

Free Speech Is Not a Free-for-All

BY JONATHAN R. ALGER

Shortly before this academic year started, our nation was galvanized by a hate speech rally in Charlottesville, Virginia, that degenerated into violence. Scenes of an angry mob marching through a college campus carrying torches and shouting racist slogans, and a car mowing down counter-protesters, will be forever etched in our minds. The contentious national dialogue about free speech on campuses and in society intensified—but at what cost, and to what end?

Higher education leaders understandably feel caught in the crossfire as hate speech purveyors seek to use college campuses to spread their venom, while other groups demand restrictions on, and protection from, such expression. Charlottesville demonstrated that the stakes can be a matter of life and death. Does a commitment to free expression mean that our campuses must become a free-for-all in which no one is really learning?

At such moments, we must remind ourselves of first principles. The mission of higher education is premised on a robust exchange of ideas and perspectives, but that mission is served only when individual rights are balanced with community needs. The Constitution was designed to protect individuals while creating a framework in which people could live, learn, and prosper together in peace. Colleges and universities must be beacons of that balance in a society riven by political and social polarization.

Some organizations and politicians have capitalized on the current tumult to advocate for new laws that purportedly would protect free speech on campuses. Public institutions are already governed by the First Amendment of the Constitution, however, and many private institutions also

follow its dictates as a matter of policy. Our constitutional jurisprudence is constantly evolving and has for the most part served us well in balancing rights and responsibilities in the context of free expression. We should be wary of new regulations that purport to guarantee rights for the most strident voices of the moment, but could, in fact, restrict the expression of other groups and individuals (including civil protesters or even campus leaders).

AGB recently convened a group of higher education leaders to develop suggestions for addressing these challenges. We have learned that speech codes are not the answer; they stifle honest conversation and drive ideas underground. So what can we do to be true to our educational mission?

The starting point is to fight hateful and ignorant speech with more speech. Institutional leaders and others on campus should be free to speak out forcefully when fundamental educational values of inclusion are under siege. Controversies about offensive expression provide “teachable moments.” We should create tools and resources for faculty who want to facilitate dialogue in the classroom when it is relevant to their subject matter. Outside the classroom, we must equip and empower students to take the lead in discussions about difficult topics. We can seek out speakers who offer varying and even provocative viewpoints while modeling civil discourse.

Content-neutral “time, place, and manner” restrictions are also permissible—such as rules regulating excessive noise at late hours near residence halls, or prohibiting people from taking over

classrooms for their own purposes. Now is also a good time to review policies on anti-discrimination, facilities use, weapons on campus, vandalism, and other aspects of campus safety.

Board members and other institutional leaders must also remind constituents that free speech controversies should be

expected in the context of higher education, given a mission grounded in the marketplace of ideas. Students are testing their assumptions and developing their own sense of identity. Historically marginalized groups add new voices and perspectives that challenge the status quo. Our mission can be messy, but it’s essential for a free society. As James Madison, father of the Constitution, wrote almost 200 years ago, “Learned Institutions ought to be favorite objects with every free people. They throw that light over the public mind which is the best security against crafty and dangerous encroachments on the public liberty.” ■

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