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Welcome to Today's PaperClip Communications Webinar

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Controversial Social Media Activity

When Free Speech Causes Controversy

Tuesday, January 26, 2021

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Today's Moderator

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Today's Presenter

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What We'll Cover Today

- Possible **responses** (both options and limitations) when dealing with offensive social media posts by students, admitted students, faculty and staff
 - Including the importance (and content/tone) of **timely messaging** in response to a social media incident
- Brief **case studies** mixed in illustrating the challenges posed depending upon content and context

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In College and Hiding From Scary Ideas
 KATHERINE BYRNE, a member of Sigma Alpha Tau Fraternity, was one of the first to be elected to the organization's executive board. She is now a member of the organization's executive board. She is now a member of the organization's executive board.

When Is Speech Violence?
 By Lisa Finkenauer

Free Speech or Threat? An Anti-Gay Pamphlet Roils a Public University
 By Alexander C. Jaffe | November 1, 2015

The Coddling of the American Mind

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When the Offensive Social Media Post is Made by a Student

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University of Missouri

“I’m going to stand my ground tomorrow and shoot every black person I see.”

“Some of you are alright. Don’t go to campus tomorrow.”

“We’re waiting for you at the parking lots. We will kill you.”

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The Washington Post
Democracy Dies in Darkness


By Sarah Lortimer
Assignment editor

November 11, 2015 at 6:38 p.m. EST

+ Add to list

A 19-year-old white man was arrested Wednesday by University of Missouri police for posting threats to the racially rolled campus on social media, authorities said.

Hunter M. Park was taken into custody around 1:50 a.m. Wednesday, according to MU police. He has been charged with "making a terroristic threat," Boone County Prosecuting Attorney Daniel Knight said in a news release, which was [tweeted by a Columbia Daily Tribune reporter](#).



Hunter M. Park's booking photo. (Courtesy of Boone County Sheriff's Department)

Police didn't specify what the threats were, but the campus in Columbia was shaken Tuesday by anonymous threats directed toward students of color.

"I'm going to stand my ground tomorrow and shoot every black person I see," read one post on the anonymous message app Yik Yak.

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Birmingham Real Time News

AL C-3H
Harley Barber apologizes for racist video, says she was expelled from Alabama

Updated Mar 01 2019. Posted Jan 07 2018

Barber posted the videos on Instagram, one of them shared on the Monday holiday honoring Martin Luther King Jr. In the first, she is at a sink where she turns off the water, explaining, "We do not waste water...because of the poor people in Syria. We don't waste water. I love how I act like I love black people because I (expletive) hate (n-word) so that's really interesting but I just saved the (expletive) (n-word) by shutting that water off."

In a second video, Barber addressed the growing backlash and apparent threats to turn her into her sorority officials. "(N-word) (n-word) (n-word). I don't care if it's Martin Luther King Day. I'm in the south now (expletive) so everybody can (expletive) off. I'm from New Jersey so I can say (n-word) as much as I want."

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INSIDE HIGHER ED

Kicked Out for Racism

Civil liberties supporters want University of Alabama president to reverse expulsion of student who posted racist rants, saying her First Amendment rights were violated.

By Jeremy Bauer-Wolf // January 23, 2018 72 COMMENTS


Note: This article contains explicit and potentially offensive terms that are essential to reporting on this situation.

The cases were similar and the punishment was the same.

Not even three years ago, many Americans applauded as the University of Oklahoma kicked out two fraternity members for their role in helping lead a racist chant that was recorded and went viral. But despite popular support for that decision and the shuttering of the campus chapter of Sigma Alpha Epsilon, legal experts said the institution had actually flouted the students' First Amendment rights, which protects even the vilest of speech.

Now, a student at the University of Alabama has been expelled after she posted videos to Instagram rife with racial slurs, also earning her national condemnation. The same arguments arise again – did the university, a public institution operating as a government representative, break the law?

"I think the student would have a strong case for suing the University of Alabama for violating her First Amendment rights," said Erwin Chemerinsky, a constitutional scholar and dean of the University of California, Berkeley, School of Law. "Her speech is protected by the First Amendment, though it is offensive and uses epithets."



Harley Barber in her online rant

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INSIDE HIGHER ED

The Foundation for Individual Rights in Education, or FIRE, a watchdog group in academe, also railed against the university.

Ari Cohn, a lawyer and director of FIRE's individual rights defense program, wrote that Barber's behavior does not qualify as harassing. Lesbian, gay, bisexual, transgender and queer people may find opposition to same-sex marriage offensive, Cohn wrote, but that does not mean that that opinion isn't protected by the First Amendment.

"To be sure, many are certainly outraged and offended by Barber's speech. But any argument that Barber's expressions deprives [sic] UA students of access to the university's educational opportunities or benefits collapses under its own weight," Cohn wrote.

Robert O'Neil, a First Amendment expert, former president of the University of Virginia and senior fellow with the Association of Governing Boards of Universities and Colleges, offered a dissenting opinion.

He said that given the intensity of Barber's offense, he could see justification for her expulsion.

"Particularly, Martin Luther King Day makes it worse," O'Neil said.

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Education and Title VI

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 PROHIBITS DISCRIMINATION BASED ON RACE, COLOR OR NATIONAL ORIGIN IN PROGRAMS OR ACTIVITIES WHICH RECEIVE FEDERAL FINANCIAL ASSISTANCE

U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
WASHINGTON, D.C. 20202-1328

EDUCATION AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI and Race, Color and National Origin Discrimination

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance. Title VI states that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Programs and activities that receive Federal financial assistance from the United States Department of Education (ED) are covered by Title VI. ED maintains an Office for Civil Rights, with 10 regional offices and a headquarters office in Washington, D.C., to enforce Title VI.

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"The impulse to punish Ms. Barber in response to what she said in that video is understandable as an emotional reaction. **But if the First Amendment allows the state to punish someone for ugly remarks that are profoundly offensive, as in this case, then it acquires the power to do the same for other speech that is offensive to those in power.**"

...

In the 1960s, for example, Malcolm X and Eldridge Cleaver offended many by their characterizations of white people. Could a student praising, or re-circulating their views, have been expelled for deeply offending white people? If you can do one legally, you can do the other.

...

The standard of 'offensive' as a criterion for banning speech or punishing speakers always depends on who is deciding."

New York Civil Rights Coalition letter to University of Alabama President Stuart Bell -- January 18, 2018

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AreaMan · 2 years ago

The relevant distinction here is that the university in question is a state institution, and as such cannot legally discriminate against this young woman for her abhorrent racism unless it rises to the incitement to violence. Her mother's belief that the punishment is fair is not material to the legal question. Had this been a private university with a policy relating to the incident, then the free speech argument would not apply.

The university should readmit her, but I imagine that she would not return in any case. It would be best for her to quietly get some credits at a local community college until her name leaves the news, then attend a different university. Needless to say, she has some personal growing to do, as well, being the idiot that she is.

7 ^ | v | 1 · Share

John Sheehan · Evelyn Deatrice Hall · 2 years ago


I can see your point, but I also understand the President's predicament. His job goes beyond protecting the free speech of students. He also has to protect the University of Alabama brand. Letting this speech go "unpunished" by the university could, in some circles, be seen as tacit approval of her views, or at least apathy towards them. So he struck while the iron was hot, knowing full well that her continuing at the university was an impossibility regardless if they expelled her or not. The community pressure would have been to great for her to continue attending school in Tuscaloosa no matter what he did. So his expelling her was in many ways symbolic because she had already basically expelled herself through her words. Being the university that it is, with its racial history of George Wallace proposing "segregation forever" on that same campus, the President may have wanted to appear to have a zero tolerance policy on racism. I don't necessarily agree with his choice, but I can certainly understand why he would make it as a public representative of the university.

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THE UNIVERSITY OF ALABAMA

CODE OF STUDENT CONDUCT

(5) Actions that disrupt the normal operations of the University and infringe on the rights of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction that unreasonably interferes with freedom of movement, either pedestrian and/or vehicular, on campus; actions that incite or contribute to panic or distress and disrupt the normal operations of the University, regardless of intent.

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(4) Harassment

a. Harassment that is defined as not being of a sexual nature includes:

1. Conduct that violates the University's Harassment Policy, which may include conduct (physical, verbal, graphic, written, or electronic) that is (1) unwelcome; (2) discriminatory on the basis of genetic information, race, color, religion, national origin, age, disability or protected veteran status; (3) directed at an individual; and (4) so severe and/or pervasive that it interferes with an individual's ability to participate in or to realize the intended benefits of an institutional activity, opportunity, or resource. Conduct must be deemed severe and/or pervasive from both a subjective and an objective perspective. Similar conduct that relates to an individual's sex (which includes gender, sexual orientation, gender identity, and gender expression) is addressed in the University's Sexual Misconduct Policy. Please visit www.eop.uu.edu/harassment.html, for a full copy of the University's Harassment Policy.

Page | 4 (Revised 8.19)

**THE UNIVERSITY OF ALABAMA
CODE OF STUDENT CONDUCT**

(gender identity, and gender expression) is addressed in the University's Sexual Misconduct Policy. Please visit www.eop.uu.edu/harassment.html, for a full copy of the University's Harassment Policy.

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(5) Threatening Behavior

Threatening behavior is any written, oral, or physical conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property. A student may be responsible for threatening behavior even if the object of the threat does not observe or receive it.

(6) Bullying

Bullying or cyberbullying is any gesture or written, electronic, or verbal communication, or any physical act or any threatening communication, that: (1) Places an individual in actual and reasonable fear of harm to their person or damage to their property; or (2) Creates or is certain to create a hostile environment by substantially interfering with or impairing an individual's educational performance, opportunities, or benefits. For purposes of this provision, "hostile environment" means that the alleged victim subjectively views the conduct as bullying behavior and the conduct is objectively severe and/or pervasive enough that a reasonable person would agree that it is bullying. Speech or conduct that is otherwise protected by the First Amendment will not be considered violations of this section.

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POLL QUESTION:

Should Ms. Barber have been summarily expelled by the University of Alabama?

Yes

No

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Intelligence

BRIAN BARBER | 3:47 PM, 2020

Columbia University Vigilantes Are Naming 'Rapists on Campus' in Bathroom Graffiti

By Dan Demerutis




Photo: Columbia Univ.

Amid federal complaints "shar[ing] systematic mishandling of sexual assault and mistreatment of victims" at Columbia University and Harvard — not to mention that horrifically integrated sexual assault case — someone on campus is taking action. Multiple times over the last week, the school's bathroom stalls have been covered with lists of "sexual assault victims" and "rapists on campus." Columbia is promptly having them scrubbed.

"We were alerted to bathroom graffiti in Hamilton Hall, and Public Safety investigated," David Hadd, the executive director of communications for facilities, told campus publication the *Low*. "Graffiti is routinely removed by Facilities staff."

UVA Exposed

@UVAExposed

DMs open to expose abusers, rapists, stalkers, or harassers. Completely anonymous and your name will never be posted/shared with anyone at anytime.

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Cyberbullying

Virginia Code § 18.2-152.7
Harassment by Computer

“If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer or computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten an illegal or immoral act, he is guilty of a Class 1 misdemeanor.”

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Virginia Code § 18.2-186.4

Use of a person’s identity with the intent to coerce, intimidate, or harass

“It shall be unlawful for any person, with the intent to coerce, intimidate, or harass another person, or harass another person, to publish the person’s name or photograph along with identifying information as defined [elsewhere] or identification of the person’s primary residence address. Any person who violates this section is guilty of a Class 1 misdemeanor.”

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Using Twitter -
Managing your account -
Safety and security -
Rules and policies -
Twitter Rules and policies
General guidelines and policies
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The Twitter Rules

Twitter’s purpose is to serve the public conversation. Violence, harassment and other similar types of behavior discourage people from expressing themselves, and ultimately diminish the value of global public conversation. Our rules are to ensure all people can participate in the public conversation freely and safely.

Safety

Violence: You may not threaten violence against an individual or a group of people. We also prohibit the glorification of violence. [Learn more about our violent threat and glorification of violence policies.](#)

Terrorism/insult/extremism: You may not threaten or promote terrorism or violent extremism. [Learn more.](#)

Child sexual exploitation: We have zero tolerance for child sexual exploitation on Twitter. [Learn more.](#)

Abuse/harassment: You may not engage in the targeted harassment of someone, or invite other people to do so. This includes wishing or hoping that someone experiences physical harm. [Learn more.](#)

Hateful conduct: You may not promote violence against, harass, or harass other people on the basis of race, ethnicity, national origin, caste, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease. [Learn more.](#)

Subsidy or self-harm: You may not promote or encourage suicide or self-harm. [Learn more.](#)

Sensitive media, including graphic violence and adult content: You may not post media that is excessively gory or share violent or adult content within the video or in profile or header images. Media depicting sexual violence and/or assault is also not permitted. [Learn more.](#)

Illegal or certain regulated goods or services: You may not use our service for any unlawful purpose or in furtherance of illegal activities. This includes selling, buying, or facilitating transactions in illegal goods or services, as well as certain types of regulated goods or services. [Learn more.](#)

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Using Twitter -
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Safety and security -
Rules and policies -
Twitter Rules and policies
General guidelines and policies
Law enforcement guidelines
Research and experiments

Privacy

Private information: You may not publish or post other people’s private information (such as home phone number and address) without their express authorization and permission. We also prohibit threatening to expose private information or incentivizing others to do so. [Learn more.](#)

Non-consensual nudity: You may not post or share intimate photos or videos of someone that were produced or distributed without their consent. [Learn more.](#)

Authenticity

Platform manipulation and spam: You may not use Twitter’s services in a manner intended to artificially amplify or suppress information or engage in behavior that manipulates or disrupts people’s experience on Twitter. [Learn more.](#)

Clickbait: You may not use Twitter’s services for the purpose of manipulating or interfering in elections or other civic processes. This includes posting or sharing content that may suppress participation or mislead people about when, where, or how to participate in a civic process. [Learn more.](#)

Impersonation: You may not impersonate individuals, groups, or organizations in a manner that is intended to or does mislead, confuse, or deceive others. [Learn more.](#)

Synthetic and manipulated media: You may not deceptively share synthetic or manipulated media that are likely to cause harm. In addition, we may label Tweets containing synthetic and manipulated media to help people understand their authenticity and to provide additional context. [Learn more.](#)

Copyright and trademarks: You may not violate others’ intellectual property rights, including copyright and trademark. [Learn more about our trademark policy and copyright policy.](#)

Enforcement and Appeals

Learn more about [our approach to enforcement](#), including potential consequences for violating these rules or attempting to circumvent enforcement, as well as [how to appeal](#).

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POLL QUESTION:

Does the institution have a duty to protect students identified in social justice "vigilante" social media posts?

Yes

No

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Applicants and Admitted Students Who Have Not Yet Matriculated

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FIRE

NEWSDESK

The problem with rescinding admission

What about offers of admission? As I noted a few years back in discussing Harvard's **rescission of admission offers** to students who had participated in a Facebook memes group that included racist and sexually explicit images, enrollment is a contractual agreement between college and student. The college may condition an offer of admission on certain standards being met prior to formal enrollment or the payment and acceptance of a tuition payment. Harvard, for example, reportedly **warned** the admitted students that the College "reserves the right to withdraw an offer of admission under various conditions including if an admitted student engages in behavior that brings into question his or her honesty, maturity, or moral character."

These are broad provisions, and there is a question about whether they would be lawful if maintained by a public college or university bound by the First Amendment instead of a private institution like Harvard. Some applications of a clause like this by a private institution might also raise questions of law. But in either case, once the student has matriculated, his or her speech from then on should be judged by the First Amendment (at public institutions) or the institution's promises of free expression (at private colleges and universities).

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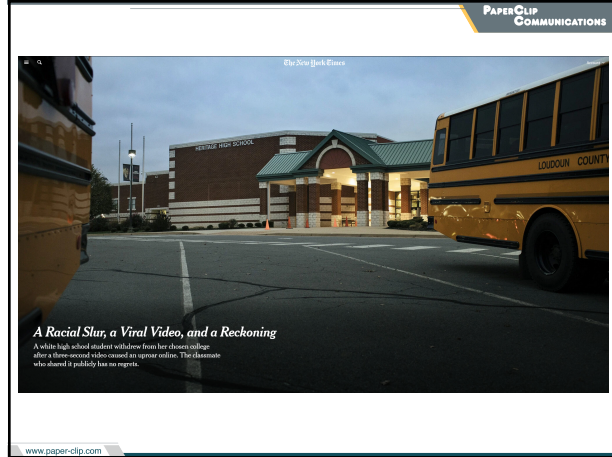
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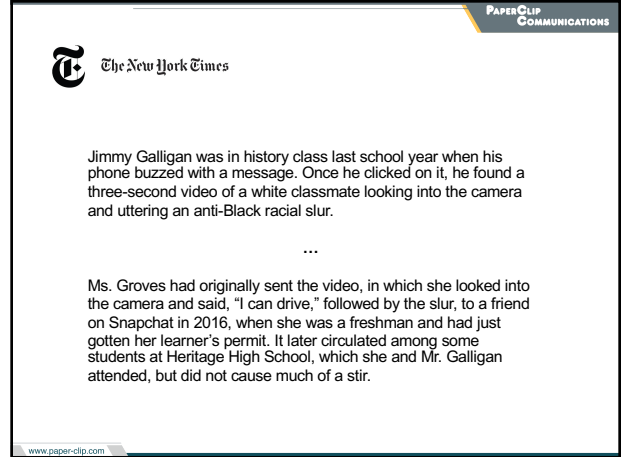
- Clearly state that offers of admission are conditioned upon honesty and no intervening evidence of inappropriate behavior
 - Harvard's reservation of the right to rescind if "an admitted student engages in behavior that brings into question his or her honesty, maturity or moral character."
- Clearly state your institutional values in the application and/or offer
- An applicant often has less of a "property interest" in the relationship than a matriculating student
 - The amount of due process required to terminate the relationship

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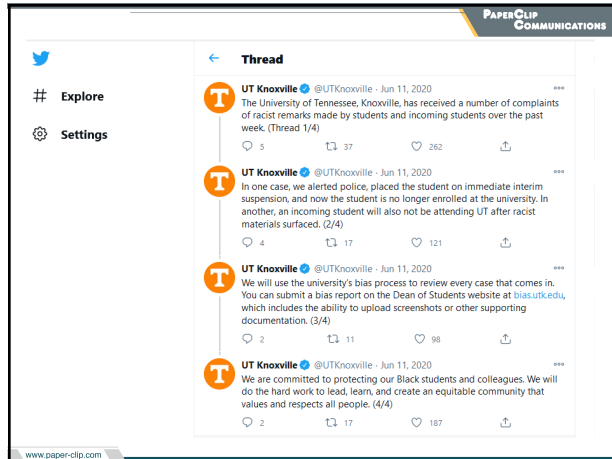
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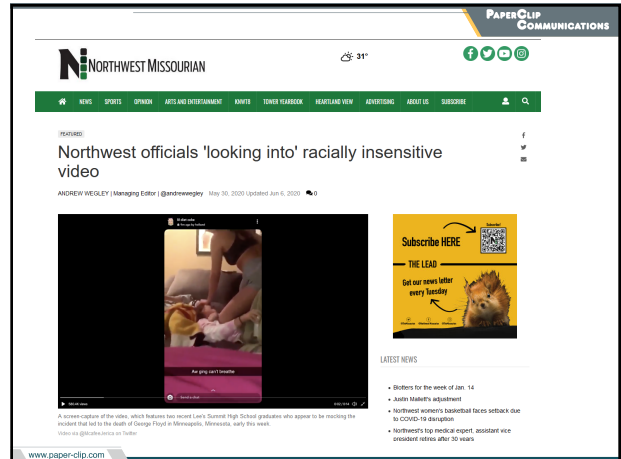
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Campaign for Northwest

Northwest responding to video depicting prospective student

53 SHARES

Northwest Missouri State University President Dr. John Bearak released the following statement today in response to a video depicting a prospective student.

"Northwest Missouri State University is aware of the video circulating on social media that appears to re-enact the tragic incident that led to the death of George Floyd in Minneapolis. The individuals involved exercised horrible judgment, and the content of the video was deeply offensive to our Bearak community. As Bearak, we stand for principles of inclusion and racial equality. The content of this video does not uphold those values. We extend more of the individual involved with a greeting to attend our campus next fall, and we grieve with the family of Mr. Floyd and all others, who have suffered loss by his death and the events that continue to unfold.

We firmly believe in principles of inclusion and civility and expect all members of our community to conduct themselves in a respectful manner. We also are a public institution that is bound to uphold the principles of free speech enshrined in the First Amendment to the Constitution. Courts have held that the First Amendment protects a wide range of expressive conduct – even speech and other expressive conduct that may be offensive and hurtful, when such speech occurs, it is not our role to punish the speaker by depriving her of an education. Rather, our role is to educate, to advocate our own principles and have a more persuasive message than that fueled by inflammatory speech.

A quote from Helen Hodge, the husband of our Black Alumni Chapter president, Frenita Westbrook-Hodge, punctuates our role: "Education is a daily confrontation with ignorance." What better place to engage in that daily confrontation than that of an institution of higher learning? Inclusion is located in the middle of the country and is a place where convergence occurs – values and work, insights and predispositions, growth and enlightenment. We are all on a journey and have much work to do. Courageous conversations that will sting, along with action, is to what we all must commit.

We stand ready to engage with the individual involved when she arrives on our campus next fall, and others as well. Our hope and expectation is that an education at Northwest will help her – and all Bearak – to learn about others, practice civil dialogue, grow in empathy and have Northwest's reputation member of society."

MEDIA CONTACT:
Mark Hornsbeak, Communication Manager | mhorns@nwmissouri.edu | 660.562.1704

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POLL QUESTION:

Do you favor the approach taken by the University of Tennessee or by Northwest Missouri State University?

University of Tennessee

Northwest Missouri State University

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ARC POLITICS SOCIETY POLICY IDEAS CULTURE MEMBERSHIP

You have 2 free member-only stories left this month. Sign up for Medium and get an extra one.

We Have to Let Teenagers Make Mistakes and Grow

One teenager used a racial slur in a video, another made it go viral, and adults made the whole thing worse

Melinda Grossman
Dec 20, 2020 · 4 min read



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Adults use these teenagers to advance preconceived arguments, often while claiming they're standing up for them, or for kids like them; adults who should know better, or who do know better but don't care.

Coaches at the University of Tennessee kicked Mimi off the cheer team and administrators pressured her to withdraw from the school. These adults said they received hundreds of complaints from "from outraged alumni, students and the public," which includes adults who are affiliated with UT, and adults who aren't but decided to make it their business anyway.

Adults at *The New York Times* decided this incident merited national news coverage, and published the names of previously unknown teenagers, thereby setting both up as targets for public hatred and harassment. If anyone googles Jimmy or Mimi's full name, this will be on the first page for years. Maybe forever.

Adults on social media jumped on this story, including some with large followings who publicly denounced one or the other teenager using harsh language, thereby encouraging others to do so.

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We have to make room in our Information Age society for teenagers — arguably for everyone, but at least for teenagers — to say and do dumb things, including on social media. These sort of actions don't need to be consequence-free, but any consequences should be proportionate, such as getting talked to by an adult, or cursed out by a classmate. Severity, post-action remorse, and first-time or repeated offense should be factored in too.

It's similar to why the justice system should limit punishment for most youthful crimes and provide paths to rehabilitation. Teenagers' brains are still developing. People can learn, mature, improve.

Imposing harsh punishment, turning them into national stories, piling on them on social media, and using them as political props is unfair to teenagers, and probably counterproductive for the causes that making an example out of them are supposed to help too.

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THE FREE SPEECH PROJECT

FREE SPEECH TRACKER NEWSLETTERS & PODCASTS CURRICULUM & RESOURCES

Black student organizations file a Title VI complaint, hold town hall with NWMMSU leadership

On June 7, six Black student organizations filed a Title VI complaint against the university due to its handling of the Stuphar video, according to a [Facebook post](#) from Pamela Westbrook-Hodge, president of the NWMMSU Black Alumni and Friends Chapter. Title VI of the Civil Rights Act of 1964 prohibits racial discrimination in programs and activities receiving federal financial assistance.

Black students at NWMMSU called Jaitsinki's statements "spitting," "insensitive," and "a joke." One told the *Northeast Missouriian* that she and a number of her friends considered transferring from the university.

In a virtual **town hall** with Jaitsinki and university leadership streamed via [Facebook Live](#) on June 13, Black students and alumni requested the university open an independent investigation into the video and suspend the third teen pending investigation of racial harassment. Nearly 3,000 people have signed an online [petition](#) to demand the third teen face consequences for her participation in the video. The "bottom line" for university officials in determining their response was that the video was protected speech, according to the *Northeast Missouriian*.

In a [letter](#) sent to Jaitsinki and discussed during the town hall, Black students, Black alumni, and members of the NWMMSU community outlined more demands to "create a safer, more inclusive cultural and learning environment," including dedicating a space to students of African descent and convening a "State of Black Students Report" assembly. Among the demands was asking a "Zero Tolerance Provision" to the Student Code of Conduct, which would address hate speech, discrimination, and bias.

"We never felt safe at Northwest," says NWMMSU graduate Tabitha Johnson said during the meeting.

Prohibited conduct under the policy would include "circulating hate speech on social media targeting a protected group and mocking the death of an individual murdered for his race," according to the six-page [bill](#) created by alumni. Violations of the detailed provision may be punishable by expulsion. Over 6,400 people have signed an online [petition](#) aimed at amending the university's Student Code of Conduct to include a provision against hate speech.

NWMMSU Vice President of Student Affairs Matt Baker said during the town hall that hate speech is addressed under the university's Title IX policy, though those protections may not be "clear enough."

"I think what we should do is figure out: How do we educate and connect students with those resources and that restorative justice?" Baker said. "I think there are actions we can take that are well within law and create the kind of culture that we want at Northwest."

Baker said he and the university remain open to conversations with students and other stakeholders about changing its policies and procedures. When asked about calls from the NWMMSU community to address hate speech, Jaitsinki told the *Northeast Missouriian* that "hate speech is protected speech" and that the university would make sure any future policy changes would take account of the First Amendment.

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THE FREE SPEECH PROJECT

Leadership at Missouri, MSU, and NWMMSU released statements to announce each school's awareness of the video, reiterating the universities' respective missions to foster inclusion and uphold Free Speech principles.

According to a [statement](#) released June 1, 2020, by Man Y. Choi, president of the Missouri system and interim chancellor of the university, Missouri "received numerous emails and social media posts from members of our community and the public who felt hurt and dehumanized by the video." The university said it had opened an investigation into the video on May 30 and suspended the first teen while its Office for Civil Rights and Title IX worked to determine whether she had violated its non-discrimination policy.

"Given the similarity to the recent death of George Floyd in Minneapolis, the video is both shocking and disturbing," Choi said.

On June 1, the first teen decided to reinstate her enrollment at the university, according to Choi.

In a [statement](#) released June 2, MSU President Cliff Smart said that while the "intent of the video" may be subject to debate, "no impact comes." Smart said he was tempted "to ignore the First Amendment in this case" and revoke the second teen's admission to his university. However, he continued, choosing to do so would inherently conflict with the university's objective.

"Missouri State has a responsibility to educate students on the three pillars of our public affairs mission — ethical leadership, community engagement and cultural competence," Smart said. "The video and the social media posts clearly reveal that these students — and, let's be honest, many of us — are in desperate need of education, training and experiences that will help us develop cultural consciousness as well as cultural competence."

Smart said MSU had planned to allow the second teen to attend its campus in the fall if she participated in additional education and training, but that, "recognizing the impact of the video," she had chosen to withdraw.

In a [statement](#) released June 1, NWMMSU President John Jaitsinki said the teens involved in the video "received horrible judgment" and that the video's content "was deeply offensive" to the NWMMSU community.

"When such speech occurs, it is not our role to punish the speaker by depriving her of an education," Jaitsinki said. "Rather, our role is to educate, to advocate our own principles and have a more persuasive message than that fueled by regurgitated speech."

According to Jaitsinki, the university was prepared to engage with the third teen when she joins the campus community in the fall of 2020.

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THE FREE SPEECH PROJECT

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When the Offensive Social Media Post is Made by an Employee

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A public employee's interest as a private citizen in making public comment on a matter of public concern is balanced against the employer's competing interest "in promoting the efficiency of the public services it performs through its employees."

Pickering v. Board of Education (U.S. 1968)

When the challenged speech is made pursuant to the public employee's official duties, and not made as a private citizen, no balancing test is applied.

Garcetti v. Ceballos (U.S. 2006)

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T O L E D O
FREE PRESS
A Division of Toledo, Ohio

On April 4, 2008, Michael Miller, Editor-in-Chief of the *Toledo Free Press*, wrote an editorial titled "Gay rights and wrongs." In this piece, Miller implicitly compared the civil-rights movement with the gay-rights movement:

"As a middle-aged, overweight white guy with graying facial hair, I am America's ruling demographic, so the gay rights struggle is something I experience secondhand, like my black friends' struggles and my wheelchair-bound friend's struggles."

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Crystal Dixon, **interim Associate Vice President for Human Resources at the University of Toledo**, responded to Miller with her **op-ed column "Gay rights and wrongs: another perspective."** Dixon did not identify her official position at the University. She rejected the comparison made by Miller between the gay-rights and civil-rights movements:

"As a Black woman who happens to be an alumnus of the University of Toledo's Graduate School, an employee and business owner, I take great umbrage at the notion that those choosing the homosexual lifestyle are 'civil rights victims.' Here's why. I cannot wake up tomorrow and not be a Black woman. I am genetically and biologically a Black woman and very pleased to be so as my Creator intended. Daily, thousands of homosexuals make a life decision to leave the gay lifestyle evidenced by the growing population of PFOX (Parents and Friends of Ex Gays) and Exodus International just to name a few. . . ."

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"The public position you have taken in the Toledo Free Press is in direct contradiction to University policies and procedures as well as the Core Values of the Strategic Plan which is mission critical. Your position also calls into question your continued ability to lead a critical function within the Administration as personnel actions or decisions taken in your capacity as Associate Vice President for Human Resources could be challenged or placed at risk. The result is a loss of confidence in you as an administrator."

Termination Letter from University President Lloyd Jacobs to Interim Associate Vice President Crystal Dixon, May 8, 2008

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Court Upholds Firing of College Official Over Op-Ed Against Gay Rights

By Peter Schmidt | DECEMBER 17, 2012

A federal appeals court has upheld the University of Toledo's decision to fire a high-level human-resources administrator who wrote a newspaper opinion column challenging the idea that gay people deserve the same civil-rights protections as members of racial minority groups.

In a ruling handed down on Monday, a three-judge panel of the U.S. Court of Appeals for the Sixth Circuit held that the administrator's column "contradicted the very policies she was charged with creating, promoting, and enforcing," and cannot be excused as merely a statement of her own views as a private citizen. The panel affirmed a lower court's decision to dismiss the administrator's lawsuit accusing the public university of violating her constitutional rights by firing her.

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- Faculty generally have greater expressive freedom than staff/administrators
 - Academic freedom (faculty)
 - Policy enforcement (staff/administrators)
- At private institutions, terms of a contract or institutional policy will govern
 - Although these may be relevant at a public institution as well
- Generally, the more responsibility one has, the greater the limits on expressive freedom

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BREAKING: Dean of students resigns after pictures of past tweets surface

Jackson Fuentes, press secretary for the UA Student Government association, confirmed at 4:15 p.m. that Riley is no longer working at the University.

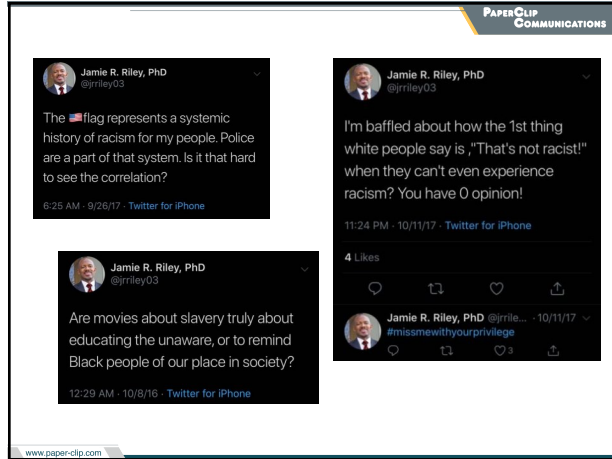
"For us right now, basically all I can tell you is that the University and Dr. Riley have mutually agreed to part ways," Fuentes said. "So yeah, that's true, and we do wish him the best."

In an email at 1:03 p.m., assistant director of the Division of Strategic Communications Chris Bryant released an official statement on behalf of the University confirming Riley's resignation.

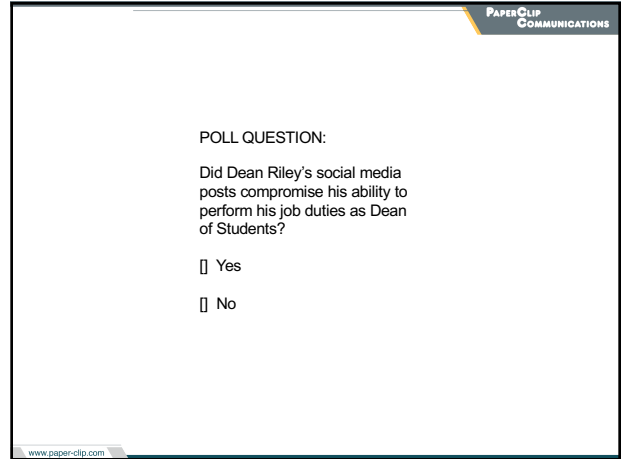
"Dr. Jamie Riley has resigned his position at The University of Alabama by mutual agreement," Bryant said in the email. "Neither party will have any further comments."

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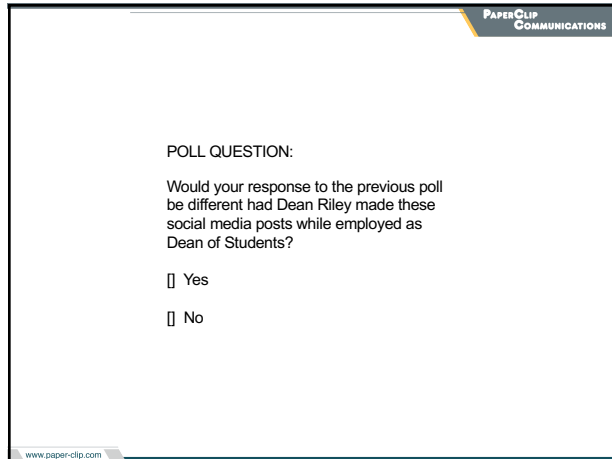
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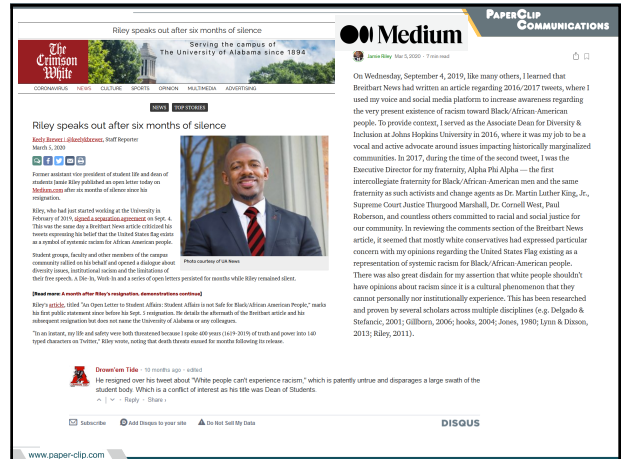
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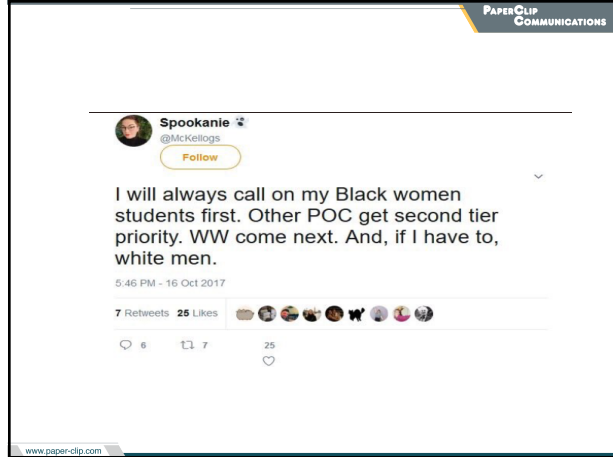
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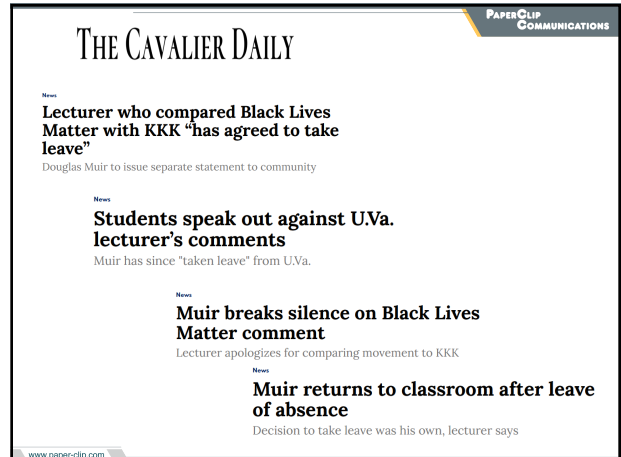
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POLL QUESTION:

Was Lecturer Muir's social media post private conduct unrelated to his classroom teaching?

Yes

No

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POLL QUESTION:

Was graduate Teaching Assistant McKellop's social media post private conduct unrelated to her classroom teaching?

Yes

No

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25th ANNIVERSARY

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Peter Lake on Academic Freedom – February 18, 2021

Date & Time

Thursday, February 18, 2021 • 2:00 – 3:30 pm ET

Overview

The Tipping Point of Expressive/Associational Freedoms in Higher Ed

The contours of legally protected freedoms in higher education continue to evolve rapidly—and are as highly controversial in, and out of, court as ever. Some of the energy around these issues has been driven by recent decisions of the U.S. Supreme Court regarding the First Amendment, including a landmark decision regarding academic rights of religious colleges. But higher education must also contend with social and political forces challenging the historic autonomy of universities to define the contours of expression for themselves, in and outside the classroom.

For instance, 2020 saw institutions become targets of federal investigation regarding free expression rights, new Title IX regulations require institutions to tailor conduct rules to First Amendment requirements, and some courts have expressed concerns that bias response teams can "chill" speech. Needless to say, the battles over expressive freedoms are hardly abstract—defamation claims, faculty extrajudicial speech litigation, the general retreat from lecture and its protections, rights of administrators to perform their duties with "due respect," collective bargaining rights, the competing rights of students in and outside the classroom, etc.

How can higher education reclaim its distinctive American role in leading vibrant dialogue on issues of major public importance while effectively delivering its core educational mission?

Are we at a tipping point in the evolution of expressive freedoms for higher education, especially when colleges return to normal operation following the pandemic?

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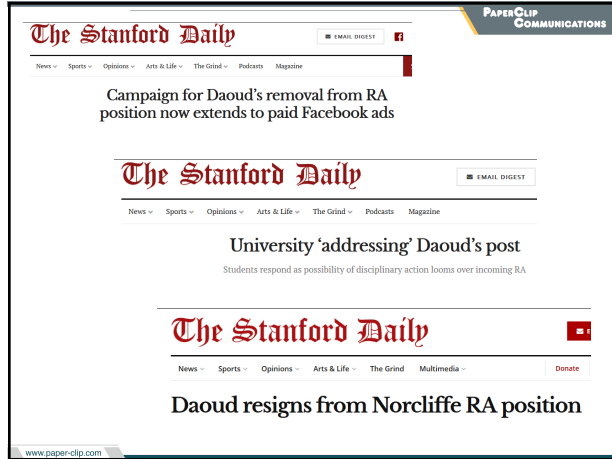
Hamzeh Daoud

3 hrs · 🌐

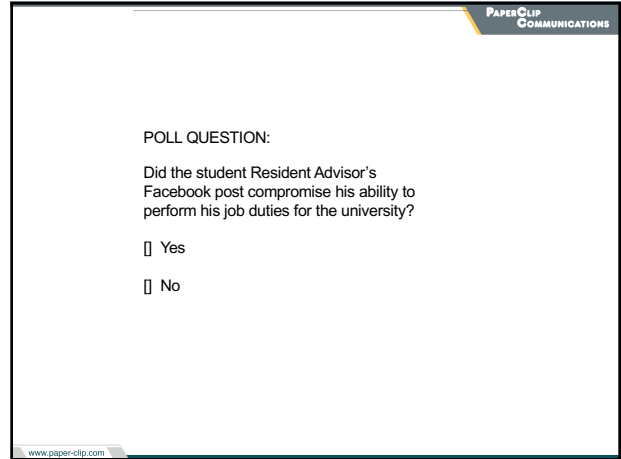
im gonna physically fight zionists on campus next year if someone comes at me with their "israel is a democracy" bullshit. :) and after i abolish your ass i'll go ahead and work every day for the rest of my life to abolish your petty ass ethnosupremacist settler-colonial state

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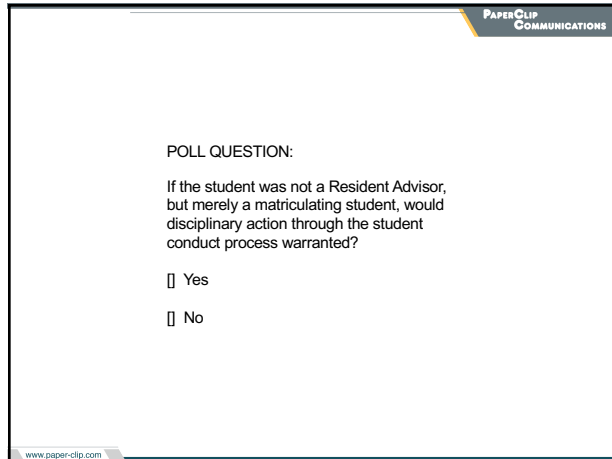
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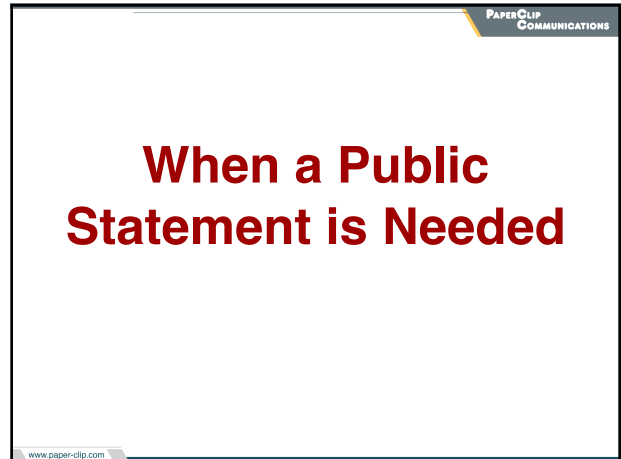
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NEWS | ADVICE | THE REVIEW | DATA | CURRENT ISSUE | VIRTUAL EVENTS | STORE | JOBS

Expressing concern about a political event can be dicey. Just ask the American Political Science Association.

By Tom Bartlett | JANUARY 14, 2021

The **statement** issued last week by the American Political Science Association begins by noting that the rioters who stormed the U.S. Capitol were motivated by the "false promise of overturning the results of a free and fair election." It condemns those who committed violence and President Trump for sowing "doubt and mistrust" in the electoral process. "We are shocked, dismayed, and disgusted at the events on Capitol Hill," it reads, echoing a near-universal sentiment.

But toward the end of the statement comes a call for "both sides to do better and work together to dismantle the systems and structures that lead to the harm." Hold on — both sides? In the wake of violence that was clearly egged on by members of one political party, and perhaps mostly by that party's leader, the impulse to issue a light scolding ("do better") to Republicans and Democrats, and then vaguely call for cooperation, felt more than a little off-key.

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Speaking Truth and Acting with Integrity
Confronting Challenges of Campus Racial Climate

Speaking from the heart involves honest communication from leaders free from political spin. Speaking from the heart, as is suggested by the phrase, means invoking and responding to emotions. Too often it is the impulse of leaders to get prepared comments after a tragedy so that they do not say anything "wrong" that might further offend people. When leaders speak from the heart, they build trust needed to overcome fear and fatigue. The very act of speaking from the heart builds the necessary skills that leaders need to know to operate in spaces of vulnerability with authenticity.

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RECLAIMING FREE SPEECH FOR DEMOCRACY AND HUMAN RIGHTS IN A DIGITALLY NETWORKED WORLD

In interviews, other UC National Fellows agreed with Friedman who said he is concerned that "ways of thinking and speaking are not only being criticized, but penalized" on some campuses, when what is really needed in many cases is "forgiveness, understanding, and empathy."⁴⁹ UCLA's Nikita Gupta, whose fellowship focused on helping student affairs staff respond appropriately to polarizing incidents on campus, observed that when staff apply rules and generic guidelines about what to do in response to different types of situations, the result can chill participation and discourse by students who feel unsupported. "This is not about rules and knowing what to do when it happens," Gupta said. "It's about leadership. How do you protect and speak up for the people you're trying to serve?" The key is for campus leaders to actively foster conversations about the impact of speech, educating people about how their speech affects others. "As Emerson Sykes of the ACLU put it, "you may have a First Amendment right to say something racist but people also have a right to call you a jerk"—and for leaders committed to civil rights, an obligation to do so if the speech in question has made others feel demeaned or silenced." Fellows all agree that better guidance and training is needed to help campus leaders encourage productive discourse about tough issues. Spoma Jovanovic, Professor of Communication Studies at University of North Carolina, Greensboro, believes that leadership is key. "When somebody goes out on a limb to assert or counter an incident of harassment, have their back. Jump in." Students and faculty need better education on "very intentional" tactics for "how to speak up and support one another."⁵²

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- Be concise and speak in clear language
- Directly address the offending social media post
- Do not shy from using firm language in calling out/condemning messages of hate
 - ↑ "racist" / "deeply offensive" / "hateful"
 - ↓ "divisive" / "unfortunate" / "disappointing"
- Acknowledge the pain caused by the post
- Affirm institutional values
- Move swiftly / utilize social media channels

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Message from the President

January 17th, 2018 Announcements

In light of the racist and disturbing videos posted by one of our students on social media, I want to express my personal disgust and disappointment. Like many of you, I find the videos highly offensive and deeply hurtful, not only to our students and our entire University community, but to everyone who viewed them. The actions of this student do not represent the larger student body or the values of our University, and she is no longer enrolled here.

We hold our students to much higher standards, and we apologize to everyone who has seen the videos and been hurt by this hateful, ignorant and offensive behavior. This is not who we are; it is unacceptable and unwelcome here at UA. These types of incidents affect community members differently; if you have been impacted and would like additional support, please access resources here that are available to you on our campus.

Over the last year, I have had conversations with many of you who shared your UA experiences with me. You have voiced your pride in the progress we have made, but we still have much work to do. I want to thank all of the students, faculty and staff who met today to have conversations about this event and the steps we can take, individually and collectively, to create a more welcoming and inclusive campus. You have my commitment and the commitment of our leadership team to sustain progress and address directly any issues that arise.

I know you join me in taking a stand against this and all reprehensible behavior. As members of this community, we are a family and this is our home. Everyone has a right to feel safe and welcome here.

Stuart R. Bell
President

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Office of the Chancellor
University of Missouri

About Planning Campus Messages Remarks & Presentations Virtual Events

June 1, 2020: Combating discrimination and racism

Dear Campus Community,

The events of the past months, weeks and days have been jarring and traumatic for African Americans and communities throughout the country. I know our Mizzou family is hurting as events continue to unfold. I am hearing from many who are feeling frustrated and hopeless about whether real change can happen.

Our student leaders in the League of Black Collegians and Missouri Students Association have recently released powerful and important statements that speak to our students' concerns and their commitment to help the Missouri community get through these hard-breaking days and take meaningful steps toward our own progress on inclusive excellence. I have begun meeting with these groups and others to ensure that even during the summer and the challenges of COVID-19, that we will work together to support and care for our fellow Tigers.

On Thursday, the three other chancellors in the University of Missouri System and I coordinated recent acts of racism around our country and shared our commitment to our values of inclusion and respect. The next day, I learned of a video posted on social media of high school students. In the video, they are laughing while they appear to be simulating the choking of one of them. One student is heard saying "I can't breathe". One of the students in the video had previously been admitted to the University of Missouri and had been preparing to attend classes here beginning this fall. Given the similarity to the recent death of George Floyd in Minneapolis, the video is both shocking and disturbing.

Upon learning about the video, we began an immediate investigation into the matter through our Office for Civil Rights & Title IX. The student was informed that she would be suspended during the investigation. We have received numerous emails and social media posts from members of our community and the public who felt hurt and discriminated by the video. The student made the decision today to re-enroll elsewhere at Missouri and will no longer be attending.

The investigation was triggered because of possible violations to our non-discrimination policies. Our process ensures that we learn the facts of a situation and that they are carefully considered within the context of the First Amendment, which protects a wide range of expression, including some that many of us find reprehensible. Our Tiger community also follows a code of conduct that we expect Mizzou students, faculty and staff to live up to as part of our core values of Respect, Responsibility, Discovery and Excellence.

University leaders and I remain committed to combating discrimination and racism in all its forms. We stand with Tigers everywhere and with the thousands of other people who are peacefully raising their voices and want to make the world, this university, an inclusive place for everyone. We have important work to do.

Sincerely,
Mun Y. Chu, PhD
President, UM System and Interim Chancellor, University of Missouri

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Resources and References

- *Reclaiming Free Speech for Democracy and Human Rights in a Digitally Networked World*, University of California National Center for Free Speech and Civic Engagement (2019-20 Fellows Research), <https://freespeechcenter.universityofcalifornia.edu/fellows-19-20/mackinnon-research/>
- *Speaking Truth and Acting with Integrity: Confronting Challenges of Campus Racial Climate*, American Council on Education (2018), <https://www.acenet.edu/Documents/Speaking-Truth-and-Acting-with-Integrity.pdf>

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Now it's time for today's key takeaways.

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Today's Key Takeaways

1. Offensive social media posts by students, faculty and staff are now a fact of life
2. Institutions need to reinforce core values and educate students (and others) on the impact of speech on others, especially the most marginalized
3. A public statement in response must be issued swiftly, be posted where students and others will quickly see it, and use clear, firm language in calling out hateful words
4. Institutions generally have more leeway when dealing with applicants and admitted (but not yet matriculating) students
5. Faculty have academic freedom, but it's not limitless
6. Administrators/staff have less expressive freedom, particularly the more responsibility they exercise

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Q&A Session

Allen W. Groves, J.D.
University Dean of Students
University of Virginia
allengroves@virginia.edu



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