Building a Culture of Free Expression on the American College Campus

CHALLENGES & SOLUTIONS

by JOYCE LEE MALCOLM

Perspectives on Higher Education

American Council of Trustees and Alumni | Institute for Effective Governance®

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About the Author

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Whoever would overthrow the Liberty of a Nation must begin by subduing the Freeness of Speech.[1]

—Benjamin Franklin

Education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.[2]

—Hanna Holborn Gray

Introduction

Over its 23-year history, the American Council of Trustees and Alumni (ACTA) has worked to educate leaders in higher education to uphold the highest standards of academic freedom, academic excellence, and accountability. We now face one of the most serious challenges in memory to the free exchange of ideas essential for liberal education.

For the last four decades, free speech on campus has suffered from the disinvitations of speakers, violent protests, classroom disruptions, "safe spaces," and speech codes. In the past several years, the problem has grown significantly more severe. How do these challenges to free speech

affect the core value of education: the unfettered pursuit of truth? Can the robust discussion and lively discourse essential for liberal education survive the chilly—sometimes hostile—treatment given to opinions that question campus orthodoxies? What effect do these insults have on what former University of Chicago President Hanna Holborn Gray calls the "environment of the greatest freedom," that should, by right, be the college campus?

We have commissioned this essay to examine the particular threats to free expression and the larger problems they portend, but its most important focus is on the way forward. The essay is divided into four sections. It begins with an examination of our founding principles of free speech and education, then turns to the campus crisis and its particular manifestations in "safe spaces," speech codes, and the silencing of speakers who challenge popular opinions. Next, the essay considers approaches to safeguard freedom of expression, from Yale's C. Vann Woodward Committee Report through current times; and finally, offers recommendations based on best practices to maintain freedom of opinion and speech.

This text aims to provide sound, principled, and practical ways to approach these difficult moments in education. In the spirit of Benjamin Franklin, we invite you to join with us in keeping our republican spirit alive and well.

The Founders' Vision for an Educated Population

Our Founders were keenly aware that to preserve liberty in the new country, the United States required an educated population. The challenges facing the innovative government they had crafted were immense, and they were skeptical about its long-term survival. We were to have, as Benjamin Franklin famously remarked, "A Republic if you can keep it." Republics worthy of the name are rare, and even ours is fragile. The entirety of our Constitution's carefully divided government powers and amendments to

protect individual liberties would be mere "parchment barriers" without the constant vigilance of our citizens. Central to that end is education and the First Amendment's guarantee of freedom of speech, a bold expansion of the English right, which was limited to speech in Parliament.[3]

Speech can be dangerous and abused, but our Founders hewed to John Milton's belief that if "Truth be in the field, we do injuriously, by licensing and prohibiting, to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter?"[4] The assumption that truth will always triumph in a free exchange of ideas may be naive. What is not naive is the opportunity free speech affords for a civil and robust exchange of views, and for the critical thinking on which republican excellence and political comity rest. As Thomas Jefferson declared, "In a republican nation whose citizens are to be led by reason and persuasion and not by force, the art of reasoning becomes of first importance."[5] Thomas Paine agreed: "When men yield up the privilege of thinking, the last shadow of liberty quits the horizon."[6]

The pursuit of knowledge and reason was given a place of honor in the institutions of higher education which our Founders established. Thomas Jefferson, for example, insisted this right be respected at the University of Virginia: "This institution will be based on the illimitable freedom of the human mind. For here we are not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is left to combat it."[7] Remarkably, the University of Pennsylvania, founded by Benjamin Franklin, grew out of Franklin's early efforts to create the Junto, or Leather Apron Club, a gathering of fellow citizens to discuss political, social, and cultural events of the day.

The Campus Crisis

The Founders' intentions remain a perfect north star to guide us, but the reality on today's campuses shows a widespread need for a good compass. Campus crises, where the free exchange of opinion is challenged, are

becoming more common on both public and private campuses. The years 2016–17 were rife with examples. At Evergreen State College in Washington, a major classroom disruption overwhelmed Professor Bret Weinstein's measured efforts to criticize a "day of absence" on which white people were urged to vacate the campus, and simply teach his regularly scheduled biology class.[8] At Berkeley, riots over the scheduled appearance of Milo Yiannopoulos caused over $100,000 worth of property damage. Both students and masked outsiders from the public joined the riots; it was a reminder that the cost of these disturbances can be forbiddingly high.[9] A Middlebury student group invited American Enterprise Institute scholar Charles Murray to speak, but the event encountered violent protests that ended with the cancellation of the public address and injury to Professor Allison Stanger, the political science professor attempting to moderate the discussion.[10] And 2018 has begun with the disruption at Lewis & Clark College's Law School of a presentation by Dr. Christina Hoff Sommers,[11] as well as the disruption of a panel hosted by the University of Virginia Hillel's "Building Bridges" program.[12]

While our colleges and universities celebrate the diverse backgrounds of their students and faculty, how well do they encourage a diversity of opinion?

We face a deepening crisis on America's college campuses that strikes at the very purpose of higher education and poses a challenge to our individual rights. While our colleges and universities celebrate the diverse backgrounds of their students and faculty, how well do they encourage a diversity of opinion? What kinds of pressures to conform to common opinion do students and faculty face? Is there an openness to hard and challenging questions that go against popular views? What role do college administrators play in fostering environments where the open discussion of ideas can thrive? What can be done about the recurrence of violent disruption of controversial programs on college campuses? These are all essential questions

for concerned citizens and educators, as we too frequently watch speakers vilified and harassed for their viewpoints.

Speech Codes

America's colleges and universities endured periods of intolerance in the past, but our present predicament is more widespread and damaging. In an attempt, often well-intentioned, to help an increasingly diverse student population feel welcome on campus, some universities have drafted and imposed speech codes with grave consequences for intellectual exchange. Although there has been a welcome decline over the past decade, the number of institutions public and private that have restrictive speech codes, as noted by the Foundation for Individual Rights in Education (FIRE), remains unacceptably high.[13] Critics observe that these codes single out particular groups that are protected from not only a comment that might be deemed offensive, but even an allusion or gesture so construed. The codes aim to create a supportive atmosphere for these designated groups, while in effect censoring all others. Emory University's speech code, for example, claims to prevent "discriminatory harassment," which it defines as "oral, written, graphic, or physical conduct" against any person or group because of race, color, national origin, religion, sex, sexual orientation, age, disability, or veteran status and "that has the purpose or reasonably foreseeable effect of creating an offensive, demeaning, intimidating, or hostile environment for that person or group of persons." Emory's code is vague and ambiguous, and like other codes, outlaws harassment without even explaining clearly what constitutes harassment.[14] Thus, it is in the eye of the beholder whether a punishable offense has occurred. And the punishments are real in their effect on reputations and careers, including ostracism and suspension for students, and pressure on faculty and staff to resign.

The Constitution protects freedom of speech at public institutions, even speech regarded as "violating a speech code." In *Brandenburg v. Ohio*, "the Supreme Court held that the government cannot punish inflammatory speech unless it **intentionally** and **effectively** provokes a

crowd **immediately** to carry out violent and unlawful action. This is a very high bar, and for good reason."[15] Private institutions often have statements on academic freedom that, at least in theory, contractually protect students and faculty from sanctions for free expression. Institutions that claim to be dedicated to free inquiry and free speech, however, too often need the force of law to move them back to first principles.

FIRE found only 27 of the country's top 450 colleges and universities to be free from policies that threaten free speech on campus. Greg Lukianoff, FIRE's president, noted sadly that "Students are learning all the wrong lessons about what it means to live in a free society."[16] FIRE has also noted the egregious use of bias response teams that imperil free speech on campus. In December 2016, FIRE found that some 92.4% of the schools surveyed for the annual "Speech Code Report" maintain policies that "either clearly and substantially restrict speech, or can otherwise be interpreted to punish protected speech. At such schools, a Bias Response Team's practice of broadly defining and identifying 'bias' may expose a wide range of protected speech to punishment. Even where schools purport only to provide 'education' to the offending speaker, instead of formal punitive sanctions (such as suspension or expulsion), this response is often undertaken by student conduct administrators, not educators, and more closely resembles a humiliating reprimand."[17]

Some institutions address the problems of "hurtful speech" by requiring not only those judged guilty of insensitivity but also the entire campus community—student body and faculty at large—to take periodic "sensitivity training" to instill what is deemed ideologically correct behavior. In his essay "What Are Universities For?", the late, distinguished philosopher Leszek Kolakowski, who suffered under totalitarian repression, wisely noted: "The greatest danger is the invasion of an intellectual fashion which wants to abolish cognitive criteria of knowledge and truth itself. The humanities and social sciences have always succumbed to various fashions . . . But this is probably the first time that we are dealing with a fashion . . . according to which there are no generally valid intellectual criteria."[18] In such circumstances, ideologies can create a climate of intellectual uniformity and stifle the questions and debate that are the matrix for progress.

Safe Spaces

Along with restrictive speech codes, a number of campuses create "safe spaces," to which students can retreat if they feel a viewpoint, argument, or mere presence of a speaker on campus will cause emotional harm. Students who fear the comments or even the presence of a speaker deemed controversial can withdraw to these designated "safe spaces" where "seldom is heard a discouraging word." And "safe spaces" have become all too common on college and university campuses. In March 2015, *New York Times* writer Judith Shulevitz wrote about one such safe place created at Brown University in response to a student-organized debate on campus sexual assault. The debate featured Jessica Valenti, the founder of Feministing.com, and Wendy McElroy, a libertarian critical of the term "rape culture." Members of Brown's Sexual Assault Task Force feared that bringing in a speaker like Ms. McElroy could "serve to invalidate people's experiences." In response, they created a safe space room for people who might find her comments "troubling," filled with "cookies, coloring books, bubbles, Play-Doh, calming music, pillows, blankets, and a video of frolicking puppies, as well as students and staff members trained to deal with trauma."[19]

Presumably, the opposite of a "safe space" is a "free speech zone," also known as a First Amendment zone, free speech cage, and protest zone.[20] Ironically, these tend to be small areas relegated to remote parts of a campus that reinforce campus limits on free expression. Young Americans for Liberty observes these areas are sidewalk-sized zones and notes, "In their manifestation, safe spaces and free-speech zones at public universities enable prejudice against unfavorable ideologies. Guised as progressive measures to ensure inclusion, these often unconstitutional policies exclude new and competing ideas, and are antithetical to a free academia. In excluding different ideologies, supposedly progressive campus speech codes do one thing: prevent the progression of ideas. Restrictive campus speech codes are, in fact, regressive."[21] And they do not survive First Amendment legal challenge.

Bans on allowing citizens to exercise an enumerated right are unconstitutional. ACTA maintains that these ostensibly progressive

measures are, in actuality, chilling free speech and frustrating the open dialogue that is essential to academic freedom on campus. Today, far too many American campuses violate basic judicial tests of fairness by denying their community the right to freedom of speech.

Disinvitations and "De-platforming"

One of the greatest affronts to free speech has been the many disinvitations of speakers invited to give commencement addresses, deliver speeches, or participate in debates. Visitors can be branded as controversial not only for being provocateurs, but also because of their political views, their views on social issues, or their scientific research. Statistically, the protests come predominantly from the left, but not exclusively. Since it began its database in 2000, FIRE notes over 350 such discrete disinvitation attempts. In 2016–17 alone, FIRE reported close to 50 different disinvitations or protests of invited speakers.[22] Too often, activists prevent fellow students from hearing competing ideas from visiting scholars by seeking to rescind invitations for controversial speakers to appear on campus. Radical students, sometimes with faculty support, demand that speakers with whom they disagree not be allowed on campus and all too often shout down and threaten those who come.

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One can find a long, sad list of speakers discouraged, disinvited, or silenced by an unruly audience. Among the many of those silenced on campus are Heather Mac Donald from the Manhattan Institute, political commentator Ben Shapiro, Virginia ACLU Executive Director Claire Guthrie Gastañaga, Professor of Law Eugene Volokh, and former New York City Police Commissioner Ray Kelly. ACTA's report on *Campus Free Speech, Academic Freedom, and the Problem of the BDS Movement* cites numerous examples of this phenomenon: For example, at the University of Minnesota

on November 3, 2015, two dozen protesters, with the support of Students for Justice in Palestine (SJP), attempted to shout down Moshe Halbertal, the Gruss Professor of Law at the NYU School of Law and a professor of Jewish thought and philosophy at Hebrew University. Ironically, Professor Halbertal had been invited to deliver the Dewey Lecture in the Philosophy of Law.[23] Instead of severely disciplining students who disrupt a talk, physically threaten speakers and listeners, or commit acts of violence, administrations have often acquiesced to the "heckler's veto." Rather than removing the disruptive students, they sometimes order campus police to remove the speaker "for his protection."[24]

Intolerant campus groups have succeeded in deterring or disinviting so many distinguished commencement speakers, such as former Secretary of State Condoleezza Rice and human rights activist Ayaan Hirsi Ali, that the problem even drew the condemnation of President Obama, in his May 2016 commencement address at Howard University:

> So don't try to shut folks out, don't try to shut them down, no matter how much you might disagree with them. There's been a trend around the country of trying to get colleges to disinvite speakers with a different point of view, or disrupt a politician's rally. Don't do that—no matter how ridiculous or offensive you might find the things that come out of their mouths. Because as my grandmother used to tell me, every time a fool speaks, they are just advertising their own ignorance. Let them talk. Let them talk. If you don't, you just make them a victim, and then they can avoid accountability.[25]

The Cost of Failure

The failure to protect the culture of free expression has tangible costs—costs which are creating a sense of alarm in the general public at how long universities can bear up under these pressures on free speech. At

Berkeley in September of 2017, it cost the university $600,000 to ensure that conservative speaker Ben Shapiro's talk took place without injury or damage. Apparently, a similar amount was spent in April of 2017 to ensure the same level of safety for Ann Coulter, whose planned talk was eventually cancelled.[26] At the University of Missouri, a notoriously public call by Professor Melissa Click for "some muscle" to push away a student videographer filming a campus protest contributed to serious declines in enrollment at the school.[27] Publicly embarrassing fall-out, costly expenditures to protect speakers, and campus disruptions and disorders have been common news stories over the last several years and give rise to the sense that education has taken a back seat to protest.

Approaches to Safeguarding Free Expression

Yale University Defends Free Speech . . . and Retreats from It

One of the pivotal events in the history of freedom of speech on campus occurred in 1974 at Yale University. In the spring of that year, Yale was rocked by a campus protest over a scheduled debate between the Nobel Prize-winning inventor of the transistor radio, William Shockley, and William Rusher, the publisher of *National Review*, on the inflammatory, deeply disturbing issue of eugenics, specifically: "Resolved: Society has the moral obligation to diagnose and treat tragic racial IQ inferiority."[28] Shockley, despite his achievements in physics, was known to be an advocate for racist eugenics. Protests were so disruptive that the debate could not take place. In early 1975, following this turbulent period of campus protest and violent disruption, the Committee on Freedom of Expression at Yale presented a landmark report. Committee members identified the "primary function of a university" to be the dissemination of knowledge through research and teaching by promoting the free exchange of ideas, which needs the "fullest degree of intellectual freedom." Their report stressed the need

> for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. To curtail free expression strikes twice at intellectual freedom, for whoever deprives another of the right to state unpopular views necessarily also deprives others of the right to listen to those views. [29]

The C. Vann Woodward Committee insisted that if Yale was to remain a vigorous intellectual community, it could not impose restrictions on the discussion of any idea, however offensive or provocative. As the Report of the Committee on Freedom of Expression states: "We value freedom of expression precisely because it provides a forum for the new, the provocative, the disturbing, and the unorthodox. Free speech is a barrier to the tyranny of authoritarian or even majority opinion as to the rightness or wrongness of particular doctrines or thoughts."[30]

But some 40 years later, Yale was rocked by another freedom of expression controversy, this one involving a distinguished professor and master of Yale's residential Silliman College Nicholas Christakis, and his wife Erika Christakis, a highly popular lecturer at the university. In her professional work, Erika Christakis has criticized ways that adults over-control the behavior of children and, as a result, deprive them of learning experiences. When Halloween came in 2015, Yale administrators sent out an email to the university community advising Yale students to avoid "culturally unaware or insensitive choices." (This came after a small number of on-campus controversies about costumes perceived as racist stereotypes.) Dr. Christakis responded with an email of her own, acknowledging "genuine concerns about cultural and personal representation," but querying whether students would be better served by figuring out their own norms rather than administrators asserting norms for them. She asked, "Have we lost faith in young people's capacity—in your capacity—to ignore or reject things that trouble you?".[31] How amazed and dismayed the C. Vann Woodward Committee members would be that Yale Professor Erika Christakis's email comment that students are capable of selecting Halloween

costumes without bureaucratic advice led to student outrage—not at the official advice—but at her comment. Video footage shows students yelling directly, sometimes with obscenities, at Nicholas Christakis about the couple's failure to create a "place of comfort and home" for the students.[32]

The Christakis's calls for open dialogue and discussion of these contested matters went ignored. Intense student harassment of Professor Christakis and her husband continued until they left the campus. Equally deplorable was the lack of administrative support for the Christakises. That Erika Christakis's reasonable and civil email comment provoked such rage and anger is extraordinary and suggests the overall vulnerability of free speech, even—or perhaps especially—in internet and email forums. In the wake of this event, Steven Benner, distinguished scientist and one of the two Yale students on the Woodward Committee, incisively observed on the 40th anniversary of the Woodward Report: "[Yale's] mission above all is the discovery and dissemination of new knowledge. Therefore, Yale's culture must value open discourse. Yale simply cannot have faculty being fired because powerful (for the moment) 'disempowered' students find letters 'offensive.' Sensitivity training, cultural or otherwise, is not called for. Education is, in the history of ideas, the role of speech in developing those ideas, and why knowledge is valued over 'safe spaces.' That is, those today assaulting free speech at Yale need a liberal education. Which, I assume, is why they matriculated at Yale in the first place."[33]

Examining Faculty Responsibility for Free Speech

An excellent starting place for practical responses to these serious assaults on free speech is to examine the faculty role in creating a campus culture in which students can develop ideas independent of coercion from any quarter. Thoughtfully crafted arguments, beginning in the early 20th century, maintain that the professional trust of teachers requires them to help students learn to think for themselves. Faculty model the behavior of listening to different viewpoints rather than imposing their own. In other words, their personal views must be subordinate to their mission as

educators. Over 100 years ago, philosopher John Dewey, as president of the American Association of University Professors (AAUP), helped craft its Declaration of Principles. This document admonished faculty not to press their personal views on impressionable students and not to use their classrooms as platforms for ideology, in violation of their professional trust as educators:

> The university teacher, in giving instruction upon controversial matters, while he is under no obligation to hide his own opinion under a mountain of equivocal verbiage, should, if he is fit for his position, be a person of a fair and judicial mind; he should, in dealing with such subjects, set forth justly, without suppression or innuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue; and he should, above all, remember that his business is not to provide his students with ready-made conclusions, but to train them to think for themselves, and to provide them access to those materials which they need if they are to think intelligently.[34]

The Declaration urges the teacher

> to be especially on his guard against taking unfair advantage of the student's immaturity by indoctrinating him with the teacher's own opinions before the student has had an opportunity fairly to examine other opinions upon the matters in question, and before he has sufficient knowledge and ripeness of judgment to be entitled to form any definitive opinion of his own.[35]

This is the campus culture that American higher education needs to regain, and it has serious work ahead to achieve that goal. A 2010 study of 24,000 college students and 9,000 faculty and staff carried out by the American Association of Colleges and Universities found that "only 35.6% of the students—and only 18.5% of the faculty and staff—strongly agreed that it was 'safe to hold unpopular positions on campus.'"[36]

How this campus culture prevails in the classroom has long been a matter of concern to advocates for free speech and intellectual diversity. An important study conducted by ACTA in 2004, *Politics in the Classroom*, surveyed students at the country's top colleges and universities in order to evaluate their perceptions of the political climate on campus, as well as their experiences with the inclusion of political commentary and material in their courses. For the study, ACTA interviewed 658 undergraduate students from the top 25 liberal arts colleges and the top 25 universities, as listed by the *U.S. News & World Report*. The following are highlights of the survey's findings:

- Nearly half of college students (48%) from elite universities and colleges in the United States report that some panel discussions and presentations on their campus are totally one-sided.
- According to 46% of the student respondents, some professors use the classroom to present their personal political views.
- 68% of the students said that during the recent presidential election campaign, their professors made negative comments in class about President Bush; 17% reported negative comments about Senator Kerry.
- 42% of the students surveyed complained that some course readings present only one side of a controversial issue.
- Nearly half of the students (47%) say that professors make negative comments in class about conservatives, and 15% report negative comments about liberals. 74% assert that their teachers make positive in-class remarks about liberals.[37]

A 2016 Gallup poll study commissioned by the Knight Foundation revealed that 22% of America's college students believe they should be protected from biased speech, "hate speech," and views that are offensive to their sensibilities. Even more damning are the Gallup findings that 27% of students believe that colleges should be able to "restrict speech expressing political views that may upset or offend members of certain groups."[38] The study found that 70% of college students say that students "should *not* be able to prevent the press from covering protests on college campuses, but 49% deemed it acceptable to resist reporters if protesters believe the press will be unfair in its reporting."[39]

Even more damning are the Gallup findings that 27% of students believe that colleges should be able to "restrict speech expressing political views that may upset or offend members of certain groups."

We have a severe problem, but there will be few more potent influences on student thought than the way in which their faculty model objectivity, openness to divergent opinions, and fair judgment.

The Value of Educating Scholars, Faculty, and Trustees

Some state legislatures, dismayed at the attack on freedom on their publicly-funded campuses, have begun to consider new legal measures to address these intellectual and academic concerns. While legislative means may be effective, it is equally if not more important to encourage teachers, scholars, trustees, and senior leaders vigorously to defend freedom for a wide range of opinions on our campuses.

Heterodox Academy (HxA) was formed for precisely this purpose. It began as a blog in late 2015 and grew into a membership organization

in response to requests from professors to join the mission to increase viewpoint diversity. As a politically diverse group of some 1,800 scholars from across the United States and internationally, it works to advocate, promote, and create resources "to improve the quality of research and education in universities by increasing viewpoint diversity, mutual understanding, and constructive disagreement." Its name springs from the desire to cultivate a diversity of opinions on the study of race, class, gender, inequality, and history that transcend the limits of an "ideologically uniform and orthodox academy." Heterodox Academy calls attention to the damage done by the lack of political diversity on the quality of scholarship in many fields.[40]

Noting that this uniformity of opinion has been a problem for decades, the organization deploys a number of tools that, in the three years since its founding, offer practical ways for colleges and universities to address these problems. First, it provides the Campus Expression Survey, an assessment tool designed by HxA, to provide good data to diagnose the levels of self-censorship among students and professors in the classroom and in various colleges, schools, and departments of any given university. Second, the Heterodox Academy's Guide to Colleges is a unique, innovative tool that aggregates several "imperfect predictors of openness to viewpoint diversity." HxA promotes the guide as useful to college-bound students and their families, and also to administrators who wish to identify strategies to improve a campus's viewpoint diversity and rating in the Guide. Finally, Heterodox Academy has released a new, illustrated work, *All Minus One: John Stuart Mill's Ideas on Free Speech Illustrated,* based on Mill's famous essay *On Liberty.* It is intended for use in college courses, advanced high school classes, or in discussions within civic organizations.[41]

Co-founded by Jonathan Haidt, social scientist and New York University faculty member, and led by Debra Mashek, HxA will continue to be a crucial part of the "way forward," helping academia to rise above a campus culture that discourages free inquiry and robust exploration of the frontiers of knowledge and policy.

Recommendations for Preserving Free Speech: from Yale to Chicago to Purdue

The academy itself has produced practical recommendations to restore freedom of speech to higher education. Among these are the C. Vann Woodward Committee report at Yale University in 1975 mentioned above, and the University of Chicago Report of the Committee on Freedom of Expression in 2015. The Yale committee carefully considered the arguments "that behavior which violates these social and ethical considerations should be made subject to formal sanctions" and "that such behavior entitles others to prevent free speech they might regard as offensive." They wrote, "Our conviction that the central purpose of the university is to foster the free access of knowledge compels us to reject both of these arguments." Indeed, they found that, even in the case of those who fail to meet their social responsibilities, ". . . the paramount obligation of the university is to protect their right to free expression."[42] It is thus the duty of university officers and trustees to take practical steps to protect this right.

The 2015 statement from the University of Chicago, now widely known as the Chicago Principles, affirms that the proper response to ideas the community may find offensive

> is not interference, obstruction, or suppression. It is, instead, to engage in robust counter-speech that challenges the merits of those ideas and exposes them for what they are. To this end, the university has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.[43]

Without a vibrant commitment to free and open inquiry, as one-time University of Chicago President Robert Maynard Hutchins noted, a university ceases to be a university.[44] The bold and timely reaffirmation of

this principle in 2015, in the midst of widespread repression on the nation's campuses, is an urgently needed reminder that freedom of speech lies at the very core of the university's greatness. As University of Chicago President Robert J. Zimmer said in his address accepting ACTA's 2017 Philip Merrill Award for Outstanding Contributions to Liberal Arts Education, it is essential to overcome self-delusion by pursuing a liberal arts education; and essential to the effort of a liberal education is "Learning to recognize and challenge one's own and others' assumptions, the confrontation of new and different ideas, understanding the power and limitations of an argument . . ."[45] What President Zimmer makes clear is how interdependent are the values of free speech and liberal education. In his acceptance speech, and in his championing of the Chicago Principles, he helps pave the way forward by showing how much more we can progress by upholding the respect for argument, open dialogue, willingness to wrestle with opposing ideas, and the kinds of deep reflection essential to both free speech and liberal education.

The AAUP Declaration of Principles discussed earlier, the C. Vann Woodward Report, and the Chicago Principles written over the last century all provide approaches to contemporary problems of free speech on campus that have timeless value. ACTA itself has turned to the Chicago Principles as a gold standard for universities to adopt as guiding principles, in thought and action. As Chicago's Committee on Freedom of Expression eloquently stated in its report:

> In a word, the University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting

> the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University's educational mission.[46]

As of January 2018, 34 colleges, universities, and university systems have adopted or endorsed the Chicago Principles or a substantially similar statement. ACTA is proud to stand as a persuasive force in encouraging widespread adoption. Schools like Purdue University, which was the first public institution to adopt the Chicago Principles, are working to weave the Principles into the fabric of student life by including students in the voting process for adopting them and by integrating the ideals of free speech into orientation activities for all first-year students.

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The Purdue example merits a closer look. A major factor in Purdue's success was the way in which the top echelons of leadership embraced the principles of free speech, joined forces with student leaders, and productively responded to an outside evaluation that showed where there was room for improvement. Purdue President Mitch Daniels and the Board of Trustees early on explored ways to build a culture of freedom of expression, starting with the adoption of the Chicago Principles and earning a higher ranking from the Foundation for Individual Rights in Education (FIRE). FIRE rates hundreds of colleges as red, yellow, or green based on their speech policies. In 2014, Purdue had a yellow rating, signifying that

some of its policies were "vague" and "could too easily be used to restrict protected expression."[47]

A partnership to improve its free speech rating quickly formed between students and university leadership. Andrew K. Zeller, a Ph.D. student in mathematics at Purdue, became very interested in the challenges to free speech at other schools that were being publicized widely in the media. After being elected vice president of the graduate-student government, he committed himself to helping secure FIRE's highest, "green light" rating and communicated with FIRE's lawyers to understand which policies were keeping Purdue in the yellow zone and why. In the fall of 2014, both undergraduate and graduate student governments urged Purdue to revise the policies which FIRE had flagged. In the spring of 2015, after some lull in progress on policy revision, Mr. Zeller was elected president of the graduate-student body and met with President Daniels.[48] It was only a matter of weeks before, with Mr. Daniels's approval, Purdue's Board of Trustees signed off on the policy changes that student leaders had requested, and also adopted the Chicago Principles.

But Purdue did not stop there. Transforming student attitudes from the ground up is a hallmark of Purdue's approach, and teaching students to embrace free speech and open dialogue is essential to transforming student hearts and minds about these core principles of academic freedom. Purdue's innovative efforts to create meaningful orientation programs provide an excellent example of how universities must be proactive and resourceful to help students understand the principles of campus freedom.

The university established a task force to create a new free speech orientation starting with the incoming class of 2020. The nearly 6,000 incoming freshmen watched skits, a faculty panel, and video clips whose goal was to educate these students about the value of free expression on campus—above and beyond the necessary first step of reading and internalizing the campus principles of free expression. The program was very successful. Purdue hopes to inspire other universities to develop immersive programs of this kind, and Purdue faculty presented the program at the Student Affairs Administrators in Higher Education conference in 2017.[49]

Purdue's achievements should be a challenge to other colleges and universities to recognize that establishing and maintaining America's vibrant heritage of intellectual freedom is within their reach.

Key Recommendations

In summary, here are key recommendations that can establish clear standards for free speech on campus:

- **Create a campus ethos that respects free speech and debate and that emphasizes these principles from day one of undergraduate life:** Ensure that students and faculty understand the primary role of freedom of speech and debate on campus and are well-informed of the official policy. Start with student orientation, as Purdue has done.

- **Be clear on expectations and sanctions:** Establish what is expected of the community, making clear in student and faculty codes of conduct that anyone who disrupts an officially scheduled event or harasses a speaker will be strongly disciplined. For students, that typically includes suspension or expulsion. If a disruption occurs, only the public announcement of severe consequences will deter further instances of such violations of free speech.

- **Abolish restrictive speech codes.**

- **Be forewarned and proactive in protecting speakers:** Ensure that invited speakers have police protection, when necessary. The administration must take steps to protect both speaker and audience if there is reason to believe there will be a disruption. The event can be limited to campus members to improve security. Having the administration meet with those planning to protest can clarify the university rules and sanctions for disruptions; and necessary arrangements can be made for the best time, place, and protections for the guests and audience.

- **Preserve the right to peaceful protest in locations that will not cause speakers and scheduled programs to be shut down or silenced.**

- **Universities at the official institutional level should remain neutral on issues of public controversy, leaving the debate to individuals, and encourage the widest possible range of opinion and dialogue.** While individuals have the complete right in their private capacity to articulate their views, boards need to make clear that the campus is a forum for the rigorous examination of all ideas and opinions.

There is little time to waste. A Gallup/Knight survey of over 3,000 college students, conducted in March 2018, showed that 61% of U.S. college students believe the climate on their campus prevents some people from expressing their views because others might find them offensive. That percentage is up seven points since 2016. When asked to choose whether inclusion or free speech matters more, inclusion won over free speech, 53% to 46%.[50]

Surely inclusion is crucial to the success of higher education and the nation, but without free speech, inclusion will be a vanishing hope, limited by the changing priorities of the times and unresponsive to the dialogue that can make it a reality.

Thus, we must restore freedom of speech on our campuses, for it is this that will help preserve the republic that we have inherited from the Founders. But perhaps just as importantly, we must develop a deeper understanding of our constitutional republic and the rights and duties we have to uphold the character and disposition of a free and liberal people. With this, Benjamin Franklin would surely have agreed.

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