

Educating for Democracy in Undemocratic Contexts: Avoiding the Zero-Sum
Game of Campus Free Speech Versus Inclusion

Nancy Thomas
Tufts University

Author Note

Nancy Thomas, Institute for Democracy and Higher Education, Tisch College, Tufts University.

Correspondence regarding this article should be addressed to Nancy Thomas, Director, Institute for Democracy and Higher Education, Tisch College of Civic Life, Tufts University, Lincoln Filene Hall, Medford, MA 02155. E-mail: Nancy.Thomas@tufts.edu

Abstract

The debate over free speech and inclusion in higher education is not new, but it has reached new levels of vitriol and confusion as legislators and others beyond the academy argue for unfettered speech. Mandating speech rights on campuses undercuts decades of learning around diversity, inclusion, and equity in higher education and in public life by mainstreaming undemocratic forces in some factions in U.S. society that thrive on creating divisiveness and fear of “the other.” Those with an absolutist perspective take a zero-sum game approach by pitting the important American principles of freedom and individualism against the equally important principles of equity and community. Not only is this an unnecessary choice, but it infringes on academic freedom and the right of academics to decide how best to educate for the health and future of democracy. Academic content, standards, norms, and pedagogy should be based on educational goals and objectives. The solution lies in fostering discussion about democratic principles and practices as well as a sense of shared responsibility among members of a campus community for student learning and success.

Keywords: academic freedom, free speech, diversity, equity, inclusion, civic learning and engagement, political learning, campus climate, campus culture, educating for democracy, student activism, dialogue, deliberation

Since the 2016 election season, many people and organizations outside of academia—legislators, partisan pundits, and self-appointed watchdogs—have weighed in on the state of free speech on college and university campuses. For instance, in August 2017, drawing from model legislation drafted by the Goldwater Institute (Goldwater, 2017), North Carolina passed the Restore Campus Free Speech Act, which mandated that the Board of Regents adopt regulations protecting controversial speakers and disciplining students who interrupt those speakers. The law also requires academics to remain “neutral” about political controversies. Campus free-speech laws have been passed in California, Colorado, Florida, Missouri, Tennessee, Utah, Virginia, and Wisconsin, and have been proposed in Georgia, Illinois, Michigan, Nebraska, and Wyoming (see Appendix); the Louisiana governor, however, vetoed proposed legislation in June 2017 (Deslatte, 2017), and the Kansas Senate narrowly rejected a bill in March 2018 (Hancock, 2018). Though they all fall under the category of free-speech legislation, the laws vary from state to state: Some allow speakers to seek monetary damages from institutions from which they are disinvented; others mandate that students who interfere with speakers face disciplinary action; and others eliminate free speech “zones.” The federal government has also become involved in such matters. In October 2017, U.S. Attorney General Jeff Sessions announced that the Justice Department would intervene in cases related to speech on campus and since then the department has filed a “statement of interest” in at least three cases (Greenwood, 2017; U.S. Department of Justice, 2018).

People on both sides of the political aisle have derided free speech codes and zones, as well as “coddling” students by “creating a culture in which everyone must think twice before speaking up, lest they face charges of insensitivity, aggression, or worse” (Lukianoff & Haidt, 2016). Jeffrey Herbst, current president of the Newseum, has insisted that the “real problem” facing colleges and universities is “an alternative understanding of the First Amendment” as a right to “prevent expression that is seen as particularly offensive to an identifiable group, especially if that collective is defined in terms of race, ethnicity, gender, or sexual identity” (Herbst, 2017, p. 2).

Meanwhile, in August 2017, academics—indeed, the entire nation—watched in horror as White supremacists carrying torches marched in Charlottesville and a man plowed his car into a crowd of counter-protesters, murdering Heather Heyer and injuring dozens of others. Two weeks later, 100

White nationalists, marching in a self-described “Free Speech Rally” in Boston, faced a response from over 40,000 counter-protesters (Danner, 2017). Shortly thereafter, a unanimous, bi-partisan Congress passed a joint resolution denouncing what had happened and decrying White supremacy and neo-Nazism as “hateful expressions of intolerance that are contradictory to the values that define the people of the United States” (Joint Resolution 49, 2017). Countering bad speech with more speech and good speech has seemingly been embraced as a sensible solution, not only in the public square but on campuses.

I regularly serve on conference panels or work with faculty or administrators on this topic. In my conversations with leaders of public higher education institutions,¹ they have made clear their legal parameters. They may not prohibit or censor speech absent (1) violence or dangerous actions, (2) imminent safety concerns, (3) disruption to in-class education (and, in some cases, to living spaces or professional offices), or (4) repeated harassment targeting individuals, not groups, because of their social identity.²

While I do not agree that public institutions have no choice but to allow all speech, I also do not think that the occasional racist speaker who addresses a few dozen people largely from off-campus represents the most significant challenge facing campuses. I am more concerned by how students and faculty who express hateful or discriminatory views can deeply affect the learning experiences of other students, particularly those who are the targets of that speech. The University of Alabama recently expelled such a student (Kerr, 2018) while the University of Nebraska allowed another student to stay (Quilantan, 2018). On campuses where these toxic students persist, faculty and administrators breathe a sigh of relief when they graduate, after which the campus climate improves, not just for minoritized groups but for all students. Yet, I have an even deeper concern about the rise of undemocratic forces in some segments of American society and the ability—or, rather, inability—of colleges and universities to name and teach about those forces

¹ The First Amendment applies to government actors, which include public colleges and universities but not private institutions. Private institutions have more leeway, but for most, free expression is important to robust learning and ideas, and as a result is often a normative value, if not a written principle, in institutional handbooks or the written materials of both public and private institutions.

² The First Amendments is the subject of thousands, if not millions, of pages of judicial decisions, law review articles, books, chapters, articles, and courses, so I cannot provide a “primer” in this space. I have, however, recorded a [webinar](#) that offers a short overview of the law. I also recommend Chemerinsky and Gillman’s *Free Speech on Campus* (2017).

without government intrusion. Both are matters of academic freedom, particularly of how colleges and universities educate for responsible citizenship³ in a diverse democracy.

I certainly understand the appeal of the argument that colleges and universities should be places of unfettered speech. Of all the ideals expressed in the Bill of Rights, freedom of speech is arguably the most cherished. Most Americans support the right to free speech and strongly oppose government censorship (Wike & Simmons, 2015). In fact, free speech possesses transcendent value in the United States; citizens feel strongly that they should be free to express their views on the most controversial ethical, political, and social issues of the day. Free speech is widely held as an essential individual protection against unreasonable government intrusion. It is also critical to democratic governance, since the robust exchange of information and ideas is central to responsible civic engagement, such as voting and informed oversight of public affairs and policy making. Without free expression, civil rights and other social movements could be suppressed. Without a doubt, these are valid and powerful arguments.

That said, I encourage a more rigorous discussion about free speech on campus, one that is framed by educators, not partisan lawmakers or self-appointed watchdogs outside of higher education. Not only do these laws infringe on students' rights to speech (protest and activism), they overreach. In 1973, in a case about obscenity in commercial speech, Chief Justice Burger warned against adopting "an absolutist, 'anything goes' view of the First Amendment" (*Miller v. California*, 1973). Free speech is not, nor has it ever been, "absolutist," particularly on college and university campuses, which are not synonymous with public square or streets; rather, they are learning environments with educational standards and goals.

Despite its legal backing, unfettered speech on campuses may undermine decades of learning around diversity, inclusion, and equity in higher education and public life, and allow undemocratic forces that thrive on creating divisiveness and fear of "the other" to seep into the mainstream. An absolutist perspective takes a zero-sum game approach to this issue by pitting the important American principles freedom and individualism against the equally important values of equity and community. This is an unnecessary and ill-advised choice, since it infringes on the

³ I use the terms *citizen*, *citizenry*, and *citizenship* throughout this article to denote residency and civic participation, not legal status.

right of academics to decide how best to educate for the health and future of democracy. Content, standards, norms, and pedagogy should be based on educational goals and objectives, not politically motivated external mandates.

Civic learning for a strong democracy and academic freedom are symbiotic. Academics enjoy the privilege of academic freedom so they can fulfil their responsibilities to educate for a stronger democracy (Thomas, 2015). Campuses must discuss and establish institutional norms for achieving and sustaining this symbiosis.

How Did We Get Here? Decades of Work on Diversity, Equity, and Inclusion

Much of the current debate about speech on campus traces back decades to efforts in higher education to serve new populations of students. Affirmative action, increases in minority student enrollment, and the introduction of interdisciplinary programs such as women's studies and African-American studies prompted fierce backlash from people who disagreed with the critical frameworks informing these emerging disciplines or who wanted (whether consciously or subconsciously) to maintain racial and gender hierarchies. Higher education came under attack for diluting "the canon" and "closing minds" (Bloom, 1987), for enabling "tenured radicals" (Kimball, 1990), and for separating groups of people through multiculturalism and political correctness (D'Souza, 1991).

As a new university attorney specializing in academic and student affairs in the late 1980s, I spent more time addressing this topic (and *in loco parentis*) than any other issue. From my perspective, campuses at that time looked like hotbeds of bigotry and intolerance. Some incidents were characterized as sophomoric, misguided attempts at humor. Student groups, for instance, raised money by selling t-shirts that read, "15 reasons why beer is better than women" ("#1: Beer doesn't get jealous when you grab another one" and "#7: When you are finished, the bottle is still worth 5 cents"). Fraternity pledges wore blackface while performing skits in front appreciative audiences. Some "pranks" were both abhorrent and dangerous; one fraternity was suspended after two members passed out and were left naked, their bodies painted with racial slurs, at a nearby Black college (Applebome, 1989).

Many of these incidents represented intentional expressions of hatred and bigotry: Swastikas and racist graffiti on walls; anonymous notes containing racist or homophobic; hate mail sent to women attending formerly men's colleges. Professors also faced personal attacks. Students directed vicious and belittling

verbal attacks at faculty based on their personal characteristics and social identity (e.g., see Casey, 1989). In a 1989 survey of Black students at predominantly White colleges across the country, four out of five respondents reported having experienced some form of racial discrimination (Applebome, 1989). These acts of blatant hatred and bigotry still happen, but in the 1980s and 1990s, their frequency—and the fact that they were largely student-peer-driven—shocked educators. Bewildered and outraged, well-meaning administrators (and their lawyers) sought to shield new students from intimidation and from negative educational experiences that were substantially different from and unequal to the learning experiences of traditional students.

Responses varied. Most colleges and universities already had in place anti-discrimination policies that protected employees and students on the basis of race, gender, ethnicity, national origin, religion, physical ability, and, increasingly, sexual orientation. Between 1987 and 1992, an estimated one third of colleges and universities adopted hate speech codes (Gould, 2005, pp. 16-17), which were met with charges of censorship, identity politics, and political correctness. Courts consistently struck down speech policies at public institutions as vague or overly broad and therefore unconstitutional (e.g., see *Doe v. University of Michigan*, 1989). Campuses had a difficult time making the case that hate speech directed at groups protected under nondiscrimination laws rose to a level of targeted, repeated harassment that created truly hostile, illegal learning environments.

Dissuaded from attempting to regulate student speech, campuses responded by implementing curricular and co-curricular interventions, such as cultural studies and centers, intergroup-relationship programs, interfaith centers, first-year experiences, living-learning communities, internal assessments of institutional climates for diversity, and more. Part of the motivation behind these efforts was practical. Prospective employers sought diverse candidates, especially as research repeatedly demonstrated an association between gender and racial workforce diversity and greater profits, earnings, and customer share (Herring, 2009) and enhanced leadership, innovation, and productivity (Robinson, Pfeffer, & Buccirossi, 2003; Thompson-Reuters, 2016). In other words, campuses needed to admit and graduate diverse groups of students to keep up with employer demands.

Over time, efforts to diversify programs and people became more mainstream, with many colleges and universities eventually supporting offices and senior positions in diversity and inclusion. Legal challenges to considering race in

admissions failed, at least temporarily (*Gratz v. Bollinger*, 2003; *Grutter v. Bollinger*, 2003), and though racist speech and incidents still occurred, they were normatively unacceptable and were often subject to stringent disciplinary responses. I will not pretend that all became quiet, inclusive, and equal. Significantly, income gaps between people of color and Whites remain as extreme as they were five decades ago (Campos, 2017). Organizations like the Southern Poverty Law Center and the Anti-Defamation League highlight, through rigorous tracking, the sickening numbers of hate crimes against racial, religious, LGBTQ, and ethnic groups. Structural inequality continues to plague this nation, particularly in the criminal justice and education systems. The academy continues to struggle to differentiate among naïve or uninformed statements, senseless but intentional insults, genuine injury, and provocative yet productive conflict and dissent. These trends notwithstanding, I found it hopeful that, over the course of three decades, the right and responsibility of colleges and universities to educate for a diverse workforce and democracy became well established and that racist, sexist, and other forms of hate speech became more normatively, culturally, and institutionally unacceptable.

Arguably, things changed during and since the 2016 election season. According to statistics collected by the U.S. Department of Education, the number of hate crimes rose approximately 25% in the latter part of 2016 (Bauman, 2018). In January 2018, the Anti-Defamation League reported that racist fliers, banners, and stickers were found on college campuses 147 times in the fall of 2017, three times more than the 41 cases reported the previous year; 15 incidents had already taken place in January (Anti-Defamation League, 2018). In the Spring 2018 issue of *Intelligence Report*, the Southern Poverty Law Center reported that the number of hate groups rose to 954 in 2017, up 4% from 2016 (Beirich & Buchanan, 2018, p. 35). Neo-Nazi groups saw the greatest growth in 2017, up from 99 to 121 (pp. 35-36). Anti-Muslim groups also rose for the third straight year, tripling in 2015-2016 and increasing another 13% in 2017 (p. 36). Distressingly, colleges and universities seem to be primary targets of White supremacist and hate groups.

The states' free-speech laws may mainstream these perspectives and, in the process, set the nation back decades. The academy has been here before and responded with concerted educational initiatives. Academics do not need to rehash this debate or roll back progress.

Pitting Freedom Against Equity

I argue that Americans have been duped into playing a zero-sum game between the core democratic principles of freedom and equity. Clearly, Americans value freedom, but when freedom means “I demand my right to live free of any responsibility for others or for society,” it can result in harm, if not sustained inequality, for others. Unfortunately, academics oftentimes feel forced to choose between the two.

First published in 1985, *Habits of the Heart* (Bellah, Madsen, Sullivan, Swidler, & Tipton) was discussed widely at the time I returned to school to study education leadership and policy. Using Alexis de Tocqueville’s 1831 visit to America as a launching off point for their book, the authors identified individualism as the driving cultural force in society. Individualism, they argued, caused (and causes) Americans to form small communities of family and friends and isolate themselves from broader society—an observation that still resonates today. In their chapter entitled “Pursuit of Happiness,” the authors wrote:

Freedom is perhaps the most resonant, deeply held American value. In some ways, it defines the good in both personal and political life. Yet freedom turns out to mean being left alone by others, not having other people’s values, ideas, or styles of life forced upon one.... [I]f the entire social world is made up of individuals, each endowed with the right to be free of others’ demands, it becomes hard to forge bonds of attachment to, or cooperation with, other people since such bonds would imply obligations that necessarily impinge on one’s freedom. (Bellah et al., 1985, p. 23)

They concluded that individuality and community are not opposed but, instead, mutually dependent. Americans recognize that too much freedom undermines a democratic republic, which is why they accept representative systems in which lawmakers are charged with making just laws that, for example, prohibit discrimination.

More recently, the work of Danielle Allen (2014) has made a compelling and, to my mind, persuasive case that defining documents in U.S. history identify equality⁴ as a core democratic principle in American society. Relying on the first

⁴ Space constraints in this article prevent the important discussion clarifying the terms *equity*, *equality*, and *equal opportunity*. I distinguish them this way: providing fair access (equal opportunity) or treating everyone the same way (equality) is not the same as considering

line in the *Declaration of Independence*—“We hold these truths to be self-evident, that all men are created equal”—and other historical sources, she echoed the concerns expressed in *Habits of the Heart*:

Political philosophers have generated the view that equality and freedom are necessarily in tension with each other. As a public, we have swallowed this argument whole. We think we are required to choose between freedom and equality.... Such a choice is dangerous. If we abandon equality, we lose the single bond that makes us a community, that makes us a people with the capacity to be free collectively and individually in the first place. I for one cannot bear to see the ideal of equality pass away before it has reached its full maturity. (Allen, 2014, p. 21)

I am not arguing for neutrality, that colleges and universities should somehow remain agnostic about which social ends—that is, freedom and individualism or equity and community—carry more heft. There are also other important considerations, such as individual and collective well-being, personal and shared responsibility, and social connectedness. When the relative weights of democratic principles are “objectively” balanced to force a choice, the outcome all too often reflects the opinions and preferences of those in power. Any exploration of these tensions that places free speech in the default position and starting point will tip the discussion in favor of freedom and individualism and away from equity and community.

Higher education’s responsibility to educate for democratic citizenship and the hierarchy of prevailing democratic principles is an inherently political task rendered more difficult by today’s hyper-partisan context. Both Americans and elected officials have become increasingly polarized over the past 30 years (Pew Research Center, 2017) and it is affecting perspectives on higher education. In July 2017, the Pew Research Center reported that 58% of Republicans indicated that colleges and universities have a negative effect on “the way things are going in this country” (Fingerhut, 2017).⁵ In October 2017, Gallup reported that 67% of Republicans had “some” or “very little” confidence in higher education because they believed that colleges and universities are “too liberal,” “push their own

differences in order to achieve fair outcomes (equity). The terms are related but not interchangeable.

⁵ This compares with the results of the 2015 survey in which 37% of respondents said higher education’s effect was negative, and 54% said it was positive.

agendas,” and “don’t allow students to think for themselves” (Gallup, 2017). In contrast, Democrats in the same poll believed that higher education is “essential to the nation” but too expensive (Gallup, 2017).

A critical examination of freedom and equity should include an explicit examination of power and opportunity. For freedom to have meaning, everyone in the society should live in a climate of acceptance and tolerance in which choices can be made freely. The nation has yet to eradicate economic, social, and political inequality, in its systems and structures and in the hearts of its citizens. Colleges and universities should model for society ways to make equity more than an aspiration—which may mean adopting a view of freedom as essential but also accountable to the campus community.

Academic Freedom and Campus Climates

Academic freedom is most often understood as comprising protections for individual faculty members against unreasonable censorship of or interference by governments, administrations, or boards in their teaching, scholarship, or expressions of public opinion. At private institutions, academic freedom is usually interpreted as a contractual right; at public institutions, it is both contractual and constitutional. However, faculty academic freedom has limits. Institutions can sanction faculty for unprofessional conduct, ineffective teaching, false statements, arbitrary grading, or refusal to adhere to certain policies (e.g., accreditation requirements).

It is widely accepted that, subject to professorial professional standards (e.g., fair grading), professors have academic freedom in the classroom. They have the right to establish standards for student learning, behavior, civility, and respect. They may establish requirements regarding the expression of students’ opinions, insisting that statements be supported by evidence and facts. Likewise, they may demand acceptable sources for intellectual arguments. They may also forbid students from interrupting classroom learning by, for instance, bringing in disruptive guests or insulting the professor.

Academic freedom also belongs to individual institutions. U.S. Supreme Court Justice Frankfurter in *Sweezy v. New Hampshire* (1957) wrote:

It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment, and creation. It is an atmosphere in which there prevail the “four essential freedoms” of a university—to

determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.

The freedom of a university to make its own educational judgments served as one rationale in the major affirmative action cases allowing institutions to determine, on academic grounds, whether race could be considered in admissions decisions (*Grutter v. Bollinger*, 2003; *Regents of the University of California v. Bakke*, 1979).

People outside of academia, such as lawyers and politicians, draw lines on campus demarcating the limits of speech: In certain spaces, mainly the classroom, educators may control speech because that is where learning happens, while in other spaces (e.g., the quad), speech cannot be limited. These arbitrary and outdated lines fail to reflect the current research on how students learn and the importance of context, institutional culture and climate, and the learning environment.

Numerous studies have pointed convincingly to the significant impacts of the larger learning environment, not just the classroom, on student learning and success. For example, in their review of 30 years of research on how to improve student learning, Pascarella and Terenzini (1998) found that multiple forces shape learning and success and called for a broad range of interconnected changes and improvements. Reason and Terenzini identified the “organizational context” as critical to the student experience (Reason, 2009), while campus culture and climate have become common concerns of academics seeking proactive rather than reactionary approaches to challenges on campus (Peterson & Spencer, 1990; Ryder & Mitchell, 2013) and to improving student learning outcomes (Hurtado, Griffin, Arellano, & Cuellar, 2008; Tierney, 2008). In fact, some researchers have used the terms *culture* and *climate* interchangeably (Glisson & James, 2002; Hart & Fellabaum, 2008). Educators typically study campus climates to gain an understanding of and to address a particular problem (e.g., alcohol use, sexual misconduct) or to gain insight into the experiences of students with different social identities (e.g., women, students of color, historically marginalized groups) (Hurtado et al., 2008; Kuh et al., 2005). The research institute I direct studies campus climates in the context of political learning and engagement in democracy, exploring students’ perceptions about culture (norms, traditions, and symbols), structure (offices and programs), human attributes (compositional diversity, behaviors), and internal (decision making) and external (political context) forces (Thomas & Brower, 2017).

It simply does not make educational sense to conclude that learning is relegated to the classroom when decades of research suggest that learning is deeply connected to a complex ecosystem across campus. Colleges and universities have the academic freedom to set educational standards and goals beyond the classroom.

In research conducted by the Institute for Democracy and Higher Education at Tufts University, my colleagues and I found that students want free expression but draw the line at hateful speech (Thomas & Brower, 2017). More recently, a March 2018 Gallup/Knight Foundation survey of U.S. college students revealed that while students supported the First Amendment generally, they approved of limits to speech in support of a campus learning environment in which diversity and inclusion are respected and protected. Specifically, 53% of students supported limiting hate speech on campus (46% supported unlimited speech) and 37% believed that shouting down speakers is sometimes acceptable (Gallup/Knight Foundation, 2018).

These attitudes help explain the motivations behind student protests and attempts to shut down speakers whose views they believe to be racist, sexist, homophobic, or xenophobic. Three decades ago, administrators drove efforts to diversify higher education and create welcoming campus learning conditions for new student populations. Today, the drivers are the students.

I agree that shouting down or blocking access to controversial speakers is not good practice. In addition to potentially disrupting learning, shouting down speakers has the potential to garner support for that speaker's viewpoints. Instead of censoring or punishing student protesters, educators (and decision makers, including state legislators) need to listen to students and hear what they are saying when they try to interrupt speakers or demand a disciplinary response to classmates who unapologetically espouse hate against minorities, since those students may also be responding to toxic and exhausting learning conditions. Movements like #MeToo and #BlackLivesMatter serve as critical reminders that discrimination is embedded in structures, cultures, attitudes, behaviors, and political systems that impact lives; students expect their colleges and universities settings to be different and better. Campuses are their temporary homes, and when students protest, they may be taking responsibility for those homes, effectively saying, "Not in my back yard." They want institutional leaders to acknowledge that not all attitudes and speech belong in a learning environment, particularly, as the U.S. Congress articulated in the wake of the Charlottesville march, "hateful expressions of

intolerance that are contradictory to the values that define the people of the United States.”

Academic freedom gives educators the right to teach toward the goals of diversity and inclusion and maintaining healthy campus climates for all, not just some, students. Ultimately at stake is the ability of colleges and universities to educate not only for democracy but also against undemocratic forces emanating nationally and globally.

Next Steps

I write this article under the assumption that U.S. colleges and universities share certain goals, namely that students will learn and graduate with the knowledge and skills they need for individual success and prosperity, and that students will be prepared to participate in and shape a democracy that is truly participatory and deliberative, representative and equitable, educated and informed, and effectively and ethically governed (Thomas, 2014). How higher education institutions achieve these goals should be shaped by academics, not external policy makers. In the concluding sections, I offer some concrete suggestions for college and university educators.

Assess the Campus Climate for Political Learning and Engagement in Democracy

Do not assume that students, faculty, and staff feel a certain way (e.g., oppressed, insulted, angry, apathetic, hopeless), that normative values espoused by the institution (e.g., respect, social responsibility) shape the campus community, or that curricular efforts (e.g., civic learning experiences) achieve their goals. Assess your campus climate and identify the strengths and weaknesses surrounding political learning, discourse, equity, and participation. At the Institute for Democracy and Higher Education, my colleagues and I developed a conceptual framework for examining an institution’s structures, norms and culture, attitudes and behaviors, and internal decision-making process, as well as the external political forces surrounding an institution. We recommend qualitative approaches—predominantly focus groups—because “the medium is the message.” Campuses need to develop habits of discussion across differences of social identity, political perspective, and lived experiences. Embed those practices in the assessment process.

Bolster Student Well-Being and Social Cohesion

Our research found that creating conditions for political learning was connected to the social-emotional well-being of students and social cohesion among diverse groups of students. Students need to develop trusting relationships with each other and with faculty. Colleges and universities can support strong faculty-student relationships and advising, establish hotlines and services for students who may be at risk emotionally, academically, or financially, and create welcoming physical spaces for historically underserved, commuter, nontraditional, and international students. These efforts should also include providing opportunities for students with more conservative perspectives to find each other and find a niche on campus.

Host Campus-Wide Dialogues on Institutional Norms and Structures

Campus-wide dialogues should be carefully organized and facilitated. It helps if a campus already teaches students, faculty, and staff the arts of facilitation and discussion. On four of the most politically engaged campuses we visited to conduct studies of political climates, students, regardless of their discipline, took required courses in which they were taught, as one student explained, to “disagree without being disagreeable.” In these courses, students learned to frame issues; to examine multiple, even unpopular, perspectives; to advocate, often for a position they did not personally hold; and to discuss controversial issues across differences of social identity and political ideology. The professors had been trained and were viewed by the students as skilled discussion leaders capable of defusing conflict without stifling viewpoints. One caveat, however, is that the professors held students to high intellectual standards and required them to support opinions with evidence and facts. Students reported that, despite contentious debates, they left the classroom “still friends.”

On other campuses, students learned to engage in difficult discussions in co-curricular experiences. On one campus, students could not participate in community-based learning or study abroad without participating in intergroup dialogue training and mock conversations. Two of the institutions supported centers for public dialogue and local problem solving. On one campus, seniors in student government trained incoming student government members and leaders of SGA-supported clubs in the arts of dialogue and collaborative decision making.

Host Discussions on Free Speech and Inclusion

Colleges and universities should host campus-wide dialogues on the First Amendment, its history and current application in higher education, and the many perspectives on it. Present the “absolutist” perspective alongside the perspective that hate speech is not welcome on a college campus. This will increase knowledge about the importance of free speech, enhance awareness of how some speech affects different people, and advance discourse skills.

As I noted earlier, colleges and universities struggle to differentiate among naïve or uninformed statements, senseless but intentional insults, genuine injury, and provocative yet productive conflict and dissent. Students share responsibility with others in the campus community for making their learning experiences, and those of their peers, positive and productive. Yet, there should be room for mistakes, naiveté, and dissent. Conflict is almost always an opportunity for learning.

Again, I am no fan of speech codes, and I do not think that institutional dialogues should result in speech codes or regulations. The best response, as campuses learned in the 1990s, is through educational programming. Speech “zones” and “walls” where people are encouraged to share their views, even if unpopular, can spur discussions and ideas; however, free speech should not be exclusively relegated to these spaces.

Revisit Symbols and Traditions

Traditions and symbols matter. Students and faculty at the campuses the Institute visited could point to events—a first-day celebration, a convocation parade in which faculty wearing academic regalia walked with the students, or a graduation with a community picnic—that sent messages to the campus community about the importance of community and social cohesion. Alternatively, imagine students walking onto campus the first day and facing a banner espousing White nationalist groups, which nearly happened at Appalachia State University in the fall of 2017 (Bawab, 2017). Such messaging is antithetical to the aims of higher education and will negatively impact an institution’s ability to achieve its educational goals.

Many campuses today are engaging in discussions about buildings named after people who held anti-Semitic or racist views. These discussions offer myriad learning opportunities for students about democracy’s history, principles, practices,

and tensions. When done well, they can bring a campus together around shared goals and means for achieving those goals.

Support Student Activism and Leadership; Listen to Student Perspectives

Student activism is nothing new to higher education, but it may be approaching levels not seen in nearly a half century. In the 1960s and early 1970s, students protested the Vietnam war, gender discrimination, and racial discrimination. In the 1980s, they fought against apartheid in South Africa, demanding that their institutions divest from companies that supported racist regimes and, later, sweatshop labor. In that era, students also demanded changes in curricula, expanding interdisciplinary and cultural studies to the point that they are now common in higher education. On some campuses, student activism has been met with punishment, sometimes driven by pressure from legislators, donors, or trustees. The most extreme response to student activism, of course, happened at Kent State University, where the Ohio National Guard opened fire on demonstrators, and, two weeks later, at Jackson State University, where two Black students were killed by campus police during a confrontation.

The Black Lives Matter movement against police violence and institutionalized racism triggered demonstrations and “die-ins.” As a result of the 2016 election, students have left campus to participate in women’s marches and other protests nationwide. Likewise, the recent surge of interest in decreasing gun violence among high school students has spread to colleges and universities.

Higher education institutions can expect more activism on the part of students, including activism about limiting free speech in the interest of eliminating hateful rhetoric, discrimination, and undemocratic forces in parts of the nation, as well as activism against policies viewed as liberal, such as affirmative action. Rather than trying to quash these efforts, colleges and universities should view them as opportunities to work with students to teach the arts of organizing, social change, and collaborative leadership. Activism should be welcomed as perhaps the clearest example of students taking initiative and exercising leadership. Students want to be heard. Perhaps the best response is to listen.

Make Decisions Based on Sound Academic Grounds, Not Partisan Perspectives

Making decisions about educational content based on party affiliation is impermissible. College and university administrators need to be honest about their

motives when screening speakers or censoring viewpoints. Understandably, this is challenging. When members of political parties stand behind policies and actions that are antithetical to educational values and goals, including inequality and discrimination, it is hard to condemn ideas without sounding partisan. Hopefully, the lines will get easier to draw. Tellingly, influential Republican leaders have come out against the “Unite the Right” rally in Charlottesville. Conservatives and liberals do and should debate issues such as crime, mass incarceration, terrorism, gun control, etc., and in doing so, welcome all perspectives. The problem is not Republicans or even conservative perspectives per se; the problem is White supremacy, White nationalism, and demagogic populism, as well as inequality and discrimination. Talking about ideas, not parties, will help academics avoid conflating these many influences.

Resist Partisan Intrusion in Academic Affairs

The assumption that students are easily indoctrinated and that they are not allowed to think for themselves, as revealed in the 2017 Gallup report, is unsupported by research. According to the Higher Education Research Institute at UCLA, incoming students arrive with already formed political viewpoints. In fact, the first-year class in 2016 was the most politically polarized group in the 50-year history of the Freshman Survey (Eagan et al., 2017). In addition, several studies have refuted the claim that students change their political orientation while in college (Colby, Beaumont, Ehrlich, & Corngold, 2007; Mariani & Hewitt, 2008; Woessner & Kelly-Woessner, 2009). Examining a nationally representative sample of more than 7,000 undergraduates, Mayhew, Rockenbach, Selznick, and Zagorsky (2018) concluded that after the first year of college, 48% of students viewed liberals more favorably than when they arrived on campus and 50% viewed conservatives more favorably. The authors concluded that “college attendance is associated, on average, with gains in appreciating political viewpoints across the spectrum, not just favoring liberals” (Mayhew et al., 2018). This is precisely the kind of outcome educating for democracy should yield.

Uphold Democratic Principles and Practices

Inevitably, academics will find themselves forced to make statements and take positions that promote democratic principles and practices—and there are many opportunities. Many states have strict voter identification laws that disallow the use of student IDs for voter registration. In New Hampshire, the legislature is

currently considering a bill that would prevent students from voting in their places of domicile, despite a clear mandate from the U.S. Supreme Court conferring that right to students. In other legislation, North Carolina lawmakers forbid the removal of Confederate statues from public property, despite the governor's admission that the law "overreaches" into local affairs (Campbell, 2015). They had also passed a regulation prohibiting law students at a civil rights clinical program from engaging in their core work, litigation (Roll, 2017). These efforts undermine students' ability to participate in democracy, and colleges and universities must take a firm stance against them.

Colleges and universities need to move beyond viewing speech as a mandate and appreciate the current conditions as a learning opportunity. They need to provide students, faculty, staff, and, arguably, communities external to the campus (legislators, too) with forums for understanding why these tensions exist and how, collectively, members of the campus community can create the kind of educational environment where democratic principles and practices thrive. In this process, colleges and universities, particularly public institutions, will need to make some hard choices when faced with unapologetic White nationalists, for instance. In making these choices, colleges and universities will need to consider the undemocratic forces at work nationally and globally, as well as higher education's role in educating for democracy's health and future. Ultimately, I hope that academics will grapple with what it means to educate for the democracy that most want but that we do not have.

References

- Allen, D. (2014). *Our declaration: A reading of the Declaration of Independence in defense of equality*. New York: W. W. Norton.
- Anti-Defamation League. (2018). White supremacist propaganda surges on campus. Retrieved from <https://www.adl.org/education/resources/reports/white-supremacist-propaganda-surges-on-campus>
- Applebome, P. (1989, November 21). Two sides of the contemporary south: Racial incidents and Black progress. *New York Times*. Retrieved from <http://www.nytimes.com/1989/11/21/us/two-sides-of-the-contemporary-south-racial-incidents-and-black-progress.html>
- Bauman, D. (2018, February 16). After 2016 election, campus hate crimes seemed to jump. Here's what the data tell us. *Chronicle of Higher Education*. Retrieved from <https://www.chronicle.com/article/After-2016-Election-Campus/242577>
- Bawab, N. (2017, August 24). Appalachian State students greeted by white supremacy banner. *USA Today College*. Retrieved from <http://college.usatoday.com/2017/08/24/appalachian-state-students-greeted-by-white-supremacy-banner/>
- Beirich, H., & Buchanan, S. (2018). The year in hate and extremism. *Intelligence Report, Spring* (164), 32-68.
- Bellah, R., Madsen, R., Sullivan, W., Swidler, A., & Tipton, S. (1985). *Habits of the heart: Individualism and commitment in American Life*. Berkeley, CA: University of California Press.
- Bloom, A. (1987). *The closing of the American mind*. New York: Simon & Schuster.
- Campbell, C. (2015, July 23). McCrory signs ban on removing historical monuments. *News Observer*. Retrieved from <http://www.newsobserver.com/news/politics-government/state-politics/article28456504.html>.

- Campos, P. (2017, July 29). White economic privilege is alive and well. *New York Times*. Retrieved from <https://www.nytimes.com/2017/07/29/opinion/sunday/black-income-white-privilege.html>.
- Casey, J. (1989). At Dartmouth the clash of '89. *New York Times Magazine*. Retrieved from <http://www.nytimes.com/1989/02/26/magazine/at-dartmouth-the-clash-of-89.html?pagewanted=all>
- Chemerinsky, E., & Gillman, H. (2017). *Free speech on campus*. New Haven: Yale University Press.
- Colby, A., Beaumont, E., Ehrlich, T., & Corngold, J. (2007). *Educating for democracy: Preparing undergraduates for responsible political engagement*. San Francisco: Jossey-Bass.
- D'Souza, D. (1991). *Illiberal education*. New York: The Free Press, MacMillan.
- Danner, C. (2017). Tens of thousands march against hatred and white supremacy in Boston, overwhelm "free speech" rally. *New York Magazine*. Retrieved from <http://nymag.com/daily/intelligencer/2017/08/thousands-march-against-right-wing-rally-in-boston.html>
- Deslatte, M. (2017). Campus "free speech" bill struck down by Louisiana governor. *U.S. News and World Report*. Retrieve from <https://www.usnews.com/news/best-states/louisiana/articles/2017-06-27/campus-free-speech-bill-struck-down-by-louisiana-governor>.
- Doe v. University of Michigan, 721 F. Supp. 852 (E.D. Mich 1989).
- Eagan, M. K., Stolzenberg, E. B., Zimmerman, H. B., Aragon, M. C., Whang Sayson, H., & Rios-Aguilar, C. (2017) *The American freshman: National norms fall 2016*. Los Angeles: Higher Education Research Institute, UCLA. Retrieve from <https://www.heri.ucla.edu/monographs/TheAmericanFreshman2016.pdf>
- Fingerhut, H. (2017). Republicans skeptical of colleges' impact on U.S. but most see benefits for workforce preparation. *Pew Research Center*. Retrieved from <http://www.pewresearch.org/fact-tank/2017/07/20/republicans-skeptical-of-colleges-impact-on-u-s-but-most-see-benefits-for-workforce-preparation/>

- Gallup. (2017). Why are Republicans down on higher ed? Retrieved from <http://news.gallup.com/poll/216278/why-republicans-down-higher.aspx>
- Gallup/Knight Foundation. (2018). *Free expression on campus: What college students think about First Amendment issues*. Retrieved from https://kf-site-production.s3.amazonaws.com/publications/pdfs/000/000/248/original/Knight_Foundation_Free_Expression_on_Campus_2017.pdf
- Glisson, C., & James, L. (2002). The cross-level effects of culture and climate in human service teams. *Journal of Organizational Behavior*, 23(6), 767-794.
- Goldwater Institute. (2017). *Campus free speech: A legislative proposal*. Retrieved <http://goldwaterinstitute.org/article/campus-free-speech-a-legislative-proposal/>
- Gould, J. B. (2005). *Speak no evil: The triumph of hate speech regulation*. Chicago: University of Chicago Press.
- Gratz v. Bollinger, 539 U.S. 244 (2003).
- Greenwood, M. (2017). DoJ backs lawsuit alleging college violated free speech rights. *The Hill*. Retrieved from <http://thehill.com/homenews/administration/357145-justice-department-backs-lawsuit-alleging-college-violated-free>
- Gutter v. Bollinger, 539 U.S. 306 (2003).
- Hancock, P. (2018). Kansas Senate narrowly rejects campus free speech bill over LGBT concerns. Retrieved from <http://www2.ljworld.com/news/2018/mar/15/kansas-senate-narrowly-rejects-campus-free-speech/>
- Hart, J., & Fellabaum, J. (2008). Analyzing campus climate studies: Seeking to define and understand. *Journal of Diversity in Higher Education*, 1(4), 222-234.
- Herbst, J. (2017). Addressing the real crisis of free expression on campus. A paper published by the Newseum. Retrieved from http://www.newseuminstitute.org/wp-content/uploads/2017/04/WhitePaper_Herbst_FreeExpressionOnCampus.pdf

- Herring, C. (2009). Does diversity pay?: Race, gender, and the business case for diversity. *American Sociological Review*, 74(2), 208-224.
- Hurtado, S., Griffin, K. A., Arellano, L. & Cuellar, M. (2008). Assessing the value of climate assessments: Progress and future directions. *Journal of Diversity in Higher Education*, 1(4), 204-221.
- Joint Resolution 46, S.J. Res. 49, 115th Congress (2017-2018). Retrieved from <https://www.congress.gov/bill/115th-congress/senate-joint-resolution/49/text/es?format=xml&overview=closed>
- Kerr, E. (2018). Should students be expelled for posting racist videos? *Chronicle of Higher Education*. Retrieved from <https://www.chronicle.com/article/Should-Students-Be-Expelled/242364>
- Kimball, R. (1990). *Tenured radicals: How politics has corrupted our higher education*. New York: Harper & Row.
- Kuh, G., Kinzie, J., Schuh, J. Whitt, E., and Associates. (2005). *Student success in college*. San Francisco: Jossey-Bass.
- Lukianoff, G., & Haidt, J. (2016). The coddling of the American mind. *The Atlantic*. Retrieved from <https://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356>
- Mariani, M. D., & Hewitt, G. J. (2008). Indoctrination U.? Faculty ideology and changes in student political orientation. *PS: Political Science and Politics*, 41(4), 773-783.
- Mayhew, M., Rockenbach, A., Selznick, B., & Zagorsky, J. (2018). Does college turn people into liberals? *The Conversation*. Retrieved from <https://theconversation.com/does-college-turn-people-into-liberals-90905>
- Miller v. California, 413 U.S. 15 (1973).
- Pascarella, E.T., & Terenzini, P.T. (1998). Studying college students in the 21st century: Meeting new challenges. *Review of Higher Education*, 21(2), 151-165.
- Peterson, M. W., & Spencer, M. G. (1990). Understanding academic culture and climate. *New Directions for Institutional Research*, 1990(68), 3-18.

- Pew Research Center. (2017). Political polarization, 1994-2017. Retrieved from <http://www.people-press.org/interactives/political-polarization-1994-2017/>
- Quilantan, B. (2018). U. of Nebraska won't expel white nationalist student, chancellor says. *Chronicle of Higher Education*. Retrieved from <https://www.chronicle.com/article/U-of-Nebraska-Won-t-Expel/242476>
- Reason, R. (2009). An examination of persistence research through the lens of a comprehensive conceptual framework. *Journal of College Student Development*, 50(6), 659-682.
- Regents of the University of California v. Bakke, 438 U.S. 265 (1979).
- Robinson, M., Pfeffer, C., & Buccigrossi, J. (2003). Business case for inclusion and engagement. Retrieved from <http://www.bus.iastate.edu/emullen/mgmt472/Business%20Case%20for%20Diversity%20reading.pdf>
- Roll, N. (2017). UNC board bars litigation by law school center. *Inside Higher Ed*. Retrieved from <https://www.insidehighered.com/news/2017/09/11/north-carolina-board-bars-unc-center-civil-rights-litigating>
- Ryder, A., & Mitchell, J. (2013). Measuring campus climate for personal and social responsibility. *New Directions for Higher Education*, 2013(164), 31-48.
- Sweezy v. New Hampshire, 354 U.S. 234 (1957).
- Tierney, W. G. (2008). *The impact of culture on organizational decision making: Theory and practice in higher education*. Sterling, VA: Stylus.
- Thomas, N. (2014) Democracy by design. *Journal of Public Deliberation*, 10(1), Article 17. Retrieved from <http://www.publicdeliberation.net/jpd/vol10/iss1/art17>
- Thomas, N. (2015). The politics of learning for democracy. *Diversity and Democracy*, 19(2).
- Thomas, N., & Brower, M. (2017). Politics 365: Fostering campus climates for student political learning and engagement. In E. Matto, A. McCartney, E. Bennion, & D. Simpson (Eds.), *Teaching civic engagement across the disciplines*. Washington, DC: American Political Science Association.

- Thompson-Reuters. (2016). Making the business case for diversity. Retrieved from <https://blogs.thomsonreuters.com/answerson/business-case-for-diversity>
- U.S. Department of Justice. (2018). Justice Department files statement of interest in California college free speech case. *Justice News*. Retrieved from <https://www.justice.gov/opa/pr/justice-department-files-statement-interest-california-college-free-speech-case>
- Wike, R., & Simmons, K. (2015). Global support for principle of free expression, but opposition to some forms of speech. *Pew Research Center*. Retrieved from <http://www.pewglobal.org/2015/11/18/global-support-for-principle-of-free-expression-but-opposition-to-some-forms-of-speech/>
- Woessner, M., & Kelly-Woessner, A. (2009). I think my professor is a Democrat: Considering whether students recognize and react to faculty politics. *PS: Political Science and Politics*, 42(2), 343, 352.

Author Biography



Dr. Nancy Thomas directs the Institute for Democracy and Higher Education at Tufts University's Jonathan M. Tisch College of Civic Life, conducting research and providing assistance to colleges and universities to advance student political learning and participation in democracy. The Institute's signature initiative, the National Study of Learning, Voting, and Engagement (NSLVE), is a large dataset for research and provides each of the 900+ participating colleges and universities with their students' aggregate voting rates. Her work and scholarship center on higher education's democratic mission, college student political learning and engagement, free speech and academic freedom, and deliberative democracy on campuses and in communities. She is the author of multiple book chapters, articles, and the monograph, *Educating for Deliberative Democracy*. She is an associate editor of the *Journal of Public Deliberation* and a senior associate with Everyday Democracy. She received her law degree from Case Western Reserve University School of Law and her doctorate from the Harvard Graduate School of Education.

Appendix

Free Speech Laws Passed or Proposed as of March 1, 2018

Laws Passed

State: California

Title: Campus Free Speech Act

URL:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180ACA14

State: Colorado

Title: Right to Free Speech at Public Higher Ed Institutions

URL: <https://leg.colorado.gov/bills/sb17-062>

State: Florida

Title: The Campus Free Expression Act

URL: <http://www.flsenate.gov/Session/Bill/2018/4/BillText/er/HTML>

State: Missouri

Title: Campus Free Expression Act

URL: <http://www.senate.mo.gov/15info/pdf-bill/perf/SB93.pdf>

State: North Carolina

Title: North Carolina Restore/Preserve Free Speech Act

URL:

<https://www.ncleg.net/gascripts/billlookup/billlookup.pl?Session=2017&BillID=H527>

State: Tennessee

Title: Campus Free Speech Protection Act

URL: <http://www.capitol.tn.gov/Bills/110/Amend/SA0333.pdf>

State: Utah

Title: Campus Individual Rights

Act<https://le.utah.gov/~2017/bills/static/HB0054.html>

Title: Campus Free Speech Protection Act

URL: <https://le.utah.gov/~2017/bills/static/HB0054.html#53b-27-101>

State: Virginia

Title: Higher Educational Institutions' Free Speech on Campus

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+HB1401>

State: Wisconsin

Title: Campus Free Speech Act

URL: http://legis.wisconsin.gov/assembly/59/kremer/media/1316/17-2408_1.pdf

Legislation Proposed but Not Yet Passed

State: Georgia

Title: Georgia Campus Free Speech Act

URL: <http://www.legis.ga.gov/legislation/en-US/Display/20172018/SB/339>

State: Illinois

Title: Campus Free Speech

URL: <http://ilga.gov/legislation/billstatus.asp?DocNum=2939&GAID=14&GA=100&DocTypeID=HB&LegID=104448&SessionID=91>

State: Michigan

Title: Campus Free Speech Act

URL:

[http://www.legislature.mi.gov/\(S\(cybxwk00tw33clqpyzm1gsh\)\)/mileg.aspx?page=≡getobject&objectname=2017-SB-0349](http://www.legislature.mi.gov/(S(cybxwk00tw33clqpyzm1gsh))/mileg.aspx?page=≡getobject&objectname=2017-SB-0349)

State: Nebraska

Title: Higher Education Free Speech Accountability Act

URL: <https://nebraskalegislature.gov/FloorDocs/105/PDF/Intro/LB718.pdf>

State: Wyoming

Title: Higher Education Free Speech Protection Act

URL: <http://legisweb.state.wy.us/2018/Introduced/HB0137.pdf>