

ADMINISTRATION

The Trump Administration Says Colleges Are Suppressing Free Speech. How Should They Respond?

By Sarah Brown | OCTOBER 02, 2017

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Chronicle photo by Julia Schmalz

Students and professors at Georgetown U. protest outside a speech last week by Attorney General Jeff Sessions. Mr. Sessions told his audience that "freedom of thought and speech on the American campus are under attack."

When officials at the University of Utah learned in late August that a student group had invited Ben Shapiro, a fiery conservative commentator, to speak on campus, they had to grapple with an increasingly thorny question: how to ensure that everyone's free speech rights — both Mr. Shapiro's and those of the student protesters — would be protected.

The university's administrators from the public safety, communications, and student affairs units started meeting a month in advance. They even sent a team to the University of California at Berkeley, so officials could see how that institution handled the controversial speakers who were invited to campus this spring. When Mr. Shapiro spoke last week, hundreds of students protested, two people were arrested, and several others were briefly detained. The university spent about \$25,000 on security costs.

Utah is trying to be more proactive about protecting free speech as a narrative is gaining traction among the general public that colleges

are full of students who shout down speakers and demand protection from ideological views they disagree with.

That's a view shared by several Trump administration officials, including Attorney General Jeff Sessions, who spoke last week at Georgetown University about how "freedom of thought and speech on the American campus are under attack." He didn't explicitly condemn colleges for being hostile to conservatives, which is how most critics frame the problem, though he did denounce institutions for being "an echo chamber of political correctness."

Many college officials say that a substantial portion of Mr. Sessions' remarks were misguided and one-sided. He suggested that most free-speech threats on campus come from students when the reality is more complicated. He cited a small number of incidents to make sweeping statements about the state of expression at all colleges. And he decried institutions for being anti-free speech but did not support the right of football players to kneel during the national anthem.

With the federal government taking aim at campuses' handling of free speech, many college leaders are walking a fine line: They want to protect both free discourse and students' safety. A few even acknowledge that they could be better champions of expression but also don't accept at face value the harshest — and often misleading — language of their critics.

Colleges have often taken a defensive stance when faced with such criticisms, stressing that they have always been committed to preserving free speech and academic freedom. Some officials have punished professors for their provocative statements, hoping it will satisfy off-campus critics, while others have avoided weighing in on individual controversies in a bid to avoid a frenzy that they believe is propagated largely by right-wing media personalities.

Now, some administrators and experts say, higher-education leaders shouldn't sit idly by. Many of Mr. Sessions' criticisms were overblown, they say, but a few of the broad themes — such as the need for university officials and faculty members to "defend free expression boldly and unequivocally" — were legitimate.

Higher-education leaders should do two things in response, these observers say. They should try to reframe the public discussion about free speech on their own terms. This means acknowledging that colleges have room for improvement, but also not accepting language about "coddled students." It also means promoting practical solutions for educating students about free speech.

The other thing leaders should do is jump-start frank discussions about what free speech means and how to support it on their campuses.

Even institutions that haven't recently had to deal with speech controversies should prioritize these efforts, officials and experts say. Every college is one controversial speaker, protest, email, or social-media comment away from dealing with a First Amendment nightmare.

A Polarized Debate

Sigal R. Ben-Porath, a professor in the graduate school of education at the University of Pennsylvania, said she believes Mr. Sessions was right about a few things.

"We do need to work on improving the welcoming environment on college campuses for a diversity of views, including conservative ones," said Ms. Ben-Porath, who recently published *Free Speech on Campus*, a book that discusses recent free-speech controversies and proposes strategies for institutions to de-escalate tensions.

Students and others on campuses aren't listening enough to one another, she said. Sometimes, voices on both sides take positions that "fall outside of the reasonable parameters of debate," she said.

Surveys suggest that many of today's students don't have a robust understanding of the First Amendment, said Howard Gillman, chancellor of the University of California at Irvine and a First Amendment scholar. He and Erwin Chemerinsky, now dean of Berkeley's law school, together wrote a book also called *Free Speech on Campus*.

"We know that a big proportion of students believe that it's OK to censor or punish people who say things that are clearly constitutionally protected," he said. Mr. Sessions may be seizing on extreme examples of free-speech conflicts to make a point, Mr. Gillman said, but "it doesn't mean that there isn't an issue to talk about."

But college leaders also need to be careful: Mr. Sessions and other Trump administration officials are hyping and leveraging the free-speech cause for their own political gain. "Free speech is a banner that's being raised," Ms. Ben-Porath said, "but behind it, it's actually a different goal that's being promoted."

That's why it's important for college leaders to work actively to reframe the public discussion about free speech, Mr. Gillman said. "You can't allow the right to claim free speech as just their issue," he said. "It means that we all have to find our voice in a more powerful way when we talk about how central free speech and academic freedom are to the mission of colleges and universities."

As part of that effort, college officials should stop being defensive about free speech, said Jonathan Zimmerman, a professor of the history of education at Penn. They should acknowledge that their institutions have room for improvement when it comes to fostering climates where everyone feels comfortable speaking their minds, he said.

"Unfortunately the whole debate, such as it is, has become so horribly polarized," he said. "There's this fear that if you give any ground you are playing right into the hands of Jeff Sessions."

Administrators and faculty members also need to choose their words carefully when speaking out about freedom of expression, Mr. Zimmerman said. Using language like "crisis" to describe the state of campus speech does little more than reinforce a narrative that makes these issues difficult to resolve.

"We have to find a language where we can both acknowledge that there are threats to free speech without exaggerating those threats," he said. "Yes, there are free-speech threats. Yes, we need to be more vigilant about defending it. But the sky has not fallen."

Colleges also need to clear up misconceptions about the purpose of higher-education institutions, Ms. Ben-Porath said. They are not mirrors of the public sphere, and they have basic guidelines for speech that wouldn't apply off campus. For instance, she said, politicians often lie on the stump without penalty. But if a professor steals data and tries to pass that work off as his or her own, that is a punishable offense.

"We do need to tell the story of what's happening on campus more clearly," said Lori McDonald, dean of students at Utah. If her institution's campus safety officers tell her that there's a credible threat to an invited speaker or to the campus, administrators might have to cancel an event.

"It's not intended to shut down speech, it's intended to shut down violence," she said. "But how are we telling that story?"

Free-Speech To-Do List

In order to shift the narrative about higher education and freedom of expression that Mr. Sessions and other federal officials are promoting, colleges need to make sure their policies and practices truly align with the free-speech principles they are professing, said the administrators and experts who spoke with *The Chronicle*.

Neil L. Gross, a professor of sociology at Colby College, suggests a four-part game plan for colleges: Jump-start explicit conversations about free speech; formulate concrete plans for dealing with speakers and protests; work together to create a national database of information on successful strategies and policies; and invest in campus speech and debate programs.

"The danger for colleges is that they proceed in an ad hoc fashion and sort of hope that disruptive incidents don't bubble up on their campuses," he said.

There aren't good statistics on how administrators and professors feel about free-speech issues in the current climate, Mr. Gross said, and having a campuswide conversation is one way to get a better sense.

It's also critical to respect students' concerns about the harm that some speech can cause, Mr. Gillman said. Describing students as "coddled," for example, is provocative, not constructive, he said.

In August, Mr. Gillman co-wrote an op-ed in *The Wall Street Journal* with Mr. Chemerinsky that laid out a free speech to-do list for administrators, including: craft a free-expression statement, review campus policies, and create opportunities for the campus community to learn more about what those statements and policies are.

Irvine recently published a new free-expression statement, he said. The university also has a dedicated free-speech website and will host on-campus workshops for students to learn more.

"The culture war is always going to be what it is," he said. "Whether we win in the short term," he continued, "we do in the long run have to take the point of view that reaffirms what colleges and universities are in the world. That means reasserting in bold and educational ways the importance of these values."

At Utah, the conversation that's occurring on campus is focused not only on speech, but also on safety, Ms. McDonald said. "We're really trying to understand that students' concept of personal safety is different than what it was for me," she said. "And it includes more than just physical safety."

Not every institution is like Berkeley, in terms of history and location, Mr. Gillman said. At many campuses, it's unlikely that 150 masked protesters would storm onto campus and perpetrate violence. But administrators will have to deal with their own kinds of speech controversies, and the public will be watching closely, he said.

"At some point we're all going to face demands that we prohibit someone from speaking on the campus," Mr. Gillman said. "We need to be able to point to what our policies and practices are before that happens."

But one college president cautioned against administrators' adjusting their approach just because the Trump administration has added fuel to the fire of what higher-ed critics see as a culture war. "This framing of the problem as free speech — I don't think that's the issue," said Adam Falk, president of Williams College. "It's the quality of campus discourse. Once you make this about free speech, you've actually given up the narrative from the very beginning."

Due to recent issues involving contentious speakers at Williams, administrators recently shored up their policies for inviting speakers. For instance, student organizations must inform administrators about plans to invite speakers at least a month in advance. The goal is to correct any notion that "we're picking and choosing speakers depending on their politics," Mr. Falk said.

However, "I don't think we need to reaffirm free speech," he said. "We have free speech at Williams."

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