Leading a University *in Times of Turmoil*

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ACTA
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AMERICAN COUNCIL OF TRUSTEES AND ALUMNI

ACTA is an independent, nonprofit organization committed to academic freedom, academic 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, 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 over 1,300 colleges and universities, including over 23,000 current board members. Our quarterly newsletter, *Inside Academe*, reaches more than 15,000 readers.

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Campus Leadership for Intellectual Freedom and Open Dialogue

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Moderated by
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American Council of Trustees and Alumni

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Chancellor Daniel Diermeier is the ninth chancellor of Vanderbilt University. He arrived at Vanderbilt in 2020 at the peak of the COVID-19 pandemic, yet he ensured the university was open in that fall. He served as the provost of the University of Chicago from 2016 to 2020 and brought the values of the University of Chicago—the Chicago Principles on Freedom of Expression and the Kalven Report on institutional neutrality—to his leadership at Vanderbilt. He has written extensively in the *Wall Street Journal*, the *New York Times*, and *Forbes*, and he has published five major books on higher education management and leadership.

President Emeritus Stephen Joel Trachtenberg's transformational leadership of George Washington University from 1988 to 2007 followed on the heels of his very successful leadership of the University of Hartford. He put George Washington University into the top ranks of American higher education. The author of several books, he is a paradigm and a mentor to many within the world of higher education leadership. He serves on ACTA's Board of Directors.

Leading a University
in Times of Turmoil

Michael Poliakoff

We're in a difficult time in American higher education, to say nothing of our nation. It's a time when we need wisdom and courage to bring us through. Just one witness to that is the declining confidence in higher education. In the last decade, we've seen a steady decline and now a nine-point decline in public confidence between just 2023 and 2024. Thirty-two percent of Americans say they have little or no confidence in these great institutions that are the lifeblood of our progress. Forty-one percent of those who are disaffected say that that's because of the politicization of higher education. So are we looking at correlation or cause? (I'm speaking in front of somebody who has devoted his life to those sorts of differences.) We had the repulsive spectacle of student and indeed some faculty behavior within the last year that grotesquely included the embrace of an enemy that not only sought—and seeks—the destruction of Israel, but of our nation and the West. And then we saw the tragicomedy before Congress of three college presidents who had an opinion on everything but could not give a full-throated denunciation of campus antisemitism.

For 29 years, ACTA has worked with boards of trustees, college leadership, the public, alumni, and legislatures on behalf of freedom of expression on campus and high academic standards, real academic rigor, and accountability. This summer, we raced to put into the hands of trustees, 23,000 of them, two guides for leadership, one dedicated to preventing the kinds of encampments and occupations that created such a campus disgrace—and when one thinks about it, actually eroded the freedom of

expression on campus—and a second devoted to the problem of the calls for divestment, counseling trustees that there really is no reason to give into pressure groups. Indeed, on the contrary, it is a very dangerous thing to be giving into pressure groups. It is a desperate error to allow this to happen on campus.

Following up on our two preceding guides to help trustees navigate the ongoing crisis, we are very proud to be able to deepen the conversation concerning the campus with this special publication of a speech delivered by Dr. Daniel Diermeier, chancellor of Vanderbilt University, on October 22, 2024, at the National Press Club and selections from the discussion that followed with George Washington University President Emeritus Stephen Joel Trachtenberg and the ACTA audience.

So with that, we welcome Chancellor Diermeier. Thank you so much for being with us.

Daniel Diermeier

Thank you for the kind introduction, and thank you for having me with you today.

Higher education is experiencing its greatest challenges since the 1960s. Campus unrest is at levels not seen since the Vietnam era. Public confidence in higher education has fallen dramatically. To meet this moment, university leaders must step up, affirm and articulate the unique purpose of universities, and then act accordingly.

Let me tell you what that means at Vanderbilt.

One hundred and fifty-one years ago, Cornelius Vanderbilt gave our university its start with his founding gift. And in a letter he wrote at the time, he talks about his desire to establish a great university that would be a place where a divided country could come together—one that, as he put it, "strengthens the ties which should exist between all sections of our common country."

He was talking about the aftermath of the Civil War, of course. But his idea that a university can bring a divided country together animates our purpose and our mission to this day, when we are seeing America's highest levels of polarization and division in nearly 60 years.

One of the most salient ways this idea informs our values is in our commitment to free expression, which we think of as creating an environment in which the purpose of a university—transformative education and pathbreaking research—can thrive. We believe everything we do should serve that purpose.

Our commitment to free expression is really three commitments that are the pillars on which free expression rests. The first is a commitment to what we call open forums. This is a university's commitment to providing plenty of spaces where issues can be explored and discussed without the threat of censorship. It is very similar to the University of Chicago's stance on free expression—its so-called Chicago Principles—and it's also a commitment that goes back to our fifth chancellor, Alexander Heard, who formulated it during the social conflicts of the late 1960s and early 1970s. "Open forum" means we want to create an environment where ideas can flow freely and people can follow them wherever they lead.

What does this mean in practice? Here's one example: Our policy at Vanderbilt is that any registered student group and any faculty member can bring any speaker on campus as they see fit. Speakers don't have to be vetted or approved by anybody. The flip side is that we will not tolerate disruptions that make it impossible for speakers to be on campus—there is no heckler's veto.

This tradition at Vanderbilt dates to at least 1967, when students created an event called the Impact Symposium—which we still hold annually—and invited speakers who were very controversial at the time. These included both Strom Thurmond and Stokely Carmichael, among others. You can imagine the outcry in the local media at the time. But my predecessor, Chancellor Heard, affirmed the principle of open forum, reminding everyone that the purpose of a university is "not to protect students from ideas, but rather to expose them to ideas and to help make them capable of handling, and, hopefully, having ideas." And we live by that principle to this day.

The second pillar of free expression at Vanderbilt is civil discourse. By that we mean that we are individuals who come together as members of one living, learning community and treat each other with respect, who try to

convince each other through arguments and reason based on facts, and who are committed to listening and learning from each other.

When our students arrive on campus for their first year, they sign a pledge. We call it our Community Creed. It was initiated by students, and it contains commitments to being respectful and to "openly engage with ideas, experiences, and with one another," and more. We ask students to sign it when they sign our Honor Code, to remind them that this is a crucially important component of what it means to be part of the Vanderbilt community.

The third pillar is called institutional neutrality. It was named and codified by the University of Chicago in its 1967 Kalven Report. The idea of institutional neutrality says that a university leader can speak on behalf of the institution on issues related to the core functioning of the university, such as questions of academic freedom. But on anything else, on political and social issues that go beyond the university's core function, your duty is to be silent.

Why? To create the maximum possible room for students and faculty to explore ideas on their own, without influence from university leaders. Or to put it differently: The purpose of a university is to encourage debate, not to settle it. That's the institutional neutrality postulate. And it is the third pillar of free expression that has been guiding us at Vanderbilt. It, too, goes back to Chancellor Heard, who observed, "The social values of open forum and free inquiry cannot be realized without the political neutrality of the university as an institution, except where the university itself is the issue."

It may come as a surprise to you that, until recently, very few universities subscribed to the principle of institutional neutrality. The major ones are the University of Chicago, Vanderbilt, and the University of North Carolina. It's possible I'm missing others, but those are the best-known.

But what we have seen in recent months, probably because of the experience of last spring, is a movement toward institutional neutrality. Harvard has adopted it. So have Johns Hopkins, Stanford, Northwestern, USC, and Penn, among others.

This is a positive development for anyone interested in free expression on campus or concerned about the politicization of universities. But when

you look a little closer, as I've argued in the *Wall Street Journal*, these recent moves toward neutrality often don't go far enough. Here's what I mean.

Some universities have said institutional neutrality applies only to speech by the president—to official statements, if you will. That's great. But it's very important to understand that institutional neutrality—and this is how the University of Chicago and Vanderbilt have always interpreted it over the decades—doesn't just apply to speech. It also applies to actions. It prohibits position-taking, in both words and deeds, on political and social issues unrelated to the university's core purpose.

Crucially, it applies to how you deal with the endowment. At the University of Chicago and Vanderbilt, institutional neutrality has meant that the endowment will not be used for political purposes. Therefore, calls for divestment are inconsistent with the principle of institutional neutrality, no matter what the cause is. But that is not where most universities are at this point.

I think it is logically inconsistent to say, "I refrain from condemning Israel, and then I'm going to divest from Israeli companies," because if you're divesting, you're making a statement. You're saying it is contrary to university values to invest in fossil fuel companies, private prisons, or whatever the issue is.

Last spring, pro-Palestinian student activist groups pressed university presidents to not only divest their endowments from companies with any ties to Israel. They also demanded that they condemn Israel for genocide, stop working with vendors that have connections to Israel—even when it comes to buying hummus—and boycott Israeli academics. This was part of what's called the BDS movement, which stands for boycott, divestment, and sanctions. And it is a clear example of pushing the university to take a position—in this case, on the conflict in the Middle East.

And the reason it is so critical for universities to resist these pressures is because when you are taking a position on an issue such as divestment, you are signaling to your community that this is the right answer. The Kalven Report has argued that if you do that, you are undermining an environment where free expression of ideas can flourish because people are now concerned that they're violating the party line. And that creates a chilling

effect undermining the free flow of ideas and debate that is fundamental to education and research, to a university's purpose.

I want to spend a little bit more time on institutional neutrality, because that is at the heart of what happened on campuses last year. The notion of "free speech"—open forum—often gets the headlines, but the real issue is institutional neutrality.

I have argued that there are at least two other reasons for why institutional neutrality is crucially important for universities.

The first has to do with expertise. Developing and certifying expertise is one of the main reasons universities exist. We are about doing the careful work required in any field of study to really understand and master it. That is difficult, and it requires years of training and study and scholarship. And we spend a lot of time certifying our students who have cleared those hurdles, first with an undergraduate degree, later with a doctorate. And when they have really demonstrated deep understanding and also contributed new knowledge or insights to their field, we appoint them as faculty and deem them experts.

So when a university president makes a statement on some issue—usually under time pressure, and usually on a subject he or she knows nothing about—it undermines the value we place on expertise.

If I have faculty who have spent their entire professional lives studying and talking about the Supreme Court and *Roe v. Wade* and whether it was a good idea or a bad idea, and whether it was well-argued or not, for me to come out over a weekend after a Supreme Court ruling and say, "Well, I think the court was wrong"—that's incompatible with the value we place on expertise. Because I have no expertise in this area. I'm not a constitutional lawyer, and I don't play one on TV.

The final reason to practice institutional neutrality is, if you will, a pragmatic one. And we saw the need for this on full display over the last year.

If a university leader is taking positions on controversial issues—on foreign policy, or climate policy, or some other divisive matter—they are encouraging an environment in which competing interest groups push and

pressure the university in one direction or another. And what happens—what happened on so many campuses last year—is that very motivated groups can pull the fabric of the university community apart. And the last thing you want is to create an environment that further encourages polarization on campus.

So those are the three main reasons universities should practice institutional neutrality: to maintain an environment where debate and diversity in viewpoints can flourish; to be consistent with our respect for expertise; and to avoid further politicization and polarization on campus. And all of these stem from being clear about the unique purpose of a university, and acting in a manner consistent with that.

So where is higher ed now, *vis-à-vis* institutional neutrality?

As I mentioned, more universities are moving toward it. That is very gratifying. I have been arguing for the importance of institutional neutrality for the last two and a half years. The way these things go is that, first, everybody ignores you. And then something happens, and then people pay attention. And that's a wonderful thing. I think discussions in university boardrooms have been an important part of this process as well.

Still, the value of institutional neutrality is not uncontested, and we still have a lot of discussions going on, both within universities and among university presidents. But the movement is salutary.

That said, there are three dimensions where I think the implementation of institutional neutrality in many cases doesn't go far enough.

Number One, as I mentioned, is that institutional neutrality must apply not only to words, but to deeds. This means that if you have a policy of institutional quality, and you refrain from talking about issues unrelated to the core functioning of the university, you also cannot use your endowment for political purposes. That is not widely accepted at this point.

Number Two, institutional neutrality needs to extend beyond the president and provost's offices to a university's academic units. Indeed, position-taking is arguably more of a problem at the level of schools, colleges, and departments. It is very difficult for faculty, especially for junior faculty, to object or dissent when everybody pressures them to sign or to be in line

with a statement by the department. So it's very important to have an environment that encourages the free expression of ideas and debate not only at the university level, but also at the level of the law school, or the school of social work, or whatever academic unit we're talking about. But this is not yet widely practiced.

The third dimension, totally underappreciated from my point of view, is the politicization of scholarly associations. This caught some people's attention earlier this year, when the American Association of University Professors, which played an important role 100 years ago in defining the concept of academic freedom, made the disastrous decision to reverse their stand against academic boycotts. They now endorse the use of boycotts, meaning that certain people will be excluded from conferences or scholarly endeavors for purely political or ideological reasons. This is very troubling.

But the AAUP is not the only problem. We also have a variety of professional associations that routinely take positions on political issues totally unrelated to their mission or their purpose. One reason this is a problem is that these scholarly associations bestow honors and recognitions that matter a great deal in the careers of faculty. If you win an award for best book or dissertation from one of these organizations, that's hugely valuable for a young scholar. If suddenly there is a political litmus test to win the best book award, it will undermine the scholarly standards in that discipline.

Many of these associations also publish journals. Indeed, some of the most prestigious journals are published by professional associations. And again, we have to be extremely worried that standards of scholarly excellence are being undermined when an association indicates that there is a party line by taking political positions. Because we can assume that a scholar whose work stands in opposition to the organization's politics will not be given fair consideration. So, I have called on scholarly associations to abide by the same principle of institutional neutrality as universities.

That's where we are at the end of the day. All of these lingering problems are manifestations of the same fundamental questions: What is the purpose of universities? What are the values that guide and undergird that purpose? And are most universities acting according to these values, or are we seeing them drift toward becoming political actors, taking actions that are inconsistent with or even undermine the very purpose that they stand for?

This move from purpose to politics is fundamentally a question about the politicization of our universities. It is vital that we stay sharp and vigilant about this temptation, that we remain clear about what the purpose of a university is. Because American universities, for all the drama on their campuses in the past year, for all the criticism from the public, are still invaluable and unmatched assets to the nation. They are where we educate the people who will shape our future. They are an unparalleled source of discovery and innovation and a singular engine of economic growth. For these reasons, American research universities, public and private, are the envy of the world. Those who argue for their eradication or their obsolescence overlook this fact.

University leaders can, to a large degree, meet the challenges facing today's universities by being clear about a university's purpose and values and letting those be the North Star that guides our actions. In so doing, we can preserve these remarkable institutions that have been a source of American competitiveness and prosperity for so many years.

Thank you.

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Michael Poliakoff

Solveig Gold, here with us today in the audience, asks us to consider the limits of institutional neutrality, noting that the president of a major university declined to participate in a vigil for the victims of October 7, specifically citing institutional neutrality as the reason. Do you think that's actually true, that neutrality would prevent a president from attending such a vigil?

Stephen Joel Trachtenberg

The presence of the president makes a difference. I never could understand why people cared if I came to the funerals of university faculty or staff, but it seemed to matter to people and so I made it my business to go to funerals, retirement dinners. I prayed with the evangelicals. I smoked cigars with the cigar club. The president needs to spread himself around a little bit, like

margarine, and develop a certain familiarity with the constituency that he serves.

Now, there used to be a scholar of higher education who argued that presidents needed to be at arm's length in the community. Do you remember Jim Fisher? He wrote book after book in which he said the president needed to be at arm's length and be a little mysterious . . . I never understood that. The advice I give to young presidents is to be as well-known as possible and to know as many people as possible so that when an issue came up, you were a real thing, a real person, a real personality, rather than some hypothetical, "The President." It's very easy to push against the hypothetical, but it's a lot harder with a real person.

In any case, I think that the problem in some ways is that many of the institutions that we've seen presidents fail at most recently were staffed by presidents who were newly appointed, who had not yet had an opportunity to build up any reservoir of goodwill which they could draw down on when difficult issues came to the campus.

I remember, for example, when 9/11 took place at the Pentagon, when the airplane crashed into the Pentagon, I slept on campus for four days, taking calls from parents all over America—all over the world, actually—getting me to reassure them that I would protect their children and nothing terrible was going to happen to them. You have to personalize the presidency, and I think that's less frequent than it used to be.

Daniel Diermeier

The thing with institutional neutrality is that you have to live it and you have to have a couple of examples like it. It's like free speech, you have to work through these things. In a moment of trauma, in a moment where people are hurting and where something horrendous happened to them or people they know, there is, I'm going to call it, a rabbinical or pastoral role that a president can play to grieve with people. That is an important thing. Now, you want to do it in a way that you're not taking a position, that's the art, and that's not so easy, and I'll give you an example in a minute. But to participate in a vigil, it does not mean you take a position. It means you're taking part in the grief and the processing of the grief in your community. So now, if you only go to one end, if you do it selectively, that's a problem. Or if while doing it, you take a

political position, that's a problem. But I think it is utterly, utterly critical for presidents and chancellors to fulfill this role. I call it the rabbinical pastoral function because this is a community of people that live together. It's like a little town, it's like a little community. There are young people who live there, not always making the best decisions. But that is part of your role as well.

So I'll make it concrete for you. A year and a half ago, we had a school shooting in a school about two and a half miles away from our campus, The Covenant School. It was a horrendous, horrendous case of an elementary school. It's about as ugly and awful as you can imagine. The head of school was a Vanderbilt alum, and two other teachers were Vanderbilt alums who were killed, and one child was killed who was the child of one of our faculty members.

It's horrible; it's the moment that you dread in your life, and of course, it deeply affected our community to the core. So I reacted to that, I made a video, I mean, the whole thing that you would expect in this particular case. Some members of my faculty were very angry with me that during this moment I did not ask for a specific measure of gun control. So that to me is the distinction: You grieve with your community, you are there with them, but that is not the time to talk about this, and it is not consistent with institutional neutrality in the first place. And on issues of gun control, we have at Vanderbilt some of the world's best experts on that, and it's their expertise, not mine, especially not in a moment of tremendous emotional trauma and pain for us as a community. To come in and make a policy pronouncement is entirely inappropriate for the moment, but it is also inconsistent with institutional neutrality.

Michael Poliakoff

Robert Fuller, here with us today, asks how do you deal with the lack of intellectual diversity, whereby students just don't feel like they can express themselves freely in class and are being ridiculed or ostracized by their fellow students, and perhaps their faculty as well?

Stephen Joel Trachtenberg

Students who challenge orthodoxies and assumptions are the oregano on the

pizza. I mean, without some students taking a contrary position, adding a little spice to the conversation, it's a pretty boring class, whatever it is. You want some students who are going to take a contrarian view so that you can have the debate.

I remember at Columbia as an undergraduate, we would have faculty members who would come in periodically and declare their political positions in the first lecture and tell you that this is where they were coming from, but you were to ignore it during the course of the rest of the semester, which sometimes was a little hard. But at least they would put their cards on the table and that would allow for the debate to proceed for the rest of the semester.

I think it's a little tough, though. I mean, if you have a faculty member who takes a strong position, students are likely to comply. So I think it's not only a question of the presidents holding back their political positions or their points of view, but also faculty members, in order to induce more conversation in the classroom. They need to try to maintain a certain amount of balance to allow that to transpire.

Daniel Diermeier

It's a hugely important question, and one way to think about it is that the classroom needs to be a place for learning, not for indoctrination. That's the goal. So if we have a case where this is not the case, and where we see indoctrination in the classroom, or where just because people disagree along the lines that you described, they are being penalized or their work is not being evaluated fairly, we've got a problem and you're going to have to see the dean. I mean, that's not acceptable and it's important that we don't lose track of that.

Now, like everything in life, exactly how do you do this and implement it? We have to look at the particular case . . . and of course, that's why we have law schools, right? To find out exactly what happened in a particular case. But the fundamental principle that the classroom is a place for learning and not for ideological indoctrination is fundamental. If we're not doing that, we are deviating from our purpose, and it's our responsibility as presidents, as provosts, as university leaders to make sure that these values are upheld and implemented and are the reality on campus.

Michael Poliakoff

Let's take up another key issue. I took your advice, President Trachtenberg, for our publication on preventing encampments: That was to counsel college leadership to require students to sign a statement at the very beginning of each academic year at registration that they understand the rules of behavior and understand the consequences for breaking those rules. So I thought maybe we would talk a little bit about a concept that's so old-fashioned as discipline, and how the student code of conduct, and indeed even the faculty handbook, will affect the way our institutions are able to function.

Daniel Diermeier

Okay, so maybe I'll set the stage a little bit by telling you what happened on our campus and how we tried to put these principles in action, and then how the concept of discipline plays an important role in that.

The first thing that I should say is that after October 7, our students did a remarkable job. We had lots of very intense discussions, we had vigils, we had great discussions inside the classroom, inside our residential colleges. I was extremely proud of our university community that stepped up in a moment that was very, very difficult. Then late in the year, around December, we saw the formation of a more radical pro-Palestinian student activist group which, right before the holidays, asked for me to denounce Israel for genocide, divest, and cut any connections with vendors that had business relationships with Israel.

Now, you're not going to be shocked to hear that when students came back after the holidays, which is right after New Year's for us, I sent a letter to the community that made clear that these type of demands are inconsistent with institutional neutrality and so we will not consider them. Now, interestingly, the student group at the time then stated in their social media post that they don't feel bound by institutional neutrality, but they also felt that they weren't bound by civil discourse (which is kind of an interesting statement) because the issue is too important. So we didn't quite know what that meant until late March.

In late March, the following happened. We have an administrative building

called Kirkland Hall named after one of our chancellors, and the building—having done a gut-level renovation—was still closed to the public. We did some kind of minor repairs and so forth, so you couldn't just walk in, but people were working there, including myself. And so the students pretended that they had an appointment—there was a group of students, about 27 of them—and then they basically bull-rushed the door. The door was pushed open, a security guard was run over and smashed into a door frame and got injured. And the students then ran upstairs to where my office is (actually, they didn't run upstairs, they took the elevator) and tried to get into my office. My staff restrained them from that. And then there was pushing, and then they sat down in a foyer area in front of my office. That happened around 9:00, 9:30 a.m.

We then made it clear that they were violating university rules, which had been clearly stated to them before, and that they had gained entry into a closed building and they're supposed to leave, and if they were not going to leave, they would be subject to student discipline. At, I think, 4:00 or 5:00 p.m., we arrested three of them, those who had smashed the security guard into the door. Everybody else then went back to their residential college.

By the way, there was no food and no access to bathrooms, either, and so that did not go over well. There was a lot of criticism, but we said that you're not supposed to be here, and we don't have a moral duty to provide you with pizza, so we're not going to do it. So the students left, and then as we had told them, they were subject to student discipline. The three students were charged for criminal assault, misdemeanor assault by the DA, and the process is going on right now. The final trial will be in November. Everybody was put on interim suspension, which means they couldn't take classes and couldn't be in the colleges. Then everybody went through a student discipline process, which is the same student discipline process we use for everything else. Three of them were expelled, we had some suspended, and some were on long-term probation. Long-term probation for us is substantial—you can't run for student leadership roles and so forth. So that's what we did.

It is absolutely essential to be clear about your values and principles and roles, to communicate them clearly to your campus community, and then act upon them. And that's not easy. You are in an environment where people

have all sorts of different points of view. But we felt that this was a clear case of violation of the rules of how students can express their opinion, so we took action accordingly.

Now that is not the norm. You probably have seen on many other university campuses that there was wavering back and forth. And then another thing that's worth paying attention to is how many of the students that broke into buildings or clearly violated university rules were disciplined. That varies from university to university, but I think we're one of the very few universities that actually took disciplinary action at that level. We looked at it very clearly: If you're breaking into a building and you are pushing one of our staff members into a door where they were injured, that has serious consequences. In our case, there was expulsion. So that's the way we handled it.

Michael Poliakoff

I want to make sure we get a little time to talk about something about which we may in fact disagree to some degree, mainly the position of the president who respects freedom of expression and has deep respect for institutional neutrality but still feels the appropriateness of exercising moral leadership. And of course, this came to the fore with Swarthmore recently. In that case, it was a vice president who condemned the celebration on campus of murder and mayhem—is that overstepping institutional neutrality?

We get into a very interesting territory of the prerogative, if not the duty of the president to exercise some leadership over behavior and how we define the difference between a political position and one that is actually the expression of the kind of leadership that we would expect from a place that may just have a little vestige of *in loco parentis*, that's trying to develop character.

Daniel Diermeier

Number one—this is a technical issue, but it's important to keep it in mind—private universities are not subject to the First Amendment like

public universities. However, most of them, including Vanderbilt, have decided that in their norms and practices they will be guided by the First Amendment. Even though legally it's not a requirement for us, it has informed our decision-making, our posture, hence the open forums.

It has always been understood, including by the Supreme Court, that universities are a separate thing from a public space, and so when you think about free speech, it needs to be in the context of education. So, for example, things that would be protected by the First Amendment would not typically be protected in a university context, even according to the Supreme Court. So, for example, students need to study, so you can't just run into a classroom—and things like that.

We are subject, moreover, to an elaborate regulatory environment that is intended to ensure that our students can fully participate in the educational experience. Title IX, Title VI are usually where this plays a role. Title VI is a prohibition against discrimination that has been interpreted that it is our responsibility to create an educational environment that is free of harassment, so that students, no matter what their background is—race, national origin, gender—that they can thrive as students in the educational environment. And the Office for Civil Rights has taken action against universities—and a whole variety of them—that in their judgment have failed to do so.

So if a Jewish student cannot participate in the educational experience because he or she feels that they're harassed, or they can't go to class, or they're yelled at, or they're prevented from participating fully in the education that the university has promised them, that could be considered a Title VI violation. Now the interesting, tricky aspect of that is how does that now work with the First Amendment? You can't violate the First Amendment, but you still have a duty to create an environment that's welcoming to all students. And so that's the challenge for us to set this up. I think that in many of the cases that you were alluding to, you already have to address that in the context of Title VI, so that a university campus is free from harassment.

Stephen Joel Trachtenberg

I think there's also a contractual issue. Students come to a university;

they pay you money to be educated. I used to point this out to students frequently—they didn't have to give me an education as well as their money, their money was sufficient. I was already educated. Moreover, I was being compensated by the university. And so for all these reasons, it seemed to me it was for me to tell them rather than for them to tell me. I'm reminded of an occasion when John Silber, then the president of Boston University, sustained a vote of no confidence by the faculty. He convened the vice presidents and the deans and had a vote of no confidence in the faculty. His attitude was that he was protecting their ability to vote no confidence in him by voting no confidence in them. I always thought that was an interesting initiative, and I planned to do it at some time but never had the opportunity. So if I ever come back as an acting chancellor, I'm going to try that out.

I do think there is a confusion about the role of students and the role of administrators and the role of faculty that has slowly and little by little grown up over the past two or three decades. For example, at some universities, undergraduates feel an absolute obligation to break down the door before they graduate, otherwise they think they haven't fulfilled the mission of the institution. As an undergraduate of Columbia, I look back as an alumnus on the undergraduate takeover of Hamilton Hall, which every entering class feels some duty to replicate in their own time or not be an authentic Columbia undergraduate. It seems to me the administration needs to either change the nature of the glass they're using in these doors or either make them easier to break or harder to break.

In any case, I think a lot of these issues have really gotten confused, and the authority of presidents has been eroded over the past 20, 30 years, so that decisions they could make on behalf of the institution, ways they could protect their faculty, have been stripped away *in loco parentis* with regard to students and in terms of the presidency with regard to professors.

It's fascinating to see the faculty at Columbia who tie the hands of the president in terms of making decisions, but not when the accountability for those decisions comes down. That's when the president gets called to the Congress, not the faculty members. All of that has been blurred considerably in the last few years, about who's really in charge. I used to ask faculty when I made decisions, what exactly do you think you're paying me

to do? And some actually thought or wanted the president to be essentially clerical, not to be making significant, consequential decisions, but they were never prepared to make them themselves. There are limits to the kinds of decisions that can be made by committees, and they tend to be always negative.

Michael Poliakoff

That is truly an apocalyptic vision of the anomie that would set in if the president simply becomes clerical.

At the beginning of this program, I asked for wisdom and courage, and I saw a lot of wisdom and courage from our distinguished guests. And I'll add magnanimity, a sense of greatness of soul, which is the kind of leadership we need. ACTA is enormously grateful to both of you for being with us.

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