

**A Note from the Co-Chairs of the Expressive Speech Working Group
July 15, 2020**

Much has happened since the Expressive Speech Working Group finalized our report. This summer, citizens across the United States have been protesting police brutality, the murders of African Americans, and systemic racism and discrimination. Meanwhile, the COVID-19 pandemic has disproportionately affected communities of color, laying bare longstanding disparities and injustices. Intense political polarization shows no signs of abating as we hurtle toward the upcoming presidential election. Respectful inter-group dialogue may seem especially difficult to achieve at the moment, but it is undeniably one of the most urgent tasks that we face today.

As recently as July 7, a new and intense expressive speech debate has been sparked by a

-racist protests
en our norms

views and counter-
predominantly white, cisgender, privileged individuals who fai

Report to President Hass from the Expressive Speech Working Group May 2020

Introduction

Every learning community must safeguard free speech while also finding ways to engage in respectful, civil dialogue. President Hass convened the Expressive Speech Working Group in Spring 2019 at the request of the Rhodes Student Government (RSG). In a unanimous resolution, RSG sought to ensure that Rhodes is fostering freedom of expression and providing guidance to students on how to engage in productive dialogue about controversial issues.

and Chamlee-Wright 2017; Schwartz and Ritter 2019). We are wary of granting people the authority to decide which speech should be permitted. Administrators, faculty, students, alumni, donors – we are all fallible individuals.

scholars warn us against assuming that our certainty is equivalent to absolute certainty (Whittington 2018). We must humbly admit that we could be wrong and that others have something to offer (Whittington 2018, 39; see also Downs, Waldner, and Chamlee-Wright 2017 and Roth 2019). Free speech has always existed in tension with other public goods, including morality, privacy, and security; it has frequently entailed real harms and risks (Chemerinksy and Gillman 2018). But we must

role This delicate balance highlights the need for and the meaning of civil discourse, which we address below.

Scholarly Perspectives

Protected speech and hate speech

The First Amendment only applies legally to

Hate speech deliberately seeks to abuse, insult, demean, or threaten. Hate speech adds nothing of value to the marketplace of ideas (Chemerinksy and Gillman 2018). Racial slurs and personal invectives are not valuable additions to scholarly inquiry (Whittington 2018). And when victims of hateful speech are silenced, their voices are lost from debates, further impoverishing dialogue (Chemerinksy and Gillman 2018). In the words of James Baldwin,

Private institutions can regulate hate speech, because they are not bound by the First Amendment.⁷ However, some scholars question their ability to overcome the obstacles encountered by public institutions, including applying hate speech exceptions to free speech (Whittington 2018, 87). The primary challenge

as desegregation. Roth observes that some students are suspicious that free speech is often used to advance conservative agendas at the national level. They therefore re

st such decisions? After all, the most dangerously totalitarian political leaders and movements have Additionally, policy debates often entail claims about the legal status, human worth, and dignity of another person an unborn fetus or an unaccompanied child migrant, for instance. How might we delineate the boundaries of acceptable speech on such issues?

Considering these (and other) challenges, most free-speech advocates have rejected these arguments and their policy implications. They have resisted calls for more policing and punishment of campus speech. It is true that f cost that is not shouldered equally by all its members; but this is not a sound reason to suppress free speech (Lawrence 2018; Lawrence and Marimow 2017).

What we can do is to identify the factors that hinder the ability of some students to fully participate in expressive speech on our campus, such as unpopular political views, (PEN America 2017). Moreover, education and sensitization of all community members can help. Learning norms of civility in expression, discussed in the following section, is crucial.

Civility

241).¹²

The author virtuously as citizens together in peace, doing our best to respect others, showing goodwill toward those with differing views, and valuing human dignity. There is widespread agreement that campus leaders should strive to create a climate that protects robust, free speech and promotes civility. According to Lawrence (2018), three principles should guide these efforts: 1) Be generous. Let us not assume the worst about each other, particularly those with whom we disagree; 2) Disagree without delegitimizing others; 3) Look for common ground even in the midst of disagreement. Voi America 2017).¹³ Expressing a view and then failing to listen to opposing perspectives is not enough. David R. Harris, president of Union College, challenges us to foster (Harris 2019). Success is measured by increased understanding of after this exposure.

Similarly, the Institute for Civility in Government disagreeing without disrespect, seeking common ground as a starting point for dialogue about difference, (Downs, Waldner, and

¹² Robust civility also entails frank, open dialogue, which he distinguishes from self-censorship and overly cautious debate (Garton Ash 2016, 212).

¹³

they do without immediately judging those views -- (2019, 122).

Chamlee-Wright 2017, 12).

Speakers and events on campus

Speaking engagements on campuses have tested civility and generated significant controversy in recent years. The media have extensively covered incidents of campuses trying to silence or prevent speech.¹⁶ For example, students were angered by Rutgers' decision to invite former Secretary of State Condoleezza Rice to give a commencement address. President Obama tried to persuade graduates that political differences were not a sound reason for not listening to someone like Dr. Rice:

If you disagree with somebody, bring them in and ask them
somebody has got a bad or offensive idea, prove it wrong. Engage it. Debate it. Stand up

only about what your opponents believe but maybe what you believe. Either way, you win.
And more importantly, our democracy wins (quoted in Chemerinsky and Gillman 2018,
73-74).

Students and activists sought to prevent an ACLU attorney from speaking at William and Mary and the director of [redacted] from talking during a screening of the film at Reed College. Protestors from Students for Justice in Palestine blocked the entrances to an auditorium where Students Supporting Israel planned to show a film about the Israeli Defense Force (Chemerinsky and Gillman 2018; Whittington 2018). The Zionist Organization of America filed [redacted] that speakers invited by pro-Palestinian groups and Muslim student organizations were creating a hostile environment for Jewish students at the University of California, Irvine. The OCR [redacted] arning environment in accordance with Title VI and Title IX. Chemerinsky and Gillman observe that it has at times

their view, was not

; it made Latinx, migrant, and other

also welcome counter-speech. It follows, then, that faculty and administrators can speak out forcefully against especially hurtful speech. Campus leaders should not be expected to respond to (or condemn) every speech act on campus that individuals or groups find offensive (Chemerinksy and Gillman 2018). However, they can reassure students and the entire campus community by articulating

be able to enjoy this right. Campuses should be generous in allowing space to be used for peaceful demonstrations. Campus leaders should expect some undergraduates to select protests as a way to articulate grievances, new ideas, and proposals for change.

campus be considered a space that shelters students from ideas they find troubling. Students often find cherished beliefs, ethical stances, or aspects of their identities challenged during college; facing these challenges and being exposed to diverse perspectives may be profoundly unsettling and uncomfortable (Roth 2019; Whittington 2018). To reiterate, feeling aggrieved cannot be considered grounds for punishing the expression of speech; nor can such expression be per extant legal principles.

Classroom speech

Like other spaces on campus, classrooms cannot reasonably be expected to provide safe haven **from** their views (Chemerinksy and Gillman 2018, 138). Classes should be amenable to scholarly inquiry, civil and respectful debate, and exploration; students should feel welcome to make mistakes and participate fully without fear of reprisals from fellow students or professors in the form of low grades, bullying, or ostracism. Roth concludes similarly that a - where our ways of thinking are tested and we can explore differences without fear (2019, 124).

Unfortunately, there is reason to believe that students are increasingly resorting to self-censorship during class discussions. While we lack reliable data on the subject, social stigma is a powerful force: students seem anxious that their peers may label, shun, or cyber-bully them for expressing unpopular views. Furthermore, students take a big risk if they play and/or give voice to views that they themselves may not endorse as a way of advancing a discussion. Data collected at the University of North Carolina at Chapel Hill revealed that students were more concerned about facing censure from their peers than from their professors while voicing political views in class (Larson, McNeilly, and Ryan 2020; see also Friedersdorf 2020). Students across the ideological spectrum reported engaging in self-censorship, though conservative students did so in greater numbers: almost 68% censored themselves, while 24% of self-identified liberals did so. Some respondents harbored negative stereotypes about students with whom they disagree and were not amenable to socializing with people holding opposing political views.

Trigger warnings can be used to prepare students for engaging with course materials (such as readings or films) that may resonate or hit close to home. Faculty should be free to choose whether to use such warnings. However, campuses should not require their use, as this would interfere with academic freedom in deciding how to best educate students (Chemerinksy and Gillman 2018). Faculty are the best judges of the pedagogical value of the materials they assign. They may

Expressive Speech Policy

Before reviewing the current student policies at Rhodes related to expressive speech, the policy team endeavored to take a broader view of expressive speech policies at other colleges. Specifically, we researched policies at the 70 liberal arts colleges and universities that are member institutions of CLAC, the Consortium of Liberal Arts Colleges (<https://www.liberalarts.org>).

websites, we found much of the available expressive speech policy information in three distinct types of documents: Handbook entries, public statements, social media guidelines and other related policies; expressive speech policies; and other policies and approaches.

- 1) Handbook entries, public statements, social media guidelines and other related policies

More than half of the liberal arts institutions we researched addressed issues of expressive speech statements of commitment and support for expressive or free speech (Table 1). A number of institutions have also published social media guidelines and a range of policies covering discrimination and bias. Several schools addressed expressive speech through policies governing how speaker events and protests are handled. Some individual schools were inclined to specifically address [expression of political opinion](#) (Skidmore) and to document it specifically in the [Honor Code](#) (Amherst).

Handbooks student, faculty, employee or academic	20
Published statements of support, commitment, student rights & responsibilities	18
Social Media Guidelines and Policies	9
Discrimination, Bias, Equity, Harassment policies	

We could find no online mention of expressive or free speech statements or policies in the case of the following liberal arts colleges: Beloit, Bucknell, College of Wooster, Davidson, DePauw, Earlham, Holy Cross, Lake Forest, Luther College, Manhattan, Oberlin, Occidental, and Wheaton (MA).

Rhodes has several existing policies related to expressive speech, harassment, and the use of social media, included here:

- ◁ Current Rhodes policies
 - [Rhodes Expressive Speech Policy](#) (Student Handbook)
 - [Rhodes Social Media Policy](#) (College Handbook)
 - Related: [Bias Education Response Systems](#) (BERS)

- ◁ Related policies and institutional commitments
 - [Honor code](#)
 -

the process would be content-neutral. In the absence of a clear policy, a Student Life staff member said that the administration preferred a case-by-case approach to speaker clearance.

this with any professor.²⁹

Climate for ethnic/racial diversity on campus
Social life on campus
Sense of community on campus
Sense of community where you live
Feeling of security on campus

On average, seniors reported higher satisfaction with social life, security, the sense of community on campus, and the sense of community where they live than with the climate for ethnic/racial diversity on campus. Moreover, students of color were less satisfied than white students across the board. African-American students tended to report lower satisfaction than other students of color.

BERS data

The Bias Education Response System (BERS) was adopted in 2016 as an educative tool

Recommendations

For all the reasons given throughout this report, the Working Group strongly believes that our campus should be a place where ideas are expressed as freely as possible and dissent is welcomed. We caution against entrusting administrators or other individuals with the task of regulating speech. We endorse the following principles articulated by Lawrence and Marimow (2017):

On our campuses public and private free speech is presumed to be protected. To be sure, there are limits on this presumption, such as actual threats and words that are clearly

Campus statement of principles

which diverse viewpoints and freedom of expression flourish. We should underscore the importance of diversity, inclusivity, and civility and declare that hate speech, properly defined, is inimical to our institutional values. These principles should be in place before controversies arise. We must remind both incoming and current students that college is a place where we engage with diverse viewpoints, challenging ideas, and intellectual debates. We subject our own

views. Additionally, manner restrictions on campus speech. We strongly recommend that these policies be applied in an evenhanded, content-neutral (and politically neutral) manner. It is also important to avoid an overly restrictive implementation of policy. General (content-neutral) regulations can and should govern on-campus expression by identifying permissible, generously-defined areas for flyers, posters, chalkings, etc. They should protect residence halls as spaces of rest and retreat (for instance, not providing bulletin boards in hallways or prohibiting people from slipping flyers under doors of dorm rooms) (Chemerinksy and Gillman 2018). The college can deny requests for events that clearly pose enormous logistical or security challenges and expenditures. They must disallow or punish disruption of speaking events, commencement, or other activities.⁴⁰

Administrators should complete Chemerinksy above-mentioned checklist to prepare for potentially controversial events. They recommend clarifying that the institution will support the presence of people with dissenting or controversial views, developing clear rules for approving events that will be applied in an evenhanded way, and ensuring (see page 12 for the full list).

Clayton and Huff (2018) recommend approaching programming in a way that upholds shared governance and involves numerous stakeholders. And, as noted previously, campus leaders, faculty, and students must be prepared to condemn hateful expression even when it is

Gender and Sexuality Alliance (GSA) and South Asian Cultural Advocacy (LGBTQIA+ affirmation party also took place.⁴¹

Our campus would benefit from better communication of existing policies and norms, practices), and more open discussion and consultation with students when policies are under review or revision. Such measures would help avoid some of the confusion and friction described in previous sections of the report.

Inclusivity initiatives

The free expression and exchange of ideas is the defining feature of colleges and universities. It is what makes us unique among all the institutions in modern society. In ways consistent with this foundational purpose, all members of the campus community are responsible for creating an inclusive, respectful, and welcoming environment. The entire community should continue to receive training on diversity and inclusivity, harms associated with structural inequalities and discrimination, negative effects of explicit and implicit bias, legal obligations to create nondiscriminatory work and learning environments, and reporting requirements for when discriminatory incidents occur (Chemerinksy and Gillman 2018). We are all responsible for identifying and eliminating obstacles that prevent students from fully participating in expressive speech.

For this reason, we commend the RSG for adopting a policy to create a student body committed to diversity and equity issues. We applaud the ongoing efforts of Dr. Sherry Turner, Vice President of and ensure that our campus efforts to create a greater sense of belonging and inclusion are and based on BERS, Campus Climate surveys, senior exit surveys, and other sources. Fostering intergroup dialogue should be a priority.

in which they are immersed.

Ideally, these topics would also be folded into Welcome Week (and possibly Open Rhodes), which prime students for subsequent experiences in FYS. Beyond the first year, help students practice these skills.

Outside resources

National programs and outside organizations that promote dialogue can also help us introduce free speech principles, norms, and skills to incoming first-years. As each new class arrives at Rhodes, it is vital that we offer them the tools and resources necessary to engage in the intellectually diverse community that is essential to the liberal arts experience. More broadly, national programs can support the entire campus community engage in respectful, civil dialogue.

Thus far, some individual members of the working group (but not the group as a whole) have looked into the following national programs and found them to be worthy of further consideration:

- ◁ Facing History and Ourselves is a respected nonprofit whose students of diverse backgrounds in an examination of racism, prejudice, and antisemitism in order to promote the development of a more humane and informed citizenry. By studying the historical development of the Holocaust and other examples of genocide, students make the essential connection between history and the moral choices they (<https://www.facinghistory.org>).

Content from Facing History and Ourselves has already been integrated into the FYS. Specifically, it is used in the training of student assistants and in class discussions to equip student with skills in facilitating dialogue.

- ◁ Braver Angels, endorsed by Jonathan Rauch of the Brookings Institution, Brookings

We had hoped to spend time during Spring 2020 consulting with representatives of these organizations, investigating other promising programs, and deliberating as a group. In the wake of the Covid-19 pandemic, we were unable to complete these steps. We therefore recommend a more comprehensive and in-depth review of national programs. The following working group members have graciously volunteered to continue this important work beginning in Summer 2020:

- < Dan Cullen, Professor of Political Science
- < Sherry Turner, Vice President of Strategic Initiatives
- < Beatrix Weil, Chaplain
- < Alice Berry, Class of 2021

consider the available alternatives, examine the specific aspects of national programs that might benefit our campus, and determine which members of the community they could engage (and at which stages). The chosen program(s) will ideally be tailored to our own interests and needs.

Additional recommendations

< Periclean Faculty
s faculty leadership and course development program is dedicated to incorporating civil dialogue, civic engagement, and social responsibility into the curriculum.

< Rhodes should carefully consider the extent to which the different educational experiences and backgrounds are shaping expectations for vigorous classroom discussion and debates. This is especially relevant to our international students class. A student from Vietnam shared the sense of anger and disappointment they is the first form of self-protection. In quietness, no one judges, no one gets offended, and d by the difference between US

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< We strongly urge Rhodes to collect data on the daily experiences of our students and their views on free speech and civil dialogue in the classroom, their ability to express political views o44.15 7d03>20Tf1 0 0 1 72.0eW*W*nBT/F2 12 Tf1 0 0 1 108.05 194.8 Tm0 g0 G{vi}7(e)7(w{W)

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APPENDIX: Brief History of Free Speech in the United States and in Higher Education

For much of US history, censorship and punishment of speech were routine. Speech was suppressed in the name of public morality, security, etc. (Espionage Act of 1917, Sedition Act of 1918, the Red Scare and Palmer Raids targeting leftists, for instance). From 1919 onward, Supreme Court Justices Holmes and Brandeis issued a series of dissenting opinions that articulated an entirely different understanding of speech rights. Famously arguing in *Abrams v. United States*

Chemerinksy and Gillman 2018, 38). The government fears that certain ideas would have dangerous or bad outcomes was

Brandeis later wrote in another dissenting opinion (*Whitney v. California*) (Chemerinksy and Gillman 2018, 40).

From the 1930s to the 1970s, new ways of thinking about expressive speech were embraced. In 1937, Supreme Court Justice Cardozo charac

Chemerinksy and Gillman 2018, 41). By the late 1960s, the Court had embraced the dissenting views of Holmes and Brandeis and overturned some decisions (e.g., *Whitney v. California*). Progress was uneven, and the setbacks (McCarthyism is a glaring example) were dramatic. Yet the beneficiaries of these changes were often dissenters and social change advocates, including radicals and reformers, civil rights activists, labor organizers, antiwar protestors, and countercultural artists. All sorts of individuals benefited from the twentieth-

-- not on Chemerinksy and Gillman 2018, 46). Still, the authors find it necessary to underscore the progress that resulted from empowering previously marginalized groups to speak up; this is very different from suppressing speech with the goal of protecting vulnerable groups.

2018, 51). The concept has always been contested, and each generation has had to grapple with free-speech controversies. The purpose of higher education for many institutions following the Enlightenment

Gillman 2018, 51). This type of institution values curiosity, discovery, dissent, rigor, and expertise. We can contrast this purpose with indoctrination. If this were the main objective, then freedom of speech would not be needed since the point would mer

keep an open mind and have their ideas and commitments tested and (Whittington 2018, 19).

The move toward freedom of thought and expression gained momentum in the late 19th and early 20th centuries. Members of the public and the political establishment worried about faculty who expressed unpopular or unconventional views, leading to a spate of faculty firings and resignations (and threats of removal). In response, the American Association of University Professor (AAUP) was founded in 1915. Under the leadership of philosopher John Dewey, the AAUP drafted Principles on Academic Freedom and Academic Tenure, which identified ideas may germinate... including ideas not completely tolerated in broader society (Chemerinksy and Gillman 2018, 60; Whittington 2018). Faculty had the right to express themselves without fear of

Chemerinksy and Gillman 2018, 65).

APPENDIX: Elon

**APPENDIX: Working Group on Inclusive Pedagogy and Multicultural Mentoring (IPMM)
Statement of Purpose, Dec. 1, 2019**

This working group will bring together faculty and staff to promote strategies of teaching and mentoring that recognize the broad range of experiences and backgrounds and the distinct needs and perspectives of students on the Rhodes College campus. Our aim is to support faculty and staff colleagues in the work they do to create a deep culture of inclusion and belonging at Rhodes. While broadly focused, we seek to bring into clearer view the often neglected experience of students of color, students with high financial need, international students, students of faith, LGBT+ students, first-generation college students, and students with accessibility concerns. Many faculty emerge from their graduate programs having had little opportunity to study the praxis of teaching, advising, and mentoring, and our broad goal is to help develop resources to support all faculty in this work. We seek to promote a more just campus, where obstacles facing students from marginalized backgrounds are widely understood, anticipated and addressed at a broad institutional level rather than through the voluntary efforts (often unrecognized) of