to at least be with you in virtual space. So I've been at the ACLU litigating First Amendment cases since 2018. And directly before that, I was working in international human rights. So I was working all over sub-Saharan Africa on protecting the right to freedom of association, freedom of assembly, as well as freedom of expression.

So my route to the First Amendment is really through international human rights and specifically working with political dissidents, human right activists, LGBTQ activists, environmental activists all over the continent who were facing significant restrictions on their right to speak. And so it was from there that I pivoted to working domestically on the First Amendment.

So I've had a sort of winding career path going back and forth between international and domestic work, but I think the through line has always been trying to support those who are pushing for change on a sort of massive structural level. So it's really rooted in a commitment to activism and protecting the right to protest and keeping those who are in power to account.

Michelle Deutchman:

Thanks so much. That's why I like the question, because people's roads are often winding and I think Jon's road is also an interesting one. Jon, do you want to tell us about your journey to PEN America?

Jonathan Friedman:

Sure, Thanks Michelle. Great to be here. I have been working at PEN for four years and my role here started around campus free speech issues. I have a background in international education and I was really drawn actually to PEN's international human rights portfolio and the ways in which it approached domestic issues here in the United States with that framing in mind.

And of course, over the past few years, we've just seen the issues around civil liberties, democracy, freedom of expression on campuses, and now essentially targeting all of K to 12 schools as well, expand drastically. And so it's been just really a kind of work that's very heartening to see the need for it and the impact that it can have in helping people to understand what's happening around the country and the need to fight back.

Michelle Deutchman:

Right. So we have two of you on the front lines and you've been working tirelessly to counter the harmful impact of state legislative efforts that, under the guise of protecting students from indoctrination, actually censor speech, curriculum, and access to information in the classroom and libraries.

So before we delve into the myriad of ways that PEN and ACLU have responded to the proliferation of the state legislation, Jon, I'm going to ask you to set the table for us a little bit. What do the number of bills look like? How many are being passed? What percentage implicate higher ed? And maybe you can give us a flavor of the types of bills, the different permutations, that they come in.

Jonathan Friedman:

Sure. So I think it's important for people to understand that this is a kind of climate that we're describing, an attitude setting in, in state legislators and state houses. And it's an attitude that says that the government should be able to control or censor whatever they want in schools and increasingly in colleges and universities. And if you look at how many of these bills were introduced in 2021 compared to the rapid increase of them in 2022, it is very clear that that mood is getting more momentum behind it.

Now, this all really started in 2020. It started as a backlash to the 1619 Project and a bill originated by Tom Cotton in Congress, which proposed to take away funding from public schools if they taught curriculum from the 1619 Project. And that's a pretty radical idea considering public schools are obviously funded by the state, are part of our fabric of our democracy. So that was surprising and shocking and drastic, but it wasn't really going anywhere at first.

But then, suddenly we saw this copycatting and the next thing you knew there were bills in many states proposing to do the same thing with the 1619 Project. You fast forward a few months, and now there's a bill of divisive concepts. And we see that taken from Trump's executive order and then again replicated across a number of states.

And then suddenly, it was bills that were also against critical race theory, as that term entered the popular lexicon and was sort of reframed to mean just about anything related to race or diversity in schools. And then, we've seen continued efforts at piggybacking on this. So in the last year, new bills

that take the same approach but apply to teaching about sexual orientation or gender identity in schools or bills that propose to censor sex education in schools.

And so now, we have this moment where when you look back, all the original targets of censorship here, race diversity, critical race theory, divisive concepts, those are all still being bandied about. But now they're being added to with more bills, specifically targeting gender and sex and LGBTQ identities.

And there's different flavors here. Bills have different sponsors, but it's clearly there's a number of model bill templates that are circulating. And in many states, there's not even necessarily coordination or working toward a single bill. It seems to me that a lot of this is just red meat for the base. And so you see situations in Missouri where 19 or 20 bills were introduced in the last legislative session, all more or less doing something similar about censoring schools.

And then, it's the punishments also that are shocking. What started as punitive reductions in funding for school districts has turned into fines for teachers or barring teachers who are found guilty of breaking these laws from teaching in their states ever, anymore. And so there's all kinds of proposals on the table, and when I say there's a mood setting in it's that mood, it's that swagger and it's a lot of creativity around it and increasing fluidity. So what maybe was once respected as a differentiation between K to 12 and higher ed is evaporating as many of these bills just kind of lump censorious prescriptions together for both of them.

Michelle Deutchman:

Thanks so much, Jon. I mean, even though I know how real it is, it is really sort of surreal to hear about the breadth and scope of this type of legislation all across the country. Emerson, anything you want to add before I ask you a question?

Emerson Sykes:

Sure. I mean, think Jon and PEN America have done an incredible job of tracking this wave of legislation that we've seen and doing the background analysis about where they're coming from. And I appreciate all of that work that we referenced directly in our litigation. And I also would add though that it's really important to me where we start these conversations, because I'm focused on fighting these state level laws. So is Jon. And so I understand that's the framing of the conversation, but at the same time, it's important to note that where this wave comes from in the broader picture is it's a backlash to the racial reckoning of 2020.

Jon mentioned the 1619 Project. At the ACLU, we spent a year and a half defending the rights of Black Lives Matter protestors all over the country, more or less. That was mostly what we did for about a year and a half. And for the last year and a half, I think it's no coincidence that we've been facing these laws that target how we think about, talk about, and teach about race in our society.

So we grew up, I grew up, with a whitewashed history presented in public schools, and there has been significant progress over the last few decades in terms of having a more inclusive and representative curriculum that's been displayed in our schools. We also have, as I said, this racial reckoning after the deaths of too many black people at the hands of police. And this I think is the backlash. The wave of legislation that we're seeing is the backlash to that progress.

And so at my hopeful moments, I'm sort of reminded that this is the last remnants and the last kicking fight of the old order trying to enforce white supremacy for the next generation. But I think we have made significant progress and we can continue to do so.

Michelle Deutchman:

So, it's always nice to have some hopefulness on these podcasts because it can be easy to jump down the rabbit hole of bleakness. So both of you have really set the stage. And maybe Emerson, you can start off by talking less about what we're facing and why this matters, especially for colleges and universities. How will these laws affect academic freedom, the way professors teach, and the way that students are able to learn?

Emerson Sykes:

As my parents are teachers, my wife is a teacher, I of course was a student, and a lot of my work focuses on college campuses. So I care deeply about the kind of education that we're providing to our young folks and even our continuing and adult students as well. So I think on a fundamental level, what happens in schools has always been a topic of debate, a topic of even a political football that's been used to try to win battles in the culture war.

So nothing's particularly new about staking education on these political issues, but I think what we're seeing now is different in some particular ways. And what we've seen actually in Florida, and I can talk more about this particular case, but what we've seen in its most extreme version is the state of Florida arguing in defense its so-called Stop Woke Act.

Actually I shouldn't say so-called what they call it. They named it the Stop Woke Act. In defense of the Stop Woke Act, the defendants have essentially argued that there is no limit to what a legislature can prescribe for a public university instructor to say, that they have complete control over what is said in university classrooms that are run by the state. And I think for anybody who's been involved in higher education, either as a teacher, a student, an administrator, that is simply not how we think of the relationship between the university, the state, and an individual instructor.

While state legislatures have quite a bit of authority to regulate K-12 education, not complete, we would argue, but in higher education, the idea that that academic freedom has been swallowed hole by the idea of government speech. What Florida has said is, "When these professors are teaching in class, they are simply conveying the government's message and they have no interest whatsoever in what they are teaching." And of course, we've pointed out how ridiculous this is. Many people on Twitter have also pointed out how ridiculous this is, and not many states have gone so far as Florida. But I think this is sort of the logical conclusion, that this is an assertion of state power over education.

And there are some areas in which the state has significant power over education, but they have really touched in the college classroom on what the Supreme Court has said is essentially hallowed ground, a special place where our society and our culture are dependent on the idea that in our higher education institutions, people have freedom to explore new and challenging ideas, and these legislatures have pulled back none of the stops in order to sort of wipe away that sacred principle.

Michelle Deutchman:

Since you started talking about Florida, Emerson, before I go back to get Jon's take on how things might be different than in the past, I'll follow up by just asking you. I know you just came from arguments there. Do you think that this sort of outrageous argument that Florida is making, that really they can swallow up curriculum and academic freedom choices, really has legs, it's something that people should be worried about, that it could come to pass in Florida and in other places? That interpretation.

Emerson Sykes:

The government's position in Florida has been quite extreme, even compared to other states that we've seen. So if a court were to adopt the view that's been put forward by Florida in this case, it would be gravely, gravely devastating for higher education across the country.

Luckily, I think we have a very good chance that we have brought very strong cases, we believe. And we have a good chance of success in getting a federal court to look at these laws and realize that they are harmful to students' education and they are abhorrent to the First Amendment. So I have hope, at least some hope, that we can get at least a partial victory in one of these cases. And that I think it would be hard for a federal court to adopt fully the extreme position taken by Florida in this case, which is basically that any time a professor opens their mouth in a classroom, they are speaking directly on behalf of the government as a public employee and that they have no interest whatsoever in what they are teaching in their own classrooms.

I mean, we have plaintiffs in our case who are educators. We have seven professors in higher education and one student, and many of them are teaching introductory courses, but they're also teaching advanced level seminars where they're teaching from their own textbooks where they're teaching from their own expertise and their own unique scholarship. So the idea that when these professors are teaching their graduate seminars on, for instance, combating racism in criminal procedure, that just because they're teaching at a public university, like FAMU Law, like Professor LeRoy Pernell, that somehow everything that they've said is just government speech and it's just purely conveying the government's message. I would think that argument is unlikely to fully win the day, but I've been accused of being too optimistic before.

Michelle Deutchman:

We're going to hope for the best. So Jon, you did a great job kind of painting the landscape of these kinds of bills, all of which have not passed, but has PEN seen so far any of the actual impact in classrooms, and not necessarily just in higher education classrooms, but K through 12 and as people bridge into higher education? And you can also certainly mention not just the legislation, but all the work that you've been doing on book bans, because that is also deeply troubling.

Jonathan Friedman:

Troubling indeed. And it's very clear that this is having an effect all over the country, a chilling effect. The vagueness of so many of these laws, the fact that laws are being passed and then it's months before there's actual specific guidance about what that means. This has been a major challenge in Florida, where in the absence of clear guidance about what the 'Don't Say Gay' law there actually really means for teachers, you have school districts that are just telling their teachers not to have any books in their classroom, libraries at all, just, we're not going to have books in our classrooms this year. Sorry, kids. And in a lot of ways, the chilling effect is also trickling up. So if you think about, not necessarily even in states where there aren't necessarily bills that directly impact higher education, they impact the training of teachers.

And this is an area where a lot of professors who have historically been able to prepare teachers to teach young kids about difficult historical content or how to read troubling books, et cetera. Everybody is basically taking a wide birth around anything that might get them into trouble. And so the signal is being sent clear throughout many school districts and many campuses that professors ought to be very careful. You know?

It's very clear that there are efforts to stop teaching of the 1619 Project at both schools and some colleges. There are ways in which it's very clear if you look at Oklahoma, where the law that was passed

there has already now been used to downgrade the status of a few public school districts and on such thin grounds. You have situations where one teacher did one exercise about anti-bullying in one class, one person complained, and now the whole school district is being collectively punished. So there, it's very clear, I don't think anyone should be surprised by the reports that many teachers are leaving this area of work, that many professors, especially those who are in adjunct roles without tenure, are nervous and shying away from stuff.

And it's very difficult to tangibly measure this because I think a lot of people are more interested right now in keeping their jobs, perhaps reasonably so. And so they don't want to kind of talk about all the ways in which those self censoring. But yes, they're taking things off their syllabi. Fewer professors I think are engaging in public conversation, particularly around racism. And this is very clear. All of us will remember a few years ago where there was an explosion on Twitter about conversations from faculty about racism in higher education in the wake of the George Floyd protests. And now, that conversation is nonexistent on any campuses whatsoever. And so that's how this has had a chilling effect.

Michelle Deutchman:

So I think now in some ways the harder question, which is what do PEN America and ACLU, what are they doing? And what else do you think can be done to stem this tide as we move forward, especially into a contentious midterm election and then into the next year?

Jonathan Friedman:

Well, I think what people really need to do is reengage democratically. I think it's been very clear, if you look at the book banning that's taken place in school boards, there is no counter voice in any of these contexts. You have one side that is really turning out people to put a lot of pressure on school districts. You have one side that has really put a lot of energy into demonizing higher education and increasingly suggesting that teachers and librarians ought not to be trusted with for their professional expertise that is having a demoralizing effect on educators around the country.

And so what people need to do right now is, you know, it's as simple as go to your local school board meeting and raise your voice and talk to librarians and teachers and let them know that you appreciate their work. And it's kind of not the easiest thing to do, but recognize that public education is under attack and it really needs to be saved by people who still care about that and value it in our democracy.

Michelle Deutchman:

Thanks, Jon. Emerson, what about from ACLU perspective? Obviously not everybody can go and argue in a courtroom. So what other things, the folks that are listening today who are largely administrators and staff and faculty and students in higher education, what role can they play?

Emerson Sykes:

Well, I think just quickly in terms of what the ACLU is doing, we have affiliates in all 50 states who are watching their state houses and their local districts and letting us know when things happen and raising their own voices to try to protect inclusive education.

As you said, I'm on the litigation team, so we're working in the courtroom. There's also our communications team who's trying to amplify and spread messages from PEN America and other organizations that are doing vital work in this area. So I think as much as it feels like it's an uphill battle and the other side is twice as well funded, I do find great comfort in knowing that there are lots of smart

folks on our side also who are working very hard in lots of different ways to try to push back against these laws.

I think at an individual level, I think Jonathan mentioned it, but even if you're not in a red state, even if you're not in a place where it feels like there's a great division among the parents about what should be taught, it's still worth engaging. I mean, I live in Brooklyn and we have had our own PTA sort of questioned on diversity and equity grounds using the same script that's being used in Florida, in Oklahoma, and all over the country, right here in Brooklyn in my own kid's school. So I think we can think about the national level conversation, the historical narrative of our country. We can think about the statewide laws, but at the end of the day, what's happening in your own schools and in your own community is what's going to matter the most and what you can do the most about.

And I think there's a way in which just as free speech has often been weaponized by those on the right to mean a certain thing, transparency and parental rights have also been weaponized to mean a specific thing that sort of favors the right end of the spectrum. But I think we can reclaim free speech and we can also reclaim sort of active parenthood.

And the ACLU for decades has been pushing for transparency in curriculum and for teachers, for parents to be able to see what's being taught in their schools, not for them to exercise a veto power as is being pushed right now. Not for them to have private rights of action to sue their teachers. But we think it's perfectly healthy for folks to be interested in what's being taught in their schools and to support certain ideas and not other ideas.

I think it's important that there's a process, it's important that there's a fundamental understanding that we're doing things in the students' best interest, not to score political points. But I also sort of encourage those of us who care deeply about these issues to reclaim the mantle of curricular transparency and parents' rights.

Michelle Deutchman:

Thanks. And actually, Jon, I don't know if you can piggyback from there and tell us a little bit about this issue of transparency and how that sort of issue, like Emerson said, is being co-opted by a particular political side. And again, even the idea also of parental rights and what those are signals for in terms of the greater issues that PEN's facing.

Jonathan Friedman:

Yeah. Well I think these are concepts that most people, at least in terms of what we think they mean, might generally support, like the idea that parents have a role in their children's education. Obviously most kids are going to learn better and thrive better in society when their parents are partners in their education with educators in schools. Or this idea of transparency, which is so vital to a democracy. But we have to distinguish between these sort of ideas in the abstract and what they quite tangibly are starting to mean in practice.

And so right now, parents' rights in practice in a lot of places increasingly means the rights of a few parents ought to trump the rights of all parents. So rather than, for example, one parent being able to intervene in the education of their own child and say, ask a teacher to provide a different text, instead what they're doing is they're saying that they object to a particular book or a kind of curriculum in schools, and therefore it ought not to be accessible for anyone.

So that's not other parents' rights, it's just this small minority, but they are having this outsized impact because they play particularly on topics that are taboo or are spreading the idea that there's pornography and obscenity in schools. And sometimes, many school leaders aren't necessarily in a good

position to stand up for robust protections for the freedom to read. So instead they're giving into these demands.

And then on transparency, similarly, you have demands that seem really reasonable. Let's put curriculum online so people can see this. And of course curriculum in most places is online. Most kids do come home with their textbooks and they do tell their parents and guardians around the dinner table what they're learning about in schools. But what is being proposed are these elaborate online searchable databases where teachers would have to, and in Florida, professors, list out every material they use in every class of any kind.

So suddenly you have a different situation where in the name of transparency, they're suggesting kind of meticulous monitoring and oversight. So if a student asks a question about a topic that a teacher is a little bit less familiar in, they might want to show a, I don't know, play a song or suggest a book or anything like that, that normally under conditions that support intellectual freedom they would've done, now they're going to think twice because how is this going to look when it's attached to their name in this record in this database?

And so you're not only creating more bureaucracy for teachers. You're creating a situation where the idea of robust freedom and open inquiry is itself on the table because everyone's going to be afraid of what is associated with them. And if you think about for a minute, it doesn't take too long to anyone who has been familiar with the efforts by groups like Campus Reform to drag and profile professors for things that they say on classes or on Twitter or whatever. Imagine you equip them with an online database of every professor who's teaching Marx or any other of these supposedly offensive writers. And that's what they seem to be wanting to create under the guise of transparency, are these elaborate tracking systems, that under any other moment, many people would push back against as essentially being just overzealous operation of government.

Michelle Deutchman:

I mean, it definitely seems like they're creating a whole lot of incentives for people to sort of "sterilize" their curriculum so that there's nothing controversial or interesting or provocative because of fear of what the consequences might be. Especially because a lot of these terms, as you mentioned before, Jon, are so vague. If you don't know what it means to compel someone about an idea or then maybe you just won't include those ideas. Kind of like you were saying about books.

I know neither of you has a crystal ball, but you do both, I think, have a sense of where things have been and where things are going. And I'm wondering, I don't want to say predictions, but if you can give us a sense of what you think we should be looking at or for as we move into 2023, both in higher education and really societally.

Emerson Sykes:

Maybe I'll jump in, Jon. You can then close this, but I think in terms of the litigation, I'm very hopeful that we're going to get some positive decisions. How long we can ride our luck in the courts is another question. But I think we've brought some really strong cases to the federal courts and they would be hard pressed, I think, not to at least see some of the value in our arguments.

So I look forward to in the next several months, some significant pushback from the federal courts. And no win is probably going to be complete, but I do think that we should see some positive movements from federal courts over the next few months. But that's going to be a speed bump at best, I think. I don't want to undersell it or oversell it. I think the idea that a court could step in and say that these laws

violate the constitution, it would be a significant step that would hopefully give legislators second thoughts about continuing to proliferate these laws.

But at the same time, even if we win, even if there was never another bill signed, these issues, these underlying threats to our democracy, some people are calling them certainly threats to our public education, we will not go away anytime soon. So these issues might shift, they might morph, but the sort of fundamental concern about how do we make sure that we're telling our children the truth and preparing them for a healthier and brighter future will continue to go on.

Jonathan Friedman:

For me, I am seeing, as I said, this spirit of creativity in how we engage in censorship. And I think that we have seen enough different kinds of models that we will see ongoing proposals into the next legislative session as more and more states are copycatting one another as they're coming up with new ideas that sound reasonable, like transparency or rights for parents in schools that appeal to a kind of gut feeling among parents or others that they do want to have a role in their children's education.

So this means it's a perilous time because we have to be very careful and make sure that the public understands exactly what is being proposed in a lot of laws that are being put on the table and how it could have these wide ranging implications. And particularly, for higher ed right now, there is a worrisome moment because although there are these traditions surrounding academic freedom and the idea that colleges and universities are this special different place from K to 12 schools, there are many politicians who are coming into office who seem to have a different idea in mind and want to put colleges and universities in their place, so to speak.

Michelle Deutchman:

I have to say, usually when people talk about creativity and innovation, it's something that I'm usually excited about, but the thought of creativity and innovation as to undermining higher education and democracy at large is very demoralizing. But we're not going to end on a demoralizing note. We're going to end on a note of action. And I always end my talks with guests with the same question because I think it's important to leave listeners with ideas of how to make an impact. And my question is broad. It doesn't have to be a specifically about book bans or state legislation, but what are some things that people can do today to advance expression and civic engagement? I know you listed a couple before, but if you can tread out a few others, that would be great.

Emerson Sykes:

You mean other than donating to the UC National Center for Free Speech?

Michelle Deutchman:

Exactly. That should definitely be number one on everyone's list, especially given that it's our five year anniversary this month. But in addition to that, sure.

Emerson Sykes:

Well, I'll just say briefly that I think one of the, you know, people always talk about the positives and the negatives of social media. I think for organizers and for activists, finding a way to get involved is not such a challenge anymore. There's so many organizations out there that are doing such great work. Going to PEN America's website, going to the ACLU website, there will be lots and lots of options for how you can directly get involved and educate yourself.

But when it comes to free expression, just thinking about always keeping in mind whenever we hear about these government actions, whenever we hear about restrictions on what people can and can't say, or think, even if we agree with them, my two questions that I want to encourage folks to keep in mind are, well, who gets to decide and how do we define what is and what is not okay?

So even if we see a switch, I don't discount the idea that we will see of the flip side of some of these laws, which I think we would also find concerning in different ways. So as we try to tackle these issues, keeping in mind how we need to live pluralistically and how we want to make sure that the field stays open for all of us.

Michelle Deutchman:

Thanks, Emerson.

Jonathan Friedman:

Yeah, what I want to add to that is something that I've been reflecting a lot on, which is that higher education has really been less civically engaged in communities surrounding it for a few years now. And I think there's a real opportunity around these issues for professors, for administrators, for staff, for college students to recognize the power of civic and democratic participation where they go to school.

And so it might not be the case that they have children in local public schools, but many of the activists who've been very active around book bans and other school board issues, it turns out don't have children either. And so as public institutions, there is an opportunity for people to get engaged in these issues, to have more professors who run for local school boards or are just more attuned to what's happening in their local schools. Because what's happening in schools now is in a few years going to trickle up into what's happening in college campuses. And if we already are concerned that today's students have difficulty talking to each other across difference and knowing about the history of numerous hot button issues here in the United States, just imagine where this is going to go if the current trajectory continues.

Michelle Deutchman:

Right, because today's students are tomorrow's leaders and if they haven't had the benefit of exploring different kinds of ideas and interacting with people that have different views because they aren't allowed to hear or have access to those views, I think we're going to be certainly worse off.

I know we've covered a lot of ground. Is there anything either of you want to add before we close about any of the issues that we've talked about or anything else that's sort on your mind, but related to the work of the Center?

Emerson Sykes:

I guess the only other thing I would mention is we talked about how transparency has been co-opted, how free speech has been co-opted, how parents' rights has been co-opted. And I think academic freedom similarly has suffered from a branding problem. So I think as much as we all believe in academic freedom, we should understand that academic freedom to many folks means the rights of powerful professors to say offensive things. And so I just want to put in another word for reclaiming academic freedom in the name of a plurality of views that will help us realize a better future for our country.

Michelle Deutchman:

No, that makes sense. I mean, right, when people talk about higher education sometimes you can see that people are like, well, that doesn't apply to me. I wasn't in higher education. My kids aren't necessarily going to go. But that doesn't mean that they shouldn't be concerned, right? Because anything that happens in higher education, which I think is a microcosm of society, is just what you're saying is going to ultimately impact pluralism and democracy. Jon, you get the final word.

Jonathan Friedman:

One word for you. Education. I cannot stress this enough. We expected a few years ago, high school students to arrive on college campuses and understand free speech and academic freedom. And we got really mad when they didn't. But nobody's ever taught them about it. And similarly, the attack on education is alarming right now for that very reason.

We have a duty and a responsibility and an opportunity actually to redouble our efforts around how we teach young people about the importance of these freedoms in our democracy and the challenges that come with those freedoms, but nonetheless, why they are or have been historically cherished and why they ought to be defended into the future. And so this is a moment for greater education, greater public awareness in its broadest sense.

Michelle Deutchman:

All right. Education. I think that is the watch word for the Center, for PEN, for ACLU, and for anybody who's listening. I am so grateful to both of you for being so generous with your very valuable time and for sharing your insights and expertise. I find it hopeful to know that people like you are on the front lines of resisting these censorious efforts and educating the public about how they are harmful inside and outside of higher education. So thank you both.

Jonathan Friedman:

Thank you, Michelle.

Michelle Deutchman:

Want to learn more about those Supreme Court cases we talked about in Class Notes, that may change the face of speech protection on the internet? Then be sure and tune in to our next episode, a conversation with Eric Goldman, an associate professor of law at Santa Clara University School of Law. Finally, since our next episode won't be dropping until after election day, I want to remind all of you to vote on or before November 8th. Use your voice to impact the direction of our democracy.