

# BLUEPRINT FOR REFORM

THE JAMES G.  
MARTIN  
CENTER  
FOR ACADEMIC  
RENEWAL

## Free Speech on Campus

*Although I dispraise not the defence of just immunities, yet love my peace better, if that were all. Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.*

John Milton, *Areopagitica* - A speech for the liberty of unlicensed printing to the Parliament of England.

### Why free speech is important

University students are America's future leaders in business, science, politics, philanthropy, and education. It is essential that universities provide for them an environment where the pursuit of truth and open inquiry are uninhibited. They must be exposed to differing ideas, engage in civil debate, and learn to appreciate America's tradition of respect for free expression and peaceful dissent.<sup>1</sup> The pursuit of truth requires that all spaces are open for conversation, that the quest for knowledge is unbridled, and the path to truth is free from the hurdles of speech codes and restrictive policies.

In his moral and intellectual defense of free speech titled *On Liberty*, John Stuart Mill outlines four dangers of censoring speech. First,

the speech being silenced might be true—and we have no chance to hear it. Second, the speech may be mostly in error, but contain a seed of truth or an important consideration that would further our understanding of the debate as a whole. Third, even false speech has a purpose—it forces those who are right to comprehend and better articulate their arguments, refined by the fire of vigorous and earnest debate. Finally, the challenges and arguments that are part of free speech ensure that we hold our most important and self-evident truths more dearly.

### Free speech is threatened on campus

Over the last decade, the campus intellectual climate has deteriorated. Free speech issues are at the

1. To read more from the Martin Center about the importance of free expression, visit: <https://www.jamesgmartin.center/tag/free-speech/>

forefront of campus politics, with threats to free speech increasing worldwide. Public universities and colleges are bound by first amendment protections of free speech. And many private institutions make bold promises of unfettered free expression.

**Despite these obligations, many speech restrictions persist at both public and private universities, including:**

- Harassment and bullying policies that use vague, arbitrary, and subjective standards to punish “offensive” or “inappropriate” speech.
- Limitations on the personal social media and online expression of staff and students.<sup>2</sup>
- Language restrictions and guidelines that stifle expression (e.g. telling students to avoid using gendered words such as “mankind” or “founding-father”).<sup>3</sup>
- Policies on tolerance, respect, and civility that restrict constitutionally-protected speech.
- Broad policies on “bias” and “hate speech” that are often strategically enforced to punish constitutionally-protected political and religious opinions.

**Sometimes, restrictions on speech come from the students themselves.** The Foundation for Individual Rights in Education (FIRE has documented 449 instances of speakers being disinvited from campus for holding views that some segment of the campus population found objectionable.<sup>4</sup> And universities have routinely allowed students to shout down unpopular

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2. [Office for Inclusive Excellence](#), University of Utah.  
3. The Writing Center, [Gender Inclusive Language Guide](#), UNC-Chapel Hill.  
4. FIRE (2020). “[Disinvitation Database](#),” Foundation for Individual Rights in Education.

speakers.<sup>5</sup>

In some cases, universities have even encouraged students to police each others’ speech via “bias response teams.”<sup>6</sup> In some cases, professors have been forced to retire over past speech.<sup>7</sup> A 2018 survey at Pomona University showed that only 35 percent of non-liberal students were comfortable expressing their political opinions to their professors and a mere 21 percent felt comfortable discussing among peers.<sup>8</sup>

## Recommendations

**The Martin Center recommends** that states or universities adopt policies that take the following steps to protect freedom of speech and expression on campus. (They should also take steps to protect and promote viewpoint diversity, which are outlined in the Martin Center’s [Blueprint for Reform: Viewpoint Diversity.](#))

### Universities should:

- Designate the entire campus as a “free speech zone;”
- Protect the right of students, faculty, and staff to engage in lawful expression;
- Ensure that any restrictions on the time, place, and manner of expression are content-neutral;
- Protect students and student groups from disciplinary action because of their lawful expression, including belief-based organizations;

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5. Kruth, Susan. (2014). “[The ‘Year of the Heckler’: FIRE President Greg Lukianoff’s Review](#),” Foundation for Individual Rights in Education.  
6. FIRE (2017). “[Bias Response Team Report 2017](#),” Foundation for Individual Rights in Education.  
7. Rojas, R. (2019) “[‘Show Us You Are Not Racist’: Students Demand Answers After Dean’s Resignation](#),” *New York Times*.  
8. “[Perceptions of Speech and Campus Climate: 2018 Gallup Survey of Pomona Students and Faculty](#),” 2018 Gallup Survey of Pomona Students and Faculty.

- Institute disciplinary sanctions for anyone under the jurisdiction of the institution who interferes with the free expression of others;
- Include information about students' free speech rights and responsibilities in first-year student orientation programs;
- Require that university administrators, staff, campus police, etc. understand their duties regarding free expression on campus;
- Incorporate questions about classroom free expression issues into students' end-of-semester evaluations;<sup>9</sup>
- Encourage faculty to add a section to course syllabi encouraging free expression and constructive dialogue;<sup>10</sup>
- Allow alleged victims to bring a cause of action for violation of their free speech rights;
- Adopt a statement in support of free expression<sup>11</sup> (e.g. The Chicago Principles).

## **Model University Policy**

[Model Student Code of Conduct](#) (The Foundation for Individual Rights in Education)

[OP 91.304: Policy on Free Speech and Assembly](#) (Mississippi State University)

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9. Larson, J., McNeilly, M., & Ryan, T.J. (2020). "Free Expression and Constructive Dialogue at UNC Chapel Hill," Report.

10. Ibid.

11. See the Martin Center's [Blueprint for Reform: Viewpoint Diversity](#) for a list of statements in support of free expression.

## **Policymakers should:**

- Designate all publicly accessible outdoor areas of campuses of public colleges and universities as traditional public forums;
- Require the trustees of all public colleges and universities to adopt policies protecting free expression (see above);
- Require public colleges and universities to report annually on free speech issues prior to the legislature's appropriations process;
- Tie state funding of public universities to actions safeguarding free expression, perhaps through performance funding mechanisms.

## **Model Legislation**

[Campus Free Expression Act](#)<sup>12</sup> (Foundation for Individual Rights in Education model legislation)

[Campus Free Speech Act](#)<sup>13</sup> (Goldwater Institute model legislation)

[Forming Open and Robust University Minds \(FORUM\) Act](#)<sup>14</sup> (American Legislative Exchange Council model legislation)

[Illinois New Voices Act](#) (Student Press Law Center model legislation)

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12. Versions of the Campus Free Expression Act have been adopted in [Colorado](#), [Florida](#), [Missouri](#), [South Dakota](#), [Utah](#), and [Virginia](#).

13. Versions of the Campus Free Speech Act have been adopted in [North Carolina](#), [Georgia](#), [Arizona](#), and [Louisiana](#).

14. Versions of the FORUM Act have been adopted in [Arkansas](#), [Iowa](#), [Oklahoma](#), and [Texas](#).

## **Further Reading**

[Campus Free Speech Guide - PEN America](#)

[FIRE's Campus Disinvitation Database](#)

[List of academic petitions, deplatforming, and open-letter campaigns](#)

[FIRE's Guide to Free Speech on Campus](#)

[First Amendment Voice: Four troubling facts about freedom of speech on college campuses](#)

[Alliance Defending Freedom: State Laws on Student Free Speech – How Does Your State Measure Up?](#)

[Free Speech on Campus Audit Australia](#)  
[Ranking of UK Universities on Free Speech](#)

[Establishment of a Higher Education Restructuring Regime in Response to COVID-19 - Dept of Higher Ed, UK.](#)

## **For More Information**

For supplemental data or additional research on this topic, please contact the Martin Center by phone or email. You can reach us at 919-828-1400 or [info@jamesgmartin.center](mailto:info@jamesgmartin.center).

To read more from the Martin Center about the importance of viewpoint diversity, visit: <https://www.jamesgmartin.center/tag/free-speech>

## **About the Martin Center**

The James G. Martin Center for Academic Renewal is a private nonprofit institute dedicated to improving higher education policy. Our mission is to renew and fulfill the promise of higher education in North Carolina and across the country.

We advocate responsible governance, viewpoint diversity, academic quality, cost-effective education solutions, and innovative market-based reform. We do that by studying and reporting on critical issues in higher education and recommending policies that can create change—especially at the state and local level.

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