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# Bowing to External Pressures: How the Threat of Lawsuits Dilutes Bias Response in Higher Education

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*Bias response teams (BRTs) have proliferated in colleges and universities as administrative mechanisms to respond to hate and bias incidents on campuses. Advocacy groups have positioned BRTs within contemporary antidiversity culture wars and pressured institutions to abandon BRTs, alleging that they violate First Amendment protections. Through theoretical lenses anchored by repressive and creeping legalism, this multiple case study examined emerging alternatives to BRTs that are responsive to these external pressures. Administrator interviews and institutional documents reveal four emerging approaches: bias support resource, campus climate resource, free-speech resource, and informal/ad hoc resource. The designs of these alternatives demonstrate the outsize influence of external groups—particularly the threat of lawsuits from Speech First—and how institutions weakened and decentralized bias response functions to avoid external scrutiny. Implementation of these models prioritizes free-speech absolutism and can overshadow the initial need for creating bias response mechanisms on campus.*

Keywords: *colleges, diversity, higher education, administration, organization theory/change, case studies, qualitative research, bias response, free speech, hate speech, bias incident, repressive legalism*

## Introduction

College and university bias response teams (BRTs) are committees made up of administrators and staff (and, in some cases, faculty and students) designed to receive and respond to reports of bias and hate incidents and to ultimately promote equity and inclusion on campus (Garces et al., 2021; Miller et al., 2018a). These teams have come under fire in the media and have become targets for advocacy groups external to higher education because of a perception that they chill or punish protected speech (Speech First, 2022), even though these teams operate without the goal or power to discipline students or employees. This nonpunitive mission of BRTs is particularly critical at public institutions charged with upholding First Amendment protections (Garces et al., 2021; Miller et al., 2018a), although many private institutions also aim to comply with the same protections by institutional policy, state law, and/or normative understandings of freedom-of-expression protections (Epstein, 2024; Soucek, 2023).

The complex work of responding to bias and hate via BRTs is frequently reduced to a "dualistic diversity-vs.-free speech metanarrative" (Cortes, 2019, p. 2). This metanarrative is amplified in the higher-education media, popular press, and vast landscape of politically charged websites and blogs. Troublingly, this metanarrative is fueled by court decisions that frame "the collision between speech and equality in higher education solely from the perspective of the speaker, largely ignoring the affected audience" (Soucek, 2023, p. 684)—thus prioritizing speech protections over inclusion (Garces, Ambriz, & Pedota, 2022). This hyperfocus on the legal question of protected expression under the First Amendment dominates much discussion of bias response, and administrators have argued that protecting speech precludes them from taking nearly any other action to express or affirm institutional values (Garces et al., 2021). BRTs represent one of the most polarizing current debates about freedom of expression and diversity, equity, and inclusion (DEI) in higher education, and their presence prompts questions about the compatibility and balancing of various values including creating a welcoming campus climate and valuing free expression (LaBanc et al., 2020).

The current landscape for bias response in higher education is changing as the teams are critiqued as part of anti-DEI culture wars (Soucek, 2023) through the campus speech rating systems developed by the Foundation for Individual Rights and Expression (FIRE, 2017) and litigation against public institutions from Speech First (Speech First, 2022). In reaction, administrators, particularly at public institutions, scrambled to review and rework (or eliminate) bias response practices to avoid legal risk and negative public relations (Garces et al., 2021; Miller et al., 2018b). Soucek (2023) examined the "double liability dilemma" (p. 681) universities face in broadly protecting speech and preventing harassment and discrimination as they respond to litigation targeting BRTs. This dilemma came into clear focus

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following the protests, encampments, and arrests of students as well as the rise in anti-Semitic incidents on multiple campuses in response to the October 7, 2023, Hamas attack on Israel and subsequent war in Gaza (Blake, 2024). Although institutions generally had been retreating from a bias response team approach due to external critique, congressional hearings about anti-Semitism on campus highlighted insufficient responses to hateful speech and actions and institutions' responsibilities under Title VI in particular (Blake, 2024)—some of the exact incidents to which bias response teams (among other campus resources) could be responsive.

External pressures on universities also ramped up in 2023–24 and beyond with the introduction of passage of anti-DEI bills in state legislatures across the country, accompanied by institutional and state system anti-DEI policies (Chronicle of Higher Education, 2025; Harper et al., 2024) and renewed anti-DEI focus from the Trump administration. In response, many institutions overcomplied with the measures of vague anti-DEI laws and precomplied before laws were passed, in addition to leaders, faculty, and students who self-censored (Harper et al., 2024). Although many bills did not explicitly target bias response teams, model anti-DEI legislation proposed by the Heritage Foundation (2024) did target BRTs. Public institutions have often reworked or removed bias response processes, particularly as they comply (or overcomply) with anti-DEI laws and dismantle diversity offices and divisions that often supported BRTs (Harper et al., 2024). Although BRT dismantlement often was collateral damage of anti-DEI laws focused primarily on activities such as diversity statements, training, and offices, BRTs have been targeted primarily by lawsuits and the threat of lawsuits (a manifestation of what Jeremy Young of PEN America calls precompliance before an institution is obligated to do so [Pandey, 2024]) rather than through legislation (Garces, Ambriz, & Pedota, 2022). While external pressures faced by institutions are documented in scholarship (Garces et al., 2021; Garces, Ambriz, & Pedota, 2022; Soucek, 2023), the alternatives to bias response teams crafted by institutions in response to external pressures have not yet been studied. Understanding these alternatives can aid institutions in considering how best to promote equity and inclusion alongside speech and expression and can highlight how risk aversion begins to erode institutional mission and values related to equity and inclusion.

The goal of this study was to document complexities in bias response work for higher-education administrators—particularly the balancing act related to freedom of expression and equity/inclusion on campus—in response to pressures external to institutions through a multiple case study representing emerging alternatives to BRTs. Two primary questions guided this study:

1. In the context of a contentious political and legal environment, what approaches are administrators using to respond to bias on campus beyond traditional bias response teams?
2. How do external pressures shape alternatives to bias response teams?

## Functions and Critiques of BRTs

BRTs emerged in higher education in the 1980s (Windmeyer & Freeman, 1998) and surged in the 2010s (Miller et al., 2018a). As nonregulatory, nonpunitive bodies, most BRTs primarily address incidents that are not violations of institutional policy or law (Miller et al., 2018a, 2018b); when suspected policy or legal violations occur, incidents are typically referred to existing on-campus offices such as student conduct or campus police. Teams do not have the power to discipline students or employees or regulate or ban speech on campus. Thus, teams focus their work primarily on expression that may be protected by law or policy but that has a negative impact on campus constituencies. Scholarship on BRTs has examined how team members connect across campus to respond to bias (LePeau et al., 2016) and attempt to balance freedom of expression with creation of an inclusive campus climate (Garces et al., 2021; Miller et al., 2018a, 2018b).

Despite BRTs not having disciplinary power, some advocacy groups external to higher education have seized on the voluntary educational conversations administrators have with students and claimed that such conversations chill the exercise of freedom of expression on campus, even if expression is not punished outright (Anderson, 2020; Garces, Ambriz, & Pedota, 2022; Mangan, 2019; Speech First, 2022). To some campus and public constituencies, BRTs represent everything wrong with contemporary higher education: groups of progressive-leaning administrators aiming to stamp out freedom of expression but especially conservative speech. As one website declared, "University of Michigan brings back Soviet Union with its bias response team" (The College Fix, 2018). To other constituencies, BRTs may not go far enough—they are framed as toothless public relations committees designed to protect the institution's reputation without the power or will to create change, educate those who spread hate on campus, or fully acknowledge and address the harm caused by hateful speech (Hughes, 2013; Robinson, 2024a; Snyder & Khalid, 2016). BRTs are also critiqued for failing to contextualize incidents as part of systemic racism and other forms of oppression (Hughes, 2013; Robinson, 2024b) and shifting the onus for creating an inclusive environment from institutional leaders to students of color and other minoritized groups (Garces et al., 2022; Jones & Reddick, 2017; Robinson, 2024a).

BRT work has been critiqued for focusing only on those reporting bias and not on those perpetrating bias and for creating the appearance of administrative action without necessarily changing oppressive climates (LePeau et al., 2018; Robinson, 2024b). The teams are also often a collateral or secondary responsibility of otherwise overtaxed administrators who may not receive the resources to sufficiently carry out the complex work (LePeau et al., 2018; Miller et al., 2018a). In light of administrative inaction, or insufficient action, student leaders of color often craft their own responses such as activist efforts (Jones & Reddick, 2017), affinity spaces, and dialogues that employ their own freedom-of-expression rights to respond to hate speech, yet such responses "were taxing and left them feeling drained" (Garces et al., 2022, p. 276), and White students along with other students from majority identities do not face a similar burden to organize against hateful speech and incidents. Garces et al. (2022) concluded that "institutions should do more than 'not censor'; they must also actively facilitate educational initiatives about race and racism, hate speech, and inclusion in order to minimize (or prevent) incidents of dignitary harm on campus" (p. 298). Such an educational approach would move beyond the relatively straightforward legal question (at public institutions) of speech protections toward understanding how institution can promote the exchange of ideas and create inclusive environments—what Franks (2024) described as moving past a predominant focus on "reckless speech" (speech designed to harm and demean) toward promoting "fearless speech" (p. 111).

## Legal Challenges to BRTs

Universities increasingly face legal pressure to abandon the moniker, if not the substantive work, of responding to bias. Garces, Ambriz, and Pedota (2022) outlined lawsuits brought by Speech First against institutions operating BRTs, including the University of Michigan, University of Texas at Austin, University of Illinois at Urbana-Champaign, Iowa State University, and University of Central Florida. Speech First alleged that when BRTs teams invite responding parties (i.e., perpetrators) to have voluntary conversations with administrators, it chills and deters protected speech and promotes self-censorship (Garces, Ambriz, & Pedota, 2022). Speech First (2022) claimed that BRTs "are fundamentally un-American because their very existence threatens students' First Amendment rights. Their goal is to shut down speech which is constitutionally protected in the name of tolerance and inclusion" (para. 2). They argued the teams "are designed to intimidate and silence students who share viewpoints that don't line up with the progressive woke ideology being forced in classrooms today" (para. 5) and that students are subjected to "corrective measures like mandated training and facilitated dialogues all with the intent to make the accused feel as though they have done something wrong" (para. 9).

Courts have reached differing conclusions on whether BRTs chill freedom of expression (Garces, Ambriz, & Pedota, 2022; Soucek, 2023), and several universities have agreed to settlements with Speech First with remedies including changing bias response procedures (University of Michigan), continuing procedures (University of Illinois), and abandoning procedures (University of Texas and Virginia Tech). In an usual approach to determining standing for the lawsuits, several courts including the Fifth and Sixth Circuits have relied on hypothetical arguments that BRTs *could* punish speech rather than evidence that they had already done so (Garces, Ambriz, & Pedota, 2022; Soucek, 2023). Courts relying on hypothetical scenarios provides another reason that additional empirical study of bias response processes is necessary.

The Eleventh Circuit, in a preliminary injunction in April 2022, decided that the bias incidents policy at the University of Central Florida (implemented by the university's "Just Knights Response Team," its version of a BRT) likely chilled the exercise of free speech (Jaschik, 2022). Of note, the court acknowledged that the BRT did not punish students for their speech but stated that "a government actor can objectively chill speech—through its implementation of a policy—even without formally sanctioning it" (Speech First v. Cartwright, et al., 2022, p. 23). The court remanded the challenge to bias incidents policy to the district court that had previously decided Speech First did not have standing to challenge the policy (which the appeals court reversed). Meanwhile, the Just Knights Response Team website was removed, and the University of Central Florida settled out of court with Speech First and agreed not to operate a BRT (Salai, 2022). Given various legal decisions in federal court circuits, Speech First petitioned the U.S. Supreme Court to weigh in on BRTs, which it declined to do in the Virginia Tech case in 2024; Virginia Tech had already ceased operating a BRT by the time the Supreme Court passed on the case (Alonso, 2024). Despite this pass by the Supreme Court, BRTs remain a part of anti-DEI culture wars targeting higher education—the *Wall Street Journal* editorial Board (2024) proclaimed, "A bias response team evades justice at the Supreme Court"—and administrators continue to grapple with maintaining educationally defensible practices to promote equity and inclusion while avoiding legal exposure.

## Theoretical Perspectives

To understand the pressures on institutions attempting to respond to bias and the particular pressures around freedom of expression, I employ concepts of repressive legalism (Garces et al., 2021) and creeping legalism (Ryder et al., 2022). *Creeping legalism* is defined as "the intrusion of legal reasoning into processes otherwise governed by the profession's student-centered values [which] may compromise learning outcomes" (Ryder et al., 2022, p. 115). Ryder et al.

(2022) examined how student affairs professionals view student-centered values of the field with an understanding of legal issues as core knowledge. They found that professionals treated the law as a monolithic structure that influenced many aspects of their work in normative ways, and this legal pressure is filtered through the institutional context in which a professional is embedded.

Building on this perspective, and based on a study specifically about how administrators respond to bias in the midst of a lawsuit, Garces et al. (2021) employed the concept of *repressive legalism*, or "the interpretation and application of legal norms and other facets of the legal environment in a manner that suppresses . . . other possible action—in this case, policies and practices that promote inclusion for students of color" (p. 5). They described how administrators "understand the hate speech–related incidents . . . primarily through a lens of absolutism; that is, although harmful, they viewed these incidents as legally protected" (p. 16). Repressive legalism demonstrates not only how external pressures shape administrators' understandings of incidents such as hate speech but also how such understandings become central to their perspectives and thus undermine other educational responses that would promote inclusion and equity. Through the lens of repressive legalism, administrators are reluctant or unwilling to engage in educational responses that would promote inclusion and equity, viewing legal pressures as the overriding factor to consider in their decision making.

The perspectives of creeping and repressive legalism are useful for examining administrators' actions in an era when college attorneys "wield considerable power atop campus organizational charts, sitting in on nearly all high-level meetings and shaping colleges' responses to everything including Supreme Court rulings and how much of the endowment should be spent" (Jesse, 2024, pp. 1–2). One downside to this increasing influence of legalism includes overcorrection to comply with new laws (Jesse, 2024). Although the repressive legalism framework has been used primarily to highlight how institutions prioritize speech and over equity and inclusion, Soucek (2023) described a "double liability dilemma" (p. 681) that highlights colleges' obligations not just to protect speech but to protect students and employees from illegal harassment and discrimination under federal civil rights laws. Legal risk aversion in the case of BRTs often has been framed only in terms of First Amendment speech protections, whereas statutes that obligate institutions to create access to higher education for minoritized groups including Titles VI, VII, and IX also must be considered (Office for Civil Rights, 2023). In other words, Soucek wrote, universities are "liable if they regulate or even respond to hostile speech on campus, and liable if they don't" (p. 683), even though most institutions are primarily prioritizing speech protections to respond to this dilemma.

This study engages with creeping and repressive legalism perspectives, alongside Soucek's (2023) double liability dilemma, to understand how administrators crafting alternatives to BRTs understand and defend their institution's revised approaches to create equitable environments that also protect speech and expression. Administrators and institutions also operate within a climate of isomorphic pressures, or a "constraining process that forces one unit in a population to resemble other units that face the same set of environmental conditions" (DiMaggio & Powell, 1983, p. 149). This concept highlights the idea that "organizations tend to model themselves after similar organizations in their field that they perceive to be more legitimate or successful" (p. 152). Relevant to BRTs, litigation represents a coercive pressure (i.e., formal pressure or mandate), whereas public relations, benchmarking peer institutions, and studying how other institutions respond to litigation represent manifestations of the two other types of isomorphic pressures: mimetic (i.e., organizations modeling themselves on other organizations in an environment of uncertainty) and normative (i.e., pressure from professional networks, training, and education). In an atmosphere of legal risk aversion (i.e., repressive and creeping legalism), institutional leaders may be particularly attuned to the broader climate of external pressures such as lawsuits from advocacy groups, the behavior of similar institutions operating or revising BRTs, and negative public relations that might result from administrative missteps (Miller et al., 2018b).

## Methods

To understand how institutions are responding to external pressures to shape alternative approaches to bias response in a contentious political and legal environment, I conducted a multiple case study of four universities, positioning each institution as a case (Merriam & Tisdell, 2016). I framed the case study as instrumental (Yin, 2002) because I focused more on what can be learned from each case and applied in other contexts rather than on strictly limiting the investigation to the particulars of each case for their own intrinsic value. I approached this work from an interpretivist viewpoint, assuming that reality is multiplistic and socially constructed (Merriam & Tisdell, 2016), a view well suited to examining a contentious topic such as administrative bias response work. A qualitative case study approach fit the project goals because I was interested in understanding campus approaches to bias response work in depth and because I relied on multiple data sources within each case—namely interviews with administrators directly involved in bias response and related freedom-of-expression and diversity initiatives; public documents, such as bias response or similar websites; and internal documents shared with me by administrators, including committee reports, response protocols, and meeting minutes. Although I focus on perspectives

from administrators, these individuals carry biases (as do all people) related to their personal and professional backgrounds, training, and pressures in their campus roles. Students and others who are implicated in bias response have valuable perspectives to share about BRTs (one of the few examples of the student reporting perspective is found in Robinson [2024a]). Yet, for this study focused on understanding how institutions navigate external pressures to rethink or reform their bias response processes, I necessarily focused on administrators' perspectives because they are the central institutional actors designing and implementing bias response processes.

### *Case and Participant Identification*

To identify institutional cases, I primarily sought universities that had changed their approach to bias response within the 5 years prior to data collection (e.g., as a result of an active, settled, or threatened lawsuit, created or disbanded a team, or created an alternative to a BRT). Presumably, any such change might be in response to, or have necessitated, a (re)examination of some of the internal and external conditions informing the approach. To identity and select sites, I created a preliminary list of 25 institutions with a recent change to bias response, as identified through media articles from sources including *Inside Higher Ed*, *The Chronicle of Higher Education*, and local newspapers. I sought both public and private institutions in various legal and political contexts. Identification of sites was heavily influenced by access to and willingness of institutions to participate. At many institutions, my invitations were declined, or multiple administrators did not respond to my communication. Because of the reticence of administrators to speak with me, I built in multiple layers of confidentiality so that individual participants and institutions would not be identified (McClure & McNaughtan, 2021). I do not identify the state in which institutions are located or the institutional roles/titles of administrators who participated (a strategy in line with literature on interviewing higher-education elites; McClure & McNaughtan, 2021); I also have altered team names and other details to ensure that institutions are not identified. Thus, my description of institutions throughout this paper is primarily in aggregate rather than a detailed explanation of each institutional context that could identify the institution or participants.

The final group of institutions in the study included three public universities and one private university, including a mix of small (<5,000 students) and large (25,000+ students) institutions. The institutions were located in four different states that could be described as red (conservative) or purple/swing states—these states in particular have seen recent legislation targeting education such as anti–critical race theory bills, and thus, I assumed that administrators would be particularly cognizant of external pressures their institutions faced. I collected data throughout 2021 and 2022. This data-collection period occurred before the primary wave of state-level anti-DEI bills targeting higher education in 2023–24 and prior to high-profile campus protests following the October 7, 2023, attack on Israel and heightened attention to anti-Semitism on college campuses. Yet, the insights offered by administrators before these events are still instructive in terms of comprehending their approaches to understanding and reacting to bias on campus and controversies regarding hateful speech.

At each institution, I worked initially with one administrator who functioned as a gatekeeper and introduced me to other administrators directly involved with the bias response (or alternative) program on campus. I interviewed five to seven administrators at each institution, for a total of 23 administrator interviews across the study. Administrators' primary functional areas of responsibility included DEI (e.g., chief diversity officer, multicultural center director), student affairs (e.g., vice president for student affairs, chief of staff), academic affairs (e.g., provost), and legal affairs. Participants self-identified as Asian (7%), biracial (7%), Black/African American (42%), Hispanic/Latino/a (7%), and White (42%). Participants also identified as male (21%), nonbinary/gender fluid (7%), and female (71%); although participants were asked to indicate their gender(s) in an open-response field, multiple participants included terms associated with physical sex (e.g., female, male).

### *Data Collection*

Administrator interviews functioned as the primary data source for the study, with one-on-one interviews ranging from 45 to 90 minutes. I developed a semistructured interview protocol to understand the current approach to bias response or alternative mechanism for addressing bias on campus. Interviews were audio recorded and professionally transcribed. Interview protocols addressed topics including institutional values (namely free expression and equity/inclusion), structures for responding to bias incidents and hate speech, how these structures have changed or evolved, internal and external pressures, and specific incidents. I primarily collected data in person but also gave all participations the option for a Zoom interview if they preferred, an option about a quarter of participants used. Each institution honored the institutional review board approval of my home institution to recruit on their campuses.

Secondary data-collection methods included public and internal documents. Public documents included bias response websites and reporting forms, news articles in campus or national media outlets, and university or president/chancellor statements on bias incidents, freedom of expression, and campus diversity issues. Internal or unpublished documents included task force reports, meeting minutes, and response protocols. Approximately ten documents per

campus were collected. These documents were collected to triangulate interview responses as well as to provide additional background and context about internal and external pressures on bias response procedures.

### *Data Analysis*

I examined institution-specific documents before and after campus visits, primarily to ground my understanding of the campus context. Following each campus visit when interviews were conducted, I created analytic memos summarizing what I heard from administrators and how the institution's overall approach was influenced by internal and external pressures. I continued analysis within each case after interviews were transcribed by reading transcripts and adding content to analytic memos, loading transcripts and all documents into Dedoose for further analysis, and applying both open codes (i.e., significant concepts or statements derived inductively from data) and theoretical codes corresponding to theoretical perspectives (e.g., repressive/creeping legalism, isomorphic pressures, free-speech absolutism) and areas directly relevant to the research questions (e.g., external pressures). This resulted in brief case reports for each of the four institutions. The role of the theoretical perspectives used in this study did not crystallize until the data-analysis phase. As I conducted the study, I was surprised to find the outsize role of the threat of lawsuits (particularly at the three public institutions) and how this urgent concern was shared across geographic contexts. Thus, after data collection and as I continued to read current research about bias and freedom of expression in higher education, I determined that concepts of creeping and repressive legalism and the double liability dilemma would be appropriate theoretical perspectives to guide further analysis and reporting of results in this paper.

Once I completed initial analyses within each case, I sought to craft a case report summarizing the multiple reports and addressing the project's overall research questions collectively. Revisiting the cases, I created the model for emerging approaches to bias response (Figure 1, explained further under "Findings"). I revisited coded data from interviews and documents to identify relevant examples corresponding to each element of the model. The internal pressures (i.e., institutional values and culture) and external pressures (i.e., contextual pressure points) portions of the model are based on data found across all four cases, whereas the identification and description of four approaches to bias reporting and response are each supported by one or more of the institutional cases. Lastly, I interpreted the emerging alternatives to bias response in light of prior literature and theoretical perspectives, which is found in the "Discussion" section.

### *Data-Quality Techniques and Researcher Reflexivity*

I employed several strategies to ensure data quality and trustworthiness (Jones et al., 2022), including member checking (i.e., sharing transcripts with participants and inviting comment and further participation), triangulation of sources (i.e., administrator interviews, public documents, unpublished documents), and thick description (i.e., creation of case reports and then a collective multiple case report summarized in the model presented in this paper, with supporting participant and document quotes and examples from each case). I also reflected on my relationship to this topic as a researcher. Prior to entering the professoriate, I cocreated and led a BRT on a university campus where I worked as an administrator, which presented advantages in this study such as rapport building and potential disadvantages such as imposing my own experience or thoughts onto participants, requiring that I remained open to alternative ideas and interpretations. I viewed myself as part insider, part outsider in this study. I disclosed my experience as an administrator to potential participants when I contacted them; I wanted to put them at ease and let them know that I understood some of the pressures they were facing. However, because I transitioned to a faculty role some years ago, I recognize that I may be viewed differently by participants as a researcher eventually pursuing publication. I assume that I received truthful responses from administrators, but it is possible that participants may have distrusted me on some level and tried to represent their work and institutions in the best possible light rather than in the most candid light, which may have obscured some dynamics related to reformulating bias response—complications that are inherent risks when interviewing people in power (McClure & McNaughtan, 2021). As McClure and McNaughtan (2021) pointed out, it can be difficult to know "whether elites were speaking as representatives of the institution or conveying their true perspective on issues" (p. 989).

## Findings

The goal of this study is to understand the alternatives institutions craft to BRTs teams and how external pressures shape these alternatives. Figure 1 outlines a model for these emerging approaches. Internal influences on approaches to bias response included institutional values (and how those values are prioritized, communicated, and enacted). In particular, values related to freedom of expression and DEI were central—values that were sometimes seen as competing, contested, or difficult to balance simultaneously. The overall campus culture and climate—drawing on its history, mission, and demographics—also influenced how an institution shaped its bias response or similar program. Yet, forces external to the institution most significantly influenced approaches to bias response. These external forces had such outsized influence that they appeared to shift internal values toward protecting freedom of expression above all else and reducing an explicit focus on equity and inclusion. Pressures included advocacy groups (namely Speech First and FIRE) that developed accountability mechanisms such as rating

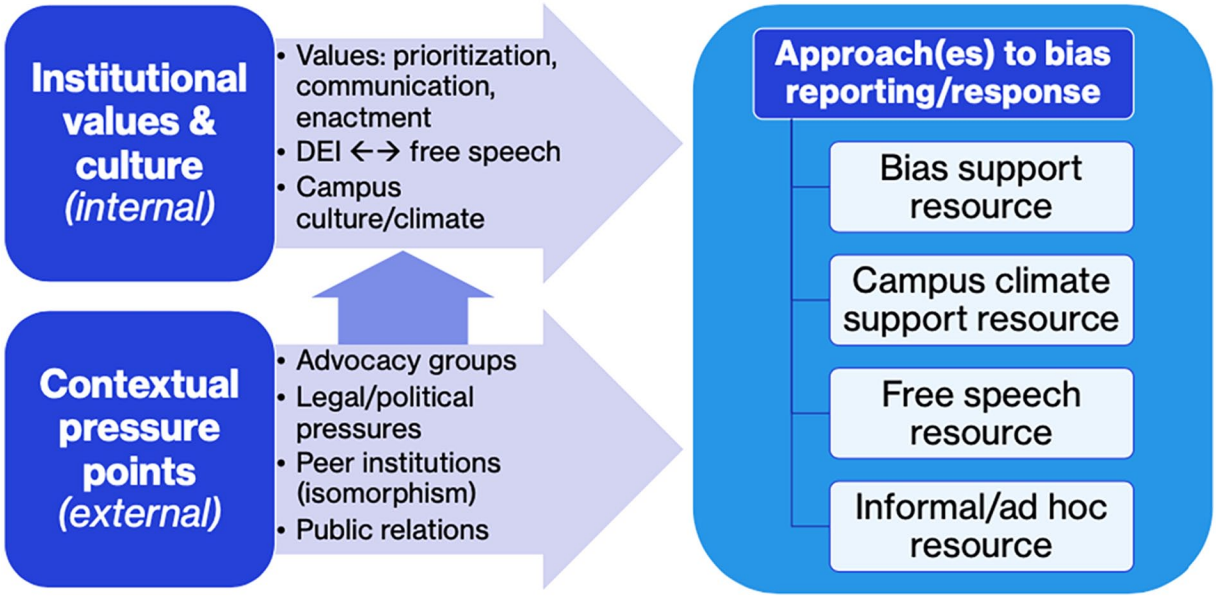



FIGURE 1. *Emerging approaches to bias response.*

systems (e.g., FIRE's stoplight rating system on campus policies and practices related to speech), litigation or the threat of litigation (e.g., Speech First suing universities), concern over public relations, and a focus on policies and procedures of similarly situated institutions of higher education. These can be framed as isomorphic pressures, with lawsuits representing coercive pressures, and public relations and benchmarking peer institutions representing mimetic and normative isomorphic pressures (DiMaggio & Powell, 1983).

Influenced primarily by external pressures, this study identified four alternative approaches to bias response work and the accompanying external pressures that shaped them: bias support resource, campus climate support resource, free-speech resource, and informal/ad hoc resource. Institutions developed a primary approach but may have included elements from another approach; for instance, an institution may have created a free-speech resource but also had a bias reporting form that might be more characteristic in the bias support resource model. In this way, institutional approaches were not mutually exclusive.

### *Bias Support Resource*

The model most similar to traditional BRTs, the bias support resource, is similar in name and function, usually with a primary focus on supporting those who report incidents (i.e., reporting parties) rather than responses to the individuals named in reports (i.e., responding parties) or larger institutional responses (e.g., university statements, larger educational efforts or programming). The shift to an emphasis on support clarifies both the purpose and the procedures in the process, usually with explicit attention to freedom of expression and academic freedom protections; BRTs and emerging alternatives commonly have a statement affirming freedom of expression on their websites. Benefits of such an approach include the name or brand recognition that has been established on campuses (i.e., institutions may retain the name *bias response team* or similar), greater clarity on the resource's role, and underscoring institutional diversity values and the goal of creating an inclusive climate. Drawbacks include this model being highly vulnerable to litigation and being targeted by external groups, particularly at public institutions, and the need to overcome an increasingly negative discourse around the term *bias response*. For minoritized groups on campus encountering bias incidents, this alternative may yield one-on-one support from administrators but, on its own, likely does nothing to address or mitigate the conditions that enabled bias on campus in the first place.

The bias support resource approach is typified at one public university in which an administrator on the team described a team's shift from bias response (including educational conversations with responding parties) to bias support:

> When [team members] used to talk about, "Well, we used to have educational conversations"—that never happened with students that I remember. I talked to a lot of people who reported bias incidents, but I didn't talk to anyone who perpetrated harm on anyone or was perceived to perpetrate harm against someone. . . . It seemed like we were investigating nothing, and "investigating" is a word that we don't even use for the committee, but we weren't following up on anything that was happening with student organizations, faculty, staff. We were mostly just referring it out to other offices.

In this example, the administrator explains the shift from a bias response approach that would engage responding parties in educational conversations to a bias support approach that focused on the reporting party and often made referrals to other offices rather than mounting any formal response beyond support. These changes were understood by participants as prompted by a lawsuit—thus, the bias support approach (itself watered down from a traditional bias response approach) was least appealing to administrators at public institutions among the alternatives discussed in this study. The shift away from educational conversations is reflective of creeping legalism (because legal reasoning is prized above what might benefit students) and repressive legalism (because administrators interpreted speech protections to prohibit any other measures aimed at promoting inclusion). Another by product of legal pressure and creeping legalism was an outsized focus on terminology (e.g., investigating or following up) rather than the substance of the work.

In contrast, an administrator at the private university in the study revealed that the team addresses incidents and concerns with both reporting and responding parties:

> My role is not to get people fired. . . . What I do want to do is help promote part of our mission statement in creating a sense of belonging and inclusion and really trying to address when issues happen that put a barrier to that. And how might I do that through education on both ends? . . . For reporting parties, understanding that sometimes what they're reporting may not level up to [a] bias related [incident], but microaggressions are real, hurt feelings are real, and [I'm] educating on what the best approach is . . . to address and to affirm and to recognize that hurt is still hurt while also educating potential respondents or the folks who cause the harm.

Without the threat of litigation from external groups, the private institution continued to affirm the importance of educational conversations and outreach to responding parties, even when this outreach explicitly did not carry a threat of discipline for protected expression. Unlike public university administrators, the private university felt empowered to provide education "on both ends." Although the administrator gave the examples of microaggressions and hurt feelings not being actionable under the bias incidents policy, the administrator was still willing to contact responding parties about the negative impacts of such speech or behavior—an example of what is possible in a less legally repressive institutional context.

### *Campus Climate Support Resource*

The campus climate support model refers to a process or team that is designed to understand and assess campus community members' experiences broadly—including but not limited to experiences of bias. In this model, a university may create a reporting or feedback form, but the purpose of reporting is to share experiences or concerns with the campus climate and not to lead to action on specific bias incident reports. Institutions may further note that reported information will not be referred to other offices or lead to discipline; instead, the focus is on understanding the campus climate and supporting those with a concern. One rationale is that this assessment approach can inform educational efforts such as guest lecturers, peer education, and campus dialogues and other events. Benefits from the university's perspective can include communicating institutional values of belonging and inclusion, avoiding any implication of disciplinary action for protected speech, and the ability to acknowledge both positive and negative experiences. The key drawback is that the process is potentially vague; campus community members may be unsure of why and what to report, and the process may be viewed as lacking force or impact. Students experiencing bias on campus may be frustrated by a model that seeks to document and assess their experiences without associated action to create change in the campus climate. The long-term processes of informing educational efforts may not be visible or meaningful to individual community members filing reports.

A public university administrator described the difficulty of developing a campus climate support process that would align with the general counsel's guidance:

> The major red flag, I was told, was the threat of discipline. So, by providing a space where people can report, these are the words to avoid: "report an incident" and "use identifying information," which would then be referred to a disciplinary unit, that that threat alone was problematic, even though people could just go directly to the disciplinary office and use their form and say the same thing. . . . The key thing that we heard were that people wanted a space to share experiences that they're having, what's happening.

While the administrator worked to develop a process where community members could share their experiences, they had to go out of their way to differentiate the process from the traditional bias response model, as directed by the legal affairs office based on potential lawsuits and advocacy group pressure—a clear example of repressive legalism that values institutional legal protection above all else and inhibits educational actions toward inclusion. Key differences from the traditional BRT model included a reporting form that collected less information and a process that only focused on support to individuals rather than the possibility of referral to other offices or any formal institutional response to a responding party. This example also features a persistent focus on terminology characteristic of creeping legalism.

Another public university administrator shared that encouraging and monitoring concerns related to the campus climate could help inform educational and programmatic efforts on campus:

> When [I] become aware that these incidents have occurred, whether or not they're documented directly through [a reporting form], or if

> someone is coming to us sharing this information that we've observed from the campus climate, then we are issuing statements to the campus. We are holding dialogues for the entire campus to come in, and we create a brave space for them to be able to dialogue about their feelings, their concerns. We've held listening sessions . . . and these occur throughout campus. So, we might go and pop in on the housing area, to get students' feedback and concerns as well as then to offer some support.

This administrator describes a more holistic process for addressing bias and campus climate concerns that focuses less on the resolution of particular incidents and more on creating venues to listen to campus community members' concerns and potentially informing university-wide responses, such as statements and educational programming. These may be educationally beneficial activities that improve the campus climate, but absent direct intervention, they may do little to address the harm and impacts of bias incidents.

### *Free-Speech Resource*

The free-speech resource entails establishing a group, office, or team to promote freedom of expression on campus and address concerns and questions related to the exercise of free speech (administrators most often used the narrower term *free speech* rather than *freedom of expression*). This is considered a BRT alternative because administrators employing this approach viewed a free-speech resource as a resource for addressing hateful speech and expression. Thus, the free-speech resource turns bias response on its head. Rather than focusing on bias response explicitly (with bias often including protected speech), an institution focuses instead on freedom of expression as the primary value (which includes concerns about biased or hateful speech). This approach promotes freedom of expression as an institutional value, encourages education about speech rights on campus, and may take the form of teams, committees, and/or programming. In the case of bias incidents that are protected speech, administrators promote the idea that "more speech" (from those who may be targeted or offended) is the solution to hateful speech. This approach may avoid some political and legal scrutiny external to the institution, but it may not be used by those experiencing bias on campus, so it is not a suitable replacement for bias response work. The intersection between equity/inclusion and freedom of expression may not be evident.

A public university administrator highlights the approach of leading with free speech rather than bias:

> We were advised [that] it was congruent with FIRE that you don't want to have a bias reporting system. . . . You don't want to just have a general pocket of bias because that in and of itself chills speech. Our [senior administration] has the initiative that we want to be FIRE friendly and raise our score. . . . So, we're in the process of even updating our policies to be more freedom of expression friendly. . . . You have to accept that freedom of expression can include things that you may construe as hate speech. But the next step is, "What are you going to do about it?" You fight speech with speech, and you know more about your university policies.

In this example, the administrator emphasizes that direction for the bias response alternative came from senior administrators ("we were advised"), including legal affairs. The institution goes out of its way to satisfy FIRE, an external group exerting normative isomorphic pressure, and to promote a positive public image of the institution as honoring freedom of expression. In an example of creeping legalism, the administrator does not mention whether or how being "FIRE friendly" is educationally beneficial or useful to students. The institution avoids mention of bias because of accusations that doing so "chills speech." The administrator also sees the free-speech resource as a way to support those targeted by hateful (but protected) speech by educating campus community members about their rights to respond—or "fight[ing] speech with speech." This was an idea several participants voiced that emphasized speech protections but put the onus for support onto students, particularly those from marginalized groups likely to be targeted by hate speech and bias incidents.

Another administrator at a public university affirms the "fight speech with speech" approach and focuses on the values of higher education and how they might be transmitted through administrative structures and processes:

> Of course, we are bound by legal requirements, and the law moves slowly in this field. But culturally, I think that our country, and especially our young people, are moving us very rapidly to a place where certain things are no longer tolerable. There's a desperation almost for change. . . . And what we have seen a lot of is when students or faculty and staff feel very strongly and very passionately against certain hate ideologies or hate speech and want to have the university take certain action against them, our approach has always been to steer them toward more speech.

This administrator calls on the institution to be agile and understand where the broader culture and society are moving. Still, the administrator sees the overall institutional approach to bias or hate speech as encouraging more speech from affected parties—a response that shifts the burden back onto those individuals (predominantly from minoritized groups) experiencing hate speech and incidents and absolves the institution of responsibility for creating an inclusive environment.

### *Informal/Ad Hoc Resource*

Lastly, as a response to external pressures including peer institutions that have been sued by Speech First, some institutions may adopt an informal or ad hoc approach in which bias is handled on a case-by-case basis, and bias response efforts are not formally organized or advertised as such on campus. An institution may have a reporting form for bias or general incidents but not a formal team or process that is

identified publicly, in part to avoid negative public relations surrounding BRTs. Administrators may believe that this helps them to escape the external scrutiny that comes with having a BRT, a reflection of creeping legalism that places legal pressures, rather than education or student well-being, at the forefront of administrative decision making. Paradoxically, the vagueness of the process—for example, what happens to reports that are submitted?—actually may open administrators to the scrutiny they hoped to avoid. An ad hoc process may be beneficial by treating each incident as unique, and the approach may fly under the radar and avoid unwanted public attention from administrators' perspectives, but the approach also lacks transparency and visibility; the campus community and in particular minoritized groups experiencing bias may not know or trust the process.

This public university administrator describes the dilemma at their institution and the chilling effect of a nearby institution being sued:

> There seemed to be a gap of things that weren't necessarily discrimination but needed to be addressed. . . . And then I think it was [peer institution]. They got in some legal trouble because they had a team, a bias response team. . . . So, that was a little chilling for us. I'll be honest with you. And so, we decided not to develop that team, or at least not to put anything on a page, where it looked like we were chilling free speech. . . . [The number of reports] seem to come in spurts, and this semester it's almost been nonexistent. I don't know why that is. . . . I felt at one point that I was the only one that wanted to keep that [reporting] form live.

In the name of not advertising any efforts that could be misconstrued as chilling free expression, the institution adopted a seldom-used reporting form that seemed unpopular even among administrators involved in the work. This example also demonstrates the mimetic isomorphic pressure of looking to an institution that has been sued and taking action to avoid that outcome as well as the influence of creeping legalism, where legal reasoning overrides educational efforts.

Another public university administrator who received reports of incidents through a bias incident reporting form (but did not operate as part of a team) viewed their role as helping to "connect the dots to address a bigger problem" and explained that they frequently collaborated with other offices and reached out to reporting parties and responding parties as part of their work:

> I don't come in hot, I don't come in accusing, I just reach out to the person and say, "Hey, I'd like to set up a quick Zoom meeting with you just to kind of have a little talk about an incident that's been brought to my attention," just like I do when someone in passing tells me that they may have experienced something but don't give me enough information.

This administrator worked to avoid any implication of a punitive conversation when trying to address incidents that came to their attention. Rather than operating as part of a formal team, the administrator convened ad hoc groups as necessary to address incidents. Such an approach acknowledges incidents but also may prevent monitoring any trends in the campus climate or sharing information back with the campus community.

## Discussion

As legal challenges to BRTs mounted (Anderson, 2020; Garces, Ambriz, & Pedota, 2022; Mangan, 2019), campus leaders found themselves at a crossroads, deciding whether to continue or create BRTs or to invest time and resources into alternatives to stem hate on campus that will not infringe (or be seen as infringing) on freedom-of-expression rights of students and faculty. Garces, Ambriz, and Pedota (2022) called for researchers to examine "how administrators make sense of these legal threats and the role such coercive pressure plays in shaping inclusion-related policies and practices" (p. 4). Answering this call, this study had two goals: document the emerging alternatives to BRTs employed by institutions and examine how external pressures shape these alternatives. This section discusses and interprets the findings of these two questions in light of the theoretical perspectives used in this study and prior literature.

### *Alternatives to Bias Response: Decentralized and Potentially Ineffective*

The first research question asked, In the context of a contentious political and legal environment, what approaches are administrators using to respond to bias on campus beyond traditional bias response teams? One of the study's unique contributions was in identifying four alternative approaches that are not mutually exclusive (i.e., campuses may employ more than one approach): bias support resource, campus climate resource, free-speech resource, and informal/ad hoc resource.

In designing these alternatives, campuses appeared to move away from a unified bias reporting and response system toward more decentralized approaches in which different administrators or teams would address bias reporting, response, and/or education. This unbundled approach may be designed, in part, to help institutions avoid being targeted for lawsuits or external criticism—a risk-aversion tactic in line with repressive legalism (Garces et al., 2021). A tailored approach to bias response work could be a positive development that responds to the realities of each institutional context (Accapadi & Miller, 2023); however, the initial need for bias response (i.e., the presence of hateful incidents and speech on campus that negatively affects students) may recede in importance.

The four alternative approaches risk functioning as watered-down options that do not fully address bias and hate on campus and are thus potentially ineffective. Although some of the four approaches identified in this study may be

helpful for some students, any one tool on its own is likely insufficient to carry out the mission of responding to bias incidents and hateful expression on campuses. Prior scholarship has critiqued the ineffectiveness of bias response mechanisms that focus only on those who report bias or that do not contextualize incidents within a broader framework of oppression (Hughes, 2013; LePeau et al., 2018; Robinson, 2024b).

None of the approaches (or all four if used together) fully address the harms of bias and hate on campus; in this vacuum, those targeted by hate speech and incidents, such as students of color and other minoritized groups, must use time and energy to organize and respond on their own behalf without compensation, potentially leading to burnout, a decreased sense of belonging, and other negative outcomes, as reflected in prior literature (Garces et al., 2022; Jones & Reddick, 2017; Linder et al., 2019). In other words, minoritized students may "fight speech with more speech," in the words of several participants, but such actions still can have negative consequences, and the institution is seen as abdicating its responsibility to create an inclusive environment that is free from harassment (Jones & Reddick, 2017; Linder et al., 2019). Indeed, as Franks (2024) argued in her critique of First Amendment absolutism, "free speech discourse in America is dominated by a legalistic, reactionary, and consumerist 'more speech is better speech' model that promotes reckless speech above all" (p. 16).

While administrators focused on risk aversion related to freedom of expression, honoring such protections would not prevent other institutional actions to promote inclusion, such as voluntary facilitated dialogues, institutional and leadership statements of support, and educational activities that place incidents into broader systems of power such as systemic racism (Garces et al., 2022; Jones & Reddick, 2017; Linder et al., 2019)—interventions that could contribute to students and employees exercising "fearless speech" rather than reckless speech (Franks, 2024, p. 111). In this study, administrators rarely discussed these potential actions, focusing more often on a narrow band of options that a BRT alternative provided and reaffirming a neutral stance on the part of the institution rather than acknowledging and addressing specific harms to minoritized groups (Garces et al., 2021; Robinson, 2024a). Rather than focusing merely on what speech should be protected, administrators might instead invest energy into "what speech a democratic society should *promote* (a broader question of what speech deserves attention and respect)" (Franks, 2024, p. 17, emphasis in original).

The influence of creeping and repressive legalism appears throughout the reasoning behind each of the four emerging alternatives (Garces et al., 2021; Ryder et al., 2022). The alternatives seem designed entirely to respond to critiques that speech is being chilled while ignoring critiques that bias and hate are not being sufficiently addressed on campus (Garces et al., 2021, 2022). In the bias support resource model, institutions abandon the premise of communicating with or educating those who are the responding parties in reports unless there is a potential policy violation; the threat of legal action stands in the way of potential education (Garces et al., 2021). The campus climate support and informal/ad hoc resources appear to be even more heavily influenced by creeping and repressive legalism because the original bias response functions are removed (because of a more general approach to campus climate concerns) or made invisible (due to a process that is not fully described or made transparent to campus community members in the informal resource approach). The free-speech resource seems to be a novel development in direct response to groups external to higher education, including FIRE and Speech First. Campus community members are unlikely to know that a free-speech resource can potentially address bias and hate speech—instead, the institution may send the message that freedom of expression is valued over equity and inclusion.

In sum, in an environment of creeping and repressive legalism, administrators twist themselves into pretzels to create and find terminology for watered down reporting mechanisms that minimally focus on support for those reporting bias, with no pretense of educating those who may perpetrate it and create hostile environments on campus. It appears, for some groups on (and off) campus, that *free speech* is the trump card used for free reign to create a hostile campus climate, and any efforts to educate about the impact of bias—namely institutional statements against bias or voluntary conversations with staff who do not have the power to punish students—are seen as unacceptable infringements on speech rights.

### *External Pressures Drive Bias Response Alternatives and Downplay Access to Education*

The second research question asked, How do external pressures shape alternatives to BRTSs? Simply put, external advocacy groups' lawsuits (both threatened and real) and speech rating systems have been primary drivers in the design of BRT alternatives. The influence of FIRE and Speech First is difficult to overstate; administrators in this study mentioned both groups by name and the "chilling effect," in the words of one participant, of witnessing other institutions face litigation—regardless of the possible outcome of litigation or the educational benefits and legal defensibility of institutional practices being challenged. These groups' efforts have been remarkably successful, at least at the handful of institutions in this study (and there is little reason to believe that these universities are outliers). As a result, administrators are laser focused on absolutist speech protections and legal risk aversion while ignoring or downplaying the marginalization and harassment faced by minoritized students that prompted the creation of BRTs. Administrators also

downplay the accompanying potential liability under federal civil rights laws for failing to adequately responding to these experiences in the campus environment, concerns raised in prior scholarship on bias response (Garces et al., 2021; Soucek, 2023). In the current anti-DEI culture war environment, institutional values and missions, especially related to holistic student development (Ryder et al., 2022) and educating students about hate and bias, take a backseat (at best) to legal and political pressures over absolutist freedom-of-expression protections (Garces et al., 2021; Garces, Ambriz, & Pedota, 2022). Often such educational efforts are unnecessarily viewed as incompatible with speech protections. Strikingly, administrators did not share any example of external groups supporting diversity and robust bias response that influenced their decision making about bias response alternatives. In this study, external pressures seemed to emerge only from absolutist free-speech groups.

External pressures on higher education, functioning as forms of institutional isomorphic pressures, exert coercive pressure through lawsuits and settlements and normative and mimetic pressures benchmarking peer institutions' activities—activities that, themselves, are often a response to external pressures (DiMaggio & Powell, 1983). The isomorphism concept traditionally refers to a process of homogenization in a field (DiMaggio & Powell, 1983). Interestingly, in the realm of bias response, the net effect of these isomorphic pressures is not to make institutional processes more alike but to spark a number of alternatives to BRTs that are tailored to institutional context and respond to external pressures. There is not a central organizing body or professional association that provides best practices around bias response work in higher education because aspects of bias response implicate various functional areas, including diversity offices, student affairs, legal affairs, human resources, and public relations (Miller et al., 2018b). Earlier iterations of BRTs were more homogeneous in their composition and activities (Miller et al., 2018a), but contemporary alternatives are characterized by their variety. Perhaps higher-education institutions will eventually coalesce around common alternative(s) to bias response, but there is no evidence for this yet.

In creating or modifying bias response programs, administrators operate within a climate of repressive legalism (Garces et al., 2021) and creeping legalism (Ryder et al., 2022). This study demonstrates that BRTs have become culture war targets from groups that are external to higher education and that campus administrators are conscious of their work in this area being high profile, targeted by external groups, and closely monitored internally. In this climate, administrators see the law—namely First Amendment speech protections—as preventing substantive action to improve the campus climate, and they focus outsize attention on terminology and rhetoric to describe their work or language they want to avoid, echoing prior work on administrative responses to bias (Garces et al., 2021). Institutions may decide to alter or abandon bias response work primarily to avoid the threat of a lawsuit, even if the work is defensible and in line with institutional values. Although private institutions have more latitude in their decision making, as evidenced by the more robust bias response procedures discussed by private university administrators in this study, even in this context, many institutions adhere to First Amendment protections by practice or policy; thus, repressive legalism can still extend to private institutions and influence how they respond to hate speech and incidents (Epstein et al., 2024). These pressures have only increased with the anti-DEI legislation in 2023–24 and beyond (Harper et al., 2024). Although BRTs have not been the primary targets of anti-DEI legislation and policies, the tactics used by administrators to respond to external pressures clearly illustrate overcompliance and precompliance (e.g., dismantling BRTs in the absence of a lawsuit or a policy or law compelling them to do so) that is becoming characteristic of institutional responses to anti-DEI measures (Pandey, 2024).

When administrators invoked legal pressures and risks for their institutions, they referred primarily to the First Amendment and did not discuss obligations under federal civil rights laws such as Titles VI, VII, and IX to prevent discrimination and protect access to higher education based on race, color, national origin, sex, disability, and age (Office for Civil Rights, 2023). A primary focus on speech protections ignores the fact that repeated hateful speech and bias incidents on campus can create a hostile learning and working environment and put the institution at other substantial legal risks (see Soucek [2023] for a fuller discussion of the double liability dilemma higher-education institutions face). Although speech advocacy groups and many legislators and courts appear focused primarily on speech, administrators may downplay the importance of preventing hostile environments for all groups, and this may run contrary to institutional missions and open institutions to liability. Soucek (2023) argued that "speech cannot be protected to the sweeping extent courts have recently held it to be—not if equal access to education based on race and gender is still to be protected as well" (p. 685). This study was conducted prior to the October 7, 2023, Hamas attack on Israel, the war in Gaza, and associated protests and congressional hearings (Blake, 2024), but concerns about fighting anti-Semitism on campuses and a rise in hate speech underscore the double liability dilemma Soucek (2023) discussed—that is, institutions may appear to value freedom of expression above all else and view themselves as constrained from any efforts to promote inclusion and thus invite scrutiny for not taking sufficient action against hate and discrimination.

### *Limitations*

This study's findings are limited by several factors. It was difficult to recruit institutional cases and identify willing

administrators to discuss a controversial process, particularly given the threat of litigation that public institutions face. In a climate of repressive legalism, institutions are crafting a variety of alternatives to traditional bias response mechanisms, and this study detailed only four of the potential alternatives institutions have adopted. Given a shift toward decentralized and tailored bias response approaches, there are likely other alternatives at other institutions worthy of examination and critique.

## Implications for Practice and Research

Administrators can connect bias response structures to the mission, vision, and values of the institution—making it clear that the institution values equity and inclusion as well as the robust exchange of ideas and academic freedom. In doing so, they can avoid the "dualistic diversity-vs.-free speech metanarrative" (Cortes, 2019, p. 2) that often characterizes discourse around bias response. Institutional leaders can push back on absolutist free-speech approaches and remind the public and campuses that universities have an affirmative obligation under federal civil rights laws to protect access to higher education and not wait until a hostile environment has been created and harm is done (Soucek, 2023), especially when institutions may be documenting that environment through a bias response mechanism or other approach. Administrators should contextualize and respond to hateful speech and acknowledge the harm that speech may cause on campus, even if it is protected speech (Garces et al., 2021).

Leaders also can tell the story of bias response work in nuanced ways. The process may seem opaque or confusing to those unfamiliar with it. Administrators can correct inaccuracies (e.g., the misconception that bias response is a punitive effort focused on eliminating the exercise of protected speech) and accurately describe institutional efforts around bias response. If efforts are focused primarily on supporting the parties who report bias, and efforts are not focused on responding parties or on larger community responses, then *bias support* is perhaps a better descriptor than *bias response*.

Administrators should tailor structures to the local campus climate, culture, and constraints of the institution. For instance, at a large, decentralized university, it may make sense to locate some bias response efforts within individual colleges, schools, and units. Leaders should carefully consider which elements of antibias work should be connected. For example, coupling bias reporting and response may be logical, but perhaps bias prevention and education, or restorative justice efforts, may be housed elsewhere while collaborating with the bias response structure.

In creating or refreshing bias response processes, administrators can build trust and engagement of the campus community in the process. They can ask themselves, "How transparent are bias response efforts on campus? Is it clear that reports will be taken seriously and acted on?" The suggestion that students should respond to hateful speech by using their own freedom-of-expression rights to respond assumes a level playing field without power differentials or consequences. Opportunities for intra- and intergroup dialogue and restorative justice education may inform the institution's broader efforts around diversity and free expression (Garces et al., 2022). Leaders also can assess bias response efforts in nuanced ways, including both qualitative and quantitative measures.

Future research in this area can focus on understanding the prevalence of current BRT structures and emerging alternatives. In addition, there are likely alternatives beyond the four identified in this study that should be examined. While this study offers in-depth information about four institutions that have created alternatives, there is also a need for an updated portrait of the landscape for bias response from a national perspective that could be informed by both quantitative (survey) and qualitative (interviews, focus groups, document analysis) methods. In addition, to further understand the context and pressures around bias response, content and media analyses of bias response websites and protocols, as well as media coverage of bias response, would be valuable.

## Conclusion

External advocacy groups have targeted and sued public institutions for creating BRT, claiming that the presence of such efforts chills the exercise of freedom of expression. This study demonstrated how, in response, universities have weakened approaches to addressing bias. The designs of the four BRT alternatives identified in this study demonstrate the outsize influence of external groups and how institutions are decentralizing and diluting bias response functions in attempts to avoid external scrutiny. Yet, implementation of these models can overshadow the initial need for creating bias response mechanisms on campus (i.e., bias and hate incidents experienced by minoritized groups). In sum, administrators prioritized avoiding lawsuits and bad publicity from speech advocacy groups rather than enacting educationally sound and legally permissible practices to educate students about hate and bias and create a more inclusive campus environment.

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