

The Glaring Evidence That Free Speech Is Threatened on Campus

A debate at Yale highlighted the disconnect between those who would downplay the problem, and the growing mass of evidence that they're wrong.

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At a recent [Intelligence Squared debate](#), an audience filled an auditorium at Yale University to weigh the timely proposition, “Free speech is threatened on campus.” The debate concerned higher education generally, not just the host institution. And at the event’s conclusion, having heard arguments on both sides of the question, 66 percent of the crowd agreed: free speech *is* threatened. That represented a 17-point shift from a poll taken as the event began. The evidence is that persuasive.

One of the losers in the debate was Professor Shaun Harper of the University of Pennsylvania, who heads its Center for the Study of Race and Equity in Education. He began by noting that “there has been a significant increase in the demand for our campus climate work” since last semester’s protests. In fact, he added, “this past December, we brought together 8,000 college presidents and other senior leaders who came to us for guidance on how to respond to racism on their campuses.”

With that background, I expected Professor Harper to have a broad sense of how common speech restrictions are at American colleges and universities. And I assumed that he would offer arguments for the position that they do not threaten free speech.

I was wrong on both counts.

Late in the event, he declared, “I don't want anyone's speech to be suppressed in any setting.” The root of the disagreement was his belief that little speech is restricted.

And earlier in his remarks, Harper declared that while colleges may ask students to voluntarily limit their speech in various ways, like not wearing offensive costumes, “I invite our opponents to present us more than a handful of written, institutional policies—where it's been put in writing that you can't say certain things. You can't wear certain costumes. Sure, students would be encouraged to do or not do something. But I, as a higher-education scholar who studied thousands of colleges and universities, have never seen a written institutional policy.”

That statement is baffling.

The Foundation of Individual Rights in Education keeps track of colleges that have speech restrictions, rating each institution green, yellow, or red. To receive the worst rating, a college must have at least one policy “that both clearly and substantially restricts freedom of speech.” That threshold is met only when a policy “unambiguously infringes on what is or should be protected expression” in a way that is “obvious on the face of the policy and does not depend on how the policy is applied.”

The University of Pennsylvania, where Harper teaches, [earns the best rating from FIRE](#), green, for having policies that “normally protect free speech.” Institutions with “red light” ratings for policies that unambiguously impinge upon expression include the following:

- [Adam State](#)
- [Alabama A&M](#)
- [Alabama State](#)
- [American University](#)
- [Armstrong State](#)
- [Athens State](#)
- [Barnard](#)
- [Bates College](#)
- [Boise State](#)
- [Boston College](#)
- [Boston University](#)
- [Brooklyn College](#)
- [Brown University](#)
- [Bryn Mawr College](#)
- [California Institute of Technology](#)
- [Cal State Pomona](#)
- [Cal State Channel Islands](#)
- [Cal State Dominguez Hills](#)
- [Cal State Fresno](#)

- [Cal State Fullerton](#)
- [Cal State Long Beach](#)
- [Cal State Los Angeles](#)
- [Cal State Monterey Bay](#)
- [Cal State Sacramento](#)
- [California University of Pennsylvania](#)
- [Carlton College](#)
- [Case Western](#)
- [Central Michigan](#)
- [Central Washington](#)
- [Cheyenne University of Pennsylvania](#)
- [Chicago State University](#)
- [Clark University](#)
- [Clemson University](#)
- [Coastal Carolina University](#)
- [Colby College](#)
- [Colgate University](#)
- [College of the Holy Cross](#)
- [Colorado College](#)
- [Colorado Mesa University](#)
- [Colorado School of Mines](#)
- [Columbia University](#)
- [Connecticut College](#)
- [Cornell University](#)

That is only the beginning.

I trust that I needn't run through D, E, and F colleges to hammer home the ubiquity of written rules that limit what one can express. Even if Professor Harper were to defend some of those rules, it beggars belief to think that he could run through colleges beginning with G, H, I, J, K, L, M, N, O, and P and still fall short of his "handful of written, institutional policies" threshold, let alone his claim to have "never seen" one.

What's more, a written policy doesn't determine if free expression is protected or violated in practice. And one needn't search long to find widespread examples of free speech being threatened or assaulted outright. To cite just one example, since Harper brought up the matter of costume controversies: UCLA is a public institution that is bound by the First Amendment; as such, it has no written policy banning students from wearing offensive costumes. Nevertheless, administrators at the campus [suspended a fraternity](#) for holding a "Kanye Western" theme party, where attendees dressed like the famous rapper and his celebrity wife, Kim Kardashian.

Later in the debate, during a back and forth with Wendy Kaminer, who was arguing that free speech is threatened on campus, Harper said:

Wendy, it could be that maybe we're talking to completely different students and hearing completely different things, because quite honestly, when we have students in our studies who are talking with us about the realities of race on their campuses... when we hear students of color unpack these painful stories and these microaggressions and stereotypes and other things that have happened to them, we ask them, 'What is it that you want the institution to do?' Never once, not once have I heard them say anything about a speech code.

I don't doubt Harper's account of his own research.

But I fail to understand how any scholar who takes the campus climate and last semester's protests as a core focus of their research could miss student demands to punish speech. *The Wall Street Journal* [reported on](#) a survey of 800 college students that found 51 percent favored speech codes. Yale protestors formally demanded the removal of [two professors from their jobs](#) in residential life because they were upset by an email one of them wrote. Missouri law students [passed a speech code that Above the Law called Orwellian](#). Amherst students called for a speech code so broad that it [would've sanctioned students](#) for making an "All Lives Matter" poster.

At Duke, student activists [demanded](#) disciplinary sanctions for students who attend "culturally insensitive" parties, mandatory implicit-bias training for all professors, and loss of the possibility of tenure if a faculty member engages in speech "if the discriminatory attitudes behind the speech," as determined by an unnamed adjudicator, "could potentially harm the academic achievements of students of color."

At Emory, student activists [demanded](#) that student evaluations include a field to report a faculty member's microaggressions to help ensure that there are repercussions or sanctions, and that the social network Yik Yak be banished from campus.

Activists at Wesleyan [trashed their student newspaper](#) then pushed to get it defunded because they disagreed with an op-ed that criticized Black Lives Matter. Dartmouth University students [demanded](#) the expulsion of fraternities that throw parties deemed racist and the forced a student newspaper to change its name.

Need I go on?

Harper's ally in the debate, the Yale philosophy Professor Jason Stanley, didn't perform any better. During portions the event, he claimed that folks on the other side, who say free speech is under threat, aren't really engaged in a debate about free speech—he said the real debate is about racism and anti-racism and about leftism. In this telling, free speech is being invoked as a cover, in service of less-sympathetic agendas.

That grossly distorted the positions taken by his opponents at the Intelligence Squared debate. And the broader claim about free-speech defenders—which is lamentably common in public discourse on the subject—[can be refuted a dozen different ways](#). Here's one: Many college newspapers are struggling with free-speech issues that have nothing to do with race or leftism, as [David Wheeler reported](#).

Or consider another narrow area of campus expression that is under threat: the formal speech, delivered to a broad audience. We'll restrict our "threat survey" to a single year.

In 2015 alone, Robin Steinberg was [disinvited from Harvard Law School](#), the rapper Common was [disinvited from Kean University](#), and Suzanne Venker [was disinvited](#) from Williams College. Asra Nomani addressed Duke University only after [student attempts to cancel her speech](#) were overturned. UC Berkeley Chancellor Nicholas Dirks participated in an event on his own campus [that student protestors shut down](#). Speakers at USC [needed police to intervene](#) to continue an event. Angela Davis [was subject](#) to a petition that attempted to prevent her from speaking at Texas Tech. The rapper Big Sean [faced](#) a student effort to get him disinvited from Princeton. Bob McCulloch [faced a student effort](#) to disinvite him from speaking at St. Louis University. William Ayers was subject to [an effort to disinvite him](#) from Dickinson School of Law. Harold Koh [faced a student effort](#) to oust him as a visiting professor at New York University Law School.

That list includes speakers from the right and the left. It involves several controversies that have nothing to do with antiracism. How many examples are needed to persuade Stanley that there is a problem? Because I only stopped listing them to avoid being tedious. Those examples are a mere subset of 2015 efforts to censor speakers based on their viewpoints. There are still more from 2014. Further roundups could be written about 2013, 2012, and beyond. Speech is frequently threatened. Speeches are regularly disrupted. Some are cancelled every year.

To perceive no threat is to ignore reality.

Or forget big speeches and look to another example of left-leaning speech that is threatened. As Glenn Greenwald [wrote](#) at *The Intercept*, "One of the most dangerous threats to campus free speech has been emerging at the highest levels of the University of California system, the sprawling collection of 10

campuses that includes UCLA and UC Berkeley. The university's governing [Board of Regents](#), with the [support](#) of University President Janet Napolitano and egged on [by the state's legislature](#), has been attempting to adopt new speech codes that—in the name of combating 'anti-Semitism'—would formally ban various forms of Israel criticism.”

He continued:

Under the most stringent such regulations, students found to be in violation of these codes would face suspension or expulsion. In July, it appeared that the Regents were poised to enact the most extreme version, but [decided instead](#) to push the decision off until September, when they instead would adopt non-binding guidelines to define “hate speech” and “intolerance.”

One of the Regents most vocally advocating for the most stringent version of the speech code is Richard Blum, the multi-millionaire defense contractor who is married to Sen. Dianne Feinstein of California. At a Regents meeting last week, [reported the Los Angeles Times](#), Blum expressly threatened that Feinstein would publicly denounce the university if it failed to adopt far more stringent standards than the ones it appeared to be considering, and specifically demanded they be binding and contain punishments for students found to be in violation.

The *San Francisco Chronicle* [put it](#) this way: “Regent Dick Blum said his wife, U.S. Sen. Dianne Feinstein, D-Calif., ‘is prepared to be critical of this university’ unless UC not only tackles anti-Jewish bigotry but also makes clear that perpetrators will be punished.” The lawyer Ken White [wrote](#) that “Blum threatened that his wife ... would interfere and make trouble if the Regents didn't commit to punish people for prohibited speech.” As campus First Amendment lawyer Ari Cohn [put it the following day](#), “Feinstein and her husband think college students should be expelled for protected free speech.”

For now, no such speech code has been adopted. Does Stanley deny that the powerful, politically connected forces pushing for it are a threat to speech on campus?

There are still more examples.

Here is [a Marquette professor](#) whose tenure was threatened over a blog post.

Two years ago, I wrote about the NYPD's efforts to spy on Muslim students using undercover agents for no reason other than their religion, an effort that spanned months and produced zero leads. Anyone who doubts that this abhorrent profiling chilled the speech of an ethnic-minority group should [inform themselves about their understandable reaction](#) to discovering that government spies were in their midst.

To sum up: free speech on campus is threatened from a dozen directions. It is threatened by police spies, overzealous administrators, and students who are intolerant of dissent. It is threatened by activists agitating for speech codes and sanctions for professors or classmates who disagree with them. It is threatened by people who push to disinvite speakers because of their viewpoints and those who shut down events to prevent people from speaking. Harper and Stanley were unpersuaded that free

speech is under threat not because they defend speech codes or sanctions—both say outright at different times that they are for untrammelled speech—but because they are blind to the number and degree of threats to speech.

And this whole discussion has been restricted to documented, overt threats to speech. Chilling effects are harder to quantify or cite, but they are real. Professors and students see those around them being punished for their viewpoints and decide to hold their tongues rather than speak their minds. Stanley denies that this is a significant problem. And yet, last semester, without looking very hard, I found and spoke to tenured and non-tenured professors and students at Yale, his own institution, who told me that their speech was chilled. They feared that their place at the school would be jeopardized if they opined honestly about campus controversies; or did not want to be targets of intolerant activists like the ones who spat on lecture attendees because the activists disagreed with words spoken at the lecture.

The evidence that free speech is threatened on college campuses is overwhelming. Doubters who can't accurately characterize the evidence should study the relevant material more thoroughly before dismissing free-speech concerns and impugning the motives of the people who raise them—especially if, like Harper and Stanley, they earnestly believe that free speech should be protected. I urge them to look again at the evidence and to join other liberals already engaged in this fight. The marginalized college students of the future [will thank them](#).