

***Protecting Students and Free Speech:
A View from Within***

***.....2018 COSUAA Annual Conference.....
St. Simons Island, GA***

April 29, 2018



Many people don't know this, but
it's possible to read something
you don't agree with on the
internet and simply move on with
your life.

A Brief First Amendment Primer

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

United States Constitution, 1A

Permissible Restrictions on Otherwise Protected Speech

- **Time**
- **Place**
- **Manner**
 - *Content-Neutral*
 - *Narrowly Tailored*
 - *Ample Alternative Channels*



Undergraduate Record 2016-2017

Protests and Demonstrations. Peaceful protests and demonstrations *on outdoor University property* are permitted *unless they disrupt normal operations or obstruct access* to offices or buildings.

Unauthorized entry into or occupation of any University office, building or area is prohibited. Protesters may assemble and express their views, but *may not disrupt an invited speaker or hinder the ability of other attendees to see or hear a speaker*. Persons engaging in disruptive behavior may be removed, subject to disciplinary action, and/or prosecuted for trespass, disorderly conduct, or other offenses under state law.



Undergraduate Record 2016-2017

Amplified Sound

Amplified sound is defined as any sound that is broadcast through electronically amplified equipment or sound that is electronically enhanced.

To facilitate a productive academic and residential environment, use of amplified sound on University-owned, -operated, or -regulated property is subject to reasonable time, place, and manner restrictions. Use of amplified sound requires advance approval by the Office of the Dean of Students (ODOS) Event Planning Services or Intramural-Recreational Sports (for IM-Rec areas).

Amplified sound is not permitted for more than three hours per day per outdoor area. A sound check lasting no more than 45 minutes may be approved in addition to the three-hour reservation. Amplified sound on University-owned, -operated, or -regulated property ***will generally be approved only for the following timeframes during the academic session:***

Friday: 6:00 pm to 10:00 pm

Saturday and Sunday: 10:00 am to 10:00 pm

Amplified sound will not be permitted where it disrupts student education, research, or the faculty/staff work environment.



Chalking:

- **Chalk may be used on exposed (not below roofs or other overhangs) exterior concrete or asphalt sidewalks or walkways.** Use of chalk on brick, slate or other stone surfaces or on buildings or other structures of any kind is strictly prohibited.
- **Only non-permanent sidewalk chalk may be used.** No paint, spray/adhesive chinks, markers or inks are allowed.
- **Only one chalked message is permitted per sidewalk area** (for example: one each to the north, west and east of the amphitheater; one each on the sidewalks surrounding the Lower Lawn).

PRM-008: Exterior Posting and Chalking

Speech Not Protected Under the First Amendment

- **Obscenity**
- **Child Pornography**
- **Extortion**
- **Perjury**
- **Libel/Slander/Defamation**
- *Fighting Words/True Threats*
- *Incitement*

“**True threats**’ encompass those statements where **the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals**. The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats protect[s] individuals from the fear of violence and from the disruption that fear engenders, in addition to protecting people from the possibility that the threatened violence will occur. ... “[I]ntimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death.”

Virginia v. Black (U.S. 2003)

"The constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation **except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.**"

Brandenburg v. Ohio (U.S. 1969)

**But “Hate Speech”
Isn’t Protected
Speech, Right?**

RACE AND ETHNICITY

There's a World of Difference Between Free Speech and Hate Speech

By Becca DiPietro | Posted on April 21, 2017, 4:28 pm



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PRESS CONTACT

Kyle Epstein
kepstein@americanprogress.org

GOVERNMENT AFFAIRS CONTACT

Lia Parada

The Harm in Hate Speech: Free Speech, Religion, and Group Dignity

Tuesday, April 2, 2013

12:10-1:45 pm (Lunch Provided)

Room 127, Yale Law School

Speakers:

Jeremy Waldron

University Professor and Professor of Law, New York University School of Law
Author of *The Harm in Hate Speech* (2012)

Hate speech offends, but can it also cause genuine harm? In his new book *The Harm in Hate Speech*, Professor Jeremy Waldron argues yes. **He urges Americans to reconsider the First Amendment tradition of absolute protection of speech and to reconceive hate speech as an intolerable form of group defamation.** Individuals, he suggests, should be protected when they are targeted because of their religious affiliation, or other group characteristics.

When Is Speech Violence?

By LISA FELDMAN BARRETT JULY 14, 2017

Offensiveness is not bad for your body and brain. Your nervous system evolved to withstand periodic bouts of stress, such as fleeing from a tiger, taking a punch or encountering an odious idea in a university lecture. ...

When you're forced to engage a position you strongly disagree with, you learn something about the other perspective as well as your own. The process feels unpleasant, but it's a good kind of stress — temporary and not harmful to your body — and you reap the longer-term benefits of learning.

What's bad for your nervous system, in contrast, are long stretches of simmering stress. If you spend a lot of time in a harsh environment worrying about your safety, that's the kind of stress that brings on illness and remodels your brain. That's also true of a political climate in which groups of people endlessly hurl hateful words at one another, and of rampant bullying in school or on social media. **A culture of constant, casual brutality is toxic to the body, and we suffer for it.**

When Is Speech Violence?

By LISA FELDMAN BARRETT JULY 14, 2017

The New York Times

That's why it's reasonable, scientifically speaking, not to allow a provocateur and hater like Milo Yiannopoulos to speak at your school. He is part of something noxious, a campaign of abuse.

There is nothing to be gained from debating him, for debate is not what he is offering.

On the other hand, when the political scientist Charles Murray argues that genetic factors help account for racial disparities in I.Q. scores, you might find his view to be repugnant and misguided, but it's only offensive. It is offered as a scholarly hypothesis to be debated, not thrown like a grenade. There is a difference between permitting a culture of casual brutality and entertaining an opinion you strongly oppose. The former is a danger to a civil society (and to our health); the latter is the lifeblood of democracy.

By all means, we should have open conversations and vigorous debate about controversial or offensive topics. But **we must halt speech that bullies and torments. From the perspective of our brain cells, the latter is literally a form of violence.**

No, Gov. Dean, there is no 'hate speech' exception to the First Amendment

By Eugene Volokh April 21



Howard Dean stands on a platform built on top of a police car during the 40th anniversary of the Free Speech Movement

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Q&A for Richard Spencer 10/19 Event

Is hate speech protected speech at UF? Are faculty, students and staff free to speak hate?

Hate speech is speech that offends, insults or threatens a particular group, especially on the basis of religion, race, national origin, sexual orientation and other traits. **The First Amendment protects hate speech, including symbols of hate such as a swastika, no matter how offensive it is. The First Amendment does not protect threats of violence, harassment or actual violence.**

As a public educational institution, UF may not ban hate speech. We do aspire for all members of the community ---faculty, staff and students---to exhibit high standards of behavior, as well as care and concern for others. We must balance our aspirations and values against our legal obligations to protect the First Amendment rights of all—even those with views and values contrary to UF’s fundamental principles. Given that, **no employee or student can interfere with the freedom of speech or freedom of movement of any member or guest of the university.**



The Ticker

Breaking news from all corners of academe.

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October 17, 2017 by [Liam Adams](#)



U. of Maryland Student Is Charged With Hate Crime in Killing of Bowie State Student

Sean Christopher Urbanski was charged on Tuesday with committing a hate crime in the May 20 killing of Richard W. Collins III at the University of Maryland at College Park, *The Washington Post* reported. Mr. Urbanski, who is white, had been arrested in the stabbing of Mr. Collins, a black student at Bowie State University.

The FBI and other authorities are investigating whether Mr. Urbanski's attack was racially charged. He was a member of the Facebook group "Alt-Reich: Nation." Mr. Urbanski, who was a student at Maryland, has also been charged with first- and second-degree murder and first-degree assault.

Mr. Collins, who was waiting for an Uber ride with friends, was approached by Mr. Urbanski, who said, "Step left if you know what's best for you," according to the police. When Mr. Collins refused, the police say, Mr. Urbanski stabbed Mr. Collins and fled the scene. Mr. Collins, a newly commissioned U.S. Army lieutenant who was to [graduate from Bowie State only a few days later](#), died soon after being stabbed.

Angela Alsobrooks, the Prince George's County state's attorney, wants Mr. Urbanski to face a maximum sentence of life in prison without parole if he is convicted, according to the *Post*. His trial will commence in January.

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This entry was posted in [Campus Climate](#), [Campus Safety](#), [Students](#). [Bookmark the permalink.](#)

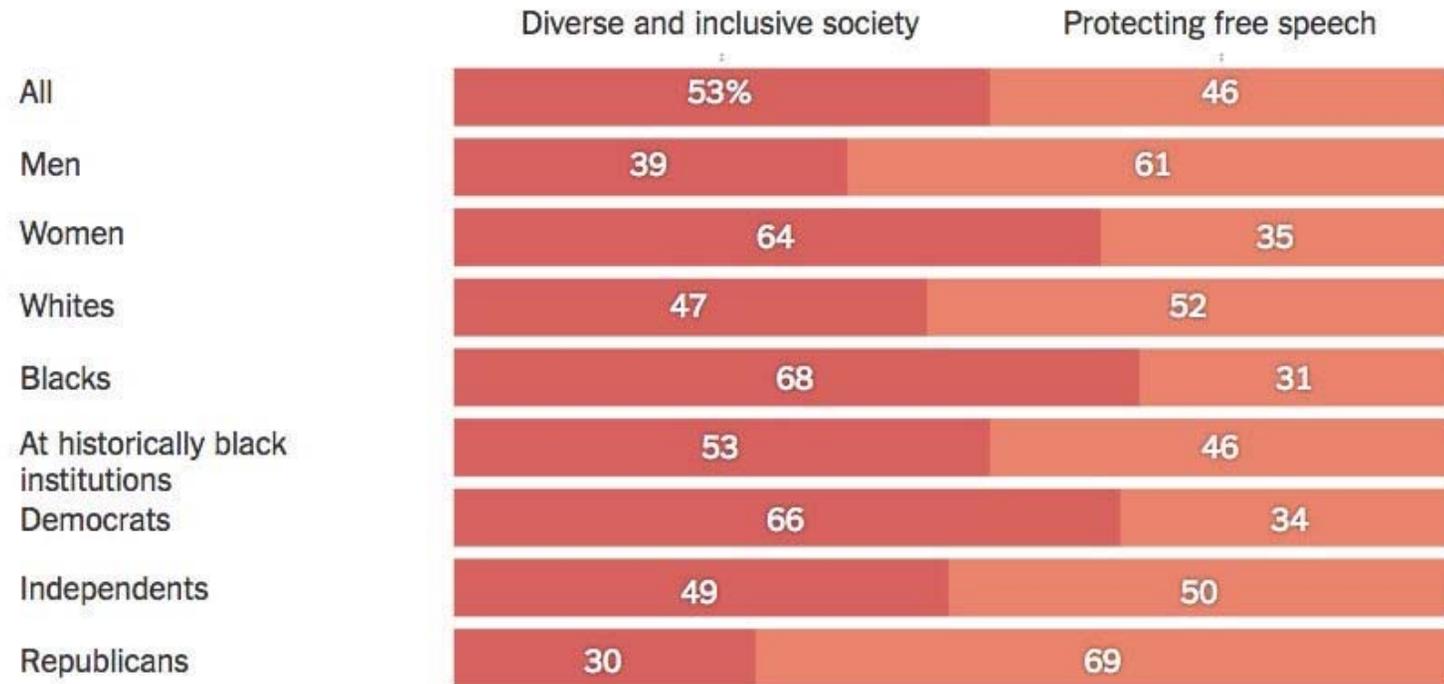


Are Inclusivity and Free Speech Compatible?

**(There's a Significant
Division of Opinion)**

Inclusivity is more important than speech, majority of students say

When forced to choose, a small majority of college students say inclusivity is more important than free speech, though they widely believe in the importance of both to democracy.



Note: Due to rounding, some percentages may not add up to 100 percent.

Source: Gallup survey of about 3,000 college students.

The AMERICAN INTEREST

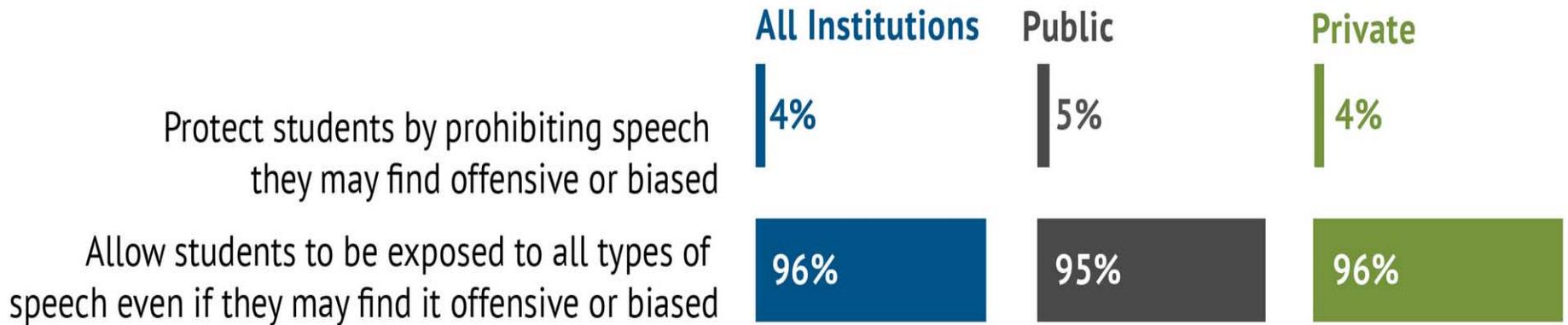
Campus Life

Professors Support Free Speech By Samuel J. Abrams

“Specifically, professors were asked to choose between two types: ‘An open learning environment where students are exposed to all types of speech and viewpoints, even if it means allowing speech that is offensive or biased against certain groups of people’ or ‘A positive learning environment for all students that prohibits certain expressions of speech or viewpoints that are offensive or biased against certain groups of people.’

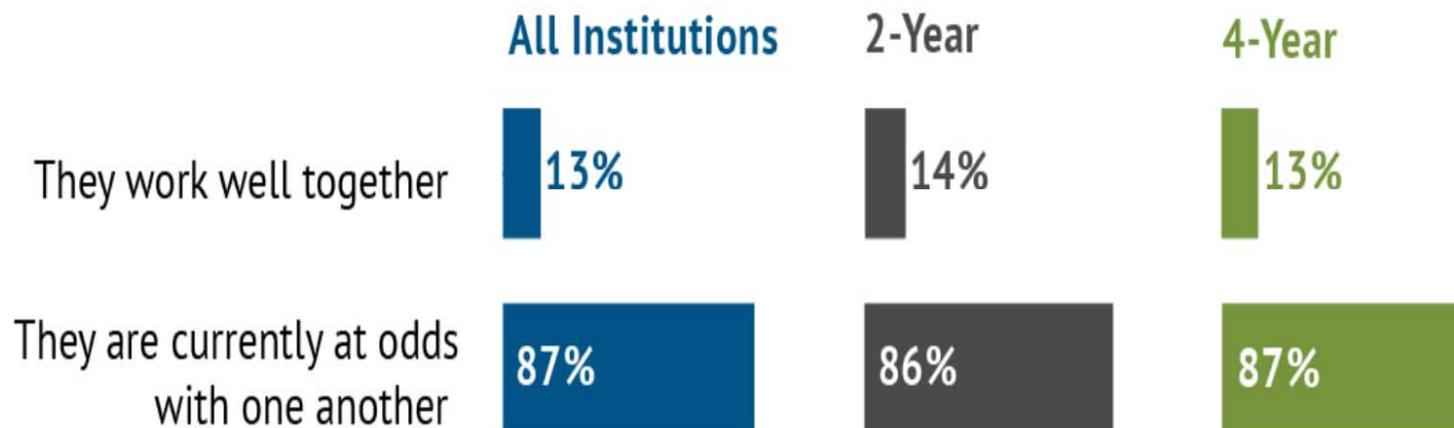
A large majority of professors—69 percent—support an open environment where students are exposed to all types of speech, while only 31 percent favored positive environments where speech can be limited to help ensure that all students feel safe and respected.”

If you had to choose, do you think it is more important for colleges to:



Source: *Pulse Point Presidential Survey on Campus Inclusion and Free Speech*, American Council on Education, 2018.

How do you perceive the current relationship between campus inclusion and free speech nationally?



Source: *Pulse Point Presidential Survey on Campus Inclusion and Free Speech*, American Council on Education, 2018.

The Chronicle

The independent news organization at Duke University.

Students, alumni express frustration with Larry Moneta's tweet on hate speech, freedom of expression

By Ben Leonard | 04/27/2018

“Larry Moneta, vice president of student affairs, issued a statement via Twitter on Thursday in response to a student's use of a racial epithet in a Snapchat.

His tweet early Friday morning about the idea of prohibiting free speech on college campuses, however, sparked a firestorm of responses on social media from students and alumni alike in the wake of a second racially charged incident coming to light later that morning.”



Larry Moneta

@Dukestuaff

Boston sports fan, grandfather (yay!) and collector of colleges

Durham, NC

Joined December 2010



Larry Moneta

@Dukestuaff

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To those who believe that colleges and universities should prohibit hate speech, I encourage you to read this:
[yalebooks.yale.edu/book/978030022 ...](http://yalebooks.yale.edu/book/978030022...)

Freedom of expression protects the oppressed far more than the oppressors.

7:23 AM - 27 Apr 2018

7 Retweets 17 Likes



26 7 17



HLWJ @HenryWashJr · Apr 27

Replying to @Dukestuaff

Beyond disagreeing with you, I think telling students who are asking you to do something about being targets of hate speech to 'go read a book' is intellectually dishonest and ethically irresponsible

65 195



Ari Carri @carri_ari · Apr 27



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Larry Moneta @Dukestuaff · Apr 27

To those who believe that colleges and universities should prohibit hate speech, I encourage you to read this: yalebooks.yale.edu/book/978030022...

Freedom of expression protects the oppressed far more than the oppressors.

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Replying to @Dukestuaff

You're literally trolling us. 2 incidents of RACIST HATE SPEECH in 2 days and you're talking about oppressors being less protected than oppressed people?

Knowing that administrators have views like this serves to make us feel even more unsafe.

10:40 AM - 27 Apr 2018

6 Retweets 57 Likes



1 6 57

Joseph Williams @joseph1066will1 · 9h



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the bar is in hell | she/hers | [#weare52pc](#) | Duke'19

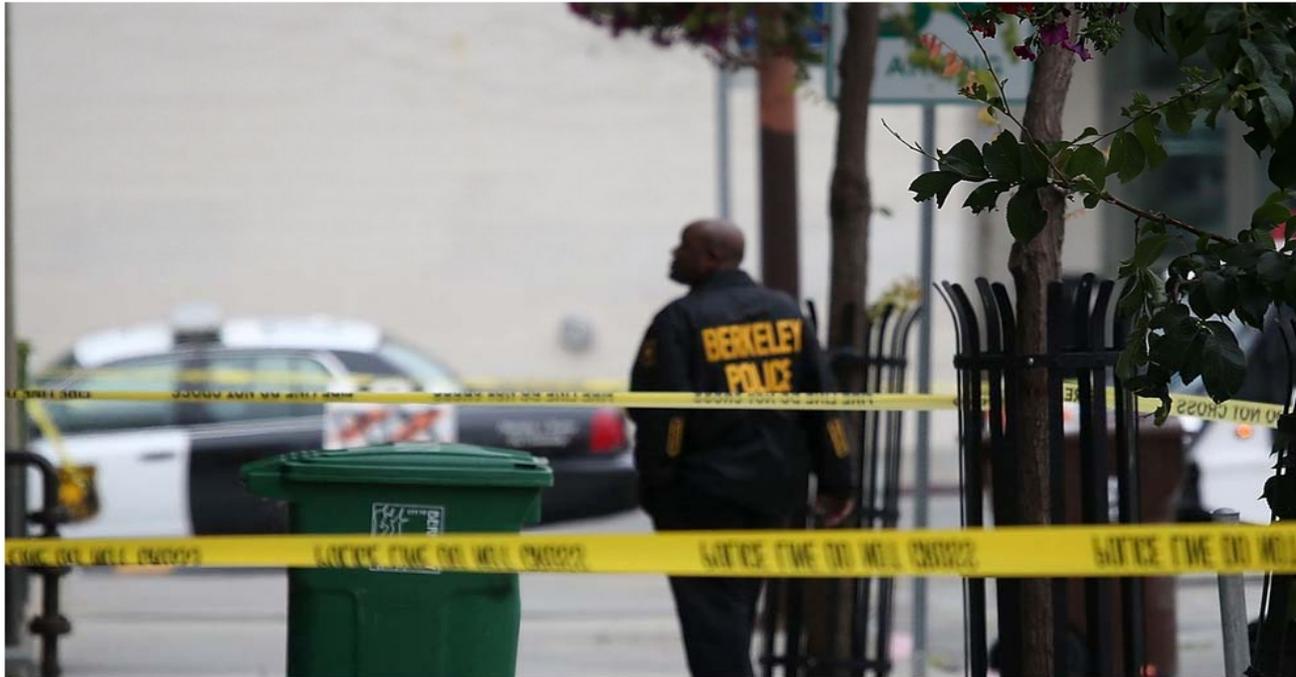
📍 Somewhere between KE and NC

thebridgeis.com

📅 Joined July 2015

The Issue of Student “Safety”

Berkeley Campus On Lockdown After Loose Pages From ‘Wall Street Journal’ Found On Park Bench



BERKELEY, CA—Advising students to remain in their dormitories and classrooms until the situation was resolved, the University of California, Berkeley declared a campuswide lockdown Thursday after several loose pages from *The Wall Street Journal* were found on a park bench outside a school building. “At 11:15 this morning, several pages from two separate sections of today’s *Wall Street Journal* were discovered spread across a bench outside of Eshleman Hall in Lower Sproul Plaza,” read the urgent alert

How to be a parent in 2017: Make sure your children's academic, emotional, psychological, mental, spiritual, physical, nutritional, and social needs are met while being careful not to over stimulate, under stimulate, improperly medicate, helicopter, or neglect them in a screen-free, processed foods-free, GMO-free, negative energy-free, plastic-free, body positive, socially conscious, egalitarian but also authoritative, nurturing but fostering of independence, gentle but not overly permissive, pesticide-free two-story, multilingual home, preferably in a cul-de-sac with a backyard and 1.5 siblings spaced at least two years apart for proper development, also don't forget the coconut oil.

How to be a parent in literally every generation before ours:
Feed them sometimes.





The Freedom
to Write

Pen America Principles for Campus Free Speech

“It is important to distinguish among the need to keep all students physically safe; the need, also important, to be sensitive to students who have suffered trauma; and the more general desire to avoid conflictual or upsetting debates or confrontations. These objectives are not the same and should not be treated as if they are.”



Larry Moneta @Dukestuaff · Apr 27

To those who believe that colleges and universities should prohibit hate speech, I encourage you to read this: yalebooks.yale.edu/book/978030022...

Freedom of expression protects the oppressed far more than the oppressors.

26 7 17



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The Yale Herald

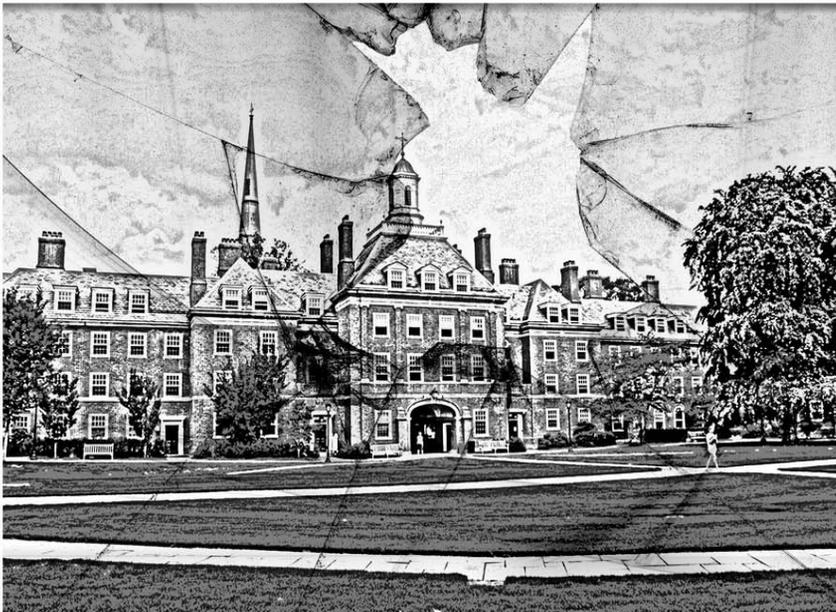
YALE'S MOST DARING PUBLICATION SINCE 1986

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OP-EDS

Hurt at home

BY JENCEY PAZ / NOVEMBER 6, 2015 / 5



GRAPHIC BY ALEX CHANSON

MOST RECENT FROM THE BULLBLOG



Bullblog Blacklist: November 6, 2015



Credit/D/Fail: November 6, 2015



Letter from an editor: November 6, 2015



Excuses I Used To Get Out of Voting In The Ward 1 Elections



Bullblog Blacklist: October 30, 2015

“But more disappointing than the original email has been the response of Christakis and her husband, Silliman Master Nicholas Christakis. ***They have failed to acknowledge the hurt and pain that such a large part of our community feel. They have again and again shown that they are committed to an ideal of free speech, not to the Silliman community.***

....

Christakis has yet to truly acknowledge to the entire Silliman community that he has hurt people. The closest he has gotten to this is sending out an open invitation to brunch at his house to further discuss the issue. Essentially, it was an invitation to debate more. But ***we don't want to debate more. We want to be able to go home at night in a place where we feel welcome and wanted.***”

34% OF TRANS PEOPLE ATTEMPT SUICIDE

30% OF SUICIDES ARE LGBT RELATED

OVER 40% OF BISEXUAL PEOPLE CONSIDERED SUICIDE

 FASCIST SOLUTIONS



Dear Students, Faculty and Staff:

At Cleveland State University, our foremost priority is maintaining a welcoming environment that provides opportunities for learning, expression and discourse.

CSU remains fully committed to a campus community that respects all individuals, regardless of age, race, color, religion, national origin, sexual orientation and other historical bases for discrimination.

CSU also is committed to upholding the First Amendment, even with regard to controversial issues where opinion is divided. We will continue to protect free speech to ensure all voices may be heard and to promote a civil discourse where educational growth is the desired result.

Be assured that a spirit of inclusiveness will always be central to the very identity of our University.

Sincerely,

Ronald M. Berkman



Berkman issued another statement Tuesday saying that he "wanted to acknowledge that yesterday I failed to express my personal outrage over a recent incident involving an anti-LGBTQ+ poster."

"While I find the message of this poster reprehensible, the current legal framework regarding free speech makes it difficult to prevent these messages from being disseminated," he wrote. "However, let me make it clear that I am committed to promoting a safe and inclusive campus for all members of our community. I recognize this incident has created significant concern around the campus."

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Federal court rules in favor of Richard Spencer speech

By Chip Brownlee | Community Editor | 04/17/17 10:37pm



Source | via V@s on Flickr

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Virtual Print Edition





Letter from Provost and Chief Diversity Officer regarding Spencer event

Published: Apr 18, 2017



Dear Auburn Family,



Over the past week, Auburn University has faced attempts by uninvited, unaffiliated, off-campus groups and individuals to provoke conflict that is divisive and disruptive to our campus environment. Whether it's offensive rhetoric, offensive flyers around campus, or inappropriate remarks on social media, we will not allow the efforts of individuals or groups to undermine Auburn's core values of inclusion and diversity and challenge the ideals personified by the Auburn Creed.

Auburn University supports the rights and privileges afforded by the First Amendment. However, when the tenets of free speech are overshadowed by threats to the safety of our students, faculty, and staff, we have a responsibility to protect our campus and the men and women who unite our academic community. The decision to cancel the Richard Spencer event last week was informed by leadership from all of the university's shared governance groups and the Auburn Police Division, all of whom articulated legitimate concerns for the safety and security of our campus.

This afternoon, a federal judge ruled that Auburn must allow Spencer to speak in the Foy Auditorium tonight. It is now more important than ever that we respond in a way that is peaceful, respectful, and maintains civil discourse. We are aware that various campus groups have planned events for this evening. Please know that additional security measures are being taken by the Auburn Police Division to uphold the safety of our community.

The Provost's Office will support requests from faculty and students to miss classes this evening.

Respectfully,

Timothy R. Boosinger,
Provost and Vice President for Academic Affairs

Taffye Benson Clayton
Associate Provost and Vice President for Inclusion and Diversity



Photo Credit: Evelyn Hockstein/*Washington Post*

POLITICS

After Charlottesville, Colleges Vow to Do Something. But What?

By EMILY BAUMGAERTNER SEPT. 8, 2017



Students at the University of Virginia, in Charlottesville, last month, a week after a white nationalist rally took place on campus. "No one is born hating another person," the quote by Nelson Mandela reads. "People must learn to hate." Jacquelyn Martin/Associated Press

Legal Grounds to Turn Away White Supremacist Speakers

By Jeremy Bauer-Wolf August 17, 2017

Legal experts say that though public institutions are obligated to preserve campus free expression, **the tragedy that played out in Virginia over the weekend likely gives presidents more concrete grounds to bar Spencer and his affiliates -- at least in the short term.** They warn, however, that the reasoning the institutions gave for canceling -- ensuring student and locals' safety -- should be applied as judiciously possible.

Given how recent the events of Charlottesville are, **presidents could reasonably assume the violence could be replicated,** [Michael A. Olivas, the William B. Bates Distinguished Chair in Law at the University of Houston Law Center] said Wednesday.

Damaging the white supremacists' case for the right to speak was their public association of Charlottesville with the prospective events in September. A press release advertising the now canceled "White Lives Matter" rally at Texas A&M was headlined "Today Charlottesville, Tomorrow Texas A&M." Similar language was used to promote the planned Florida speech.

The judge in Auburn's lawsuit found no imminent threat to that campus, which is "clearly" not the case now, said Robert M. O'Neil, a former president of the University of Virginia, where the white nationalists, bearing torches, marched on Friday. O'Neil is a First Amendment scholar who also serves as a senior fellow at the Association of Governing Boards of Colleges and Universities.

"If you look more closely at **the Auburn** situation, the **judge did not find any evidence of incitement or the propensity for it on Spencer's part at that time**," O'Neil said. "**The situation is dramatically different today.**"

Olivas, in the interview Wednesday, said he believes the legal situation could change in a few months. "**If nothing like this happens again and no one is harmed seriously, the season will turn** and they'll come in around Thanksgiving," he said. "**It's very difficult to say no to them forever.**"

Message from President Fuchs : UF Denies Request For Speaking Event

For more information call 1-866-UF-Facts

Aug. 16, 2017

Dear Campus Community:

Amid serious concerns for safety, we have decided to deny the National Policy Institute's request to rent event space at the University of Florida.

This decision was made after assessing potential risks with campus, community, state and federal law enforcement officials following violent clashes in Charlottesville, Va., and continued calls online and in social media for similar violence in Gainesville such as those decreeing: "The Next Battlefield is in Florida."

I find the racist rhetoric of Richard Spencer and white nationalism repugnant and counter to everything the university and this nation stands for.

That said, the University of Florida remains unwaveringly dedicated to free speech and the spirit of public discourse. However, the First Amendment does not require a public institution to risk imminent violence to students and others.

The likelihood of violence and potential injury – not the words or ideas – has caused us to take this action.

Warm Regards,



W. Kent Fuchs
President
University of Florida





Tweet



Jack Stripling Retweeted



Gary Fineout
@fineout



.@UF President Fuchs says school told Richard Spencer has retained lawyer, trying to still hold event. Says UF prepared to defend decision

8/30/17, 8:02 PM

10 Retweets 9 Likes



Gary Fineout @fin 8/30/17

Tweet your reply



The Washington Post

University of Florida considers allowing speech by Richard Spencer in October

The University of Florida turned down a request for Spencer to speak Sept. 12. But on Thursday, university officials announced they were considering a request for a speech Oct. 19. They said their decision will not be official until they are satisfied that they can avoid safety risks, among other things.

“As a public institution, UF is required by law to make a good faith effort to provide options for a reasonable date, time and campus venue, no matter how much we detest the points of views expressed,” they wrote in a statement. The university will assess safety and security risks; officials have been meeting daily with state, local and federal law enforcement agencies for the past month on a comprehensive campus and community security plan, they wrote.

“UF deplures Spencer’s and the National Policy Institute’s rhetoric and views, which run counter to those of this institution. We also acknowledge that many of our students, faculty and staff are disproportionately impacted by their racism,” the statement said. However, the statement said, **“UF supports the constitutional right to free speech, and our role as a public university includes legal obligations to allow a wide range of viewpoints to be expressed by external groups — even when they are contrary to the core values of our university.”**

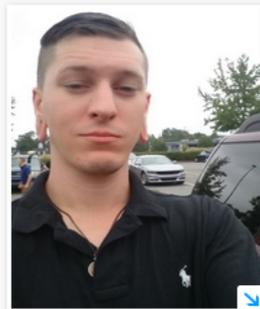
[09/09/17]

Pizza chain fires VT worker who joined Charlottesville rally

Adam Silverman and April McCullum, Burlington Free Press Published 4:20 p.m. ET Aug. 15, 2017 | Updated 9:42 p.m. ET Aug. 16, 2017



Lisa Green, a resident of Charlottesville, Virginia, where protests turned violent over the weekend, speaks in Burlington on Sunday, Aug. 13, 2017, about the events. ELIZABETH MURRAY/FREE PRESS



(Photo: COURTESY)

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An employee at a South Burlington chain pizza restaurant was fired Tuesday after he participated in this weekend's violent white supremacist rallies in Charlottesville, Virginia.

"Ryan Roy has been terminated," Skip Weldon, chief marketing officer for Boston-based Uno Pizzeria and Grill, told the Burlington Free Press on Tuesday evening.

Weldon added in an emailed statement: "We are committed to the fair treatment of all people and the safety of our guests and employees at our restaurants."

RELATED: Free speech rights get complicated in the VT workplace

Following a high-profile Vice News report on the situation in Charlottesville, numerous

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FROM THE USA TODAY NETWORK





Photo Credit: Getty Images

UNR, ACLU defend right of UNR student who attended white nationalist rally

Sam Gross and Siobhan McAndrew, Reno Gazette-Journal | Published 3:57 p.m. PT Aug. 14, 2017 | Updated 8:27 p.m. PT Aug. 14, 2017



Peter Cytanovic, who also goes by the name Peter Cvjetanovic, spoke to the RGJ in an interview on Monday. Siobhan McAndrew/RGJ



(Photo: Andy Barron/RGJ)

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The University of Nevada student who attended a white nationalist rally last weekend in Virginia will not be expelled and will keep his on-campus job, university officials announced Monday.

Officials from UNR and the American Civil Liberties Union of Nevada referenced the First Amendment in defending Peter Cytanovic, a 20-year-old history and political science major.

[UNR student pictured at Charlottesville rally: Things 'spiraling out of control'](#)

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TOP VIDEOS

Cytanovic was identified in a photograph as a participant in the Charlottesville rally that protested the removal of a statue of the Confederacy's top general Robert E. Lee. The rally turned deadly on Saturday when a white nationalist drove his car into a crowd of counter-protesters, killing one and injuring 19.

"We have no legal or constitutional basis upon which to expel him from his studies or terminate him from employment, and we will not," said UNR President Marc Johnson at a press conference Monday. "What he did was to go to Charlottesville, participate in a rally: which is under the constitutional right to assembly. And he spoke out, which is his right to free speech."

"The university does not necessarily — well, we definitely do not — support the content of his message," Johnson said. "But **we have no constitutional or legal right to fire him from his job or expel him from the university.**"

Questions were raised about whether Cytanovic had violated the UNR student code of conduct, which can find a student in violation for discrimination based on things including race, sexual orientation and disability. **Vice President of Student Services Sharon Ellis said Cytanovic did not violate the student code of conduct.**

#News #Diversity

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Kicked Out for Racism

Civil liberties supporters want University of Alabama president to reverse expulsion of student who posted racist rants, saying her First Amendment rights were violated.

By [Jeremy Bauer-Wolf](#) // January 23, 2018

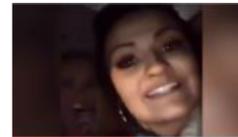
78 COMMENTS



Note: This article contains explicit and potentially offensive terms that are essential to reporting on this situation.

The cases were similar and the punishment was the same.

Not even three years ago, many Americans applauded as the University of Oklahoma kicked out two fraternity members for their role in helping lead a racist chant that was recorded and went viral. But despite popular support for that decision and the shuttering of the campus chapter of Sigma Alpha Epsilon, legal experts said the institution had actually flouted the students' First Amendment rights, which protects even the vilest of speech.



Harley Barber in her online rant

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DIVERSITY MATTERS

INSIDE HIGHER ED

So, When is “Hate Speech” Unprotected?



Photo Credit: Alejandro Alvarez/*Washington Post*

BUSINESS INSIDER

By Michelle Mark August 16, 2017

Vice's documentary, including its interview with Cantwell, showed white nationalists at the rally **openly embracing racism and violence** in Charlottesville last weekend.

At one point, Reeve asked whether Cantwell believed white people were capable of violence, to which Cantwell responded, "Of course we're capable. **I'm carrying a pistol**, I go to the gym all the time, **I'm trying to make myself more capable of violence**," he said.

Cantwell even disputed Reeve's suggested description of the movement as "nonviolent." **"I'm not even saying we're nonviolent,"** he said. "I'm saying that f----- we did not aggress. We did not initiate force against anybody. We're not nonviolent — **we'll f----- kill these people if we have to.**"

Incitement = Advocacy:

- (1) directed to inciting or producing imminent lawless action, and**
- (2) likely to incite or produce such action**

Brandenburg v. Ohio (U.S. 1969)



“I’m going to stand my ground tomorrow and shoot every black person I see.”

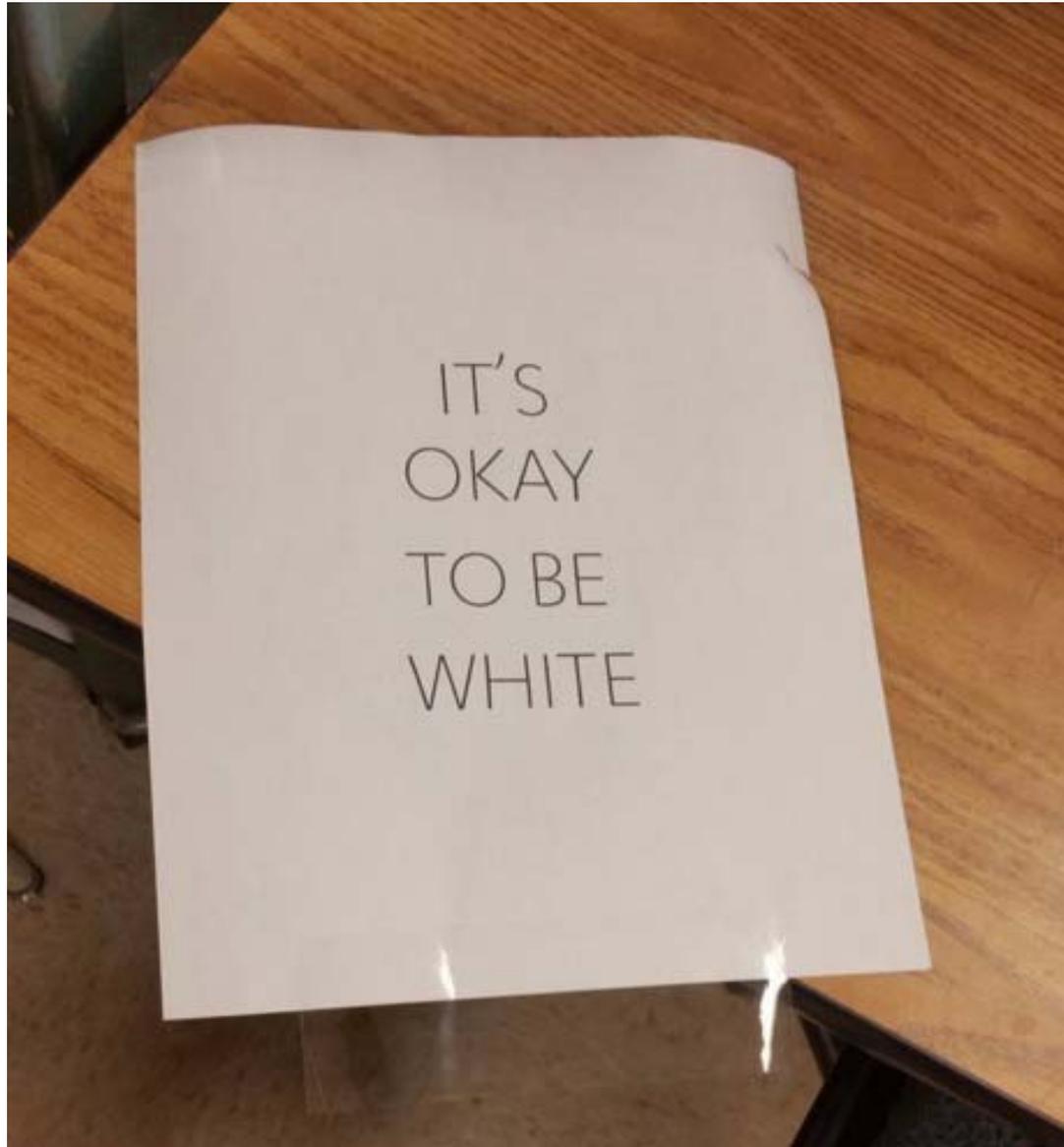
“Some of you are alright. Don’t go to campus tomorrow.”

“We’re waiting for you at the parking lots. We will kill you.”

True Threat =

- (1) a speaker directs a threat
- (2) to a person or group of persons
- (3) with the intent of placing the victim
in fear of bodily harm or death

Virginia v. Black (U.S. 2004)







Undergraduate Record 2016-2017

Protests and Demonstrations. *Peaceful protests and demonstrations on outdoor University property* are permitted unless they disrupt normal operations or obstruct access to offices or buildings. Unauthorized entry into or occupation of any University office, building or area is prohibited. Protesters may assemble and express their views, but may not disrupt an invited speaker or hinder the ability of other attendees to see or hear a speaker. Persons engaging in disruptive behavior may be removed, subject to disciplinary action, and/or prosecuted for trespass, disorderly conduct, or other offenses under state law.





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UNIVERSITY
of VIRGINIA

HRM-009: Preventing and Addressing Discrimination and Harassment

Date: 04/08/2008 **Status:** Final

Last Revised: 09/03/2015

Policy Type: University

Contact Office: [Equal Opportunity and Civil Rights \(Office for\)](#)

Oversight Executive: President of the University

Applies To: Academic Division, the Medical Center, and the College at Wise. Specifically, present and former employees of the University, students, applicants for admission or employment, and participants in University programs or activities (includes customers for services, vendors, contractors, and volunteers).

Table of Contents:

[Policy Statement](#)

[Procedures](#)

Reason for Policy:

The University is committed to providing a workplace and educational environment, programs, and activities free of discrimination and harassment. This policy does not allow curtailment or censorship of constitutionally protected expression.

Definition of Terms in Statement:

Complaint: Allegation(s) of discrimination, harassment and/or retaliation, filed in good faith and in accordance with EOP's [Preventing and Addressing Discrimination](#),

Harassment:

- (1) **Unwelcome** conduct
- (2) **directed against a person**
- (3) **based on** one or more of that person's **protected characteristics** or statuses,
- (4) which conduct is **so severe or pervasive**
- (5) that it **interferes with** an individual's employment, academic performance or participation in University programs or activities,
- (6) **and creates** a working, learning, program or activity **environment that a reasonable person would find intimidating, hostile or offensive.**

Title VI

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

Title IX

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

The New York Times

In College and Hiding From Scary Ideas

By Judith Shulevitz March 21, 2015

“Universities are in a double bind. They’re required by two civil-rights statutes, Title VI and Title IX, to ensure that their campuses don’t create a ‘hostile environment’ for women and other groups subject to harassment. However, universities are not supposed to go too far in suppressing free speech, either. If a university cancels a talk or punishes a professor and a lawsuit ensues, history suggests that the university will lose....”

The Washington Post

Feminists at Mary Washington say they were threatened on Yik Yak

By Justin Jouvenal and T. Rees Shapiro May 6, 2015

On multiple occasions, Banks and McKinsey said that Feminists United met with the school president and other officials about the problems. **Feminists United said that Mary Washington should have blocked Yik Yak on the school's WiFi and taken action to identify the offenders.**

In March, school officials e-mailed students about Yik Yak, saying the university had “no recourse for cyberbullying” and urged them to report incidents to the social-media site. They told students to report any direct threats to the administration or campus police.

Billingsley said that **the school consulted with Virginia's attorney general but that its options were constrained when it came to limiting access to Yik Yak.** They worried that blocking it might impinge on other students' right to free speech. “There are First Amendment concerns when you are a state institution,” Billingsley said.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

FEMINIST MAJORITY FOUNDATION et al.,
Plaintiffs,

v.

Civil Action No. 3:17-cv-00344-JAG

UNIVERSITY OF MARY WASHINGTON et al.,
Defendants.

OPINION

This case arises from the cyberbullying of a student-run feminist organization at the University of Mary Washington (“UMW”). The cyberbullying occurred primarily through a social media smartphone application called Yik Yak. Yik Yak allowed users to anonymously share messages—called “yaks”—with other users within a certain radius (e.g., with users at or around UMW). Other users could then anonymously comment on yaks or could vote up or down on the yaks. During the 2014–2015 school year, users on Yik Yak harassed the plaintiffs by posting insulting, derogatory, and threatening yaks. The plaintiffs complained to UMW about the harassment, and eventually filed a complaint against UMW under Title IX.

The plaintiffs have now sued UMW, along with its current and former presidents, for violations of Title IX and the Equal Protection Clause. The defendants have moved to dismiss. Because UMW has limited, if any, control over Yik Yak, the plaintiffs’ Title IX discrimination claim fails. Their Title IX retaliation claim fails because UMW took no retaliatory action against the plaintiffs. Finally, because no constitutional violation occurred, let alone a clearly establish

“In this case, **the Title IX discrimination claim fails because the harassment took place in a context over which UMW had limited, if any, control—anonymous postings on Yik Yak.** Nevertheless, UMW attempted to take some action, such as holding sharing circles to discuss the issue of cyberbullying. Further, when a yak targeted a member of Feminists United specifically and made her feel unsafe attending meetings on campus, a UMW police officer attended the meetings. **While UMW did not take the specific action requested by the plaintiffs, Title IX does not require funding recipients to meet the particular remedial demands of its students. This holds true especially where some of the actions requested—such as banning Yik Yak from the campus wireless network—may have exposed the university to liability under the First Amendment.**”

Feminist Majority Foundation v. University of Mary Washington (E.D.Va. 2017)

THE DAILY CALIFORNIAN

UC Berkeley students harassed after Milo Yiannopoulos publicly identifies them

By Olivia Nouriani | Staff Thursday, September 21, 2017

Milo Yiannopoulos publicly posted the photos and identifying information of ASUC Senator Juniperangelica Cordova-Goff and campus doctoral student Adam Jadhav on Wednesday, spurring harassment from his supporters.

Yiannopoulos posted a screenshot of one of Cordova-Goff's Facebook posts on his Instagram account after she condemned chalk graffiti that targeted undocumented and LGBTQ+ individuals. Yiannopoulos also published a photo of Jadhav after Jadhav notified his political ecology students that Tuesday's class would be cancelled for "Free Speech Week."

THE DAILY CALIFORNIAN

ASUC Senator Hani Hussein also reported Islamophobic and xenophobic comments being posted on her official Facebook page Wednesday. ... Hussein deactivated her Facebook page. She called on campus administration to take responsibility for the incidents. **Cordova-Goff also said in her statement that the harassment “could have been, and should have been, prevented by the university itself.”**

Chancellor Carol Christ released a campus-wide email condemning “hateful incidents” occurring around campus. UCPD is investigating whether the incidents constitute hate crimes, the email said.

University of Virginia bans organizer of white supremacist rally from campus

By **Joe Heim** April 27 at 7:25 PM [✉ Email the author](#)



The University of Virginia has banned from its campus the organizer of last summer's white supremacist rally. (Norm Shafer for The Washington Post)



The University of Virginia today issued the following statement:

The University of Virginia issued a no-trespass warning to Jason Kessler of Charlottesville on Thursday evening. The University is in the process of serving Mr. Kessler with the warning.

The warning was issued due to multiple reports from students that Mr. Kessler threatened them, targeted them through cyber-bullying and cyber-harassment, and targeted them based on protected characteristics. Kessler also intentionally and purposefully misled officers of the University Police Department regarding the torchlight rally that he helped organize on Aug. 11. His conduct on Aug. 11 threatened the health and safety of members of the University community. The warning is consistent with long-standing University practice and current policy [PRM-018]. The warning effectively bans Mr. Kessler from being on University property.



Home



In case you missed it

Scott Greenfield Retweeted



Atticus Goldfinch @Atticu... · 11h

THATS THE POINT OF THE FUCKING BOOK

AL.com @aldotcom

School district pulls 'To Kill A Mockingbird' from reading list; 'makes people uncomfortable,' official says trib.al/2zObDXh



643 40.2K 99K



ROTH ON WESLEYAN

Black Lives Matter and So Does Free Speech

September 19, 2015 by mroth

Search ...



This afternoon, Provost Joyce Jacobsen, Vice-President Antonio Farias and I sent the following message to the student newspaper The Argus. Along with other faculty and staff, I am happy to discuss these issues with members of the campus community in the coming days and weeks.

Many students turned out for a powerful panel discussion on the importance of the Black Lives Matter movement earlier this week. The panelists underscored issues of structural racism in general and police brutality in particular. Earlier in the week *The Argus* published an op-ed that questioned whether “the [BLM] movement itself [is] actually achieving anything positive? Does it have the potential for positive change?” Many students took strong exception to the article; it was meant to be a provocative piece. Some students not only have expressed their disagreement with the op-ed but have demanded apologies, a retraction and have even harassed the author and the newspaper’s editors. Some are claiming that the op-ed was less speech than action: it caused harm and made people of color feel unsafe.

Debates can raise intense emotions, but that doesn’t mean that we should demand ideological conformity because people are made uncomfortable. As members of a university community, we always have the right to respond with our own opinions, but there is no right not to be offended. We certainly have no right to harass people because we don’t like their views. Censorship diminishes true diversity of thinking; vigorous debate enlivens and instructs.

In the long run, Wesleyan will be a much more caring and inspiring community when we can tolerate strong disagreements. Through our differences we can learn from one another.



Michael S. Roth became Wesleyan University's 16th president on July 1, 2007.

We welcome comments from readers, but reserve the right not to publish certain comments, such as those that are anonymous or appear to be spam.

FOLLOW @MROTH78 ON TWITTER



Michael S Roth

What a great alumni event for @wesleyan_u in NYC. Anybody have pics?



Heterodox Academy

“The 9 hours ago

