

Do North Carolina Students Have Freedom of Speech?

A Review of Campus Speech Codes

Jenna Ashley Robinson

The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

— John Stuart Mill, *On Liberty*, 1859

This report examines the speech, assembly, and religious protections for students and faculty at North Carolina’s universities—both public and private.

It consists of three sections: first, an examination of the importance of First Amendment rights to educational objectives; second, an explanation of the methodology for measuring rights violations; and third, a school-by-school rating based on university policies that restrict freedom of speech and association.

For this project, the Pope Center worked in conjunction with the Foundation for Individual Rights in Education (FIRE), a nonprofit educational organization in Philadelphia, Pennsylvania. This report uses FIRE’s speech code rating system to judge the speech policies at North Carolina colleges and universities.

Why Is Speech Important?

America’s colleges and universities are supposed to be strongholds of classically liberal ideals including the protection of individual rights and openness to debate and inquiry. The development of critical minds demands that universities act as marketplaces of ideas—even unusual or unpopular ideas. Such a marketplace can exist only where universities protect

constitutional rights to speech, religion, and assembly on campus.

Protecting students' First Amendment rights promotes liberal learning by:

- Increasing intellectual diversity on campus.
- Fostering respectful dialogue between faculty, students, and administrators—regardless of their political and religious beliefs.
- Allowing students to question and test received wisdom and to put forward controversial and unpopular opinions, whether offensive or not, and without fear of academic consequences.

But universities often deny students and faculty their fundamental rights—and thus fail in their educational missions. According to FIRE, “The university setting is where students are most subject to the assignment of group identity, to indoctrination of radical political orthodoxies, to legal inequality, to intrusion into private conscience, and to assaults upon the moral reality of individual rights and responsibilities.”

Some university policies may look like rules to protect decorum or foster good manners, but they are often so broad that they can stifle the free exchange of ideas. Words like “innuendoes,” “teasing,” “inappropriate,” and “disdain” (found below) can become tools for repression of free expression.

The Pope Center believes that one way to combat these trends is to expose illiberal university policies and practices to public criticism.

The following are examples of policies in force at North Carolina's colleges and universities:

- **Campbell University** prohibits “obscene or indecorous language or conduct indicating his/her disapproval of any matter.”

- **UNC Greensboro** “will not tolerate any harassment of, discrimination against, or disrespect for persons.”
- **Bennett College for Women** defines sexual harassment to include “behavior that suggests disgust or disdain for a different life style or different cultural values.”
- **Cabarrus College for Health Sciences** prohibits students from using email to send “chain letters, letter-bombs, inappropriate jokes, or spam.”
- **Davidson College** bans “innuendoes,” “teasing,” “jokes,” and “comments or inquiries about dating.”
- **Livingstone College** prohibits any conduct or expression that is “offensive or annoying to others.”

To find out the specific speech code violations at each North Carolina college or university, go to popecenter.org/FIREratingsnc.

FIRE's Speech Code Rating System

The Foundation for Individual Rights in Education defines a “speech code” as any university regulation or policy that prohibits expression that would be protected by the First Amendment in society at large. Any policy—such as a harassment policy, a student conduct code, or a posting policy—can be a speech code if it prohibits protected speech or expression.

FIRE applies its speech code rating system equally to public and most private universities. The FIRE website explains, “while private institutions are not directly legally bound to uphold the Constitution, those that promise debate and freedom are morally bound...to uphold the fundamental principles of free speech and of academic freedom, principles that underlie the First Amendment.” Therefore, FIRE makes no distinction between public universities and those private universities that advertise themselves as centers of liberal learning.

Some private institutions—religious institutions such as Belmont Abbey or Southeastern Baptist Theological Seminary—have particular missions that require restrictions on speech. FIRE's website explains, “when a private university states clearly and consistently that it holds a certain set of values above a commitment to freedom of speech, FIRE does not rate that university.” These restrictions on speech reflect the diversity of institutions that is an essential strength of American higher education.

Other private schools advertise their commitments to free speech, but then proceed to dishonor those commitments by placing restrictions on student and faculty expression. For example, Duke University claims, “The University cherishes freedom of expression, the diversity of values and perspectives inherent in an academic institution, the right to acknowledgment, and the value of privacy for all members of the Duke community.” The school's computing and electronic communications policy (among others) violates that commitment, however;

students are prohibited from “broadcasting unsolicited messages, by repeatedly sending unwanted mail, or by using someone else's name or [user ID].”

More information is available about FIRE's speech code rating system at theFIRE.org.

Conclusion

This report illustrates the unfortunate reality that North Carolina's institutions of higher education are, in many cases, failing to uphold their promises of free expression, assembly, and religion to students and faculty. In fact, no institutions in North Carolina have “green light” ratings.

The information contained in this report was gathered from the schools' websites and from printed materials and was last checked in October 2009.



Azhar Majeed, associate director of legal and public advocacy for FIRE, provided research assistance for this project.



RED LIGHT A “red light” institution has at least one policy that both clearly and substantially restricts freedom of speech. A “clear” restriction is one that unambiguously infringes on what is or should be protected expression. A “substantial” restriction on free speech is one that is broadly applicable to important categories of campus expression.



YELLOW LIGHT A “yellow light” institution has some policies that could ban or excessively regulate protected speech. The colleges and universities that earn yellow lights may have policies that restrict a significant amount of protected expression.



GREEN LIGHT If FIRE is unable to find a policy that seriously imperils speech, a college or university receives a “green light.” A green light does not indicate that a school actively supports free expression. It simply means that FIRE is not currently aware of any serious threats to students' free speech rights in the policies on that campus.

Source: The Foundation for Individual Rights in Education (FIRE)

FIRE's Free Speech Ratings of North Carolina Private and Public Colleges

PRIVATE INSTITUTION	LOCATION	RATING
Barber Scotia College	Concord	●
Barton College	Wilson	●
Belmont Abbey College	Belmont	●*
Bennett College for Women	Greensboro	●
Brevard College	Brevard	●
Cabarrus College of Health Sciences	Concord	●
Campbell University	Buies Creek	●
Catawba College	Salisbury	●
Chowan University	Greensboro	●
Davidson College	Davidson	●
Duke University	Durham	●
Elon University	Elon	●
Gardner-Webb University	Boiling Springs	●*
Greensboro College	Greensboro	●
Guilford College	Greensboro	●
High Point University	High Point	●*
Johnson & Wales University	Charlotte	●
Johnson C. Smith University	Charlotte	●
Lees-McRae College	Banner Elk	●
Lenoir-Rhyne University	Hickory	●
Livingstone College	Salisbury	●
Mars Hill College	Mars Hill	●
Meredith College	Raleigh	●
Methodist University	Fayetteville	●
Mid-Atlantic Christian University	Elizabeth City	●*
Montreat College	Montreat	●
Mount Olive College	Mount Olive	●
NC Wesleyan College	Rocky Mount	●
Peace College	Raleigh	●
Pfeiffer University	Misenheimer	●
Queens University	Charlotte	●
St. Andrew's Presbyterian College	Laurinburg	●
St. Augustine's College	Raleigh	●
Salem College	Winston-Salem	●
Shaw University	Raleigh	●
The College at Southeastern	Wake Forest	●*
Wake Forest University	Winston-Salem	●
Warren Wilson College	Swannanoa	●
Wingate University	Wingate	●

PUBLIC INSTITUTION	LOCATION	RATING
Appalachian State University	Boone	●
East Carolina University	Greenville	●
Elizabeth City State University	Elizabeth City	●
Fayetteville State University	Fayetteville	●
NC A&T State University	Greensboro	●
North Carolina Central University	Durham	●
North Carolina School of the Arts	Winston-Salem	●
North Carolina State University	Raleigh	●
UNC Asheville	Asheville	●
UNC Chapel Hill	Chapel Hill	●
UNC Charlotte	Charlotte	●
UNC Greensboro	Greensboro	●
UNC Pembroke	Pembroke	●
UNC Wilmington	Wilmington	●
Western Carolina University	Cullowhee	●
Winston-Salem State University	Winston-Salem	●

* NOT RATED

When a private university states clearly and consistently that it holds a certain set of values above a commitment to freedom of speech, FIRE does not rate that university.

About the Author

Jenna Ashley Robinson is campus outreach coordinator for the John W. Pope Center for Higher Education Policy. Robinson graduated from NC State University in 2003 and received her master's degree in political science from UNC-Chapel Hill in 2005. She is currently a Ph.D. candidate in political science at UNC-Chapel Hill.

The John William POPE CENTER FOR HIGHER EDUCATION POLICY

333 E. Six Forks Road, Suite 150
Raleigh, NC 27609
919.828.1400 Fax: 919.828.7455
popecenter.org
ISSN 1935-3510

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