

TO THE POINT

Campus Inclusion and Freedom of Expression: Hateful Incidents on Campus



BACKGROUND

Recent events on college campuses—and in greater civil society—have too often juxtaposed the values of diversity and inclusion against those of freedom of expression, when these values can and should be mutually reinforcing. While college students believe in the First Amendment, many are willing to entertain restrictions, such as policies that restrict language and behavior that are intentionally offensive to certain groups, when they perceive a conflict with other values and beliefs (Knight Foundation 2018).

Caught in the crosshairs are college and university leaders, who want to promote robust discourse in their communities, but do not want to negatively affect the student experience or compromise the learning environment. This *To the Point* brief provides college leaders with insights and considerations regarding the tension between campus inclusion and freedom of expression.

DATA COLLECTION

On four occasions between 2016 and 2018, the American Council on Education (ACE) convened college and university presidents and other higher education leaders from around the country to promote thoughtful dialogue around the intersection of campus inclusion and freedom of expression. After these provocative conversations, we followed up with select campus officials to inform the case example presented here. ACE's Center for Policy Research and Strategy also surveyed college and university presidents on the state of freedom of expression and inclusion on campuses today. From this body of work emerged a desire for practical, actionable resources and tools that higher education leaders can use to navigate an uncertain terrain.

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American Council on Education
One Dupont Circle NW
Washington, DC 20036

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HATEFUL INCIDENTS ON CAMPUS

Colleges and university presidents simultaneously embrace the ideals of inclusion and freedom of expression, with the near majority of presidents reporting that these two ideals are of mutual importance to American democracy (see Figure 1).

FIGURE 1. How important do you consider each of the following to be in our democracy?*

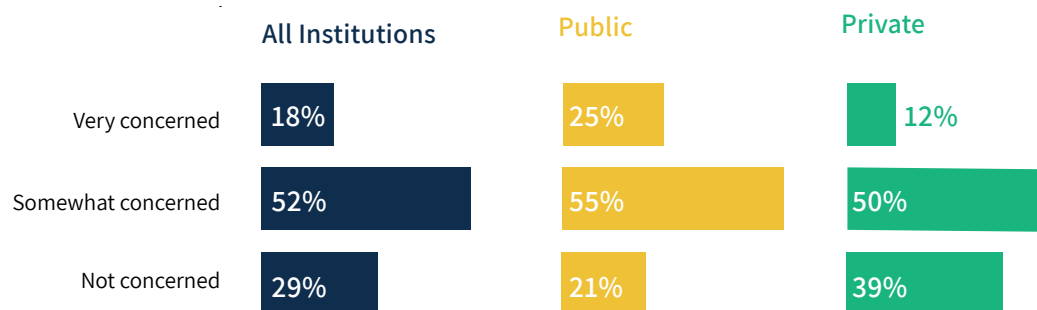


*No respondents selected “not that important”

Source: Pulse Point Presidential Survey on Campus Inclusion and Free Speech, American Council on Education, 2018

Yet realizing these two ideals is challenging, especially in today’s social and political climate—an environment that has yielded an upsurge in hate crimes, violent or hateful acts, and hateful rhetoric, including by those who enter campus communities either in full view or under the protection of anonymity. As reported in *The Chronicle of Higher Education*, hate crimes on college campuses have increased 25 percent from 2015 to 2016. In response, presidents are rightly concerned about their students’ physical safety. Even when physical danger is not immediately present, hateful incidents on campus trigger fears that violence may come next. Moreover, certain symbols project violence—such as a noose hanging from a tree, a racial incident that has occurred on numerous campuses over the past year. Institutions around the country, including the one highlighted in this brief, are wrestling with how to understand and minimize the community-wide impact of such hateful acts on campus.

FIGURE 2. How concerned have you been about violence and student safety when managing efforts around campus inclusion and free speech?



Source: Pulse Point Presidential Survey on Campus Inclusion and Free Speech, American Council on Education, 2018

Combating Assumptions

Complicated topics often result in misunderstandings, especially when the topic is as nuanced as free expression. Below, we feature some common assumptions about hateful incidents or hate speech on campus, exploring the realities surrounding these campus events in order to further thoughtful decision-making.

ASSUMPTION: Anyone can post material anywhere on a college or university campus.

IN REALITY: Many public universities have complex rules and regulations governing the posting of flyers by people affiliated with the institution as well as outsiders.

Participants noted, however, that these rules are often little known or understood, and almost always difficult to enforce; the policing of posters is an unwelcome and frequently unpleasant task. But there has been an increase in recent years in the furtive posting on campuses of hateful, derogatory flyers by students and outside individuals or groups, with the intent to provoke racist and other incidents of bias, under the guise of promoting free expression (Crawford 2017). In such instances, institutions find it essential to have simple and transparent policies on trespassing and the defacement of property that they can enforce, in cooperation with local law enforcement when necessary.

Open-access institutions, in particular, must strike an appropriate balance between openness on the one hand and safety and security on the other. Because the First Amendment applies only to state actors and therefore not to private colleges and universities, the latter have much more leeway in regulating what gets posted. Any private institution that as a matter of policy has self-imposed the requirements of the First Amendment will face the same challenges as its public counterparts in implementing rules on posting materials. That said, the legal implications of running afoul of the First Amendment will be less consequential on private campuses than on public ones.

ASSUMPTION: Hate speech is disallowed by colleges and universities.

IN REALITY: Hate speech and offensive speech is protected under the First Amendment.

Free speech advocates often point out, in defending the extent to which the First Amendment protects hate speech and offensive speech, that restrictions could be turned around to limit expression by other voices

depending on who determines what is “offensive.” Under the logic that state actors may not regulate the content of speech, public institutions may enforce bans on methods of communication, such as posting flyers on windows, walls, and doors, if this regulation functions neutrally as to the content of the message and is applied universally (e.g., banning all flyers, regardless of topic or message). This is an example of reasonable time, place, and manner restrictions applied equally and consistently, which should be informed by the general counsel or other legal officers and overseen by campus or student affairs offices.

While private institutions may enforce bans, they should always refer to state law and institutional policy for any applicable restrictions.

ASSUMPTION: Presidents personally need to respond to every racist or biased incident that happens on campus.

IN REALITY: While college and university presidents play a crucial role in an institution’s response to hateful incidents (and other forms of discrimination), other senior leaders may be equally or more effective, depending on the situation.

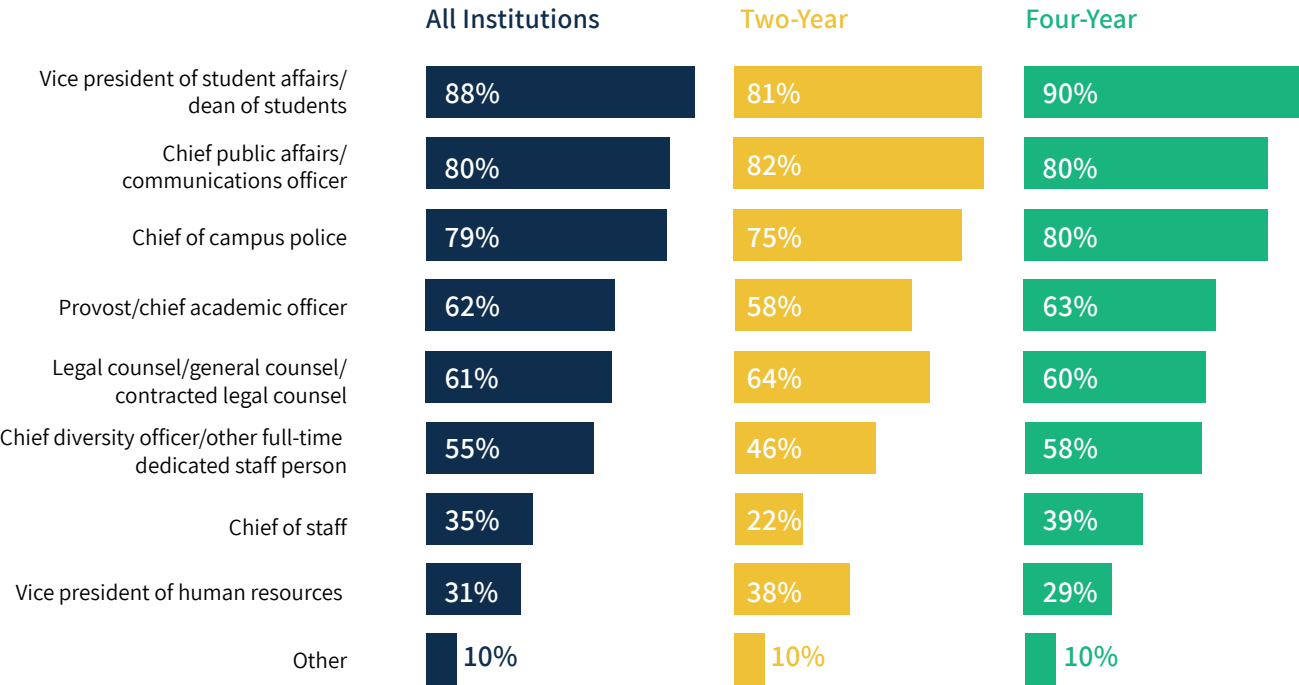
Students will often expect the president to enunciate campus values clearly. Senior staff, however, will want to be thoughtful about when to advocate the use of a president’s voice or presence. If presidents speak out on every incident, participants in the ACE convenings cautioned, it could diminish the impact of the message.

Participants also maintained that distributive leadership is crucial for effective management of crises involving the student body. Student affairs professionals, for example, may be better than the president at sustaining effective communication with student groups. In a recent survey, presidents indicated that managing the tensions between inclusion and freedom of expression is best treated as a concerted group effort (see Figure 3). When responding to active conflict, presidents generally rely heavily on their dean of students, chief communications officer, and the chief of campus police, among others. It is important to have a solid community information and intelligence network capable of reading situations quickly and deciding how to respond.

ASSUMPTION: Institutions need to respond quickly and assertively to shut down the existence or threat of racist activity.

IN REALITY: An immediate and authentic response can be effective in lessening fear and confusion after an incident has occurred, but an institution will also need to collect facts before it shares additional information with the campus community, particularly if activity identified as racist originates from students. So while institutions should respond quickly and with empathy, an incident- or crisis-response team composed of relevant administrative staff can also gather the facts concurrently to create ongoing, informed responses. In crafting strategic communications, institutions should also identify potential partners who can think about issues of content, modality, and dissemination. Monitoring social media and other channels for potential causes of concern will also help.

FIGURE 3. When responding to active conflict, who amongst your senior staff do you rely on when addressing conflict between campus inclusion and free speech?



Source: Pulse Point Presidential Survey on Campus Inclusion and Free Speech, American Council on Education, 2018



CASE IN POINT: AMERICAN UNIVERSITY

American University has emerged as a positive example of executing on a strategic institutional response to hateful incidents in the 2017–18 academic year through effective communications, student engagement, and community outreach.

About

American University (AU) is a private institution founded by the United Methodist Church in 1893. It has a total enrollment of about 14,000 and is situated in a residential neighborhood in Northwest Washington, DC. The undergraduate student population is 54 percent white, 13 percent Hispanic/Latino, 11 percent non-resident alien, 7 percent black or African American, and 7 percent Asian.¹

Background

AU experienced hateful acts through the placement of defamatory posters on and near campus. These have included the display of flyers featuring the Confederate flag (September 2017) in response to the inauguration of AU's Antiracist Research and Policy Center; anti-immigrant posters (January 2018); anti-Israel and anti-Semitic posters (February 2018); and anti-gun control posters hailing Adolf Hitler (April 2018). They were believed to have been posted by members of white supremacist or alt-right groups not affiliated with the university.

The Role of the President

In response to the September 26, 2017, Confederate flag incident, an immediate social media message went out to the community the same day, followed by a memo from AU President Sylvia M. Burwell on standing together against hate. This sequence of communication enabled the institution to acknowledge the event and gather additional data for a more informed response. The next day, the president held a town hall meeting to gauge the pulse of the community and demonstrate empathy and understanding. Embedded in these actions was an effort to recognize when electronic communication is sufficient and when physical presence or other modalities of communication may be necessary or appropriate.

¹ Integrated Postsecondary Education Data System (IPEDS) fall 2017 enrollment data. The undergraduate student population also included 4 percent two or more races, 4 percent race/ethnicity unknown, zero percent American Indian or Alaska Native, and zero percent Native Hawaiian or other Pacific Islander.

The Role of the Institution

The response from staff, faculty, and students to the Confederate flag imagery was swift. Over the course of five days, senior administrators and faculty issued public statements, while the AU Student Government and the Antiracist Research and Policy Center co-sponsored a rally denouncing hate and emphasizing solidarity.

A similar response came when a student contacted campus police about the anti-Israel and anti-Semitic posters in the early morning hours of February 27, 2018. The vice president for campus life issued a memo that day condemning the posters, restating institutional values, and sharing with the campus community how the institution will address acts by alt-right groups. The memo also contained information regarding counseling support and other resources for students, staff, and faculty. Communication in response to the April 9, 2018, postering of public utilities and bus shelters was swift and targeted; it informed the community of an incident on the periphery of campus, described action taken by the university, and again reinforced institutional values.

A critical resource for AU has been its police department. At times working in tandem with local law enforcement and transit authorities, it has been proactive in addressing the increase in activity by alt-right groups on campus and across the country. Its approach includes surveillance, immediate response, identification of people who should not be on the campus, informing trespassers the campus is private property, and barring them from campus or arresting them as appropriate. Any individuals previously barred are subject to arrest should they return.

CONSIDERATIONS FOR CAMPUS LEADERSHIP

The considerations and questions below emerged from the ACE convening series and the AU case example. While institutional contexts vary greatly, every campus should take at least some of these considerations into account. Above all, campuses should strive to be prepared, flexible, and nimble, and to keep inclusion top of mind before, during, and after a given incident.

It All Matters

- For all incidents and events, but especially those that trigger deep and long-standing tensions (e.g., those concerning race and racism), institutional context matters a great deal. This includes the current campus racial climate and the racial climate of the surrounding communities. Histories of exclusion and institutional racism are also important and are of special saliency in certain areas of the country.
- Given the climate of the country with respect to race and racism, campus leaders are correct to take racist and other hateful acts and events seriously. Avoid knee-jerk judgments that may undervalue other campus constituents' views of an act or event as serious.
- It is important to educate the campus community on the tactics of hate groups that target higher education institutions.

“We cannot dismiss the racial context and history of our institution or state, influencing why students do not feel safe. These are legitimate fears.”

-ACE Convening Participant

Law and Policy

- Review institutional policies on trespassing and the defacement of property, and understand the rules of enforcement.
- Make sure that the institution has clear, accessible, and legally defensible policies on the posting of flyers and distribution of other materials on the campus, with an opportunity for students and other campus constituencies to provide input.

“Working with counsel and getting them proactively involved in problem solving is critical . . . review policies and procedures, look at them in advance, think of how different scenarios may apply. Will [the policies] work? Will there be unintended consequences?”

-ACE Convening Participant

- Know in advance what options exist for handling various incidents that might occur on campus—for example, when a chief diversity officer or student affairs officer may be the best person to lead the campus response.
- Work with campus police and/or local law enforcement to identify and surveil target-rich spaces and to review safety and security protocols.

Relationships and Communications

- Prioritize the cultivation of positive personal and professional relationships with internal constituents and especially students. Building and maintaining positive, transparent, and open lines of communication with the student body—and students of color and other marginalized students in particular—will go a long way when conflict erupts.
- Develop and maintain positive working relationships with law enforcement, local officials, and the broader community. Strategic communications should include community partners if relevant.
- Strategically activate the president’s voice and ensure that campus leadership in its entirety can be activated to speak out and stand together based on institutional mission and values. Keep responses timely and authentic.
- Ensure consistent messaging across constituent groups that reinforces institutional values, including messages sent via social media and those used by campus officials responsible for responding to internal and external questions and concerns.

“[Students] need to know that we hear them. We’re going to protect your physical safety. We are going to protect places where you live on campus. And when something truly scary happens, we will work with you. We will be here for you.”

-ACE Convening Participant

QUESTIONS TO CONSIDER

Working Toward Inclusion

- How are you using acts of hate as moments of opportunity to build, advance, or clarify a larger institutional strategy on diversity and inclusion?
- In what ways can you ensure a coordinated response by key members of the president's leadership team when it comes to messaging and actions that promote inclusion, and how are those messages and actions translated to all staff and faculty?
- How are you listening and responding to community members' concerns in a way that is deliberate and authentic?
- Are student support services offices equipped to manage the necessary healing that comes after a hateful incident (e.g., counseling and support services, cultural centers, faculty and staff assistance, and spiritual life offices)?

“Students need to see us as real people. When issues surface, it can be hard for them to see us as such. Eliminate as many walls as possible.”

-ACE Convening Participant

Safety and Security

- How do you prevent mischievous actors from coming onto campus?
- What is the balance between open access and increased safety and security? How do you articulate the choices and tradeoffs? Who initiates those conversations and how?
- If an incident takes place on the periphery of campus, how does that alter the institutional response?

Community Relations

- Do you have campus leaders with influential relationships across the community that can be tapped when necessary?
- Have you developed and maintained the goodwill necessary for transparent communication with the local residents and other constituent groups?
- How might this impact the climate of the neighborhood and their relationship with the institution?
- Do you have a plan in place to proactively share information as it happens?
- Can transparency in communication help to manage potentially increased fear in the surrounding area?

“We are no longer an ivory tower. We are fully immersed in the world. Nothing separates us.”

-ACE Convening Participant

REFERENCES

- Bauman, Dan. 2018. "After 2016 Election, Campus Hate Crimes Seemed to Jump. Here's What the Data Tell Us." *The Chronicle of Higher Education*, February 16, 2018.
<https://www.chronicle.com/article/After-2016-Election-Campus/242577>.
- Crawford, Amy. 2017. "White Nationalists Are Targeting College Campuses, and These Students Are Fighting Back." Southern Poverty Law Center.
<https://www.splcenter.org/news/2017/05/02/white-nationalists-are-targeting-college-campuses-and-these-students-are-fighting-back>.
- Espinosa, Lorelle L., Jennifer R. Crandall, and Philip Wilkinson. 2018. "Freedom of Expression and Campus Inclusion: A Survey of College Presidents." *Higher Education Today* (blog), American Council on Education. April 9, 2018.
<https://www.higheredtoday.org/2018/04/09/free-speech-campus-inclusion-survey-college-presidents>.
- Knight Foundation. 2018. *Free Expression on Campus: What College Students Think About First Amendment Issues*. Washington, DC: Gallup, Inc.