



arts colleges and universities, many campuses still promulgate speech codes. You may wonder what we mean by “speech codes.” FIRE defines a speech code as any campus regulation that punishes, forbids, heavily regulates, or restricts a substantial amount of expression that would be protected in the larger society. Our definition is straightforward and applies to all university policies whether they call themselves “speech codes” or not. In contrast to the way that such codes were put into effect during their heyday in the late 80s and early 90s, colleges today are loath to label their policies “speech codes” even when they restrict or forbid clearly protected speech. This may be a result of a series of court cases in which university speech codes were struck down as unconstitutional, or perhaps it is a reaction to public relations disasters that were generated by early attempts to regulate student speech.

But make no mistake, as Harvey Silverglate and I explain in our attached article, speech codes are alive and well on college campuses.

The current generation of speech codes come in many shapes and sizes, including but not limited to e-mail policies that ban “derogatory comments,” highly restrictive “free speech zone” policies, “diversity statements” with provisions that outlaw “intolerant expression,” and so-called “harassment policies” that extend to speech that may “insult” or “demean.” While they may not call themselves “speech codes” anymore, a speech code by any other name still suppresses speech.

FIRE has been combating speech codes as a part of its general operat

Some codes are remarkably broad and vague, like that of Bard College in New York, which states, "It is impermissible to engage in conduct that deliberately causes embarrassment, discomfort, or injury to other individuals or to the community as a whole." By banning speech that "discomforts," Bard takes a position that has been adopted by many colleges and universities: valuing and promoting peace and quiet at the expense of robust debate and intellectual engagement. To be sure, politeness is a commendable value, but it simply does not compare in importance to unfettered debate and discussion in a pluralistic democracy. Furthermore, it is not the place of college administrators to force students to speak in any particular fashion. Civility should, perhaps, be inculcated when a student is young, by his or her elementary school teachers and by parents. In college, it should be learned by example. Furthermore, conditioning speech on civility virtually denies the existence of justified moral outrage.

Other codes define the "protected class" of the speech code so broadly as to ban even the most basic forms of free speech. The University of California-Santa Cruz, for example, warns against speech that shows "disrespect" or "maligns" on the basis of, among other categories, "creed," "physical ability," "political views," "religion," and "socio-economic status or other differences." One can only imagine what dreary places colleges would be if students weren't even allowed to express passionate political criticisms.

Still others dangerously trivialize society's most serious crimes in an effort to get at "offensive speech." Ohio University's "Statement on Sexual Assault," for example, declares that "Sexual assault occurs along a continuum of intrusion and violation ranging from unwanted sexual comments to forced sexual intercourse." One should be very concerned about any university that cannot make a principled distinction between loutish comments and rape.

Most colleges, however, rely on this strategy: they redefine existing serious offenses to include protected expression. Hood College in Maryland, for example, defines "harassment" as "any intentionally disrespectful behavior toward others." While "disrespectful behavior" may be rude, it certainly does not rise to the level of the crime of harassment. No one denies that a college can and should ban true harassment, but hiding a speech code inside of a "racial-harassment code," for example, does not thereby magically shield a college or university from the obligations of free speech and academic freedom.

A particularly pernicious brand of speech code goes beyond punishing what one says and extends to what one feels, thinks, or believes. Transylvania University in Kentucky bans "oral, and written actions that are intellectually... inappropriate" if they touch upon a broad list of protected classes. Florida State University's "General Statement of Philosophy on Student Conduct and Discipline" states, "Since behavior which is not in keeping with standards acceptable to the University community is often symptomatic of attitudes, misconceptions, and emotional crises, the treatment of these attitudes, misconceptions, and emotional crises through re-education and rehabilitative activities is an essential element of the disciplinary process." All citizens should be very



all of our rights depend on the protection of even the most controversial or “politically incorrect” of us—and, rest assured, the definition of “political correctness” changes dramatically over time. However, since colleges and universities recognize that if they were really to ban all speech that offends anyone all colleges and universities would be reduced to silence, they often apply their speech restrictions with an unconcealed double standard.

While it has been FIRE’s experience that students and professors with orthodox religious views, conservative advocates, and bold satirists are more likely than others to be censored under the current campus climate, we all have a common interest in the free speech of our nation’s students. While it may be the more conservative students who today feel the brunt of speech codes on campuses, it was only a generation or two ago when the shoe was on the other foot and liberal students bore that burden. The problem is censorship, pure and simple. The group that bears the brunt of censorship at any given moment in history is of academic interest, but the existence of censorship that can silence you one year and your opponent the next is the ongoing problem. Not only are all students affected by these overbroad policies—and students of every political stripe are punished if they cross certain, often arbitrary, lines—but everyone suffers when any side of an important debate is stifled, silenced, or otherwise quashed.

And make no mistake about it, the war for free speech is often not ideological at all. Campus censorship is quite often a simple, naked exercise of power. For example, at Hampton University in Virginia, the entire press run of last week’s *Hampton Script* was confiscated by administrators who were angry about the paper’s refusal to run a letter from the university’s acting president on the front page. College and university administrators too often view criticisms of their policies as tantamount to sedition. Furthermore, many administrators censor viewpoints not to achieve an ideological purpose or ideological homogeneity, but rather to avoid having offended students conduct noisy demonstrations that embarrass the administration. But this kind of “trouble”—loud, vociferous, and often unruly dissent—is indispensable to higher education; it is not an embarrassment or an inconvenience that needs to be stamped out. American freedom may occasionally be more troublesome than the order that exists in a police state, but it is our most precious birthright.

As noted earlier, if there is one constant in the history of free speech, it is that the censored of one generation often become the censors of the next. This vicious cycle of censorship teaches citizens to take advantage of any opportunity that they have to silence those on the other side. Students educated in this environment can hardly be blamed if they come to view speech as little more than a tool that one must do their best to deny their enemies, rather than as a sacred value. That is a terrible threat to American liberty.

FIRE hopes that we can put an end to this vicious cycle of censorship with this generation. With the help of a coalition of individuals and organizations from across the political spectrum, we can teach the current generation that a free society’s cure to “bad” speech is more speech.

It is important to mention, howev

While any remedial action should be considered carefully and thoroughly, the cost of leaving things as they are is too high. One chilling example of how poorly free speech is understood and how little it is respected in higher education today is the phenomenon of newspaper thefts. For over a decade in at least five dozen documented instances, students have stolen and destroyed tens of thousands of copies of student-run