

National Leaders Discuss Free Speech on Campus

Keynote Remarks from the Alumni Summits on Free Expression



AMERICAN COUNCIL OF TRUSTEES AND ALUMNI

in partnership with the **Alumni Free Speech Alliance**



ACTA
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TRUSTEES AND ALUMNI



The American Council of Trustees and Alumni (ACTA) is an independent, nonprofit organization committed to academic freedom, excellence, and accountability at America's colleges and universities. Founded in 1995, ACTA is the only national organization dedicated to working with alumni, donors, trustees, and education leaders across the United States to support the study of the liberal arts education, uphold high academic standards, safeguard the free exchange of ideas on campus, and ensure that the next generation receives an intellectually rich, high-quality education at an affordable price. Our network consists of alumni and trustees from nearly 1,300 colleges and universities, including over 23,000 current board members. Our quarterly newsletter, *Inside Academe*, reaches more than 15,000 readers.



The Alumni Free Speech Alliance (AFSA) brings together alumni groups that seek to support free speech, academic freedom, and viewpoint diversity at their alma maters. The founding members of AFSA include the Cornell Free Speech Alliance, Davidsonians for Freedom of Thought and Discourse, Princetonians for Free Speech, the Jefferson Council, and the Generals Redoubt. Since 2021, 17 more alumni groups have joined the cause, working to make the case for free speech and academic freedom on campus and to support students and faculty who speak up.

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September 2023

FOREWORD

by Charles “Chuck” Davis
President, Alumni Free Speech Alliance

A large “thank you” to ACTA for sponsoring and hosting the Alumni Summits on Free Expression. ACTA is a valuable voice for sanity in the academy, including a return to an environment where free speech is staunchly supported. As these speeches from the first two summits show, universities face a choice between supporting progress based on open dialogue, or a stagnant ideological conformity.

The road here was long, about 50 years. As the voices for censorship and intolerance grew stronger, far too few men and women of character stood up to say, “Not on my watch.” However, we have been down this road before, and our memory can be unfortunately short. Whether the French or Russian Revolution, once any society imposes a litmus test based on conformity, no one can be orthodox enough. All our times will come. As the Reverend Martin Niemöller said of the National Socialists: “Then they came for me—and there was no one left to speak for me.”

Reverend Niemöller was really criticizing himself, since he had been silent up to that moment. However, as these speeches show, people are now standing up, speaking up, and pushing back. I did not start this movement, but I am proud to be a part. Openness and freedom *are* worth defending. Freedom is scary; freedom is messy. Openness brings many ideas and movements we would rather not deal with. However, conformity and fear are heretical to the human soul.

I was fortunate to have traveled twice to East Germany before witnessing firsthand the collapse of the Iron Curtain. East Germany was orderly, predictable, and everything had to be approved. There were many things that could not be said, for fear of repercussions. By contrast, West Germany was messy, with many and often loud disagreements. When that Wall came down, it was pulled down by Easterners flocking *into* West Germany, not the other way around.

This “Flight for Freedom” has now taken hold in America, and alumni have joined the fight. This is important, as it seems the academy is where freedom is most in danger. As the one natural and permanent constituency of a university, I believe alumni-led organizations are the essential and

previously missing element required to effect real change at their alma maters. That is why I joined the Alumni Free Speech Alliance (AFSA).

AFSA's goal is simple: Change campus culture so those calling for censorship are the ones viewed as problematic outsiders. This takes engagement. It also takes activism. AFSA has a three-pronged approach for effecting this change.

First, facilitate the creation of as many free speech-oriented alumni groups as possible. From a founding five, as of September 2023, AFSA has now grown to 22 affiliates spanning the country and representing public and private universities, both large and small. However, academia is a connected ecosystem, and engagement is needed at many, many more institutions.

Second, support each affiliate as it engages its university community. No two universities are the same, but there are many common challenges. We can (and do!) learn from each other. We share experiences, contacts, ideas, and resources. Where appropriate, we speak with a common voice. As a recent example, AFSA and numerous individual affiliates submitted an amicus brief supporting Speech First's appeal to the U.S. Supreme Court challenging the "Bias Incident Response Team" at Virginia Tech.

Bias response teams are now common on university campuses, often take anonymous complaints, and prioritize hurt feelings over legal protections. They have become the new Spanish Inquisition, where any accusation is sufficient, denial is proof that you "just don't get it," and the only possible outcome is acknowledging your mistakes in a Maoist-like struggle session and meekly accepting the punishment meted out. They are textbook examples of improper speech restrictions, and we are stronger opposing them together.

Finally, AFSA looks for opportunities to make it less likely that speech rights will be violated and better enable students and faculty to fight back when they are. While campus culture is important and needs to change, policies also matter. The Cornell Free Speech Alliance recently drafted a thoughtful set of policy recommendations to strengthen free speech protections and sent them to Cornell University's president and board of trustees.

As the addresses in this publication show, there are many thoughtful, strongly reasoned arguments for free speech. Nadine Strossen makes a compelling case that "free speech matters because individual liberty and

dignity, equal human rights, and democracy matter, and free speech is an essential prerequisite for all of these.” And it is. But perhaps Jonathan Rauch summed up our work best when he said, “you are here, and I am here . . . because we love American universities.”

Open discourse made American universities the envy of the world. They drew, and continue to draw, ambitious students from around the world. They provided my family the opportunity out of a small rural town. I owe them a great debt. Changing the essential character that made them great would be a travesty. They and their greatness must be preserved. Your voice matters. Please join me in this fight.

INTRODUCTION

by Dr. Michael B. Poliakoff
President, American Council of Trustees and Alumni

ACTA, the American Council of Trustees and Alumni, deeply cherishes its partnership with AFSA, the Alumni Free Speech Alliance, because AFSA defends the most vibrant engine of higher education progress and improvement: the free exchange of ideas. Alumni are the guardians of values, whose wise counsel and deep experience are essential for the course correction that America's colleges and universities so desperately need. AFSA is an idea for which thousands of alumni throughout the nation have yearned, and we are honored to work with its members and its president, Charles ("Chuck") Davis.

When ACTA was founded in 1995, we actually had a different name, the National Alumni Forum, so strongly did ACTA's leadership believe that alumni are the key to maintaining high academic standards, fiscal responsibility, and, crucially, campus freedom of speech. When AFSA's founders, Stuart Taylor and Edward Yingling, unfurled its banner in the *Wall Street Journal* two years ago, they identified alumni as "the only university stakeholders with the numbers and clout to lead the defense of free speech, academic freedom and viewpoint diversity in campus environments." They ignited the conscience of the nation. Trustees, as fiduciaries who have the power to set policy and exercise oversight, need the strong voices of alumni to help them focus on the values of generations past that are the soul and lifeblood of the institutions they govern.

What has brought together the vibrant alumni groups that comprise AFSA is love for their schools, a real and pure love that is willing to speak out and admonish when the alma mater has strayed from the principles that shaped their minds and hearts. At the core of that, of course, is the freedom to question, challenge, discuss, and debate, which we must vouchsafe for future generations. At times, the situation on some of our campuses would strain credulity, even in comic fiction: deplatforming, disinvitations, secret online tools for students who feel "offended" to report their peers and faculty. But, together, we can and will reinvigorate the intellectual freedom we knew when we were college students. (Perhaps, sadly, I am revealing my age!)

ACTA looks forward to sharing all its tools and resources with AFSA.

We have recently assisted colleges and universities in sponsoring campus debates and orientation programs that focus on freedom of speech. We have advised on the creation of new campus centers devoted to free inquiry and intellectual diversity. We regularly write to boards whose trustees need to be reminded of their duty to protect campus freedom of speech. AFSA's work is timely and courageous, and it is our privilege to be partners with you.



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ALUMNI RISING: Alumni Summit on Free Expression

The Wisdom of *Sesame Street* or the Madness of Mao?

by Janice Rogers Brown

I have been on the ACTA board for a couple of years, but I have been a fan of ACTA's mission for more than 20 years. I was a member of Pepperdine University's Board of Regents when I first encountered one of ACTA's publications, *What Will They Learn?*, and I was thrilled to see this kind of careful, thoughtful evaluation. Of course, these days I feel a bit nostalgic for those easy questions. We were talking about things like: Is there a future for the humanities? What do we do about the purge of the Western Canon from the curriculum? Should American history be a general education requirement? Is a college education worth the price tag?

Those are still really important questions, but they have been eclipsed by this plague that we are trying to deal with now. Back in those days, when discouraging "hate speech" just seemed like the courteous thing to do, no one thought free speech would require a full-fledged defense. Twenty years later, much more than the Western Canon is under assault, and violence is considered a justifiable response to any dissent to Woke orthodoxy.

In the few weeks since Dr. Poliakoff asked me to speak at this dinner, a federal judge has been shouted down, hectorred and lectured, and denied the opportunity to speak at Stanford.¹ The administrator who behaved so discourteously was temporarily suspended, but when another administrator apologized to the judge, she had to walk through a gauntlet of jeering, black-masked protesters to reach her classroom.² A few days later, Charlie Kirk's attempt to speak at the University of California–Davis, to a registered chapter of Turning Point USA, an organization Kirk founded, was possible

1 Steven Lubet, "Chaos and rudeness at Stanford," *The Hill*, March 21, 2023, <https://thehill.com/opinion/judiciary/3909452-chaos-and-rudeness-at-stanford/>.

2 Ibid.

only after a phalanx of police quelled an Antifa mob that broke windows, vandalized university property, threw eggs, and used pepper spray on people attending the event. Before Kirk arrived, the UC–Davis chancellor, Gary May, aired a video sympathizing with students who objected to Kirk’s invitation to speak, blaming the Turning Point USA student group for hosting Kirk, who the chancellor described as a “well-documented proponent of misinformation and hate and who has advocated for violence against transgender individuals.”³ The local newspaper, the *Sacramento Bee*, echoed these claims.

To date, no evidence has been produced to support these scurrilous claims. The *Sacramento Bee* actually retracted these allegations and apologized to Mr. Kirk, but oddly enough, the chancellor has not acknowledged that by falsely accusing Charlie Kirk of misinformation and hate, he actually did what he accused Charlie Kirk of doing. Nor has he commented on Antifa’s mob violence. So his concern apparently only goes one way.

These two incidents provide near perfect exemplars of the hypocrisy, inconsistency, and internal contradictions of what one professor—who understandably writes under a pseudonym—calls “wokecraft.” Charles Pincourt, that’s his pseudonym, says the term wokecraft is meant to evoke covert strategies and techniques used in other specialized fields like spycraft or statecraft, and I would add witchcraft.⁴

Still, you may be wondering if it is fair to equate folks being woke with the rise and virulence of cancel culture. For many of us, the eruption of wokeism seemed both sudden and cataclysmic. But as I have come to understand more of its origins, I am reminded of a bit of dialogue from Ernest Hemingway’s novel, *The Sun Also Rises*. There is a scene where one character asks the protagonist, “How did you go bankrupt?” The laconic reply: “Gradually and then suddenly.” That succinct exchange describes much more than the dynamic of bankruptcy. It might be the human experience distilled.

3 Christopher Tremoglie, “University chancellor spreads misinformation about Charlie Kirk ‘advocating for violence against transgender people,’” *Washington Examiner*, March 17, 2023, <https://www.washingtonexaminer.com/opinion/university-chancellor-spreads-misinformation-about-charlie-kirk-advocating-for-violence-against-transgender-people>.

4 Charles Pincourt and James Lindsay, *Counter Wokecraft: A Field Manual for Combatting the Woke in the University and Beyond* (Orlando, FL: New Discourses, 2021), 15.

Michael Walsh, in his eloquent critique of critical theory, goes back to Milton's *Paradise Lost* and the Garden of Eden as the origin of this struggle. We don't have time to go quite that far back, but he has a point. All of the moving parts that undergird wokecraft and the synergies that have made it suddenly consequential are not easy to unravel. One origin story starts in 2019 when Zack Goldberg did a deep dive into the woke revolution that he saw transforming American politics. He concluded that the baseline attitudes expressed by white liberals on racial and social justice questions have become radically more liberal. And he suggested the revolution in moral sentiment had led to an ideological stridency and intolerance of anyone or anything that stands in their way.⁵

This ongoing transformation, which Matthew Yglesias has cleverly described as “The Great Awakening,” has, Goldberg posited, moved white liberals so far to the left on questions of race and racism that they are now to the left of even the typical black voter.

I should pause here for an aside. One respectable commentator has decried even using the term “woke” because he says it makes these folks seem trendy and maybe a bit cuddly. He says they should be called Marxist, pure and simple. And there is some truth to his criticism, but the Marxist dialectic is neither pure nor simple. In context, “woke” serves as well as any other appellation, and its religious connotation is useful because lots of people have seen that this does express a kind of religious sensibility. Though it bears no resemblance to the sort of religious renewal that characterized the Great Awakenings.

While Goldberg finds liberals' greater concern for the outgroups and even for the whole world—they're globalist—praiseworthy, he laments the flight from objective reality, the sanctimonious outrage and judgment that places all political dissent beyond the pale.

Goldberg's analysis is plausible and perhaps even comforting, and wokecraft is designed to elicit such benign rationalizations. But the totalitarian overreach of the woke mob is not an artifact of its overzealousness in doing good. It is a feature of its malevolent intent. This is not a noble idea that went wrong. Like communism and the radicalism of

5 Zach Goldberg, “America's White Saviors,” *Tablet*, June 5, 2019, <https://www.tabletmag.com/sections/news/articles/americas-white-saviors>.

the sixties, these ideas “were born wrong.”⁶ Goldberg seems to be assuming good faith in the classical liberal tradition. That tradition encourages honest and respectful expression of opinions, sees disagreement as fundamental to good debate, and emphasizes argumentation, logic, and evaluation of evidence. Moreover, there is an expectation that the opinions of others will be considered respectfully, charitably, and in good faith. The woke, however, only pretend to play by these rules.

Thus, the starting point of this discussion is not 2019, although many things happened in 2019 that made it seem so. In 2019, the *Times* published its 1619 Project, the thesis of which was that America is guilty of systematic racism, rooted in slavery, which began before the nation came into existence; it was protected, promoted, and made official in the Declaration of Independence and the Constitution. Indeed, the 1619 Project’s main author declared racism was in the country’s “very DNA.”⁷

But what made that accusation so potent? What made it a reason for repudiating every principle for which America has stood? Abraham Lincoln praised the American ideal of self-government as “the last best hope of earth,” but he also understood the republic’s great vulnerability. In a prophetic speech at the Young Men’s Lyceum in Springfield, Illinois, he said that what no “invading foeman” could do, “the silent artillery of time” might accomplish. As a nation of free men, he said, “We must live through all time, or die by suicide.”⁸ And even at the time of the American Civil War, Marxism and socialism were recognized as threats to human freedom and human flourishing.

So let us take a step back. Orestes Brownson’s last book, *The American Republic*, was published in 1865 when the country was struggling with Reconstruction. Brownson noted there had been two kinds of struggle here. One was egoism, the other was humanitarianism. He honored the abolitionists for opposing slavery, but he worried because they opposed it on “humanitarian grounds.” The humanitarian impulse was more dangerous

6 Roger Kimball, *The Long March: How the Cultural Revolution of the 1960s Changed America* (New York, NY: Encounter Books, 2001), 268.

7 Charles R. Kesler, *Crisis of the Two Constitutions: The Rise, Decline, and Recovery of American Greatness* (New York, NY: Encounter Books, 2021).

8 Abraham Lincoln, “Speech Before the Young Men’s Lyceum of Springfield, Illinois,” January 27, 1838, <https://constitution.org/2-Authors/lincoln/lyceum.htm>.

than egoism because the humanitarians seemed to be “building on a broader and deeper foundation, of being more Christian, more philosophic, more generous and philanthropic.” But, he added, “Satan is never more successful than under the guise of an angel of light.”⁹

By the time America became embroiled in World War II, the age of eternal verities had been superseded by a plague of foreign-educated PhDs, contemptuous of ideas linked to traditional law and morality, the law of nature, and nature’s God and enthralled to totalitarian secular ideologies and their promise of untrammled power.¹⁰ The intellectuals who founded what came to be known as the Frankfurt School were hounded out of Germany by the Third Reich. They did not honor the values of their new country, the nation that shed its blood to defeat Hitler. As the website Marxist.org proudly explains, the scholars who founded the Frankfurt School deliberately cut out a space for the development of Marxist theory inside the academy. And as Michael Walsh puts it, “Thanks a lot.”¹¹

Walsh does not temper his contempt for those whom he feels repaid the welcome and generosity of America by injecting a toxin into its bloodstream. “Having seized academia,” he says, “they left a legacy in the cancerous growth of studies’ departments (gender, race, queer, whatever) that infest the modern university and supplant classical learning. They have turned prominent institutions of what used to be called higher learning into reeducation camps,” populating them with “diversity commissars and political officers, blunt fists in tweed jackets, sucking taxpayer money to fuel their own employment, forcing the larger population to subsidize their own theory of destruction.”¹²

John Fonte, who was formerly on ACTA’s board, also wrote a white paper back in 2000 where he decries the influence of this Marxist dialectic in less colorful, but equally illuminating terms. He points back to Antonio Gramsci, founder of the Italian Communist Party. While incarcerated,

9 Orestes A. Brownson, *The American Republic: Its Constitution, Tendencies, and Destiny* (1865).

10 Paul Johnson, *Modern Times: The World from the Twenties to the Nineties* (New York, NY: HarperCollins Publishers, 1992), 48.

11 Michael Walsh, *The Devil’s Pleasure Palace: The Cult of Critical Theory and the Subversion of the West* (New York, NY: Encounter Books, 2015), 43.

12 Ibid.

Gramsci used his time to update Marx, providing a manual that became very, very influential. He agreed with Marx that all societies in human history have been divided into two basic groups, the privileged and the marginalized, the oppressor and the oppressed. But he included in the marginalized groups not only the economically oppressed, but also women, minorities, and many criminals. Power, he says, is exercised by privileged groups through force and coercion, but also and more importantly, through hegemony, defined as the ideological supremacy of a system of values that supports the class or group interests of the predominant classes. Subordinate groups are influenced to internalize the value systems and worldviews of the privileged groups and thus consent to their own marginalization. As one of the Frankfurt scholars put it, “They insist unwaveringly on the ideology by which they are enslaved.”

After the defeat of the Nazi regime, many of the Frankfurt scholars returned to Germany, but they left behind Herbert Marcuse, who became one of the leading spokesmen for the New Left. Marcuse witnessed the riots and violence associated with the waning civil rights movement and the anti-war movement and realized he had found a new agent of change, minorities, and that new categories of the victimized and marginalized could continually be created. He saw the potential to stoke discontent among those he identified as outcast outsiders, the people he thought of as exploited and persecuted, in a way that was not possible with workers. His influence grew when his essay “Repressive Tolerance” was published. Toleration, he said, was a great progressive cause when liberals used it against authoritarian societies, but now it must be viewed as repressive. Toleration in a liberal society like America was a means of neutralizing and co-opting opposition to the power structure. Accordingly, tolerance must be treated as a double standard or a partisan tool. In other words, tolerance for me but not for thee.

So social justice scholarship’s deepening hold on the university is a problem of existential dimensions. It was once the job of the academy to introduce students to the inspiring story of Western Civilization and enhance their respect for the cultural heritage of the West. Now, as Bruce Bawer describes it, the humanities seek to unmask the West as the

perpetrator of injustice around the globe.¹³ Douglas Murray notes a similar shift within living memory. He says, “The story of America had been one of a great leap into glorious liberty led by some of the most remarkable men of their or any age.” Now, instead, “the American story was rooted in a crime that could apparently never be alleviated.”¹⁴

Thus, civilization is not analyzed through the use of reason or judged according to aesthetic standards that have been developed over the centuries. Rather, it is viewed through the prism of race, class, or gender and is hailed or condemned—mostly condemned—in accordance with political checklists. Teaching is now a political act, and only one type of politics is acceptable: identity politics as defined by social justice theory.¹⁵

In *Democracy Against Itself*, Jean-François Revel talks about 1989, the year that the Berlin Wall fell. Frances Fukuyama dubbed this watershed moment “the end of history” and declared that liberal democracy and capitalism had prevailed. While celebrating the world’s apparent rejection of the utopian illusion, Revel warned that the false idol that has dominated the political culture of the left, the idea of revolution, had been repulsed, not vanquished. The uprising of 1989 was not the result of the romantic pursuit by elites of some utopian goal, it was the attempt of ordinary people to restore authentic democratic traditions subverted by political gangsters. And Leftist utopians, he said, are shrewd seducers. They propose the opposite of what they intend and produce the very evils they say they will extirpate. For example, the radicals of 1968 claimed to be against imperialism, for the flowering of personal liberty, and against all forms of repression, and they aimed their attacks at the democracies, taking as their motto the senile and bloody totalitarianism of Mao Zedong.

The woke revolution bears strong similarities to the Cultural Revolution in China. Of course, Mao’s revolution was more bloody. The Red Guard was sent into people’s homes; the property of people whose views did not align with the government was destroyed or stolen. Intellectuals were imprisoned

13 Bruce Bawer, *The Victims’ Revolution: The Rise of Identity Studies and the Birth of the Woke Ideology* (New York, NY: HarperCollins Publishers, 2012), 12.

14 Douglas Murray, *The War on the West* (New York, NY: Broadside Books, 2022), 88.

15 Helen Pluckrose and James Lindsay, *Cynical Theories: How Activist Scholarship Made Everything about Race, Gender, and Identity—and Why This Harms Everybody* (Durham, NC: Pitchstone Publishing, 2020), 31–32.

without due process, and often their families never knew what happened to them. Here, murders for blasphemy against woke doctrine have been largely symbolic. People are canceled, lose their jobs, suffer a kind of social death. What seems largely indistinguishable from China's Cultural Revolution is the lawless vanguard, the role now played by Antifa and BLM operatives who are able to bully, intimidate, and assault perceived enemies with impunity, strikingly similar to Mao's Red Guard. Moreover, many of the freshman orientation sessions elite colleges require students to attend bear strong resemblance to the Maoist struggle sessions and reeducation camps.

That feeling Yogi Berra famously described as *déjà vu* all over again is not accidental. In 1970, *Sesame Street* introduced the idea of sameness and difference to three- and four-year-olds with a spritely song. The song went, "One of these things is not like the others. One of these things does not belong." Toddlers had no difficulty figuring this out. Unfortunately, it has been the business of the academy over the last 50 years to make sure that college graduates, especially those with advanced degrees, can't quite grasp this concept.

The question is "why"? And the answer is, as John Fonte noted at the turn of the century, that "beneath the surface of American politics, an intense ideological struggle [was] being waged between two competing worldviews."¹⁶ The struggle rages between Gramscians, people who believe that liberal democracy essentially has to be delegitimized and destroyed, and Tocquevillians, those who believe in American exceptionalism. The latter embrace equality of opportunity (not equity), self-government, and support for constitutional limits as essential prerequisites for human flourishing and seek to pass on the legacy of liberal democracy.¹⁷

By the 1990s, the academy had made its choice in favor of the madness of Mao rather than the wisdom of *Sesame Street*. The central message of radical multiculturalism is that everything is politics.¹⁸ "Merit, law, and truth are exercises of power by one group over another. [Thus] all apparent barriers to our heart's desire can be overturned, for what lives by power can die by revolution."¹⁹

16 John Fonte, "Why There is a Culture War," Hoover Institution, December 1, 2000, <https://www.hoover.org/research/why-there-culture-war>.

17 *Ibid.*, 8–9.

18 Daniel A. Farber and Suzanna Sherry, *Beyond All Reason: The Radical Assault on Truth in American Law* (New York, NY: Oxford University Press, 1997), 118.

19 *Ibid.*

For many reasons, the year 2020 was disorienting. Consternation and confusion reigned; a free-floating anxiety stifled public discourse. Threats to the peace and well-being of the nation, to public safety, to our history seemed to come from all directions. Anti-Americanism was in the air, and instead of being rejected, it was lauded and applauded. But what seemed to be a convergence of many different trends was in fact the flowering of a single poisonous idea. Radical multiculturalism, identity politics, political correctness, critical social theory, transgenderism, cancel culture, anti-racism and the whole panoply of woke doctrine springs from the same root and aims at the same endgame: the destruction of liberal democracy and the establishment of the newest socialist utopia.

The primacy of relativism, subjectivism, and emotivism, the discounting of the whole idea of objective value, makes falsification impossible. The act of persuasion presupposes a common medium of discourse in which both judgments and desires can be shared and differences of view resolved. But when differences become incommensurable, there is no yardstick against which diverse perspectives can be measured. Thus, “protest becomes the distinctive moral feature of the modern age,” and “indignation is a predominant modern emotion.”²⁰ More ominously, if every standard is merely an exercise of power, anything can be justified. A certain kind of racism is “excusable”; discourse becomes “a political battle over the authority to speak as a group representative” and to “silence opposition,” and “truth is defined by political utility.”²¹

The “racism is in America’s DNA” meme is a perfect example of how this works. According to Ibram Kendi (who gave himself a new name because Ibram Henry Rogers wasn’t cool enough), it is okay to be a racist if you’re a member or an ally of an oppressed group and your bigotry is directed toward one who is defined as an oppressor. Anti-racists reject the very idea of government neutrality. To treat people “with equality, neutrality, and respect” is not just insufficient; it is illegitimate, a “racist obstruction.”²²

20 Michael Ward, *After Humanity: A Guide to C.S. Lewis’s The Abolition of Man* (Park Ridge, IL: Word on Fire Academic, 2021), 41, quoting from *After Virtue* by Alasdair MacIntyre.

21 *Beyond All Reason: The Radical Assault on Truth in American Law*.

22 Christopher Caldwell, “Ibram X. Kendi, Prophet of Anti-racism,” *National Review Plus Magazine*, August 10, 2020, <https://www.nationalreview.com/magazine/2020/08/10/ibram-x-kendi-prophet-of-anti-racism/>.

Kendi also condemns capitalism as essentially racist. Moreover, anyone not actively engaged in dismantling the status quo is a racist or at least a collaborator and therefore “a legitimate target of attack.”

This is the antithesis of American constitutionalism. We used to be a country where ideas controlled violence. We are now a country where violence controls ideas. So social justice theory has profoundly upended the constitutional ethic to which we have been historically committed.

I agree with John McWhorter that anti-racism is an illiberal, neo-racism that has betrayed black America. And I think Ayaan Hirsi Ali is right: Wokeness is the return of white supremacy—this time with whites at the top as saviors, as the smartest people on the planet, indeed of all who ever lived—and blacks at the bottom as hapless victims, incompetents, and supplicants. “Anti-racism is the disease that it purports to cure. Its narratives of resentment are dividing us once again by race, weakening our hard-earned freedom and mutual trust, and threatening our children’s future.” She says, “We have no option but to fight it as we once fought white supremacy.”²³

To sustain a constitution of liberty requires citizens restrained enough to control their passions out of respect for the rights of others and with grace enough to recognize that perfection is impossible; to understand, as the Founders did, the indissoluble link between faith and morality. I don’t think the Founders could have anticipated this generation of snowflakes—precious, delicate, and demonic. William Voegeli describes them as the first revolutionaries to mount the barricades in the name of their own emotional fragility. Their deadly petulance becomes a cause rather than a sociological problem, and their tantrums, even when they are indistinguishable from assaults, are blithely redefined as counter-aggression. Thus, for millennials, and even younger generations we have not yet labeled, the very idea of a rule of law has been reduced to a nonsensical meme.

This idea that rational argument can be redefined as a hate crime is monstrous. These self-appointed social justice warriors are not requesting admission into the polity. They’re demanding submission to their lethal

²³ Ayaan Hirsi Ali, “Wokeness is the return of white supremacy,” *The Spectator Australia*, November 17, 2021, <https://www.spectator.com.au/2021/11/ayaan-hirsi-ali-wokeness-is-the-return-of-white-supremacy/>.

delusions. America was founded on a natural rights regime, meaning axioms derived from natural law, from natural rights, provided the guiding principles that helped shape the Founders' policies. The doctrine of equality expressed that view—that a free creature capable of moral judgment should not be coerced. Logically, there can be no claim for a civil right that is only fulfilled by destroying the philosophical framework from which the right is purportedly derived.

What America has tried to teach the world about the nature of human flourishing is indisputable. Truth and freedom live or die together. The American ideal of self-government; the primacy of the rule of law; the insight that limited government is the indispensable perquisite of freedom—these principles deserve our allegiance and the last full measure of devotion. And whether people like it or not, our insights about rights, reason, and revelation derive from, and were shaped by, the Christian revolution. The distinctive qualities our Founding documents attribute to human beings—reason, free will, and moral choice—would be inconceivable in the absence of a Judeo-Christian worldview.

I am not sure we possess the courage and moral stamina to find our way back, but I am sure that the first thing we must do is refuse to live by lies. We must speak the truth and defend the truth. These social justice warriors claim they seek to perfect the promises of the Declaration of Independence. They wrap themselves in the mantle of civil rights and purport to march forward to right the historical wrongs suffered by African Americans. This is a lie. The policies they promote are anti-family, anti-faith, and ultimately anti-human. At the moment, these ideas seem to have captured the commanding heights of the culture, but we may take heart from Churchill's exhortation at another moment of civilizational crisis. We must fight them in the public schools, in the elite universities, in the halls of Congress and the statehouses, in the courts, in the offices of county counsels and district attorneys, in corporate boardrooms, in commercial establishments of every kind, in choosing our beer, cheering our sports teams, in the public squares, and in clarifying the fault lines in our churches. And so I invite you to join me in the common defense of our Constitution. Let us work, each one of us, on building the fortress of virtue, speaking with clarity to the principles that ensure our liberty. We may be a remnant, we may certainly not be a

majority, but that's okay. A majority is not needed. As Thomas Macaulay wrote so long ago:

*In yon strait path a thousand
May well be stopped by three.
Now, who will stand on either hand
And keep the bridge with me?*



Janice Rogers Brown

The Honorable Janice Rogers Brown was confirmed to the United States Court of Appeals for the District of Columbia Circuit on June 8, 2005. She retired from the court in 2017. From 1996 to 2005, she was an associate justice of the California Supreme Court. Prior to this, she served as associate justice of the Third District Court of Appeals in Sacramento and as legal affairs secretary to

California Governor Pete Wilson. Earlier in her career, she served as deputy secretary and general counsel for California's Business, Transportation and Housing Agency after having worked in the criminal appellate and civil trial divisions of the California attorney general's office.

She has served with distinction on the Pepperdine University Board of Regents. Her numerous honors and awards include the Lifetime Achievement Award from the Georgetown University chapter of the Federalist Society, the Jurisprudence Award from the Claremont Institute's Center for Constitutional Jurisprudence, and the 2019 Bradley Prize from the Lynde and Harry Bradley Foundation.

She earned her B.A. from California State University–Sacramento in 1974, her J.D. from the University of California–Los Angeles School of Law in 1977, and a Master of Laws in Judicial Process from the University of Virginia School of Law in 2004.



Among its distinguished lineup of speakers and panelists, the 2023 Alumni Summit on Free Expression featured a keynote address from **Virginia Secretary of Education Aimee Rogstad Guidera**. Appointed by Governor Glenn Youngkin in December 2021, Secretary Guidera oversees education from Pre-K through postsecondary in the Commonwealth of Virginia. Before joining the Youngkin administration, she was a strategic consultant helping states, foundations, companies, and nonprofit organizations strengthen their efforts to improve student learning and outcomes. Prior to launching her consultancy, she was founder, president, and CEO of the Data Quality Campaign, a national nonprofit advocacy organization leading the effort to ensure that students, parents, educators, and policymakers have the right information to guide their actions so that every student can excel.

Readers can find Secretary Guidera’s remarks, titled “Defending Virginia’s Hallmark: Free Speech and Inquiry in Education,” on ACTA’s YouTube channel at youtube.com/@GoACTA.



2022

A CALL TO ACTION: Alumni Summit on Free Expression

Pushing Back: How Alumni Voices Can Change Campus Culture

by Jonathan Rauch

I want to start where I'm going to end, which is an observation: You are all here, and I'm here, because we love free speech. But you are here, and I am here, also because we love American universities. We understand their critical role in education, in American moral leadership, in attracting and training the best minds from around the world, in driving forward the scientific process. They have been the magic ingredient, or one of them, in America's rise to prominence in the twentieth century. And we are here, not because we're their adversaries but because we're their friends.

I'm going to talk briefly about three things. The first is the situation that we face; the second is what universities can and should do about it; and the third is what you and we, in this room, can and should do about it.

Something that I want to emphasize going in: As others have said, but as I want to drive home, we're not just talking about free speech. We're talking about defending what I call the Constitution of Knowledge, by which I mean the norms and institutions that we rely on to turn conflict into facts and to settle disputes about reality in ways that do not involve physical and social violence and conflict. The Constitution of Knowledge is the single greatest technological invention of all time, I think; a social technology that does these things. There is no substitute.

It has three fundamental elements; they've all got to be there for it to work. *Freedom of expression*, which we've talked about, but that's only the input. If you want the output—which is knowledge, objective knowledge—you need two other things. The first is *responsibility to truth*. We're not here to play games. We're not here to advance political agendas or personal ambitions. We're here to follow the centuries-old rules and protocols of science, of the structured search for knowledge. Without that, free speech is nothing but Twitter.

The second thing that has to be present is *diversity of viewpoint*. We can never see our own biases, no matter how smart we are. In fact, being smart makes this problem worse. Only others, with other points of view, can see our biases. So wherever you see a dozen academics in a room who all share the same fundamental assumptions on whatever that topic is, they are not doing good science. They're doing zombie science. They're hearing themselves echoed back. Diversity of viewpoint is something without which it is simply impossible to make knowledge. So you need all three of those things.

Let's talk for a minute about American universities. Number two, responsibility to truth, I would say, is still in pretty good shape. We've seen some problems like when a bunch of Princeton professors say, "You know what? We need an anti-racist committee to vet all research." But what we're really seeing are challenges to numbers one and three.

These are polls, as you can see, on the climate of opinion on campus. A growing majority believe their school's climate stifles free expression, a question that has been asked consistently by the Knight Foundation. And you can see that trend. It rises quickly from the low 50s in 2016, to 65%, almost two-thirds, in 2021. Now discouragingly, that 65% is approximately the same as the level of chilling in the American public environment, generally, outside of universities. The amount of chilling out there on the street is three to four times the level of the height of the McCarthy era. And that's bad, of course, but chilling in our universities is even worse, because the mission of the university, the core mission, is to be a place for free expression, which is not necessarily true on the street or in the workplace.

And you've all seen quotes like this—Student A: "I often felt like the only dissenting opinion. On today's college campus, the risks of engaging in debate of controversial topics vastly outweigh the benefits." Student B: "Certain points of view about touchy subjects never reached the surface. The result is an echo chamber." Maybe the most poignant moment in the research I did on my book was talking to a rising senior at a well-known liberal arts college that you've all heard of, who said that she regrets not having been exposed to conservative ideas in her time on campus. But she consoled herself that at least she had been exposed to a variety of progressive ideas. I just wanted to smack my head against the wall. Or professors, who say things like this—reflecting the deep demoralization that they're experiencing—"I feel I am constantly tiptoeing through a minefield. I feel

there is absolutely nothing I can do as a professor to stop this. It's like trying to hold back the ocean with a broom.”

Speech is not the only problem. Viewpoint diversity is lacking. This is the number of Democratic faculty members for every Republican in 25 academic fields. Not so bad in engineering, chemistry, economics, but once you get down to sociology, art, English, anthropology, communications, you're talking about ratios of 30:1, 40:1. You're talking about situations in which it's possible for an academic to go their entire career, from graduate school and dissertation defense all the way to emeritus, without ever encountering a conservative in their discipline. And think about the implications of that. These are very worrisome numbers.

And then you've got ideological discrimination. This problem has surfaced more recently, at least as a subject of study in the work of Eric Kaufmann and others. This chart shows you the percentage of academics who openly admit discriminating against right-leaning papers, grants, and promotions. Now, these are just the people who *say* they discriminate, so presumably, the real number is significantly higher. And if you look at North American Ph.D. students—this is the next generation—between a quarter and a third of them are openly admitting that they discriminate on ideological grounds.

No wonder conservatives perceive a hostile environment. Kaufmann finds that 70% of conservative academics agree that “there is a hostile environment toward people with your political beliefs in your department.” Among centrist academics, a third of them say they experience a hostile climate. Now, again, this is antithetical to the core mission of the university. You cannot do good science in an environment like that, or at least it becomes much more difficult.

What do we do? What can universities do? For one, *adopt the Chicago Principles*, and, of course, adopt the *spirit* of the Chicago Principles. As more than one of us has pointed out, it is no good if they are only words on paper.

Include First Amendment instruction, preferably in freshman orientation. Students come to campus with no idea of what the Constitution says. They think that it bans hate speech and that that's constitutional. Purdue, under Mitch Daniels, has done this very effectively. I think they've now graduated

five classes of freshmen who get an hour and a half of very creative First Amendment orientation in their freshman onboarding.

And *stop the investigations of First Amendment-protected speech*. If speech is protected, say what President Zimmer at the University of Chicago said, which is there will be no investigation. Allegations of academic misconduct—credible and evidence-based allegations—should be investigated, but not claims based on some student complaining about something someone said.

And by the way, when these investigations are launched, they should include only faculty members. It's shocking to me that, for example, a tenured political scientist I know at a university you have all heard of was subjected to four hours of grilling by a mid-level HR bureaucrat based on one student's allegations, none of which were academic misconduct. The student claimed that she was being called on less often because of her color, but all the rest of her claims were things like being offended that the professor used the words "black" and "African American" as nouns when they should only be adjectives. And for that, you see a tenured professor being grilled for hours by a mid-level bureaucrat.

Fight ideological discrimination and prioritize viewpoint diversity.

These things go together. Universities, of course, have made a strong commitment to diversity and inclusion. But in many respects, they have left out viewpoint and ideology discrimination. Those need to become targets for assessment and action. Now, of course, you can't hire people based on political affiliation or views. But you can assess your university, understand where discrimination is happening based on viewpoint and ideology, and you can seek to eliminate it. You can make clear that this is not acceptable at your school. And you should have people in charge of doing that.

Which brings me to the last point, which someone else also mentioned: *free speech champions on campus*. There are already too many bureaucrats in universities, so I don't feel great about adding another. But there is clearly a problem that if I'm a student and feel that I have been discriminated against based on my viewpoint, or that I have been chilled based on something that others are saying or doing, I have to go to FIRE with that. There should be someone on campus, who is not part of the diversity and inclusion bureaucracy, who can take that complaint and act as a champion for those values.

These things are all doable. They're important. But we turn now to the, I think, more important cultural aspect of this job, which is where what you can do comes in.

We have heard the word cowardice used several times. When I started writing *The Constitution of Knowledge*, I wondered, "Why doesn't anyone stand up? This is cowardly." I came to understand that I was naive about human psychology and about the raw power of some very sophisticated tools of what people in this space call information warfare, psychological warfare, cognitive manipulation, propaganda, all of that. These are ancient tactics. Alexis de Tocqueville comes to America, 1835. He says that the number one threat to liberty in America is not the government, it's the tyranny of majority opinion. "The majority," he says, "draws a formidable circle around thought. Within these limits, the writer is free; but woe to him if he dares to go beyond them." And by the way, in *On Liberty*, John Stuart Mill says the same thing, a generation later. He says the number one threat to liberty in Britain is not the government, it's social pressure against individualism. He calls it eccentricity, that so few now dare to be eccentric marks the chief danger of the time.

Now this is an important warning, and especially relevant today, that these two great thinkers are calling attention to the power of social coercion to chill speech and thought. But Tocqueville talks about the *majority* drawing a formidable circle. There's something that he missed. It doesn't have to be a majority, it can be a *minority*. In fact, it can be a small minority. This is from the More in Common *Hidden Tribes* survey, a very good report from 2018. It divides the American public into seven categories ranging from far left, progressive activists on the wings, to the far right. Notice: Progressive activists are 8% of the population, a mere handful, one in 12, yet somehow, they are driving the conversation in universities and on social media and increasingly in journalism and corporations.

And this raises a puzzle. How are they doing this? Is it just that everyone else is a coward and they are brave? That really can't be the answer. In America, something more is going on.

Before I get there, I want to call to your attention some data on this. In 2020, UNC–Chapel Hill commissioned three political scientists to do a deep dive into the culture of free speech and inquiry at the university. And what they found won't surprise you, which is number one, a lot of

the students—a quarter to two-thirds, depending on ideology—engage in self-censorship. Number two, a lot of these people are self-censoring often; for example, multiple times in a single class. But the other thing that they found, which won't surprise you, is that students across the political spectrum want *more* opportunities to engage with those who think differently. A plurality of liberals say there are too few conservative speakers. The authors conclude, “Although we document ways in which political hostility emerges disproportionately from the political left at UNC, this hostility often comes from a *minority* of campus liberals.” Emphasis on “minority” is theirs.

So what's going on here? In 1951, a psychologist named Solomon Asch performed what has come to be one of the most famous cognitive and group psychology experiments of all time. It has been replicated in many forms, in many ways, over many years. He tells a group of eight people that they're going to take a vision test, and he hands them this card. The question is, “Which line on the right matches the line on the left?” Raise your hand if you think Line A matches the line on the left. No one? Oh, come on, someone? Raise your hand if you think Line B matches the line on the left. No takers? Line C? That's pretty much everyone, except the very wimpy people who didn't raise a hand.

So, the right answer is Line C. This is designed to be obvious, and if you give this test to individuals by themselves, they always get it right. Put eight people in a room together, ask them this question, but here's the catch: Seven of the eight people in the room are actors. All of them give the same wrong answer, say B. What does the eighth person, the actual experimental subject, say in those conditions? Now, remember, the people in the room with the subject are not friends, family, colleagues. They've never met them before. They're complete strangers. What do they do? In a third of the trials, the experimental subject conforms with the group, rather than picking the obviously correct choice. Maybe more discouragingly, in multiple trials, 75% of people conform to the group at least once, which means only 25% of us are immune to this kind of group pressure. When people are interviewed about it, they say all kinds of things: They don't want to stand out; they know the right answer but they don't want to say it; or it's an optical illusion, other people must be right.

But this is a fundamental feature of human cognition. We are wired to want to be in tune cognitively, and in terms of our opinions, with those around us, for a couple of reasons. One, in the evolutionary environment where we came up, the group is more likely to be right than the individual. It has more information, it has more experience, more eyeballs. The second reason is if you get on the wrong side of your group and get ostracized and thrown out of your group, you die. So we are tuned such that it's not that we observe and then report to our groups what we see. Our groups come first. Our brains monitor the situation around us, and if everyone else is saying the same thing, it tells us that, and we often modify not only our views, but even our cognition, in order to conform.

Now, this turns out to be an extremely powerful tool of social manipulation. It creates what are called, in the realm of psychology and sociology, spirals of silence. This is how you get situations where, for example, in the Soviet Union, for decades, everyone at some level knows the system is phony, but no one can say it. No one else knows what anyone else thinks. People mistakenly assume they're in the minority. You get spirals where the more isolated individuals feel, the more they silence themselves in order not to stick out in the group, and the more those individuals silence themselves, of course, the more it appears that the minority view is the consensus view.

By manipulating apparent consensus in this way, on places like Twitter and college campuses, it's possible for small minorities to deploy this very sophisticated cognitive weapon to cause the chilling and demoralization reported by so many professors and students. Some of them actually believe, or some of them attest to things that they don't believe. Some of them actually come to believe those things. And many of them just become demoralized and give up. They say, "I am here all by myself, no one agrees with me. Even if I'm right, it's hopeless to speak up because the consensus is just overwhelmingly against me." These are tactics that have been used by totalitarians in order to dominate their societies, but they can be effective anywhere, in any community where group opinion matters, which means in *every* community.

So what we're looking at here is not individual cowardice. Yes, there is some of that. I certainly wish more college professors, especially the ones with tenure, and more administrators would stand up and do the

right thing. But remember that they exist in a manipulated information environment with a false consensus imposed by small groups of people using powerful punishments like investigations, weaponized course evaluations, the threat of being dragged on social media—using those weapons in order to silence minorities to create this spoofed consensus.

What do we do about this? Well, here's where you guys come in. Run the experiment again. It's exactly the same experiment: the eight people in the room, the same question, but you change a single parameter. This time, six of the actors in the room gave the wrong answer. One actor in the room gives the right answer. What does the experimental subject now do? The wrong answer tendency plummets. It drops to 5–10%. It doesn't take everyone in the room speaking up. All you need in many situations is one or a few of what I call "reality allies" to tell you, "No, you're not insane. I am here with you. You can trust what your eyes tell you, and we can even say it." Robert George said, I don't know the exact quote, but it's to the tune of you don't need 500 professors to change a campus, you need five, or something like that. But you don't need everyone. And this is your job, to bring forth those reality allies outside the campus, but more importantly, to use all the tools that you have to bring forward reality allies *on* the campus, *in* the campus.

Here is why this is essential for countries and universities. This is confidence in universities, Pew polling from 2012 to 2019, confidence in American higher education. The question is, do colleges have a positive or negative effect on the way things are going in the country? It drops by 12 points in seven years. Now, I've been a student of polling for a long time, and I can tell you that's a big number, and I can also tell you it's going in the wrong direction. But there is still—and this is so important—there are still deep, deep wellsprings of integrity in American higher education. Most professors are still there to do the best research that they can do and to teach the next generation in the ways of the Constitution of Knowledge; they're just decreasingly sure how to do it in the face of the cognitive manipulation that we have talked about.

And for a while, we all said, "Well, that's bad for the students. It's bad for the climate of opinion on campus." But now we're seeing the collapse of public confidence in higher education, and that means now we're fighting a two-front battle: not just against the chilling that's going on on campus,

but now the weaponized politicization by state legislatures, as inevitably has to happen when Americans lose confidence in universities and think that they're politicized and no longer on the level. Outside political actors will begin to intervene, and intervene they have. All of us now have to be worried about both an inner and an outer assault on the values we hold dear. And this only gets worse unless and until universities get serious about remedying the problems with viewpoint diversity and free speech that we're talking about.

Increasingly, I think people in the university environment are waking up to this. I think they're increasingly understanding what this credibility crisis implies for their future, which I think gives us a lot to work with. But I also want to leave you stressing the point that I began with: How do we do this?

So in my other life, I spent 20 years as an advocate of same-sex marriage. Talk about an impossible job. When I started that work in 1995, my father, who is not a homophobe in any way, begged me not to get involved publicly with same-sex marriage because he said it was such a ludicrous idea and so impossible that I would lose my credibility as a journalist if I went down that road. People wouldn't publish me or take me seriously, and at the time, it actually seemed like a risk. Well, things didn't work out that way. How did we win? A lot of things were involved, but the most important thing is that we approached Americans in good faith and told them our stories. Told them love and community and truth should trump falsehood and loneliness and hate. And we explained it, we used our voices.

What I learned from that is that you can do a lot better in the long run, if you want to change culture, by making friends than by making enemies. So although I certainly recognize the important role of adversarial tactics, like the kinds of legal tactics and protections that some in this room are so admirably providing, what I'm telling you is that when I hear talk of heads on pikes, shutting down universities, making it political, taking them on, I get worried. Coming at universities as their adversaries and enemies guarantees that we will lose friends where we need them, and those are the people that we need to activate on the college campuses who are afraid right now. One of the things they're afraid of is being associated with the political right, with the culture wars, and everything that goes with it.

So, you didn't ask for my advice, but I'm going to give it to you. Whatever the tactics may be on a day-to-day basis, the rhetoric should always, every day and self-consciously, be about, "We are here to help universities be their best and truest selves. We are allies of the university and its project. We want to be helpful to the battalions of often silenced but wonderful teachers and adventurous students who are there to make the university better."

Please, take it from me, I have been in the culture war trenches. Positivity, constructivity, is worth its weight in gold. Thank you.



Jonathan Rauch

Jonathan Rauch is a senior fellow in the Governance Studies program at the Brookings Institution and is the author of eight books and many articles examining how Americans think about culture, government, and a range of matters of public concern, from free speech to gay marriage to the importance of returning to truth in our "post-truth" age. He is a contributing writer to *The Atlantic* and recipient of the 2005 National Magazine

Award. He has also won the 2010 National Headliner Award and the National Lesbian and Gay Journalists Association prize for excellence in opinion writing in 2011. He has written for the *New Republic*, *The Economist*, the *New York Times*, the *Chronicle of Higher Education*, and many other publications.

His most recent book, published in 2021, *The Constitution of Knowledge: A Defense of Truth*, is a spirited and deep-diving account of how to push back against disinformation, canceling, and other new threats to our fact-based epistemic order. His other books include *Gay Marriage: Why It Is Good for Gays, Good for Straights, and Good for America* (2004) and *The Happiness Curve: Why Life Gets Better after 50* (2018). He received his B.A. from Yale University.

Free Speech and Why It Matters

by Nadine Strossen

I'm honored to address such an important gathering of people who are courageously exercising your own free speech rights to empower others to do likewise. How sad that this should take courage. Alas though, we all know, and polls consistently show, that people are afraid to discuss important and sensitive topics. Worse yet, that's true on our nation's campuses. Sadly, it's rational for students and faculty members to be fearful, because they do in fact pay deep prices for exercising and defending free speech as the rampant guilt by association continues to escalate.

Right here in DC, just a few weeks ago, one Georgetown law student was kicked out of a law student's group chat because he defended a second student's right to defend the free speech rights of yet a third person. Along with students everywhere, Georgetown law students have reported understandable fear of even such an attenuated association with controversial speech and speakers, because they justifiably worry about severe adverse repercussions.

I hope you all recall the unusually brave Yale law student who last fall videotaped a couple of administrators threatening to give him a negative character and fitness evaluation when he seeks admission to a state bar, which would literally bar him from practicing law. This because he refused to sign a formulaic apology for his completely innocent use of a phrase commonly used among young people, unaware that its original meaning had some racial connotations. That student was Trent Colbert who happens to be Cherokee and a leader of the Native American Law Students Association. He showed amazing courage in resisting great pressure, and hopefully his courageous example will inspire others to do likewise.

Social psychology studies show that we humans are very susceptible to peer pressure, but they also show that even one person daring to voice a different view can have galvanizing and rippling impact, transmitting to others the courage to do likewise. Which is where all of you brave souls in ACTA and AFSA come in and why your efforts are so essential. To paraphrase our National Anthem, we cannot be the land of the free unless we are indeed the home of the brave.

I'd like to add a couple other points about the Georgetown and Yale law situations, which epitomize the challenges all of us are facing and addressing. First, about Georgetown. I hope you all saw the terrific piece about it in the *New York Review of Books* last week written by David Cole, who is not only a long-time distinguished faculty member there, but also the ACLU's current legal director and notably a respected progressive. As a skilled advocate, David made a strong pitch to the woke left in particular, stressing why they, above all, have such a high stake in academic freedom. I'd like to read just a couple of sentences: “. . . if universities start policing controversial speech within their own intellectual community, they will undercut their standing to object to others' efforts to police them. This is no hypothetical concern. In their crusade against critical race theory, Republicans across the country have sought to censor discussion of race and gender in public schools and universities, recalling the worst tactics of the McCarthy era.”

And on the Yale Law School front, a couple days ago, I had an encouraging conversation with the courageous student I saluted a moment ago, Trent Colbert. I asked him what he might want me to convey to you, and he stressed how important marketing is—that was the word that he used—so students and other members of the campus community are aware of the support and of the resources you can provide, not only after the fact, but also proactively. In other words, advance awareness of your support could help embolden students to stand up and speak up. And this would be the opposite of a chilling effect. We could think of it as a defrosting effect.

Now my esteemed colleague and friend Michael Poliakoff kindly invited me to share my thoughts about why free speech matters. And I wanted to start by explaining why free speech matters to me as a bleeding-heart liberal, a feminist, a lifelong human rights crusader, and the daughter of a Holocaust survivor. And I cite those particular aspects of my identity because, alas, too many people see them as countering the conclusion that free speech matters, or, worse yet, showing that free speech matters in a negative way. But based on my ongoing research and analysis, I remain convinced that free speech is still our best hope for promoting any cause, as history has consistently shown it to be. Moreover, I remain convinced that censorship cannot avert another Holocaust or other human rights disaster, but might, to the contrary, actually fuel it, as the prosecution of Nazis under

Germany's hate speech laws increased the attention and sympathy they received.

I try my best to honor John Stuart Mill's justly famous explanation of why every idea must be subject to questioning, challenging, and reconsideration. Even if our reexamination leads to our reaffirmation, we don't just rote repeat the ideas as dead dogma, but rather they attain new depth and vibrancy. Since I mentioned John Stuart Mill, I told you I had a prop here, and I wanted to model it for you. For those of you who can't read it, it says, "Make J.S. Mill Great Again." It was a gift from a wonderful free speech group in the Czech Republic, which translated my *Hate Speech* book into Czech. Alas, wearing this cap has taught me that too many people have no idea who J.S. Mill was. It regularly provokes puzzled questions, even from well-educated friends, which proves how important it is to indeed make him great again. I suggest that AFSA or ACTA could adopt this prop.

In Mill's spirit, I'd like to quote the title of a forthcoming book by a friend of mine named Philip Glotzbach. He's a political scientist who was the immediate past president of Skidmore College. And this book title has become my mantra. It is, *What Would It Take for Me to Change My Mind?* What would it take for me to change my mind? I relish that challenging question, since we all must have an answer to it, for every belief that is not a matter of religious faith. So what would it take for me to change my mind that free speech matters, or more precisely, that it matters so much that it should be strongly protected with strictly limited exceptions?

I answer that question exactly the way the Supreme Court has answered it since the 1960s, when it launched its modern speech-protective approach. Not at all coincidentally, the modern Supreme Court began to strongly protect free speech at the same time that it began to strongly protect racial equality and other human rights. The justices who supported the equal rights claims of the civil rights movement understood that robust free speech was essential to advancing those claims and that censorship was systematically deployed to suppress those claims. The modern speech-protective approach has been supported by justices all across the ideological spectrum, which is noteworthy, considering how deeply divided the court is on other constitutional and civil liberties issues.

This uniformity among the justices is also noteworthy in another respect. It contrasts sharply with the general public's deep divisions about

free speech. Why the difference? I'm convinced that Supreme Court justices so consistently support robust free speech rights because they are aware, of course, of the pertinent First Amendment principles and because they are also aware of the history that gave rise to these principles, including the critical role that free speech has played in promoting other rights. In contrast, evidence consistently shows that the general public is woefully ignorant of these matters.

Now, that might seem like bad news, but as an activist, I'm a congenital optimist, and from my glass-half-full perspective, the public ignorance is actually good news. It means that in our effort to expand free speech support, we have a lot of low-hanging fruit. Indeed, in my extensive speaking about these issues, I have consistently seen that just a little understanding about free speech doctrine and history leads to a big increase in people's support. That's because a lot of public hostility is aimed, not at actual free speech law, but rather at caricatured versions of it, which are constantly conveyed in the media and elsewhere, even by people who should know better, including lawyers and journalists. For example, one pervasive myth is that the First Amendment is rigidly absolutist, always protecting even the most dangerous speech. Another is that First Amendment protections are based on the notion that speech can never do any harm. No and no, the actual First Amendment law completely belies these silly stereotypes. In fact, the real First Amendment law makes just plain common sense. It does outlaw the most dangerous speech, while it also outlaws the most dangerous censorship.

Let me briefly explain those conclusions. On the one hand, First Amendment law does outlaw the most dangerous speech; namely, speech that directly, imminently causes certain specific harms, serious harms, such as intentional incitement of imminent violence that's likely to happen imminently. On the other hand, the First Amendment outlaws the most dangerous censorship; namely, censorship that is based solely on dislike or disapproval of the speech's content or viewpoint, thus allowing government to manipulate the marketplace of ideas. Likewise, the First Amendment outlaws censorship that is based on vague, general fears that the targeted speech might indirectly, potentially at some future time contribute to some harm. Former Supreme Court justice Oliver Wendell Holmes well

captured the dangers of this censorship when he noted that every idea is an incitement.

So to counter the rampant disinformation about free speech, last summer, I began publishing a series of blog posts on the website of FIRE, the Foundation for Individual Rights in Education, along with FIRE's CEO Greg Lukianoff. We've been tackling the most common misconceptions about free speech, which are reflected in the most common arguments against it. To date, we've each published rebuttals to a dozen of these. To give you a sense of these, let me list a few of the other wrongheaded assertions about free speech that fuel arguments against it, which we have rebutted: Speech is violence; free speech is the tool of the powerful, not the powerless; free speech is just a conservative talking point; and the United States is an international outlier in its strong protection for free speech, thus calling into question the correctness of its position.

I obviously can't go into depth into any of these now. But for now, I would like to add a word about the fallacies in the common charge that First Amendment law is rigidly, ridiculously absolutist and in that regard an international outlier. This prevalent myth was well captured by that great expert, Prince Harry, in a widely quoted interview when he eloquently dismissed the First Amendment as "bonkers." In fact, as I already noted, the First Amendment wisely does permit government to restrict speech, but only in appropriately narrow circumstances. Namely, government must show that the restriction is necessary to promote an important public purpose; in other words, that it's the least speech-restrictive means to do so. So if the purpose could be promoted without restricting speech at all, or by restricting less speech, then the government must use those alternative measures. Now that test makes just plain common sense, right? After all, we might well be willing to give up some free speech to promote, for example, other human rights, including racial equality, but why should we give up any free speech if we don't thereby gain any added protection for other human rights?

This least restrictive means test is so commonsensical, in fact, that it's incorporated in the only truly international free speech law, namely, the law under two major UN treaties to which almost every country in the world is a party. This important fact is not nearly as well known as it should be, even

among free speech experts. There are two major reasons for the widespread unawareness of this really important fact about how speech-protective international law is. One is that the term “international law” is often used inaccurately to refer to the domestic law of other countries or to regional law, such as the European Convention on Human Rights. And these bodies of law do indeed often depart from the sensible speech-protective tenants of both U.S. and UN law. Yet the UN free speech law is the only such body of law that is truly international or global in scope. And when countries become parties to these UN treaties, as virtually all of them are, those treaty obligations supersede any inconsistent domestic or regional law. Now for the second reason for the widespread unawareness of how speech-protective international law is, it’s quite well known that each of the two UN treaties contains a provision that mandates the restriction of certain hate speech. However, here is a crucial, additional fact that is not at all well known, again, even among free speech experts, and that is both of those provisions have consistently been construed *very narrowly* by the authoritative UN officials and agencies. Most importantly, they have been interpreted to incorporate the very same least-restrictive requirement as U.S. law, and that’s a test that most hate speech laws fail.

So to sum up then, the U.S. free speech law is neither bonkers by being rigidly absolutist, nor is it an international outlier.

Now, let’s return to Philip Glotzbach’s general question, applying it to the free speech context. What would it take for me to change my mind about more speech restrictions, in other words, beyond those that First Amendment law already permits? I’ll use hate speech as an example, because so many students support more hate speech restrictions. Consistent with the actual First Amendment principles that I’ve sketched out, I would support an added restriction on hate speech if evidence supported two conclusions: first, that the restriction was actually effective in reducing hateful, discriminatory attitudes and actions, and second, that no less speech-restrictive alternative would be as effective. More important than my views, such evidence would persuade the Supreme Court to support added hate speech restrictions, and that’s exactly the evidence that I continue to search for and continue to fail to find.

To the contrary, human rights activists around the world continue to complain that hate speech laws, no matter how well intended, are at best ineffective and at worst counterproductive in advancing their important goals, which I fully and enthusiastically share: equality, dignity, diversity, inclusivity, societal harmony. Among other problems, such laws consistently and predictably suppress the voices of the very minority groups they are intended to benefit. Moreover, censorship only targets the verbal expression of hateful, discriminatory attitudes. It targets neither the attitudes themselves nor the violent, discriminatory actions they may well propel. So for these reasons, human rights advocates all over the world have championed education and other counter speech measures as a more promising approach. I'll cite one example: the European Commission against Racism and Intolerance, or ECRI. In a recent report, ECRI documented the distressing rise of hateful, discriminatory attitudes and violence in many European countries, despite their strict anti-hate speech laws. As a tool for curbing these problems, ECRI concluded that counter speech is much more likely to be effective than censorship. Much more likely. Note that that conclusion is phrased in terms of likelihood, not certainty, so let me use this as an opportunity to respond to yet another common anti-free speech canard. There's no guarantee that counter speech will be effective in suppressing any targeted ideas or expression. Yes, it's true, that counter speech is not guaranteed to succeed, but it's also true that censorship is guaranteed to fail.

So now that I've outlined why free speech matters so very, very much to me, in addition to this personal perspective, I also should stress that support for free speech has been universal and eternal. It has spanned every culture and every period, demonstrating that free speech matters fundamentally to all of us human beings in all of our societies. That fact is underscored by the countless free speech martyrs throughout history and around the world—people who to this day are willing to make such great sacrifices for the sake of free speech, even their very lives. Among the countless examples I could cite, let me quote the Chinese human rights activist, Liu Xiaobo, who sacrificed his physical freedom for free speech. Speaking from his prison cell in 2010, he said, “Freedom of expression is the foundation of human rights, the source of humanity, and the mother of truth.”

Note that phrase, “the source of humanity.” We often focus on the instrumental value of free speech, which is indeed a major reason why free speech matters and one I’ve been stressing, but especially since we’re currently celebrating black history month, I’ll also note free speech’s unsurpassed, instrumental value in propelling the ongoing struggle for racial justice. To do that, I’ll cite just one of the many leaders in the struggle who have repeatedly stressed that point, Frederick Douglass. And I noticed in the agenda for this conference, there’s another quote from a very famous, eloquent, powerful, enduring, timeless speech praising free speech by Frederick Douglass, but I’m going to quote another line from that same speech. “Slavery cannot tolerate free speech. Five years of its exercise would banish the auction block and break every chain in the South.”

Beyond free speech’s formidable instrumental power, as Frederick Douglass so eloquently attested, free speech also enables each of us to explore, develop, and express our individual human identities and capacities. In one of my favorite lines from a Supreme Court decision, the court said, “The right to think is the beginning of freedom, and . . . speech is the beginning of thought.” In the same vein, recall Descartes’ famous phrase, “I think, therefore I am.” So if we combine these two potent ideas, the logical sequence is: I speak, therefore I think, therefore I am. Or in short: I speak, therefore I am. The flip side of this enduring insight was chillingly conveyed in George Orwell’s dystopian novel *1984*. You may recall in the totalitarian state of Oceania, the new language, Newspeak, reduced people’s vocabulary, precisely in order to reduce their ability to think. By eliminating certain words, the goal was to eliminate the subversive concepts that these words conveyed.

In conclusion, free speech matters because individual liberty and dignity, equal human rights, and democracy matter, and free speech is an essential prerequisite for all of these. And that, my friends, is why ACTA and AFSA matter and why each and every single one of you matters so very, very much. Thank you.

Due to time constraints, the speaker declined ACTA’s invitation to review the transcript of her remarks prior to publication, allowing her remarks to be published as presented here.



Nadine Strossen

Nadine Strossen is the John Marshall Harlan II Professor of Law Emerita at New York Law School and served as the first female president of the American Civil Liberties Union (ACLU) from 1991 to 2008. She is a stalwart defender of free speech and was named one of the *National Law Journal's* "100 Most Influential Lawyers in America." Supreme Court Justices Ruth Bader Ginsburg, Antonin Scalia, and David Souter

participated in her ACLU retirement luncheon. Ms. Strossen is a leading expert on constitutional law and civil liberties; she has given thousands of public presentations and has published over 300 works for both scholarly and general-interest publications, including the *New York Times*, *Wall Street Journal*, and *Washington Post*. She is the author of *Hate: Why We Should Resist It with Free Speech, Not Censorship* (2018) and *Free Speech: What Everyone Needs to Know* (forthcoming in October 2023). She currently serves on the advisory boards of the ACLU, the Foundation for Individual Rights and Expression, Heterodox Academy, and the National Coalition Against Censorship.

She received her B.A. from Harvard College, where she graduated Phi Beta Kappa in 1972, and her J.D. from Harvard Law School, where she served as editor of the *Harvard Law Review* and graduated *magna cum laude* in 1975.

Suppression of Free Speech: What I Have Witnessed

by *Samantha Harris*

Thank you for that introduction. It was too kind, and I'm really honored to be here speaking to you all today. A little tip I've picked up over the years is to never get up and talk to people about a problem without also talking about what we can do to be part of the solution. So when ACTA asked me to come speak about the state of free speech on campus (and spoiler alert, it's not good), I asked myself two questions. The first is, since I only have about 20 minutes or so, what do I most urgently need to convey to you about the climate on campus? Because if we wanted to talk about all the problems, that would take all day. So what do I want to most urgently convey about the campus climate, and two, what can we do to help improve the situation?

So if you're in this room, chances are you already know that free speech has been under attack on campus for many years and no one, not faculty, students, or administrators, is immune from finding themselves on the chopping block. But that said, there have been some dramatic changes to the nature of this beast that we're fighting in the more than 15 years that I've been doing campus free speech work (which is amazing because I'm only 25, so how have I been doing this for 15 years?). So my career as a free speech activist began at FIRE in 2005. And at that time—and I'm hoping that my colleague Will Creeley who is sitting somewhere over here will back me up on this—the primary victims of campus censorship were students, and the primary censors were college administrators. So we had the administration that banned RAs from leading Bible studies in their dorm rooms for their friends, not for their advisees. We had student protesters expelled or punished or relinquished to small, out-of-the-way free speech zones. And today on campus, what I see is that balance of power has shifted dramatically.

The administrators are still the censors, but today, it's students who most often run the show. I mean, most of my clients today are faculty, not students, and the patterns are so predictable as to be tiresome. Here's one: A faculty member Tweets or writes an article expressing a view that's out of step with the current campus orthodoxy (like Joshua Katz, who

Michael Poliakoff just mentioned, and I'll talk about him a little bit later in this talk), and students start to protest and call for that person to be fired. The administration issues a statement condemning the faculty member but acknowledging that their comments were protected. So then students start filing complaints about that faculty member's classroom conduct, and the administration claims, well, they're obligated to investigate those complaints, and so an investigation ensues. Sometimes the faculty member is put on administrative leave, other times the administration would open up alternative sections of that faculty member's class and drain them of students. And ultimately, regardless of whether the faculty member is ultimately found responsible, the investigation itself sends a clear and chilling message about what happens to faculty who dare to express dissenting views.

Here's another completely predictable fact pattern. A faculty member presents challenging or sensitive material in the classroom—might be about gender or race or religion. Anything touching on these topics is a total minefield today, and I've had three faculty members I've spoken to at three different institutions in the past week say to me that they're terrified to teach, which is a sad state of affairs. Students object to the way the faculty member has presented this material. And these aren't allegations about a math professor going on a rant about politics in the classroom. These are allegations about materials that are germane to the topic being taught. And interestingly, these cases don't break down along political lines at all. They break down along generational lines. Many of my clients in these types of classroom cases are dyed-in-the-wool progressives. They're people who still believe that the classroom is a place to confront history with all of its unpleasant facts, a place to have thorny debates, and a place to challenge students' deeply held assumptions. But that isn't the way things work today.

Today, administrators support students who claim they can't learn in an environment where they experience any kind of emotional discomfort; that faculty have to figure out how to present difficult materials in ways that won't make anyone uncomfortable. And like in the first scenario, when students complain, the result is always an official university investigation, even when the complaint is about conduct that is clearly protected by academic freedom.

And before I go on, I want to be clear that my point here is not to come down hard on these students. I think that the reasons that students seem to have become less tolerant of challenging or uncomfortable speech are complicated, and if you haven't already read *The Coddling of the American Mind* by Greg Lukianoff and Jonathan Haidt, you should definitely add that to your reading list, because it talks a lot about that. The people I blame are the full-grown administrators who are throwing faculty under the bus the instant they receive a complaint. These administrators have ceased to perform even the most basic gate-keeping function, insisting instead that every student complaint, even when clearly retaliatory or based on protected speech, must be investigated.

Worse, sometimes it's the administrators themselves who subtly or not so subtly encourage angry students to bring complaints. This is what happened to my client, Charles Negy. (And I'm not breaking any confidence as I've told his story publicly before with his blessing, and I'm not sharing anything here that I haven't already written about publicly.) So Negy taught psychology at the University of Central Florida, and he's—I love him—he's a wonderfully eccentric man. He holds a wide range of opinions that don't fit any particular mold. He is biracial, he's gay, he's an avowed atheist, but he also holds many opinions, particularly on what I would call sort of DEI issues, that would be classified as politically conservative. And he expressed some of these opinions on Twitter in June 2020, right as racial issues were really exploding into the national consciousness. So students got angry, and #UCFfirehim started trending on Twitter. They held protests on campus. And then, after the predictable statement that his Tweets were protected, the university posted a statement on its website, effectively inviting students to come forward with complaints of bias in the classroom.

And that's exactly what they did, with hundreds, if not thousands, of anonymous complaints dating back 15 years about the way he taught his classes. These were mostly about classroom speech, because Negy taught cross-cultural psychology and human sexual behavior—two classes that I would not touch with a 10-foot pole nowadays. And he taught them in his typically blunt style. So the university's equal opportunity office interrogated him about these student complaints for more than nine hours. They didn't even try to weed out the numerous duplicative or obviously disingenuous allegations. I sat with him through these nine hours of questioning, and

they were brutal. And to make matters worse, they were a complete ambush. So, in their notice of allegations, the university refused to give him anything except a few representative examples of the things that people had alleged. And then, when his memory about the details of things he had said over the course of 15 years turned out to be imperfect, they added a charge of lying during the course of an investigation.

Honestly, it was one of the most Kafkaesque things I've ever seen, and they succeeded. They took everything from him. He lost his job, he lost his home, his sense of identity and purpose. He's still fighting, and I hope he will be vindicated.¹ I mean, I'm certain that UCF violated his constitutional rights, and I'm going to do everything in my power to make sure they're held accountable. But even if he ultimately prevails, how many people would speak out if they knew they were going to be put through what he already has gone through?

Now, while the extreme consequences that Negy suffered are still all too common, I want to talk about another strategy that universities have begun to employ in recent years, and it's more stealth. It's kind of an attempt to fly below the radar. I call it the "death by a thousand cuts" strategy, and it's something universities are doing more and more when they know they can't get away with firing someone for unpopular speech. So instead, administrators chip away at someone's career bit by bit, hollowing it out from the inside while still allowing them to say, "Oh look, there's nothing to see here. He's still tenured." Because of its insidiousness, this kind of retaliation can be harder to identify and to challenge, but it's every bit as chilling to free speech.

I'm representing a professor right now, and again, this is a public filing, and he's blogged about it and identified me as his attorney, so I want to be clear I'm not breaking any attorney-client confidences with the anecdotes I'm sharing here. So I'm representing a professor now at NC State who is suing over this kind of death by a thousand cuts retaliation. He's been an outspoken critic of what he calls the woke ideology that's come to dominate the school of education where he teaches. He hasn't been fired or demoted,

1 Editor's Note: Since this speech was given, Dr. Negy was reinstated by an arbitrator, with back pay, after a successful grievance through his faculty union. He is currently suing UCF and several of its administrators in federal court for the continued chilling effect of UCF's actions on his free speech rights as well as for financial and emotional damages caused by UCF's actions.

but he's been slowly excluded from the life of his department in a way that makes it harder and harder for him to do his job. He's been systematically excluded from faculty meetings and Ph.D. recruitment activities, despite the fact that he works almost exclusively with Ph.D. students, so his ability to recruit and retain advisees is essential to his ability to succeed and do his job. He's even been prevented from participating in important assessments of his current Ph.D. advisees. So he's essentially being forced into a rubber room where he's nominally still employed as a tenured professor, but he's unable to actually do his job.

There's also Timothy Jackson, a music theorist at the University of North Texas who published a harsh critique of a fellow music theorist's argument that essentially music theory is white supremacist. And as a result of that, he was removed as editor of the university journal that he founded and that was his life's work. He's also suing, and his lawsuit just survived a motion to dismiss by the university. And as I was writing this talk, I read about a new lawsuit—this was just published in *Inside Higher Ed* a few days ago—by an anthropologist at San José State who's facing retaliation for views she has expressed about reburying remains after they've been studied. She doesn't believe in reburial, which led to allegations of racism because apparently this reburial issue primarily concerns Native American remains. And following the fact pattern, the university issued a statement acknowledging that her statements were protected, but just a few weeks later, announced a new policy that effectively stripped her of her responsibility as a curator of the university's collection of remains.

So now after this little kind of parade of horrors, I want to get to the part about what we can do to help. And to do that, I want to share with you all, I was going to call it a little secret, but you probably all know it's not a secret. These inquisitors are not succeeding because most people support them. The inquisitors are succeeding because most people are too afraid to publicly disagree with them. If you talk to many of these professors who are afraid to teach because of student complaints, they'll tell you that the number of hostile students is actually quite small. Most students want to learn and to hear diverse views, but because faculty and fellow students are fearful of pushing back, this small group controls the dynamic of the class.

Administrators are similarly cowardly. They put faculty under investigation the instant a student lodges a complaint, unwilling to actually say, "No. I understand that you didn't like the way this professor chose to

present this material, but he has academic freedom rights, and we don't investigate faculty for things like this." And one of the most depressing things I see is that when I have a client who's facing the inquisitors, he or she will get lots of messages of support behind the scenes, but almost no public support.

So speaking of Joshua Katz, after his article in *Quillette*, where he criticized this faculty anti-racism petition that demanded things like a committee to investigate and punish "racist research and publication"—which obviously is hugely subjective and basically an invitation to viewpoint discrimination—he was immediately denounced by the Princeton administration. The director of graduate studies in Classics reached out individually to every Classics graduate student to ask how they were doing, given the pain caused by his article, and he went from celebrated professor to institutional pariah almost overnight.

And so during this stretch, a Princeton alum created a petition in support of his free speech rights. And this petition didn't say, "We agree with what Joshua Katz said." This petition was, "We support his right to free speech." And he circulated it to other alums, and the responses were very telling. And these words were private messages that Joshua received that we later got permission to publish anonymously. One person wrote, "I wish I could sign this letter supporting you, just as I wish I could write one of my own," but this person's corporate employer had made clear that it would view this as "purposefully undermining them" and would probably fire them for signing the letter. So the person expressed deep regret, but said they just couldn't risk losing the ability to support their family. Another person wrote, "As a junior tenure-track professor, I sympathize with your message, but I cannot afford the luxury to support it openly. Hence, why this email is regretfully unsigned." Yet another person said, "If I admitted now what I really thought on this and a number of other topics, I would be finished in academic life."

And the irony in all this is that if people actually stood up to the inquisitors, controversies would die down a lot more quickly. The fear and cowardice that people display is like blood in the water to these would-be censors, and moral courage is their kryptonite. In the spring of 2019, students at the University of the Arts in Philadelphia, where I'm from, demanded that the university fire Camille Paglia, who's a longtime professor

and feminist provocateur. These students took issue with Paglia for opinions she shared about sexual assault, about the MeToo movement, and about gender identity that they found offensive. So this story began like all the others, but it ended very differently. Instead of launching a retaliatory investigation or soliciting student complaints, the university president stood up to the bullies. And I hope you'll indulge me in reading his whole statement, which is brief, because it's so good that I want to cheer every time I read it, and I think you will too. So here's what he said:

Across our nation it is all too common that opinions expressed that differ from another's—especially those that are controversial—can spark passion and even outrage, often resulting in calls to suppress that speech.

That simply cannot be allowed to happen. I firmly believe that limiting the range of voices in society erodes our democracy. Universities, moreover, are at the heart of the revolutionary notion of free expression: promoting the free exchange of ideas is part of the core reason for their existence. That open interchange of opinions and beliefs includes all members of the UArts community: faculty, students and staff, in and out of the classroom. We are dedicated to fostering a climate conducive to respectful intellectual debate that empowers and equips our students to meet the challenges they will face in their futures.

I believe this resolve holds even greater importance at an art school. Artists over the centuries have suffered censorship, and even persecution, for the expression of their beliefs through their work. My answer is simple: not now, not at UArts.

And what do you think happened? I'll tell you. Nothing happened. The protests died down. The university is still standing. David Yeager, the man who wrote this, is still president, and Camille Paglia is still a professor. While the appeasing behavior of administrators around the country does nothing to quell controversy—if anything, it just ramps things up—standing up to the bullies does. But in the current moment, it takes a tremendous amount of moral courage to stand up to the bullies because people who do usually find themselves standing alone. And that's where we come in. We all need to stand up with them, because there's

safety in numbers, and the numbers are on our side. The problem is that no one wants to go first, and so these alumni free speech networks and organizations that are dedicated to providing support for and cover to people who are willing to stand up are critically important.

So that is my ask today: that we go first. This is corny, but to quote the TSA, “If you see something, say something.” Use your influence to speak out on behalf of people who are facing censorship. Sign your name to the petition. If you run a company, make sure your employees know that they won’t be punished for the views they express outside of work. If you’re a trustee at a university, bring these issues up at the meetings, even if it makes you unpopular. We don’t all need to be people who put ourselves out there to express dissenting opinions, but we all need to be people who stand up for those who do. Thank you.



Samantha Harris

Samantha Harris is a founding partner at Allen Harris Law. She has dedicated her career to protecting free speech and civil liberties, and her advice has guided students, faculty, administrators, and attorneys on issues of free speech and due process on campus. She spent 15 years at the Foundation for Individual Rights and Expression, where she worked to change university policies and practices that denied people their most fundamental

rights. She lectures regularly about student and faculty rights at colleges and conferences around the country. She has been published in the *Washington Post*, the *New York Daily News*, *Inside Higher Ed*, *Reason*, *National Review*, and other publications and has appeared on ESPN, Fox News, CNN, and NPR.

She received her B.A. from Princeton University in 1999 and her J.D. from the University of Pennsylvania Law School in 2002. She served as a law clerk for the Honorable Jay C. Waldman of the U.S. District Court for the Eastern District of Pennsylvania.





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