SPEECH ON CAMPUS

The First Amendment to the Constitution protects speech no matter how offensive its content. Restrictions on speech by public colleges and universities amount to government censorship, in violation of the Constitution. Such restrictions deprive students of their right to invite speech they wish to hear, debate speech with which they disagree, and protest speech they find bigoted or offensive. An open society depends on liberal education, and the whole enterprise of liberal education is founded on the principle of free speech.

How much we value the right of free speech is put to its severest test when the speaker is someone we disagree with most. Speech that deeply offends our morality or is hostile to our way of life warrants the same constitutional protection as other speech because the right of free speech is indivisible: When we grant the government the power to suppress controversial ideas, we are all subject to censorship by the state. Since its founding in 1920, the ACLU has fought for the free expression of all ideas, popular or unpopular. Where racist, misogynist, homophobic, and transphobic speech is concerned, the ACLU believes that more speech — not less — is the answer most consistent with our constitutional values.

But the right to free speech is not just about the law; it’s also a vital part of our civic education. As Supreme Court Justice Robert Jackson wrote in 1943 about the role of schools in our society: “That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.” Remarkably, Justice Jackson was referring to grade school students. Inculcating constitutional values — in particular, the value of free expression — should be nothing less than a core mission of any college or university.

To be clear, the First Amendment does not protect behavior on campus that crosses the line into targeted harassment or threats, or that creates a pervasively hostile environment for vulnerable students. But merely offensive or bigoted speech does not rise to that level, and determining when conduct crosses that line is a legal question that requires examination on a case-by-case basis. Restricting such speech may be attractive to college administrators as a quick fix to address campus tensions. But real social change comes from hard work to address the underlying causes of inequality and bigotry, not from purified discourse. The ACLU believes that instead of symbolic gestures to silence ugly viewpoints, colleges and universities have to step up their efforts to recruit diverse faculty, students, and administrators; increase resources for student counseling; and raise awareness about bigotry and its history.

Q: The First Amendment prevents the government from arresting people for what they say, but who says the Constitution guarantees speakers a platform on campus?

Q: Does the First Amendment protect speech that invites violence against members of the campus community?

Q: But what about campus safety? Doesn’t the First Amendment have an exception for “fighting words” that are likely to provoke violence?

Q: What about nonverbal symbols, like swastikas and burning crosses? Are they constitutionally protected?

Q: Aren’t restrictions on speech an effective and appropriate way to combat white supremacy, misogyny, and discrimination against LGBT people?

Q: Why does the ACLU use its resources to defend the free speech rights of white supremacists, misogynists, homophobes, transphobes, and other bigots?

Q: How does the ACLU propose to ensure equal opportunity in education?

**Answers to these questions can be found on the ACLU site under the “campus speech” page**