

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 Apthekar:

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

Emerson Sykes:

From the UC National Center for Free Speech and Civic Engagement, This is Speech Matters, a podcast about expression, engagement, and democratic learning in higher education. I'm Emerson Sykes, a former fellow with the center and a senior staff attorney at the ACLU, and I have the privilege of being your guest host. I'm excited that today's guest is another former fellow, UC Davis law professor, Brian Soucek. Brian's new book, *The Opinionated University: Academic Freedom, Diversity, and the Myth of Neutrality in American Higher Education*, which arrives in January is published by the University of Chicago Press. And it challenges the idea that universities can remain neutral in our deeply polarized public climate. Back when Brian was a fellow with the center, he began to wrestle with questions around diversity statements and university hiring practices and the foundational values of our universities. We're excited to dive into his new book in today's episode and ask, is neutrality desirable or even possible?

But before we dive in, let's turn it over to the center's communications and program associate, Melanie Ziment for class notes, a look at what's making headlines.

Melanie Ziment:

Northwestern University has agreed to a settlement with the Trump administration, agreeing to pay \$75 million in exchange for the release of nearly \$790 million in frozen federal research funding. The settlement is the sixth instance of its kind and represents the second-largest payment to the US government by a university following only Columbia University's settlement. The funding had been withheld during a federal investigation into alleged discrimination and antisemitism tied to pro-Palestinian protests on campus. As part of the agreement, Northwestern agreed to reverse a prior deal that ended a student encampment, revise its protest related policies, enhance anti-Semitism training, and reaffirm its compliance with federal civil rights law. University leaders emphasize that the settlement includes no admission of wrongdoing and was necessary to protect crucial research while critics warn that the settlement continues the worrying trend of university pre-compliance with federal intervention.

At UC Berkeley, a computer science lecturer was suspended for six months without pay after being found to have repeatedly introduced political advocacy into classroom settings, including references to his 38-day hunger strike in support of Palestinians in Gaza. University officials cited Regents Policy 2301, which bars the use of instructional time for unrelated political content as the basis for the suspension. Supporters of the lecturer argue that the decision infringes on

academic freedom and free expression. The lecturer's union and several civil rights groups have vowed to appeal, framing the dispute as emblematic of broader tensions around political speech and protests on college campuses. On December 4th, 2025, the New York Times filed a lawsuit against the US Department of Defense and Secretary Pete Hegseth over a new Pentagon policy, which The Times asserts restricts journalists' ability to gather and disseminate information, violating constitutional protections. The policy requires reporters to pledge not to seek or publish information not explicitly approved by defense officials and gives Pentagon leaders broad authority to revoke press credentials, changes that led The Times and other major outlets to relinquish their press badges rather than comply.

The Times contends in its complaint that the new rules violate First Amendment press freedoms and Fifth Amendment due process rights, and the newspaper is seeking an injunction against enforcement and restored access for its journalists. Press freedom advocates have condemned the policy as an unprecedented limitation on independent reporting, while Defense Department officials maintain that the restrictions are intended to safeguard national security.

Emerson Sykes:

Now back to today's guest. Brian Soucek is the Martin Luther King Jr. Professor of Law and Chancellor's Fellow at the University of California, Davis. He's a constitutional law scholar and philosopher of art whose work ranges from equality and free speech law to academic freedom to topics at the intersection of law and aesthetics. Professor Soucek is a member of the American Association of University Professors Committee A on Academic Freedom and Tenure. He's chaired the University of California system-wide Committee on Academic Freedom and been a fellow at the UC's National Center for Free Speech and Civic Engagement. Professor Soucek was elected to the American Law Institute in July 2024. Welcome, Professor Soucek.

Brian Soucek:

Thanks, Emerson. I feel like you undersold yourself in the intro right there. I almost feel guilty drawing you away from your litigation efforts on free speech issues on campus, which I think are some of the most important in the country right now. But I'm really glad that we have this opportunity to talk and thanks to the UC National Center for making it happen.

Emerson Sykes:

Indeed. It's a good opportunity to sort of reengage with some of my podcast roots and take a different angle on some of these important questions about academic freedom and the First Amendment in higher ed. But we are old friends and acquaintances and colleagues, so I'll call you Brian from now on if that's okay.

Brian Soucek:

Perfect.

Emerson Sykes:

So, let's kick things off with sort of orienting us in this debate that you're wading into. The book is called *The Opinionated University*, and we might think of sort of the neutral university as the

idea that you're responding to. So, before we get into this, why don't you just orient us. What do you mean by an opinionated university and what is by contrast sort of a neutral university?

Brian Soucek:

Great. So, starting from the second side of that, the neutral university, I'm really excited that the book is being published by the University of Chicago Press because in many ways the University of Chicago is the ideal of the neutral university. They have a tradition of neutrality that dates back to 1899, but really it took hold in 1967 with this faculty committee report called the Kalven Committee Report named after the First Amendment scholar, Harry Kalven. And that was a report that came in the midst of student protest, administrative building takeovers on campus, mostly around the draft, Chicago's sharing of student grade point averages with the draft board and around divestment in South Africa. And in response, the Kalven Committee gave guidelines about when the university should speak out on social or political issues. And the guidance was basically they shouldn't. The university itself shouldn't do so.

That should be left to individuals within the university. With one big exception, when the university's mission is under threat, then the university it said actually has a duty to speak out. So, that was the Kalven Report. It didn't get a lot of attention at the time, but these debates were happening elsewhere. The AAUP was inviting a national debate that it published in one of its publications in 1969, 1970. So, it was a hot topic during the Vietnam War, and it's one that has come back with a vengeance in recent years. There has been an organized campaign from some of our biggest campus speech organizations, FIRE, Heterodox Academy, the Academic Freedom Alliance, to try to get university trustees to institute commitments to institutional neutrality like Chicago's. There has been state legislation compelling universities to remain neutral on social and political topics. And most recently, the Trump administration, as part of its proposed so called Compact for Higher Education, would actually require universities to stay neutral on social and political topics.

So, it's something that's very present right now. Heterodox estimates that somewhere around 150 universities have adopted neutrality pledges or something like it just since October 7th, which is one of the events that has increased interest in getting universities to remain quiet more often. And so, it's certainly something where, like many of the topics in this book, I'd say I'm on the losing end of this debate. The trend is absolutely away from the opinionated university and towards the neutral one.

Emerson Sykes:

That's a very helpful framing and introduction of sort of what folks mean by neutrality, but you call neutrality a myth. So, on first blush, for those who may not be deeply versed in these issues, the idea of a university staying out of politics doesn't necessarily seem like a terrible one on its face. But as I said, you call this a myth around neutrality and encourage a reframing. So, can you say more about why you think this is a myth and more specifically, why is it a problem?

Brian Soucek:

Great. So, I call it a myth because, or an illusion or a pledge that doesn't get us very far in these debates because when we look at, let's just take Chicago's Kalven Report, it's not a claim that universities need to stay silent in general. It's a claim that universities need to stay silent on social and political issues that don't implicate the university's mission. And that's the crucial

carve out for me because it's one thing to say that a university needs to stay silent, let's say, on partisan politics. My university, University of California can't endorse a candidate for governor or president. That is illegal under state law and it would endanger our non-profit status. That's fine because we can all agree what partisan politics are, what it means to endorse a candidate. The question of a university's mission, on the other hand, is a deeply and properly contested. It's the kind of thing that we should be having these debates about.

And in those debates, no side counts as neutral. That's the point. And so, if you have a policy that says we will only speak about things that implicate our mission, and if the question of what's your mission is one on which there are no neutral answers, neutrality hasn't gotten us very far. And I think we see that especially when we expand from just the statements that universities make, which is what this debate is normally framed as being about, to the equally or even more expressive actions and policies that universities have. And that's why the book ends up spending as much time on things like diversity initiatives, diversity statements and other types of policies, or campus speech policies, because those are the types of places where I see a university really defining what its own particular mission is. And again, on those types of questions, there really is no neutral answer.

Emerson Sykes:

This is not a new issue, right? You talked about how this debate has been raging for decades, but when you started this project, what was front of mind was something you were just mentioning, which is diversity statements and similar policies or requirements by universities. So, I wonder if you can just spend a moment talking about diversity statements in particular and what you think is interesting and others might find problematic about them. And then I want to think more about sort of what does this neutrality versus opinionated university look like in the current Trump administration. So, let's start with diversity statements, which you can frame us, but I sort of pegged that more around the Trump first administration and then we can move into Trump two and the special challenges that we're all facing today.

Brian Soucek:

I got interested in the topic of diversity statements while I was serving as head of the Academic Freedom Committee for the UC system. UC has been using diversity statements for...

Emerson Sykes:

Sorry, what year was that?

Brian Soucek:

That was in 2019, 2020, 2021, around there as vice president and vice chair and then chair. And even before that, when I was chairing Davis's committee, it was a hot topic. We had university-wide faculty resolutions back to back for and against our use of diversity statements. It was something that was really polarizing the faculty and yet it was something that the university system-wide, all 10 campuses had been working on since at least 2012. And going back before that, we had seen system-wide discussion, widespread shared governance on the question of how diversity itself, contributions to diversity, equity, inclusion, play into our conceptions of academic merit. And that's what I came to think is really at stake in these disputes over diversity statements because... So, basically, if a diversity statement is something that goes in your file

when you are applying for a job as faculty or your advancement or tenure file, it can be used in both those contexts.

And the question is, or at least should be if it's done right, what have you done in your work, in your teaching, in your research, in your service to advance diversity, equity, and inclusion? I see that as asking, how have you been concerned in your work to identify shortcomings in your field in those areas? What's not diverse about your field? What's not equitable in your particular field? Identifying those kinds of shortcomings and then doing something to address them, which is not fundamentally different than what we would talk about in a scholarship statement, for example, where I see some kind of shortcoming in my field, an underexplored question that needs to be addressed, and I write articles about it. Similarly, in a diversity statement, I would talk about how I've made my curriculum, my syllabus more diverse in the topics it addresses perhaps, or in the authors that it considers and that we read.

It could mean more equitable access to students by writing my own textbooks so that they aren't paying \$400 for a casebook. In any event, critics worry that these are pledges of allegiance, that they're something like loyalty oaths that we're all familiar with from the McCarthy era, or that they introduce a form of viewpoint discrimination into faculty hiring and advancement. Just to bring this answer to an end, what came to be really interesting to me about the viewpoint discrimination claim is we engage in viewpoint discrimination, of course, all the time in judging faculty merit. A tenure decision is thoroughly viewpoint based. Do you have good ideas about the law or philosophy or whatever field you're in? The issue is to be unconstitutional, it would be unconstitutional if the viewpoints you're considering are irrelevant to the job description. That's when we have a constitutional problem. That means that when it comes to diversity statements, the real question is, are these kinds of contributions to DEI relevant to academic merit or not? Are they relevant to the university's mission or not?

And that's what really got me thinking about this broader issue of what a particular university's mission is to be. And my claim in the book, to be clear, is not that every university has to care about diversity, equity, and inclusion in the way that my university has for the last couple of decades at least. We're a public university that's trying to serve a diverse public. But if you care about it, then it should be seen as something that is part of internal to the mission. It's internal to our evaluations of academic merit. And if that's so, then the university needs to reward it and it needs to know about it. And that's where diversity statements come in.

Emerson Sykes:

Great. So, I mean, the way that you described diversity statements was sort of a question that needs to be filled in with updates on activities, right?

Brian Soucek:

That's right.

Emerson Sykes:

As I understand it, there are a wide variety of so called diversity statements, some of which may pose First Amendment problems on their own, or at least they've been challenged on First Amendment grounds. As far as I'm aware, the type that you've described where it's just sort of listing what you've done to contribute to diversity, and I would note that seems like it's diversity

broadly defined, not just racial or gender diversity, but viewpoint and socioeconomic and regional and ideological and all those sorts of types of diversity. Those types of questions, reporting requirements seem to be on the sort of safer side of the spectrum. I've also seen some allegations and lawsuits challenging what look more like loyalty, sort of signing statements saying, "In accepting this position at this university, I will, throughout my work, prioritize diversity, equity and inclusion or in these specific ways." Is that a mischaracterization of some of these statements?

What about the ones that seem to pose more of a First Amendment problem? And I'm curious if you have any updates on sort of where those First Amendment challenges are in the courts to those diversity statements.

Brian Soucek:

Good. So, the only legal challenge that I have seen in the federal courts is the one that was brought against the University of California a couple of years ago by a psychologist who said he wanted to apply for a job at UC, but didn't feel he could because of the diversity statement requirement. That case was dismissed at the pleading stage for lack of standing actually because he hadn't applied for the job. He didn't have standing to bring the case. I would agree with you if somebody was imposing a diversity statement that required somebody to sign something, sign something saying that they believe particular things about diversity, I would join your or someone else's lawsuit against that kind of policy. I am completely against that. And I just want to make it clear, diversity statements can be done well and constitutionally, or they can be done poorly in ways that ask for pledges that are completely useless, that could be done pretextually, that really tell us no valuable information at all, and which are unconstitutional.

And universities shouldn't do that. I'm in complete agreement with the critics on that. Where I get perplexed is why the critics of diversity statements never seem to want to do them the right way or find ways of fixing them as opposed to simply calling to abandon them. That doesn't make sense to me, particularly because the problems that are so often identified about diversity statements are the exact same kinds of problems that we see in other areas of faculty evaluation. For example, student teaching evaluations, which have racially and gendered disparate impacts, which it's well-documented, change what professors teach in the classroom, what they're able to say. It judges professors on their political opinions and even things like their appearance. They're a mess. They're watering down academic standards. They're a leading cause of grade inflation. All of the types of criticisms that we hear about diversity statements are equally true in the context of teaching evaluations.

And yet I have never been at a conference where they wanted to talk about these problems in teaching statements. I've never been asked to submit an op-ed or be in a debate on those kinds of topics. It's always diversity statements. And I really wonder why that is. Is it something about who those disparate effects actually affect?

Emerson Sykes:

Yeah, no, it's an important point. Why the focus on diversity statements? I will say though, in 2025, we have lots of threats to academic freedom and there's lots of things to talk about and diversity statements continue to be an important issue, but let's think also about sort of what are you seeing even since you started working on this book from the Trump administration, from state governments, the issue around student evaluations is a really fascinating insight, but that's



not necessarily a new thing in particular. Are there any new threats that you're seeing in the current context? I know we're seeing on a daily basis, the Trump administration trying to exert influence over various institutions of higher education in different ways.

Brian Soucek:

Yeah. It's a very different world than when I proposed this book and started writing it. I did those things even before October 7th, which was of course prompted major changes in higher ed, specifically on the topics I'm writing about, much less the second Trump administration, which has dramatically escalated the attacks. When I say that I'm on the losing side of all of the issues I write about, my opinions on campus speech, my opinions on diversity statements, my opinions on institutional neutrality, that's just gotten worse and worse since I started writing the book. When it comes to DEI, for example, of course, the retrenchment has been dramatic, both in universities and of course in society writ large, in our corporations, et cetera. I mean, just this week, we saw the University of Alabama shutting down or refusing to continue funding two of its student magazines because one addressed was a women's lifestyle magazine and the other addressed black culture and student life.

And they said that those ran afoul of DEI prohibitions just because what they talked about women or black people, unbelievable. And even my university, even the University of California, which as I said, has this more than two decade history of saying that diversity is integral to our achievement of excellence, spending just untold millions of dollars trying to experiment with different ways to read faculty applications and conduct advancements to make them more equitable. Even UC has abandoned its use of diversity statements earlier this year, at least for hiring, not yet for advancement. So, we really see it everywhere. So, yes, I think the arguments of the book are, if anything, more relevant than ever, but the examples that I could have been drawing from just continue to be generated every single day in the newspaper.

Emerson Sykes:

And how do you think higher education institutions are responding? I mean, people are sort of turning to Harvard of all places to lead us. Is our hope in the litigation team at Harvard or what would you wish to see from institutional leaders? And I want to then talk about faculty and then my favorite, which is students. But let's start with institutional leaders who are often the ones who are making the statements, deciding whether to make statements. How do you think they're doing in the face of these current challenges?

Brian Soucek:

I think this is a particularly unfortunate time for this push towards neutrality to be happening. This is the time where we need university leaders to be speaking more than ever, and yet all of these threats from the Trump administration with funding, with the Compact, with the individual campus deals, the extortionate attempts to get them to sign on to the administration's agenda in any number of areas, all of that happening at the same time that, as I said before, 150 or more schools have said, "We're not going to comment." And of course, there's always that carve out. These are threats to the university's mission. Everybody should be agreed. So, this is precisely the kind of thing where even the most hard line Chicago type folks must agree that this is the time when the Kalven Report and other such pledges would allow or even impose a duty on universities to speak.

And yet we've seen so little of that. My takeaway from that is that we need to reinforce the idea that when I talk about a university speaking, that doesn't necessarily have to be the administration. I want to be very clear. The university should not be identified with its administration. The faculty can be speaking or should be able to speak. There's some legislation on these issues surrounding faculty senates, et cetera, but a faculty, whether at the university level or at the department level, the school level, should be able to have its own voice and even should be able to speak on behalf of the university. We have a new bylaw at my law school after some serious debate that had gone on system-wide at UC and with our Regents about whether departmental speech would continue to be allowed. It's the institutional neutrality debate brought down to the level of the individual school or department, which I think is a very important level to be talking about.

And there was debate and the Regents ended up coming up with a new policy allowing that kind of speech, but imposing some new requirements that you have to have procedures in place in advance before a department can speak out, which I think is a great thing. So, at my law school, we put those new policies in place and it says that our dean can speak on behalf of the law school if she feels that that would be helpful or the faculty through an anonymous majority vote can decide to release a statement again on behalf of the law school because the law school isn't the dean. It's just as much the faculty, the students, the people who make it up as it is the administration. And that's an important lesson to return to. So, to go to your specific example of Harvard, yes, it's to Harvard's great credit that they filed a lawsuit rather than simply submitting, as we've seen several other universities, most recently Northwestern doing.

That's a great thing, but of course, they're not the only one who sued. The faculty sued as well through the AAUP. And that is crucial, both in showing again, that a school is not just its administration and also down the line should Harvard decide to settle its lawsuit, there will still be the AAUP's lawsuit. And that's what's happening here at the University of California as well. We don't have a administration filed lawsuit. The Regents haven't sued yet at least, but the faculty has and our unions have and those suits have been successful. So, the Trump cuts to funding throughout the UC system have been enjoined at this point. They've been paused and that's a great thing that shows the power of multiple types of voices within the university.

Emerson Sykes:

And one of the most fascinating insights I felt from your book, as someone who cares deeply about higher education, but I'm primarily a litigator, this idea of governance and sort of who gets to make decisions within the university is so crucial. And it's actually been a part of our project to get courts to understand that it's not just a state and a university, or in the case of public universities, a university that is synonymous with the state.

Brian Soucek:

That's right.

Emerson Sykes:

But getting to sort of peel back those layers a bit, who actually has what role in governance, what role does a department have versus a provost versus a board of directors? Nevermind a state legislature or a governor. So, all of them may be officially public employees employed by the state, but they have very different roles. And I think the way in which you highlight the



importance of that governance and those structures is really key. But coming back to this idea of mission, this is one of the first issues that you mentioned, and I want to talk about it in a little bit more depth because we talk about the mission of higher education, and we may or may not be able to come up with a pithy one for the whole enterprise, but within higher education, there's a broad variety of institutions with a huge variance among their students, who they serve, what kinds of issues they take up, their boldness in the face of these challenges, but also sort of their fundamental reason for being.

So, can you talk about this idea of mission in terms of neutrality, but also in the context of a huge variety of institutions?

Brian Soucek:

Absolutely. Every single one of the debates that I talk about in the book ultimately comes down to this question that you just asked of what is a particular university's mission? So, I'm not asking what is the mission of higher ed? What is the mission of a university in general? I think people at universities need to be asking, "What is the mission of our university?" And I am a pluralist about that. That doesn't mean there isn't commonality. I mean, every school is dedicated to research and teaching, that's clear. But to say that that's the mission of the university is just to speak at way too high a level of generality. So, I want to dig deeper where a university's mission isn't something that you get by reading a committee written mission statement on its website or anything like that. The mission is something that you glean from looking at whether it has diversity policies or not, initiatives or not. What its speech policies are, what its anti-discrimination policies look like, where it's spending its money.

I mean, you see the university's mission in its budget. You see it in its investment decisions. You see it in its faculty strengths and what kind of students it's trying to attract. So, even when we talk about something like teaching, I tell this story in the book about how there have been three times in my life where I've either taken as a student or taught as a professor a great books type curriculum, the kind of Plato to NATO thing that one of them was at Chicago. Chicago's famous for its core curriculum. And there I think we are really reading those books, teaching those books because of their greatness. They're hard. They're the kinds of things that Chicago thinks educated folks should know. Before that, I had taught it at Columbia, which started its great books program back in World War I to really teach the boys what they would be fighting for, to show the background to American, the principles of American democracy.

And before that as a student, I had taken that curriculum at Boston College, which is a Catholic Jesuit school where it was really about moral and spiritual discernment, what you would see as a life worth living. Those are three completely different reasons for reading the exact same books. And they go to a different set of things that you value in education. They really ultimately go to three different missions at three different universities, I'd say. And that's the kind of specificity with which I'd like to talk about these issues and debate them. And that's what I mean when I say that the question of what a university's mission is to be is one on which there are no neutral answers.

Emerson Sykes:

It's not just a matter of neutrality or opinionatedness, right? It's about independence and the ability to choose what your mission is.

Brian Soucek:

That's exactly right.

Emerson Sykes:

That's central to academic freedom. When we think about academic freedom, we think about it in a few different ways. One is the independence or the freedom of the university as an institution to be free of political influence from other governmental actors. But then we also think of academic freedom, at least some jurisdictions do and most scholars do in terms of the individual faculty members or researchers or educators or even students on the sort of fringe having academic freedom rights. I believe deeply that they do, but courts don't tend to recognize that. But I wonder if you can just talk a little bit about the relationship between academic freedom, which is about independence, either at the institutional or individual level, with this idea of neutrality.

Brian Soucek:

Sure. So, let's just start with the idea of institutional autonomy. Because I'm a pluralist on university missions, it's crucial to me that that kind of autonomy be preserved. And one of the things that I worry about most with efforts like the Trump Compact is that it would bring the sameness to higher education. It's requiring, in order to get federal funding, a set of pledges that you will do your campus speech policies in this particular way, your approach to gender identity will be that of the Trump administration. Your approach to recruiting international students will be that of the Trump administration. Your way of talking about diversity and racial issues and gender on and on. All of this, it's a flattening out if it were successful. It would be a homogenizing of the higher ed sector, which I think would be a real impoverishment. And of course, the Trump administration is not the only actor that's doing this kind of thing.

Won't go into it now, but I write in the book about the way that things like US News rankings does the same thing. I think FIRE's campus speech ratings has this kind of effect of requiring a sort of sameness across the board in the way that universities balance in the FIRE case balance the right to protest versus smooth, efficient administration of campus activities, et cetera. These are things that all go to the university's mission, and I think that should be something that each university within limits, of course, has the ability to choose for itself. Now, when a school does that, of course, it's not going to be acting or speaking in a neutral way. It's going to be making a politically and socially freighted decision about what it sees as valuable. That doesn't mean that everybody within the university loses their right somehow to dissent or say that the way that their particular university is going is one that they disagree with.

Of course, they should be able to do that. And academic freedom, both in what you teach and research, but also in intramural speech, your participation within shared governance is absolutely crucial. This kind of individual level academic freedom is absolutely crucial so that, to go back to an earlier example, sure, my school had a policy about diversity statements, but it was crucial to me that those be framed in a way that left space for people to dissent, even to the idea of that the University of California is valuing diversity too much. Now, you don't do that in your diversity statement. You do that through shared governance, you do that through op-eds, you do that through your own research. But of course, that space has to be protected as a matter of individual academic freedom. That to me is compatible with the idea that, yes, the faculty is going to make collective decisions.

The university is going to be making institutional decisions that will affect what the university is funding, all that kind of thing. That will have effects on academic freedom of individual researchers. But what's crucial is that their ability to choose, their ability to dissent to that and participate in the making of those policies, that has to be maintained at all costs.

Emerson Sykes:

Let's talk about students. So, we've mentioned students, but we've talked more about sort of institutions and faculty and governance and missions. What about students? Aren't they really what this whole thing is about? We can't have a university without professors, but we also can't have a university without students. So, where do you see them fitting into this aside from... I get frustrated because courts so often view students as just receptacles, especially in K-12, but even in higher ed. And I think that's a pretty inaccurate view of the vibrant way that students engage in multiple ways in their campuses. People are often students, teachers, employees, residents, all these things all at the same time, right?

Brian Soucek:

That's right.

Emerson Sykes:

I'm curious how you see students fitting into this picture.

Brian Soucek:

Well, it's important to note the way that students have driven these kinds of debates really prodded them into existence, both historically and in the present. So, I mentioned how the Kalven Report was the result of student protest at three particular student protests in the late '60s. I think it was the first major takeover of a campus building in the 20th century. And so, Chicago had responded in two ways at that point, both of them interestingly chaired by Harry Kalven. So, he was in charge of the disciplinary committee for the students that had taken over the administration building, and then was also in charge of the Kalven Report Committee to talk about how schools should speak about these issues. And I just don't think those two things can be disentangled. It was the students' protests that prompted this whole thing. And notice, they were protesting about a set of issues on which there is no such thing as a neutral position.

Chicago was either going to send their GPAs to the draft board or it wasn't. It was either going to continue investing in South Africa or it wasn't. And students saw that and realized that there's no neutral position here. We are going to advocate for the position that we think is most just. So, that's a crucial insight, I think, to see as the background to this whole debate. I've mentioned October 7th a couple of times in this conversation because that was another moment where these issues suddenly became so salient. October 7th and the aftermath, the war in Gaza, students' response to that has really been at the center of this entire debate, their protests, their encampments, the way that administrators have responded well or poorly to those kinds of protests, the message that students are receiving about the extent to which protest is a welcome thing on their campus.

All of that is just completely central. And one of the things that made me especially sad in Northwestern's settlement this past week with the Trump administration is not just... There's so

many things. It's not just the way that they've sold out their admissions priorities, the way they've sold out trans patients at their hospitals or trans students of theirs in their dorms. They've done all of that, but they've also gone back on, reneged on the deal that they made with protestors on their own campus a year or two ago. And I worry about the kind of message that that sends to students going forward when even the rare successes that they were able to... Tangible successes. I think they had lots of success in changing narratives and raising awareness, all of the sorts of things that you hope protest will do. But in terms of tangible policy type changes, the Northwestern example was one of the notable examples there.

And so, to see under pressure from the Trump administration, the school to just go back on that pledge is really disappointing to me.

Emerson Sykes:

Yeah. I mean, it reminds me of sort of that, you were talking about the harm of the homogenization of the sector.

Brian Soucek:

That's right.

Emerson Sykes:

Definitely not only accrues to faculty, but also to students and their lack of choice and lack of agency as well.

Brian Soucek:

That's right.

Emerson Sykes:

Let's consider the myth dispelled, right? The myth of neutrality has been dispelled. We acknowledge that the university is inherently opinionated. We have gained some insights along the way. Now, I guess the question is now, how do we govern our campuses? So, within the acknowledged opinionated university, how do we deal with bad scholarship? How do we deal with problematic speech? How do we deal with all of these sort of concerns? How does this insight implicate the daily running of the university and how you would like to see these institutions in the future?

Brian Soucek:

Well, it seems like there are different problems there. So, the problem of bad scholarship, for example, is one that's addressed through peer review. Our whole system of academic freedom, it's important to remember, it's often framed as a kind of individual right, but of course it's a tightly cabined individual right, or put a different way, it's an individual right that comes with a whole set of responsibilities. One of which is that unlike with normal free speech principles, the academic is submitting themselves to the judgment of their peers. That's a crucial part that you have a right to speak as long as you're doing so in line with the norms of your discipline, the scholarly standards of your discipline, and that you're speaking in ways that are germane to your

discipline and class, et cetera. That's all crucial. So, there's a collective element to academic freedom that's just built into its very nature at the individual level.

When we go up to a higher level of what do we think about how the university should exercise its autonomy, that higher institutional level of academic freedom, that's where I think there are important questions to be asked for someone who's a pluralist like me, say, "Okay, universities can have lots of different missions." Well, then how am I to object to, let's say, Chris Rufo taking over New College in Florida and imposing a brand new mission there? Is there anything wrong with that? After all, I'm supposed to be a pluralist. And there I think the answer is it does matter how an institution's mission gets chosen, how it gets developed. There is a difference between Chris Rufo coming in and saying, "New College is going to be this." Or the governor of Florida coming in and saying, "This is what the mission of this university is going to be," versus a community of scholars and students and alums and people that are invested stakeholders in that institution coming together and through shared governance setting the direction that that university is going to take.

There are crucial differences there and shared governance is messy, it's inefficient, it's kind of small C conservative. It's a reason we don't often have... Universities don't change on a dime, but that has had proven historic success. We know that when faculty is involved in decisions around curriculum, in decisions around student admissions, faculty hiring, the judging of academic merit, that's what has made our universities, these engines of change and these drivers of knowledge that they've been for so long.

Emerson Sykes:

It's been a fascinating conversation. I wonder if you can sort of give our listeners some parting words of wisdom or advice in terms of concrete steps they can take to try to protect institutional independence and try to dispel this myth of neutrality and its dangerous implications.

Brian Soucek:

Well, I want to just acknowledge that faculty listening to this are differently situated across the country. There are people that are in a place of great privilege like I am. I'm a tenured professor at a state school in a blue state where our legislature is supportive of the University of California's efforts. So, I'll start by just talking to people like me. If we aren't getting engaged in shared governance, if we aren't standing up for academic freedom, then nobody will. We have some of the most secure jobs in America. We have to be the people that are making these efforts and participating in the governance of our institutions and speaking out on behalf of those whose use of their voice would be much riskier. So, that's number one. At the meantime, 68% of faculty at universities right now have contingent positions. They're adjuncts. Half of people teaching in universities are teaching part-time.

So, I just want to acknowledge not everybody is in the kind of position that I'm in. Plus we have people, I've got colleagues teaching across the country in states where they are very much under attack. Their academic freedom is being sold out by their own administrators or being attacked by their state legislatures. We've certainly seen this in the wake of Charlie Kirk's assassination, the 50 or more people that have been fired because of things they said about that. There is a lot of precarity here. So, I just want to recognize that the things I would say you should do are different for people like me than people like that. For those kinds of people, I'm so glad that we have, well, organizations like yours that are bringing lawsuits, but then also organizations like

the AAUP that even in states where faculty senates are being disbanded or shared governance is being dismantled, we still have the ACLU, you all bringing the lawsuits, the AAUP bringing lawsuit after lawsuit that's just been extraordinarily successful.

So, a kind of unionization efforts where those are available are a different way when shared governance is being denied by administrators, trustees, or legislators, the possibility of unionizing can sometimes stand there as a backdrop or litigation, of course.

Emerson Sykes:

And of course, another concrete thing people can do is go out and buy your book, The Opinionated University from the University of Chicago Press. That's going to be available on bookshelves what day?

Brian Soucek:

By January 12th at the very latest.

Emerson Sykes:

Great. And that will be available everywhere we get our books?

Brian Soucek:

Everywhere books are sold. That's right.

Emerson Sykes:

Fantastic. Thank you so much to Professor Brian Soucek for joining us. Thank you all for listening in this year and for wrapping up season four of the Speech Matters Podcast with us. Wishing you a very happy holidays and we'll talk to you next time.