

Written testimony of Nadine Strossen¹ before the Committee on Health, Education, Labor and Pensions (HELP) on “EXPLORING FREE SPEECH ON COLLEGE CAMPUSES” – Thurs., Oct. 26, 2017, 10 a.m. – SD-430, Dirksen Senate Office Building – last updated 10/23/17

Introduction

I would like to thank Chairman Alexander and Ranking Member Murray for convening this hearing on such a critically important topic, and giving me the opportunity to participate.

Chairman Alexander has asked me to summarize the legal standards governing freedom of speech in higher education, “and what speech limitations schools may impose, particularly for so-called ‘offensive speech’ or ‘hate speech.’” I am honored to have the opportunity to do this, especially as I have just written a book directly on point: *HATE: Why We Should Resist It With Free Speech, Not Censorship* (Oxford University Press, May 2018).

Summary of the most important First Amendment principles – which are especially important on campus, for the education and empowerment of all students, including those who have traditionally been subject to discrimination, and those who are activists

The research and analysis reflected in my forthcoming book have made me more appreciative than ever of the two most fundamental general First Amendment principles, which are essential pillars of not only individual liberty, but also equality and democracy, including on our nation’s campuses:

--the viewpoint neutrality principle, which bars government from punishing any speech based solely on dislike of its viewpoint, no matter how deeply or widely despised that viewpoint might be; and
-- the emergency principle, which permits government to punish speech when it directly causes specific imminent serious harm, such as constituting a genuine threat, targeted harassment or “bullying,” or intentional incitement of imminent violence.

These robust speech-protective principles have consistently been endorsed for many decades, by Supreme Court Justices across the ideological spectrum. The Court likewise has neutrally enforced these principles to protect controversial expression ranging across the ideological spectrum: from left-wing protestors burning an American flag, to right-wing demonstrators burning a cross. Just this past June, the Court ringingly reaffirmed the First Amendment’s protection even for hateful and hated speech, unanimously striking down a federal law that denied registration to tradenames that “disparaged” particular individuals or groups. As the Court declared: “Speech that demeans on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground is hateful; but the proudest boast of our free speech jurisprudence is that we protect the freedom to express ‘the thought that we hate.’”²

In my capacity as a human rights activist, I am convinced, based upon the historic and current record, that these cardinal First Amendment principles are essential for furthering any political or social cause, including human rights. This conclusion is reaffirmed by examining how “hate speech” laws recently have been enforced in other comparable countries; they have disproportionately suppressed dissenting views and disempowered speakers.

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² *Matal v. Tam*, 137 S. Ct. 1744, 1764 (2017), quoting *United States v. Schwimmer*, 279 U.S. 644, 655 (1929) (Holmes, J., dissenting).

Speaking in my capacity as a full-time educator for 33 years,³ I am also convinced based on experience that these speech-protective principles are essential for effectively educating and empowering our nation's future leaders and engaged citizens, and thus for maintaining a vibrant democracy. Being exposed to a diverse range of ideas, including those they consider "hateful," and which they hate, is important for all students, including those who belong to groups that have traditionally been subject to discrimination or marginalization, and those who are engaged in activism on behalf of various causes. Therefore, when colleges and universities seek to punish controversial speech, or to shield students from it, they are not only violating the students' (and others') free speech rights, but they are also denying the students the rigorous education they deserve, and hence depriving our society of fellow citizens who are optimally equipped to participate constructively in our democratic self-government.

Significantly, the preceding points have been strongly endorsed by politically diverse leaders who are members of minority groups, and who have themselves experienced the sting of "hate speech," including former President Barack Obama. (Appendix A to this testimony includes quotations from him and from other ideologically diverse leaders who are all members of racial minorities, and who all oppose censorship of "hate speech," including on campus, on the ground that such censorship would undermine equality and meaningful educational opportunities, including for minority students and student activists.)

List of key points discussed below

In the remainder of this written testimony, I will elaborate on the above themes by briefly discussing the following points:

- 1) The Supreme Court has strongly enforced free speech principles on public campuses.
- 2) Many private campuses, which are not directly governed by the First Amendment, have chosen to protect the same free speech principles that are binding on public campuses, because such principles are consistent with academic freedom and sound pedagogy.
- 3) "Hate speech," which has no specific legal definition, may be punished (along with speech conveying any message) when, in context, it directly causes specific imminent serious harm. This means that hateful speech that poses the greatest danger of harm is already punishable, but such speech may not be punished when it is feared to pose a more speculative, attenuated risk of future harm.
- 4) "Hate speech" laws are inevitably unduly vague and overbroad, thus leading to enforcement that is arbitrary at best, discriminatory at worst.
- 5) The First Amendment protects the rights of peaceful, non-disruptive protestors. In contrast, any protest that prevents a speaker's message from being heard constitutes an impermissible "heckler's veto," which violates not only the speaker's rights, but also the rights of audience members who choose to listen to the speaker.
- 6) The appropriate response to constitutionally protected "hate speech" is not censorship, violence, or disruption, but rather, "counterspeech," which counters its ideas and any negative impact they might have. Our society must strive to provide access to educational and communications resources that will facilitate robust counterspeech, especially by and on behalf of the most vulnerable members of our communities.

³ The position of ACLU President is unpaid; while I served in that position, I continued to earn my living as an NYLS professor. Before joining the NYLS faculty in 1988 I began my teaching career as a clinical law professor at NYU Law School (1984-88).

- 7) Equal rights movements are especially dependent on robust freedom of speech, including the viewpoint neutrality and emergency principles.
- 8) Shielding students from hateful and hated ideas may well undermine their psychic and emotional well-being, as well as their education and preparation for effective participation in the workplace and the public sphere.

Brief discussion of these key points

1) The Supreme Court has strongly enforced free speech principles on public campuses.

The Supreme Court has long held that the same basic First Amendment principles that protect speech in the broader public sphere should be enforced especially vigorously on public college and university campuses, recognizing that they constitute special “marketplaces of ideas,” where academic freedom concerns reinforce general free speech concerns. For example, in 1973 the Court upheld students’ right to “disseminat[e] . . . ideas - no matter how offensive,” and accordingly overturned the expulsion of a student for distributing a campus newspaper whose cover page contained a graphic cartoon protesting police brutality; it depicted helmeted, club-wielding policemen raping the Statue of Liberty and the Goddess of Justice.

In a 1967 decision, the Court eloquently paid tribute to the supreme importance of freedom of speech on campuses, not only for the sake of the students and faculty, but also for the sake of our society and democracy more generally:

Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. . . . The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth "out of a multitude of tongues, [rather] than through any kind of authoritative selection." . . . Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.⁴

2) Many private campuses, which are not directly governed by the First Amendment, have chosen to protect the same free speech principles that are binding on public campuses, because such principles are consistent with academic freedom and sound pedagogy.

A leading example is the University of Chicago, which has prided itself on defending academic freedom and freedom of speech, and serving as a model in that regard for other higher education institutions, public and private alike. For example, in 2015 the University of Chicago adopted a set of principles that reaffirm the speech-protective tenets that the First Amendment secures on public campuses,⁵ declaring:

[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual

⁴ *Keyishian v. Board of Regents*, 385 U.S. 589, 602-603 (1967) [citations omitted].

⁵ <https://freeexpression.uchicago.edu/page/statement-principles-free-expression>

respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

3) **“Hate speech,” which has no specific legal definition, may be punished only when, in context, it directly causes specific imminent serious harm. This means that hateful speech that poses the greatest danger of harm is already punishable, but such speech may not be punished when it is feared to pose a more speculative, attenuated risk of future harm.**

The term “hate speech” has no specific legal meaning. That is precisely because the Supreme Court never has defined a category of constitutionally unprotected “hate speech,” which is excluded from First Amendment protection based on its message or viewpoint. In this critical respect, “hate speech” is different from “obscenity,” the legal label for a subset of sexually oriented speech that the Court has specifically defined in terms of its message and excluded from First Amendment protection. To underscore that “hate speech” has no specific legal meaning, I – like some other commentators – put the term in quotation marks; I note that Chairman Alexander’s letter inviting me to testify here likewise refers to “so-called. . . `hate speech.””

The most generally understood meaning of “hate speech” is expression that conveys hateful or discriminatory views against specific individuals or groups, particularly those who have historically faced discrimination. Beyond this core meaning, many people have hurled the epithet “hate speech” against a diverse range of messages that they reject, including messages about many important public policy issues. Myriad political controversies, and the heated rhetoric they often provoke, have generated charges and counter-charges of “hate speech.” For example, members of the Black Lives Matter movement have been accused of “hate speech” against police officers, whereas critiques of the Black Lives Matter movement have been denounced as “hate speech” against its supporters or against African Americans generally. Evangelical Christians who charge that LGBT sexuality is sinful have been accused of “hate speech” against gay men and lesbians, whereas those who make these charges against evangelical Christians have been accused of religious “hate speech.”

While “hate speech” (and speech conveying any other message, including an “offensive” one) may never be punished based on its viewpoint alone, it may be punished (as may expression with any other message) when, in context, it satisfies the emergency principle: it directly causes specific imminent serious harm. The Supreme Court has laid out criteria for several types of speech that directly cause particular types of imminent serious harm and hence may be punished consistent with the general emergency principle. Many instances of “hate speech” do satisfy these criteria. For example, the Court has held that government may punish “true threats”: statements through which “the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals” and, in consequence, the targeted individuals reasonably fear such violence.

Sadly, some instances of campus “hate speech” do satisfy this “true threat” standard. For example, on May 1, 2017, six pairs of bananas strung in nooses were displayed on American University’s campus under circumstances in which they conveyed a “true threat” to student Taylor Dumpson, who on that date became the university’s first African American student body president. The conclusion that these displays were intended to convey a threat to harm Ms. Dumpson was made clear by messages that were written on them, including: “AKA FREE,” referring to the predominantly African American sorority Alpha Kappa Alpha, of which Ms. Dumpson was a member; and “HARAMBE BAIT,” the name of the Cincinnati Zoo gorilla that was killed in 2016 after a child had fallen into its enclosure.

Some “hate speech” also satisfies criteria for additional types of harmful expression that may be punished consistent with the general emergency standard. These include targeted harassment or bullying,

which harries or intrudes upon its targets' freedom or privacy; and intentional incitement of imminent violence, which is likely to occur immediately.

In addition, "hate speech" may be indirectly punished when it constitutes evidence of a "hate crime" or "bias crime." These terms refer to acts that already constitute crimes (that are not based on any idea expressed) – such as assault or vandalism – when the perpetrator intentionally selects the victim based on discriminatory factors, such as the victim's race, religion, or sexual orientation. Because these crimes are deemed to cause aggravated harms to both the individual victim and society generally, they are subject to enhanced penalties. Typically, the perpetrator's discriminatory intent in targeting a particular victim is proved through the perpetrator's "hate speech" that is directly connected to the specific crime. For example, the American University incident described above is being investigated as a hate crime.

To underscore the fact that some "hate speech" may be punished, in particular contexts when it satisfies the emergency principle, I use the term "constitutionally protected 'hate speech'" to designate such speech that does not satisfy this standard. Correspondingly, I use the term "'hate speech' law" to designate any regulation (including campus codes) that punishes constitutionally protected "hate speech," therefore necessarily violating both the viewpoint neutrality and emergency principles.

4) **"Hate speech" laws are inevitably unduly vague and overbroad, thus leading to enforcement that is arbitrary at best, discriminatory at worst.**

The Supreme Court has held that any law is "unduly vague," and hence unconstitutional, when people "of common intelligence must necessarily guess at its meaning." This violates tenets of "due process" or fairness, as well as equality, because such a law is inherently susceptible to arbitrary and discriminatory enforcement.

Moreover, when an unduly vague law regulates speech in particular, the law also violates the First Amendment because it inevitably deters people from engaging in constitutionally protected speech for fear that they might run afoul of the law. The Supreme Court has therefore enforced the "void for vagueness" doctrine with special strictness in the context of laws that regulate speech. "Hate speech" laws – which suppress speech solely because of its hateful, hated message – inevitably are unduly vague, because they center on concepts that call for subjective judgments, starting with the very concept of "hate" itself. Just consider the examples I cited under Point #3 above, illustrating that one person's hated "hate speech" is another person's cherished positive speech.

Another closely related problem endemic to "hate speech" laws is "substantial overbreadth"; their capacious, malleable language encompasses speech that even the laws' proponents do not seek to punish. This point was well stated by Eleanor Holmes Norton, an African-American civil rights lawyer who was the first woman to chair the Equal Employment Opportunity Commission, and who has been the long-time District of Columbia Representative in Congress. Referring to campus "hate speech" codes, she said: "It is technically impossible to write an anti-speech code that cannot be twisted against speech nobody means to bar. It has been tried and tried and tried."

In the United States, virtually all of the many campus "hate speech" codes that courts have reviewed have been struck down on grounds of undue vagueness and overbreadth. Typical is the University of Michigan's "hate speech" code, which was one of the first to be adopted, and which led to the first judicial decision about these unavoidable First Amendment flaws. Federal judge Avern Cohn found that the following key terms, describing the punishable speech, were unduly vague: "stigmatize," "victimize," and "threats to" or "interfering with an individual's academic efforts."

During the oral argument, when Judge Cohn asked the university's attorney how he would distinguish the proscribed speech from other offensive speech, which the attorney conceded was protected, the attorney answered, "Very carefully." Welcome as this answer is in its candor and humor, the point at issue is no laughing matter. When even the university's legal counsel cannot explain the distinction between protected and punishable speech, all members of the campus community face enforcement that is unpredictable and inconsistent at best; and arbitrary, capricious, and discriminatory at worst.

Indeed, the enforcement record under “hate speech” laws, including on campus, has shown that they have (predictably) disproportionately targeted whatever ideas or speakers are relatively unpopular or disempowered in that particular community at that particular time. As former Harvard University President Derek Bok warned, in opposing efforts to suppress “hate speech” on campus: “[W]e . . . should remember the long, sorry history of preventing . . . civil rights activists from speaking at Southern universities on grounds that they might prove ‘disruptive’ or ‘offensive’ to the campus community, not to mention the earlier exclusion of suspected communists.”

5) The First Amendment protects the rights of peaceful, non-disruptive protestors. In contrast, any protest that prevents a speaker's message from being heard constitutes an impermissible “heckler’s veto,” which violates not only the speaker’s rights, but also the rights of audience members who choose to listen to the speaker.

The right to dissent extends to peaceful, non-disruptive protestors. They may express their disagreement with speakers in any way that does not interfere with the speaker’s right to convey a message or audience members’ right to hear it. Examples of such permissible, non-disruptive protest include: displaying picket signs or other symbols that don’t obstruct audience members’ views of the speaker; turning backs to a speaker or other physical gestures that don’t block audience members’ views; walking out of a speaker’s forum; and even making oral statements that briefly, temporarily interrupt the speaker – for example, momentarily booing, hissing, or heckling. In contrast, any protest that prevents a message from being delivered or heard violates the free speech rights of the speaker and audience members alike. Any such “heckler’s veto” should be prevented and punished by campus officials or other law enforcement authorities.

In order to secure our cherished freedom of speech and academic freedom, it is important to prevent, deter, and punish any effort to undermine these precious freedoms: not only official censorship, but also violence by demonstrators or counterdemonstrators, and disruptive protests.

Peaceful protests constitute the very kind of “counterspeech” that the Supreme Court repeatedly has hailed as the appropriate response to hateful, hated speech, because the net result is more speech, not less; in contrast, violent or disruptive protests have the opposite effect, of stifling and reducing speech.

6) The appropriate response to constitutionally protected “hate speech” is not censorship, violence, or disruption, but rather, “counterspeech,” which counters its ideas and any negative impact they might have. Our society must strive to provide access to educational and communications resources that will facilitate robust counterspeech, especially by and on behalf of the most vulnerable members of our communities.

As Justice Louis Brandeis declared in a historic 1927 opinion that the Supreme Court unanimously embraced in 1969: “The fitting remedy for evil counsels is good ones. . . . If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression.”

The term “counterspeech” encompasses any speech that counters a message with which one disagrees. In the context of “hate speech,” counterspeech comprises a potentially broad range of expression, including speech that directly refutes the ideas the “hate speech” conveys; broader, proactive educational initiatives; and expressions of remorse by discriminatory speakers.

Paradoxically, in some circumstances the most effective form of counterspeech can be silence. By deliberately choosing to ignore provocative, hateful speakers, silence can powerfully convey implicit messages of disdain, while at the same time denying hateful speakers the attention they seek and often get from sparking controversy.

The Southern Poverty Law Center (SPLC), which “is dedicated to fighting hate and bigotry,” strongly opposes confrontational counter-protests on strategic grounds. In 2017, it issued a guide for students about how to curb the alt-right’s increasing campus recruitment efforts. The guide recommends a number of steps, including: seeking to persuade the group that invited the alt-right speaker to campus to withdraw its invitation; speaking out peacefully against the event; meeting with campus groups that the alt-right targets, such as minority student groups, to provide mutual support; and holding “an alternative event—away from the alt-right event—to highlight your campus’ commitment to inclusion and our nation’s democratic values.” The first and foremost strategy that the guide recommends, though, is “above all, [to] avoid confrontation with the alt-right speaker and supporters.” explaining: “The alt-right thrives on hostility, and hate feeds on crowds. Video footage of an altercation will only provide cover for the speaker, who can claim to be a victim.”

In 2015 the European Commission against Racism and Intolerance (ECRI) issued a report strongly urging European nations to pursue non-censorial responses to “hate speech,” including counterspeech. This is especially noteworthy because many European nations have enacted and enforced “hate speech” laws with the encouragement of regional bodies, including ECRI. But, as a result of its monitoring of the efforts of European nations to curb “hate speech” and discrimination, ECRI has concluded that alternative, non-censorial measures are “*much more likely*” than “hate speech” laws “to prove effective in ultimately eradicating” “hate speech” and its potential harmful effects.

Appendix A quotes former President Obama and other, ideologically diverse leaders who are members of minority groups, urging minority students and others who are disparaged by “hate speech” to engage in counterspeech. This can be an empowering experience, thus curbing feelings of shame and loss of self esteem that “hate speech” potentially engenders. Counterspeech transforms into activists those whom “hate speech” laws cast as passive victims of such expression, dependent on government protection.

Of course, not all targets of “hate speech” will respond with counterspeech. The potential adverse psychic and emotional impact of the “hate speech” might be so incapacitating for some that they are unable to engage in effective counterspeech, at least in the short run, and some disparaged people might not have access to means of communication that would make their counterspeech effective. These are serious concerns, which can and must be addressed through the following kinds of measures: proactive counseling and training about encountering and engaging constructively with “hate speech”; education about utilizing social media and other communications vehicles for drawing attention and responding to “hate speech”; providing access to communications devices and technology for people who lack educational and material resources; and information about organizations that track and respond to “hate speech” incidents, and provide resources for enabling others to do so.

Fortunately, we have seen increasing social justice advocacy nationwide, including on campus, with members of minority groups actively leading and engaging in such efforts, including much vigorous (but non-violent and non-disruptive) counterspeech against hateful expression. Moreover, surveys indicate that this encouraging trend promises to continue.

7) Equal rights movements are especially dependent on robust freedom of speech, including the viewpoint neutrality and emergency principles.

Equal rights movements always have depended on robust freedom of speech, in particular the viewpoint neutrality and emergency principles, which shelter the egalitarian ideas that many have considered harmful, disturbing, dangerous, and even hateful. By definition, ideas that challenge the status quo and advocate law reform tend to be seen in a negative light by the majority or the power elite. That certainly has been true of expression challenging racial injustice.

The leading pro-slavery advocate, Senator John C. Calhoun, argued that abolitionists who criticized slavery “libeled the South and inflicted emotional injury.” During the 1830s, many Southern states enacted laws suppressing abolitionist speech, which was feared to spur violence—in particular, slave rebellions—and indeed to threaten the nation’s very survival. Likewise, Martin Luther King, Jr.’s

historic letter came from a Birmingham jail because he had sought to condemn racial segregation and discrimination to audiences who hated and feared those messages.

Given officials' consistent pattern of enacting and enforcing laws to stifle civil rights advocacy, the NAACP (National Association for the Advancement of Colored People) and other leaders of the twentieth-century civil rights movement opposed viewpoint-based censorship that was inconsistent with the emergency principle, including "hate speech" laws. When such laws were enacted in Skokie, Illinois, in 1977, for the specific purpose of blocking a planned neo-Nazi demonstration, the ACLU, which won a Supreme Court ruling striking them down, pointed out that these laws "could have been used to stop Martin Luther King, Jr.'s confrontational march into Cicero, Illinois, in 1968." As Congressman John Lewis eloquently observed in 2017: "Without freedom of speech and the right to dissent, the Civil Rights movement would have been a bird without wings."

8) Shielding students from hateful and hated ideas may well undermine their psychic and emotional well-being, as well as their education and preparation for effective participation in the workplace and the public sphere.

It might seem self-evident that shielding people from speech that could have negative psychic impacts would be positive for their mental health. But some experts maintain that, at least in some circumstances, people's mental health is actually undermined by shielding them from speech to which they have negative psychic reactions, including constitutionally protected "hate speech."

In a 2015 article, NYU psychology professor Jonathan Haidt and Greg Lukianoff, the president of FIRE (Foundation for Individual Rights in Education), summarized the pertinent psychological literature and concluded: "A campus culture devoted to policing speech and punishing speakers . . . may be teaching students to think pathologically," causing depression and anxiety. They recommend that, to better protect students' psychic well-being, colleges and universities should abandon rather than enforce restrictive speech codes.

As Northeastern University psychology professor Lisa Feldman Barrett wrote in 2017, while "chronic" stress can cause physical illness, shorter-term stress, including the stress that results from hearing "hate speech," actually can be beneficial:

Offensiveness is not bad for your body and brain. Your nervous system evolved to withstand periodic bouts of stress, such as fleeing from a tiger . . . or encountering an odious idea. . . .When you're forced to engage a position you strongly disagree with . . . [it] feels unpleasant, but it's a good kind of stress—temporary and not harmful to your body—and you reap the longer-term benefits of learning.

Haidt and Lukianoff add that this "good kind of stress" at least "sometimes makes an individual stronger and more resilient," explaining that "[t]he next time that person faces a similar situation, she'll experience a milder stress response because . . . her coping repertoire has grown."

The foregoing teachings from psychologists dovetail with the conclusions of political leaders, including those who are members of racial minority groups, based on their own experience and expertise. I quote a number of these experts in Appendix A, including liberal political activist Van Jones. From his perspective as a political strategist, he recently made this point to a campus audience:

"I got tough talk for my liberal colleagues on . . . campuses. . . . I don't want you to be safe, ideologically. I don't want you to be safe, emotionally. I want you to be strong. That's different. . . . [L]earn how to deal with adversity. . . . I want you to be offended every single day on this campus. I want you to be deeply aggrieved and offended and upset, and then to learn how to speak back. Because that is what we need from you."

Conclusion

If all of us who are committed to equal justice for all would exercise our precious First Amendment rights, we would wield more positive power, for more positive change, than any censorship

could ever do. As Dr. Martin Luther King declared: “In the end, we will remember not the words of our enemies, but the silence of our friends.”

APPENDIX A: Statements by politically diverse minority leaders, opposing censorship of “hate speech,” including on campus, because it undermines equality and education, in particular for minority students and student activists (listed in alphabetical order by last name)

Anthony Kapel “Van” Jones, commentator and liberal political activist, speaking at University of Chicago, 2017

“I got tough talk for my liberal colleagues on these campuses. . . . There are two ideas about safe spaces: One is a very good idea and one is a terrible idea. The idea of being physically safe on a campus—not being subjected to sexual harassment and physical abuse. . . — I am perfectly fine with that. But there’s another view that is now . . . ascendant, which I think is just a horrible view, which is that ‘I need to be safe ideologically. I need to be safe emotionally I just need to feel good all the time, and if someone says something that I don’t like, that’s a problem for everybody else including the administration.’

“I think that is a terrible idea for the following reason: I don’t want you to be safe, ideologically. I don’t want you to be safe, emotionally. I want you to be strong. That’s different. I’m not going to pave the jungle for you. Put on some boots, and learn how to deal with adversity. I’m not going to take all the weights out of the gym; that’s the whole point of the gym. This is the gym.

“You can’t live on a campus where people say stuff you don’t like?! And these people can’t fire you, they can’t arrest you, they can’t beat you up, they can just say stuff you don’t like- and you get to say stuff back- and this you cannot bear?! This is ridiculous BS, liberals! My parents . . . dealt with fire hoses! They dealt with dogs! They dealt with beatings! You can’t deal with a mean tweet?! You are creating a kind of liberalism that the minute it crosses the street into the real world is not just useless, but obnoxious and dangerous.

“I want you to be offended every single day on this campus. I want you to be deeply aggrieved and offended and upset, and then to learn how to speak back. Because that is what we need from you in these communities.”

Alan Keyes, conservative political activist

“The...protection [of a “hate speech” law] incapacitates.... To ...be told that white folks have the moral character to shrug off insults, and that I do not That is ...the most racist statement of all!”

Michael Meyers, Executive Director, New York Civil Rights Coalition

“As a former student activist, and as a current black militant, [I] believe[] that. . . paternalism [and] censorship offer the college student a tranquilizer as the antidote to . . . racism. . . . What we need is an alarm clock. . . more free speech!”

President Barack Obama, Howard University Commencement Address, 2016

“[O]ur democracy gives us a process designed . . . to settle our disputes with argument and ideas and votes instead of violence and simple majority rule. . . . So don’t try to shut folks out, don’t try to shut them down, no matter how much you might disagree with them. There’s been a trend. . . of trying to get colleges to disinvite speakers with a different point of view, or disrupt a politician’s rally. Don’t do that – no matter how ridiculous or offensive you might find the things that come out of their mouths. Because as my grandmother used to tell me, every time a fool speaks, they are just advertising their own ignorance. Let them talk. . . . If you don’t, you just make them a victim, and then they can avoid accountability.

“That doesn’t mean you shouldn’t challenge them. Have the confidence to challenge them. . . . [Y]ou will have the responsibility to speak up in the face of injustice. But listen. Engage. If the other side has a point, learn from them. If they’re wrong, rebut them. Teach them. Beat them on the battlefield of ideas. And you might as well start practicing now, because one thing I can guarantee you – you will have to deal with ignorance, hatred, racism, foolishness. . . . I promise you, you will have to deal with all that at every stage of your life.”

Theodore Shaw, former President, NAACP Legal Defense and Educational Fund

“I believe deeply that minority group members who are discriminated against...have the...responsibility ...to struggle and speak on their own behalf.”

Ruth Simmons, first Convocation Address as President of Brown University

“The protection of speech that is offensive or insulting to us is one of the most difficult things ...we do. But it is this same freedom that protects us when we are in turn powerless.... I won't ask you to embrace someone who offends your humanity through...free speech. But I would ask you to understand that the price of your own freedom is permitting th[at] expression.....You know something that I hate? When people say, 'That doesn't make me feel good about myself.' I say, 'That's not what you're here for.' . . . I believe that learning at its best is the antithesis of comfort....[So,] [i]f you come to this [campus] for comfort, I would urge you to walk [through] yon iron gate....But if you seek betterment for yourself, for your community and posterity, stay and fight.”

Gwen Thomas, educator and civil rights activist

“We have to teach [our young people] how to deal with adversarial situations. They have to learn how to survive with offensive speech they find wounding and hurtful.”