

TESTIMONY
BEFORE THE HOUSE COMMITTEE ON EDUCATION
AND WORKFORCE
HIGHER EDUCATION AND WORKFORCE
DEVELOPMENT SUBCOMMITTEE
ON
SPEECH OR SILENCE? THE FUTURE OF THE FIRST
AMENDMENT IN HIGHER EDUCATION

TYSON C. LANGHOFER
SENIOR COUNSEL, CENTER FOR FREE SPEECH

ALLIANCE DEFENDING FREEDOM

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Dear Chairman Owens, Ranking Member Adams, and Members of the Subcommittee:

“The college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas....’”¹ So explained the U.S. Supreme Court over five decades ago. Public colleges and universities are meant to be a place that welcomes the free and open exchange of ideas—a place where our future teachers, lawyers, doctors, judges, community leaders, and voters can exercise their constitutionally protected rights to freedom of speech, religion, and association.

But over the past several decades, we’ve witnessed increasing incidents of college officials shutting down the marketplace of ideas through university policies that unduly limit when and where students can speak, what they can say, and with whom they can associate. Students are penalized for their views. Student organizations are denied recognition or equal treatment. And professors are forced to sacrifice academic freedom at the altar of ideological conformity. Rather than establishing themselves as beacons for freedom and a training ground for civic engagement, universities instead teach tomorrow’s leaders all the wrong lessons about the First Amendment. And as the Supreme Court warned, when universities fail to safeguard the marketplace of ideas, “our civilization will stagnate and die.”²

The Constitutional Rights of Students, Student Organizations, and Faculty at Public Colleges and Universities.

A. The First Amendment Protects Student Free Speech on Campus.

Students have the right to free speech, free expressive association, free exercise of religion, and other constitutional rights on campus. As government entities, public universities cannot enforce policies that discriminate against students, faculty, or student organizations on the basis of their ideological or religious beliefs, practices, or expression. Yet far too often, universities stifle students’ freedom of speech through campus speech codes, speech zones, and prior restraints that impermissibly restrict what they can say, where they can say it, when they can say it, and how they can say it.

“Speech codes” include: (1) highly restrictive student speech and conduct policies that prohibit “offensive” or “harassing” speech, (2) so-called “diversity statements” that hypocritically

¹ *Healy v. James*, 408 U.S. 169, 180 (1972).

² *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957) (plurality opinion of C.J. Warren).

punish students who are “intolerant,” and (3) email policies banning “offensive” communications, to name a few. Facially vague and overbroad, they deter untold thousands of students from speaking freely on critical issues of race, gender, sexuality, and religion. Arbitrarily enforced, they tend to become weapons of the dominant political culture, wielded against dissenters in an effort to replace the “marketplace of ideas” with an ideological monopoly. Thankfully, courts have uniformly rejected such speech codes as unconstitutional.³

Many public universities restrict protected speech via speech zones. These are small, and often far-removed, areas of campus that are designated as the only permissible places on campus for students to engage in free speech and expression, making it ineffective for sharing their message. Other universities prohibit speech except for dramatically limited times of day and may force students to get preapproval of their message before speaking. Yet public university campuses are generally considered to be a public forum for students, as the “campus of a public university, at least for its students, possesses many of the characteristics of a public forum.”⁴ Federal courts have found this to be especially true of outdoor areas of campus.⁵

Finally, universities also impose prior restraints on student expression. These prior restraints take the form of “pre-approval” policies that require students to submit their proposed event or flyer to an administrator before engaging in speech. But university policies cannot delegate overly

³ See *McCanley v. Univ. of the V.I.*, 618 F.3d 232, 248 (3d Cir. 2010) (“The desire to protect the listener cannot be convincingly trumpeted as a basis for censoring speech for university students.”); *DeJohn v. Temple Univ.*, 537 F.3d 301, 314 (3d Cir. 2008) (“[F]ree speech is of critical importance because it is the lifeblood of academic freedom.”); *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 210 (3d Cir. 2001) (Alito, J.) (“But attempting to proscribe negative comments about ‘values,’ as that term is commonly used today, is something else altogether. By prohibiting disparaging comments directed at a person’s ‘values,’ the Policy strikes at the heart of moral and political discourse — the lifeblood of constitutional self-government (and democratic education) and the core concern of the First Amendment.”); *Dambrot v. Cent. Mich. Univ.*, 55 F.3d 1177, 1183 (6th Cir. 1995) (“It is clear from the text of the policy that language or writing, intentional or unintentional, regardless of political value, can be prohibited upon the initiative of the university. The broad scope of the policy’s language presents a ‘realistic danger’ the University could compromise the protection afforded by the First Amendment.”).

⁴ *Widmar v. Vincent*, 454 U.S. 263, 268 n.5 (1981).

⁵ See *OSU Student Alliance v. Ray*, 699 F.3d 1053, 1062–63 (9th Cir. 2012) (holding Oregon State University campus is designated public forum for students); *Flint v. Dennison*, 488 F.3d 816, 831 (9th Cir. 2007) (noting campus is a public forum); *Bowman v. White*, 444 F.3d 967, 979 (8th Cir. 2006) (finding outdoor areas of University of Arkansas are designated public forums); *Justice for All v. Faulkner*, 410 F.3d 760, 768–69 (5th Cir. 2005) (finding University of Texas is a designated forum for students); *Univ. of Cincinnati Chapter of Young Ams. for Liberty v. Williams*, 2012 WL 3636932 (S.D. Ohio Aug. 22, 2012) (finding outdoor areas of University of Cincinnati are designated public fora); *Roberts v. Haragan*, 346 F. Supp. 2d 853, 861 (holding park areas, sidewalks, streets, and common areas of Texas Tech University are traditional public forums for students); *Pro-Life Cougars v. University of Houston*, 259 F. Supp. 2d 575, 582 (finding campus is a public forum for students); *Khademi v. S. Orange Cnty. Cmty. Coll. Dist.*, 194 F. Supp. 2d 1011, 1024 (C.D. Cal. 2002) (finding the generally available areas of a community college campus are public fora because they are open to the public); *Burbridge v. Sampson*, 74 F. Supp. 2d 940 (C.D. Cal. 1999) (finding a community college campus to be a public forum because it is open to the public).

broad discretion to a government official. Nor can pre-approval policies be based on the content or viewpoint expressed in the student’s message. And any regulation of speech must be narrowly tailored to serve a significant governmental interest and must leave open ample alternatives for communication.

B. Public University Students Have Free Association Rights.

The First Amendment also protects the right of expressive associations for student organizations. The “ability of like-minded individuals to associate for the purpose of expressing commonly held views may not be curtailed.”⁶ Student organizations can select their members and leaders based on their adherence to the organization’s beliefs and values.⁷ This right is threatened when a public authority places constraints on the membership and leadership criteria of a group, because the “freedom of association ... plainly presupposes a freedom not to associate.”⁸

Some public universities require student groups to adopt a nondiscrimination policy as a condition of receiving official school recognition. Such policies force religious or political organizations to accept members, and even leaders, who directly oppose their goals. Requiring a student organization to accept “all-comers” or abandon religious-based standards of conduct as a condition of receiving recognition, access to university programs, or benefits is an improper restraint on this freedom. Freedom of association “would prove an empty guarantee if associations could not limit control over their decisions to those who share the interests and persuasions that underlie the association’s being.”⁹

Religious groups, in particular, have a right to select those responsible for “conveying [their] message and carrying out [their] mission.”¹⁰ When public universities target religious student groups based on the religious expression contained within their governing documents, including faith-based membership and leadership requirements, they are engaging in unconstitutional content and viewpoint-based discrimination. Allowing nonreligious groups to select their members and leaders on the basis of their nonreligious criteria, such as sororities and fraternities, while denying religious groups the same right violates the First Amendment right to free association.

⁶ *Knox v. Serv. Emps. Int’l Union, Loc. 1000*, 567 U.S. 298, 309 (2012).

⁷ *Boy Scouts of Am. v. Dale*, 530 U.S. 640 (2000).

⁸ *Knox*, 567 U.S. at 390.

⁹ *Democratic Party*, 450 U.S. at 122 n.22 (quoting L. Tribe, *AMERICAN CONSTITUTIONAL LAW* 791 (1978)).

¹⁰ *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 192 (2012).

C. Public University Students Have the Right to Free Exercise of Religion on Campus.

Students also have protection under the Free Exercise Clause, which safeguards the freedom of students to practice their chosen form of religion, regardless of whether their religion is based on a belief in God or whether they would even consider themselves “religious.”

The U.S. Supreme Court has made it clear on several occasions that, under the Free Exercise Clause, the freedom to believe and profess one’s religious doctrine is absolute. “[T]he government, if it is to respect the Constitution’s guarantee of free exercise, cannot impose regulations that are hostile to the religious beliefs of affected citizens and cannot act in a manner that passes judgment upon or presupposes the illegitimacy of religious beliefs and practices.”¹¹ Hence, the Free Exercise Clause bars a public university from forcing students to change their religious beliefs or from insisting that all students adopt a specific campus orthodoxy, such as “multiculturalism” or “diversity.”

Additionally, a university “violates the Free Exercise Clause when it excludes religious observers from otherwise available public benefits.”¹² Thus, if student activity fees are available for non-religious groups to pay for a renowned speaker to come to campus or to offset the cost of a campus event hosted by the group, those fees must be accessible to religious student groups. As the U.S. Supreme Court has warned, “upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures.”¹³

D. The First Amendment Protects Academic Freedom for University Faculty.

Public university faculty also enjoy strong protection under the First Amendment for their speech both inside and outside of the classroom. The U.S. Supreme Court has established that “academic freedom is ‘a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.’”¹⁴ Those entrusted at our public universities to train up the next generation of Americans cannot do so well if they are not afforded protection under the First Amendment.

¹¹ *Masterpiece Cakeshop v. Colorado C.R. Comm’n*, 584 U.S. 617, 638 (2018).

¹² *Carson ex rel v. Makin*, 596 U.S. 767, 778 (2022).

¹³ *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993).

¹⁴ *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 603 (1967).

When a public university professor expresses his or her beliefs outside of the classroom and outside of his or her job duties, he or she is speaking as a citizen. And when the professor speaks as a citizen on a matter of public concern—which includes topics ranging from academic freedom, race discrimination, violations of civil rights, sexuality and gender, abortion, and religion—the protections for the professor’s speech are at their pinnacle. In such circumstances, a university may only regulate a professor’s speech if it shows that the speech creates a substantial disruption to the operation of the university, a high bar that ensures university officials do not penalize faculty for expressing views with which the administration disagrees.

And even within the classroom, professors may discuss issues germane to the subject matter of the course. “It has long been recognized that the purpose of academic freedom is to preserve the ‘free marketplace of ideas’ and protect the individual professor’s classroom method from the arbitrary interference of university officials.”¹⁵ A college may not straightjacket a professor and eliminate his or her ability to teach in the classroom. Because the First Amendment guarantees wide freedom for adults to discuss and debate a variety of topics, “discussion by adult students [and their professor] in a college classroom should not be restricted.”¹⁶ So while a professor may not be able to teach material used in contravention of university policy,¹⁷ a professor’s discussion of the social impact of words in a language course, even if those words may be offensive, is permitted.¹⁸ As long as a professor stays within the subject required by the curriculum, the First Amendment protects his or her right to speak freely.

The Continuing Threat to Free Speech and Association at Public Colleges and Universities.

Over the years, Alliance Defending Freedom has represented numerous students, student organizations, and professors whose right to speak freely was violated by university policies that silence certain views or limit when and where speech can occur.

¹⁵ *Parate v. Isibor*, 868 F.2d 821, 830 (6th Cir. 1989) (citing *Keyishian*, 385 U.S. at 603).

¹⁶ *DeJohn*, 537 F.3d at 315.

¹⁷ *Edwards v. Cal. Univ. of Penn.*, 156 F.3d 488 (3d Cir. 1998) (holding a college may demand that instructors teach the curriculum assigned by the college).

¹⁸ *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 679 (6th Cir. 2001) (holding a college violated professor’s First Amendment rights for punishing him for discussing implications of language in communications course).

A. Public Universities Are Deciding What Viewpoints Students Are Allowed to Express.

Chike Uzuegbunam (Georgia Gwinnett College)

Chike was a passionate college student who, as a Christian, wanted to share his faith with his peers on campus.¹⁹ He began handing out pamphlets in a campus plaza and talking with interested students as they passed by.

Not long after, Chike was approached by Georgia Gwinnett College officials who told him that he was not allowed to distribute materials or talk to other students about his beliefs unless he had reserved a time in a campus “speech zone.” This “speech zone” was, in fact, two spaces that, combined, made up about 0.0015% of the campus. Put in other terms: the size of a piece of notebook paper against the size of a football field. And these zones were only available for student use for a few hours on a select few days per week.

Chike followed directions. He signed documents, indicated the time and place, and submitted copies of the pamphlets he intended to hand out. Yet when Chike began speaking during his reserved time, campus police approached him, told him to stop speaking because someone had complained, and confiscated his student ID card.

With Alliance Defending Freedom’s help, Chike filed suit to challenge the college’s unconstitutional speech zones. Georgia Gwinnett College initially argued that Chike should receive no constitutional protection for sharing his religious beliefs on campus. But soon thereafter, it amended its speech policies to allow speech in any outdoor campus area, consistent with the First Amendment. The college then tried to dismiss Chike’s case, arguing that, despite violating his speech rights on two occasions, Chike had no legal recourse because he did not suffer any monetary loss.

The case eventually reached the U.S. Supreme Court. And in March 2021, the Court ruled for Chike, holding that Georgia Gwinnett College should be held accountable for violating the First Amendment, even if it does not result in any monetary loss.²⁰

¹⁹ Press Release, Alliance Defending Freedom, Georgia college sued for censoring student speech, restricting it to 0.0015% of campus (Dec. 21, 2016), <https://adfmedia.org/press-release/georgia-college-sued-censoring-student-speech-restricting-it-00015-campus/>.

²⁰ *Uzuegbunam v. Preczewski*, 592 U.S. 279, 279 (2021).

Jack Denton (Florida State University)

Jack Denton was stripped of his position as student Senate President at Florida State University for expressing his religious beliefs in a private group.²¹ As a devout Catholic, Jack was actively involved in the Catholic Student Union (CSU). In a CSU chat, Jack responded to a video shared by another CSU student wherein the other student encouraged CSU students to support political groups with ideologies opposed to Catholic teaching.

Jack's courageous response:

“I don't mean to anger anyone - I know this is a very emotional topic. However, it is important to know what you're supporting when you're Catholic. If I stay silent while my brothers and sisters may be supporting an organization that promotes grave evils, I have sinned through my silence. I love you all, and I want us all to be aware of the truth. As far as it's a religious issue or not, there isn't an aspect of our lives that isn't religious, because God wants our whole lives and everything we do to be oriented around him.”

Soon after, Jack was expelled from his position as Senate President. University administrators and student senate officials repeatedly failed to address unconstitutional retaliation against him for sharing his personal religious beliefs in a private text conversation with other students.

After university administrators were called on to address Jack's removal and refused, Alliance Defending Freedom then filed a lawsuit challenging the unconstitutional violation of Denton's First Amendment freedoms.

The case eventually settled, with FSU agreeing to issue a statement affirming the school's commitment to protecting students' First Amendment rights on campus, especially in student government. Inspired by Jack's lawsuit, the Florida legislature passed HB 233 to better protect free speech for college students.²²

Peter Perlot and Peers (University of Idaho)

In April 2022, the University of Idaho College of Law held a “moment of community” to condemn an anti-LGBTQ slur. Several members of the Christian Legal Society (CLS) attended.²³

²¹ *Denton v. Hecht*, No. 4:20-cv-0045 (N.D. Fla. Oct. 8, 2020) (unpublished).

²² Fla. H.R. Bill 233, 2021 Leg., Reg. Sess. (Fla. 2021), <https://www.flsenate.gov/Session/Bill/2021/233/BillText/er/PDF>.

²³ *Perlot v. Green*, 609 F. Supp. 3d 1106 (D. Idaho 2022).

When students Peter Perlot, Mark Miller, and Ryan Alexander—all members of CLS—arrived at the event, they stood to pray for their campus on the steps of the law school. After a brief prayer, another student asked the three CLS members about their religious beliefs on marriage. Mark respectfully responded that their belief is based on the biblical view that marriage is between a man and a woman. Later, Peter left a personal note on the student’s desk offering to speak with her further so that they could better understand each other’s views.

The result of this cordial dialogue was that the university issued no-contact orders against Peter, Mark, and Ryan, without giving them an opportunity to review the allegations or even defend themselves. University of Idaho officials refused to rescind the no-contact orders, even after ADF attorneys asked the University’s general counsel to do so.

The students filed suit, and a federal district court preliminarily ruled for the three students. The court preliminarily enjoined the university from enforcing the orders against the students. After the court’s ruling, University of Idaho officials agreed to a settlement that permanently rescinded the no-contact orders against the students.²⁴

Maggie DeJong (Southern Illinois University, Edwardsville)

Maggie DeJong was an art therapy graduate student at Southern Illinois University Edwardsville (SIUE) when her university started promoting critical race theory and concepts that Maggie believed undermined human flourishing.²⁵ When Maggie began asking questions or sharing her thoughts in class, professors and classmates ostracized her.

But it didn’t end there. The university responded to Maggie’s sincere questions by issuing no-contact orders that impacted Maggie’s ability to have normal interactions with three of her classmates. These unlawful orders were not substantiated by any claim that Maggie had violated the school’s laws, policies, or rules—because she hadn’t. Yet the administrators made clear that she would face “disciplinary consequences” if she violated the no-contact orders.

With Alliance Defending Freedom’s help, Maggie challenged the university’s no-contact orders as an unconstitutional retaliation for her free speech. SIUE tried to throw out Maggie’s lawsuit, but the federal district court allowed the case to proceed, outlining: Maggie “clearly has the

²⁴ Press Release, Alliance Defending Freedom, Violating Students’ Free Speech Costs University of Idaho \$90K (Dec. 7, 2022), <https://adfmedia.org/case/perlot-v-green/>.

²⁵ *DeJong v. Pembroke*, 662 F. Supp. 3d 896 (S.D. Ill. 2023).

right, as enshrined in the First Amendment, to express her religious, political, and social views on her personal social media account and to engage in mutual conversations with fellow students regarding those opinions without fear of retaliation from school officials.”²⁶ SIUE eventually settled, and as part of the settlement, it revised its policies, and some professors even participated in First Amendment training conducted by Alliance Defending Freedom attorneys.²⁷

These are just a few of the many, many cases Alliance Defending Freedom has litigated on behalf of students at public universities who have faced censorship and retaliation for peacefully sharing their views on campus. The harm of these violations is not only to the targeted student. Inevitably, other students will start censoring themselves out of fear of facing similar punishment or investigations by university administrators—because if it can happen to one student, it can happen to any student. Our laws must ensure that universities do not discipline students for their political and religious views, especially without giving them the opportunity to defend themselves.

B. Universities are Violating the First Amendment Rights of Student Organizations.

College should be a time when students learn, firsthand, how the Constitution protects their right to join with other like-minded students to form organizations that promote the students’ shared views, beliefs, and values. Sadly, that is not what’s happening at many universities across the country. Far too often, students face discrimination—often in the form of unequal treatment, denial of equal access to funding or resources, or even complete refusal by school officials to recognize their group—when they attempt to gather with other students who share their values or attempt to launch religious or conservative clubs.

The Christian Club (Atlantic Cape Community College)

Consider the students in the Christian Club at Atlantic Cape Community College. The Christian Club is a recognized student organization on campus, which empowers its members to share the love of Jesus Christ, to encourage all people to form a relationship with God, and to foster connections with their fellow students.

²⁶ *Id.* at 912.

²⁷ Press Release, Alliance Defending Freedom, SIUE Professors to Undergo First Amendment Training, Officials to Revise Policies as Part of Settlement (July 26, 2023), <https://adfmedia.org/press-release/siue-professors-undergo-first-amendment-training-officials-revise-policies-part/>.

Each year, Atlantic Cape provides funding to many student organizations. These funds come from the mandatory student activity fees that every student pays, every semester. Atlantic Cape, however, had a policy that facially targeted certain groups, stating that “[r]eligious and political groups . . . will not receive funds to run their clubs.”²⁸

Based on this policy, Atlantic Cape told the Christian Club that it could not receive any funding, specifically because it is a Christian organization. Even though all of the students in the Christian Club are required to pay the activity fees, under Atlantic Cape’s policy, they are barred from accessing those funds on the same terms as other student groups, including a Pride Club that received such funding despite its promotion of certain political ideologies. Alliance Defending Freedom, on behalf of the Christian Club, sent a letter to Atlantic Cape, informing it of this unconstitutional policy, demanding that it be rescinded, and asking that funding be restored to the Christian Club. The letter emphasized that “it should be clear by now that laws that facially target religious groups for disfavored treatment are always unconstitutional.”²⁹

Students for Life (California State University-San Marcos)

Sadly, the Christian Club is far from the only organization to face this type of discrimination. Alliance Defending Freedom filed a lawsuit on behalf of the president of the Students for Life at California State University-San Marcos.

Students for Life is a chapter of the national organization, Students for Life of America, which is the largest pro-life student organization in the country. In 2017, the group sought to host a speaker to discuss “Abortion and Human Equality.” Students for Life requested \$500.00 in funding for the event. Despite the fact that all students in the club paid the mandatory student activity fees, the university denied the request, stating that it did not provide funding to student groups to pay for outside speakers. Other preferred groups, however, like the Gender Equity Center and the LGBTQA Pride Center, continued to be funded and, in fact, received a combined \$296,498 during the school year. Those groups regularly used these funds to pay for outside speakers.

²⁸ Letter from Alliance Defending Freedom to Dr. Barbara Gaba, President Atl. Cape Cmty. Coll. (Feb. 9, 2026), <https://adfmedia.org/press-release/adf-to-atlantic-cape-community-college-restore-student-group-funding-to-religious-clubs/>.

²⁹ Press Release, Alliance Defending Freedom, ADF to Atlantic Cape Community College: Restore Student Group Funding to Religious Clubs (Feb. 9, 2026), <https://adfmedia.org/press-release/adf-to-atlantic-cape-community-college-restore-student-group-funding-to-religious-clubs/>.

By collecting student fees from all students but distributing them only to certain organizations, the university compels some students to fund the speech of their peers while prohibiting those same students from using the available funds to present a different view. This discriminatory policy created a system in which the university could fund advocacy groups whose speech it preferred while stifling the speech of groups like Students for Life.

Alliance Defending Freedom filed a lawsuit to challenge this unconstitutional policy. A federal district court struck down the university's rule, saying that "these 'back room deliberations' are exactly [the] type of considerations the First Amendment is designed to prevent."³⁰ In response, the university changed its policy to one that distributes funds in a viewpoint-neutral manner.

Young America's Foundation (State University of New York at Binghamton)

The assault on free speech is, similarly, not limited to a few universities. Many conservative and religious student groups are unable to host events because radical students and faculty disrupt these events through shutdowns and violence, and university officials allow such behavior to happen. One such incident occurred at the State University of New York at Binghamton.

Renowned economist and presidential medal of honor recipient, Dr. Arthur Laffer, was scheduled to speak at an event jointly hosted by the College Republicans and Young America's Foundation (YAF) at the university. In preparation, a few days before the event, these students set up a table with free hot chocolate to promote the lecture. In response to this normal and peaceful act of speech, a large mob of roughly 200 people, facilitated by the College Progressives, formed to "disrupt this disgusting space."³¹ Quickly growing violent, the mob destroyed the conservative students' property, yelled obscenities in the faces of the College Republican students, and even physically assaulted one female student. Instead of dispersing these hostile students, university police stood idly by and ordered the conservative students to leave as the mob chanted "pack it up."

Bravely, College Republicans and YAF moved forward with their event, but the university continued to erect obstacles. On the day of the lecture, university police met Dr. Laffer at the airport with the intent of pressuring him into canceling his own event. Dr. Laffer politely declined.

³⁰ *Apodaca v. White*, 401 F.Supp. 3d 1040 (S.D. Cal. 2019).

³¹ Press Release, Alliance Defending Freedom, SUNY Officials Assist Antagonist Mob in Disrupting Event, Silencing Conservative Guest Speaker (July 22, 2020), <https://adfmedia.org/press-release/suny-officials-assist-antagonist-mob-disrupting-event-silencing-conservative-guest/>.

Moving to their next tactic, university officials knew that people planned to disrupt Dr. Laffer’s lecture, but instead of taking precautions to prevent disruption and defend free speech, they gave the disruptors direct access to the adjacent room and allowed them to flood into the auditorium before the lecture.

With the blessing of university officials and the protection of campus police, the progressive students were given the green light to disrupt the event and to silence the views of their fellow students. As Dr. Laffer took the podium, a person with a bullhorn stood up and shouted at Dr. Laffer. As before, university police did almost nothing to mitigate the mob. And in a horrible display of biased censorship, they, instead, removed Dr. Laffer from his own event—failing to protect the College Republicans’ and YAF’s freedoms once again.

This is why Alliance Defending Freedom and King & Spalding attorneys filed suit on behalf of the College Republicans and YAF. The trial is set for July of this year.

Ratio Christi (University of Nebraska-Lincoln)

Ratio Christi is a recognized student organization at the University of Nebraska-Lincoln that seeks to advance, teach, and defend Christian beliefs. In 2021, Ratio Christi requested \$1,500 in student activity funding to bring in a respected philosopher who taught at UNL for several decades. The request was denied. The university claimed that it could not promote “speakers of a political and ideological nature.” The university told Ratio Christi that, to receive any funding, the student organization would have to “provide another spokesperson with a different ideological perspective” to counterbalance the desired speaker’s Christian views.³² In a blatant showing of viewpoint discrimination, however, the university consistently spends thousands of dollars each year hosting and funding events that are political and ideological in nature, without imposing the same requirement on those events.

Policies like this chill and silence speech by ensuring that disfavored viewpoints are not given the same access to resources as other student groups. Alliance Defending Freedom filed a federal lawsuit challenging the university’s unconstitutional policy of funding only student organization events with which it agrees.

³² Press Release, Alliance Defending Freedom, Christian Student Group Secures First Amendment Win Against Univ. of Nebraska-Lincoln Official (Dec. 15, 2022), <https://adfmedia.org/press-release/christian-student-group-secures-first-amendment-win-against-univ-nebraska-lincoln/>.

After the district court entered a partial judgment against the university, the school settled the remaining claims, agreeing to change its policy and acknowledging that it must distribute student fee funding to student organizations in a “viewpoint-neutral manner.”³³ The university also paid thousands of dollars in attorney fees.

Ratio Christi (University of Houston-Clear Lake)

The University of Houston-Clear Lake also tried to silence Ratio Christi’s speech on campus. As a Christian club, Ratio Christi requires that any students on its leadership committee be Christians. Other students of no faith or a different faith are welcome to become members of the club; only leadership positions maintain faith requirements. This is not unlike other recognized student clubs, which also have leadership requirements.

But the university denied Ratio Christi’s application and revoked its invitation to the student organization fair, simply because the Christian organization required its leadership team to be comprised of Christians.

Because of this exclusion, the students of Ratio Christi, unlike other groups at the university, could not reserve space, invite speakers, or access the pool of funds they paid into that is reserved for student organizations, speakers, and events. It took Alliance Defending Freedom filing a federal lawsuit before the university was willing to change course, respect Ratio Christi’s speech, and settle the lawsuit.³⁴

As these cases show, this discrimination is not limited to large or small universities, or to those in conservative or liberal states. This is a serious problem attacking all echelons of higher education. Students should not have to worry about hiring constitutional lawyers, let alone filing a lawsuit, just to exercise their constitutional rights to gather and speak, whether individually or through a student organization.

³³ *Ratio Christi Univ. of Neb-Lincoln et al. v. Kenney et al.*, No. 4:21-cv-3301 (D. Neb. July 13, 2022) (<https://adflegal.org/case/ratio-christi-university-nebraska-lincoln-v-members-board-regents-university-nebraska/>); Plaintiff’s Motion and Stipulation to Dismiss with Prejudice, *Ratio Christi at the Univ. of Neb.-Lincoln, v. Members of Bd. Regents Univ. Neb.*, No. 4:21-cv-3301 (D. Neb. 2022) (<https://adflegal.org/case/ratio-christi-university-nebraska-lincoln-v-members-board-regents-university-nebraska/>).

³⁴ Plaintiff’s Notice of Voluntary Dismissal, *Ratio Christi Univ. Houston-Clear Lake v. Khator*, No. 4:21-cv-3503 (Feb. 15, 2022) (<https://adflegal.org/case/ratio-christi-university-houston-clear-lake-v-khator/>).

C. Public Universities Are Punishing Exceptional Faculty for Their Speech and Views.

It isn't just students facing censorship. Time and again, the same institutions that clamp down on students' expression also punish faculty for expressing views administrators do not like. This is especially true when professors stand up for biological truth—the very truth that faculty should be applauded for espousing as they shape the next generation of America's leaders.

Dr. Allan Josephson (University of Louisville)

Take Alliance Defending Freedom client Dr. Allan Josephson. In 2003, the University of Louisville hired Dr. Josephson to be the chief of its then-struggling Division of Child and Adolescent Psychiatry and Psychology. For almost fifteen years, Dr. Josephson led the division and turned the program around, elevating it to a position of national reputation. His leadership earned him perfect marks in his 2014, 2015, and 2016 annual reviews.

In 2017, The Heritage Foundation asked Dr. Josephson—in his personal capacity—to participate in a panel discussion where he expressed his professional views on the treatment of youth experiencing gender dysphoria. Specifically, Dr. Josephson spoke against subjecting children to harmful drugs and surgery in radical, misguided attempts to treat the distress a child may be experiencing over his or her biological sex. According to Dr. Josephson:

[G]ender dysphoria is a socio-cultural, psychological phenomenon that cannot be fully addressed with drugs and surgery. Thus, doctors and others should explore what causes this confusion and help the child learn how to meet this developmental challenge.³⁵

Several University faculty and staff members objected to Dr. Josephson's views, and so the University demoted him from his long-held position. In the spring of 2019, the university informed him that it would not renew his contract for the upcoming academic year, effectively terminating him. In other words, the University retaliated against Dr. Josephson for his constitutionally protected speech.³⁶

³⁵ *Josephson v. Ganzel*, 115 F.4th 771, 778 (6th Cir. 2024).

³⁶ *Id.* at 789.

In September 2024, the U.S. Court of Appeals for the 6th Circuit ruled that Josephson’s case should proceed to trial, declaring public university officials can be held personally accountable for censoring professors or retaliating against them as the University of Louisville did to Dr. Josephson.

The court determined that Dr. Josephson “spoke on a matter of public concern”—the treatment of children with gender dysphoria—“when he participated in the Heritage Foundation panel.”³⁷ “Controversial subjects like sexual orientation and gender identity are sensitive political topics that undoubtedly involve matters of profound value and concern to the public.”³⁸ And Josephson speaking at Heritage was not “part of his official duties with the Medical School.”³⁹ These facts led the court to conclude that Dr. Josephson “engaged in protected speech at that event.”⁴⁰

Eventually, University of Louisville officials settled the case, paying almost \$1.6 million in damages and attorneys’ fees.⁴¹

Dr. Nicholas Meriwether (Shawnee State University)

Dr. Nicholas Meriwether has spent more than two decades as a philosophy professor at Shawnee State University in southern Ohio, where he focuses his scholarship and teaching on the intersection of philosophy, ethics, religion, and political theory. In 2018, during a political philosophy class, Professor Meriwether responded to a male student’s question by saying, “Yes, sir.” Professor Meriwether refers to all his students as “sir” or “ma’am” or by a title (Mr. or Miss, for example) followed by their last name to foster an atmosphere of seriousness and mutual respect.⁴²

After the class, the student approached Professor Meriwether, stated that he was transgender, and demanded that the professor refer to him as a woman, with feminine titles and pronouns. When Meriwether did not instantly agree, the student became belligerent, circling around him and getting in his face in a threatening fashion while telling him, “I guess this means I can call you a cu--.”⁴³ Before walking away, the student promised to get Dr. Meriwether fired if he did not agree to the student’s demands.

³⁷ *Id.* at 784.

³⁸ *Id.* (quoting *Janus v. Am. Fed’n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 913–14 (2018)).

³⁹ *Id.*

⁴⁰ *Id.* at 786.

⁴¹ Press Release, Alliance Defending Freedom, Univ. of Louisville Pays Almost \$1.6M to Settle Case with Professor (Apr. 21, 2025), <https://adfmedia.org/case/josephson-v-ganzel/>.

⁴² *Meriwether v. Hartop*, 992 F.3d 492, 499 (6th Cir. 2021).

⁴³ *Id.*

The student then filed a complaint with the University, which launched a formal investigation. Meriwether offered to call the student by first or last name, but the student insisted that Meriwether use pronouns and titles consistent with the student's gender identity. University officials ultimately rejected any compromise that would allow Meriwether to speak according to his conscience and sincerely held religious beliefs. Instead, they formally charged him, saying that "he effectively created a hostile environment" for the student. Later, they placed a written warning in his personnel file and threatened "further corrective actions" unless he articulated the university's ideological message.⁴⁴

Once again, a university chose retaliation against speech with which it disagreed. And once again, it took a federal appellate court decision to reverse the university's actions and uphold the professor's First Amendment rights.

In a resounding decision, the U.S. Court of Appeals for the Sixth Circuit ruled in favor of Professor Meriwether, reaffirming that "professors at public universities retain First Amendment protections at least when engaged in core academic functions, such as teaching and scholarship."⁴⁵

The court concluded with a stark warning of what America might look like if universities could quench speech that they oppose:

If professors lacked free-speech protections when teaching, a university would wield alarming power to compel ideological conformity. A university president could require a pacifist to declare that war is just, a civil rights icon to condemn the Freedom Riders, a believer to deny the existence of God, or a Soviet émigré to address his students as "comrades." That cannot be.⁴⁶

Shawnee State University eventually settled the lawsuit, agreeing to pay \$400,000 in damages and fees. And it rescinded the disciplinary letter it issued to Professor Meriwether.⁴⁷

Dr. Josephson's and Professor Meriwether's stories are just a couple of dozens and dozens of examples where faculty have faced reprisal for their constitutionally protected speech. In order for our public universities to truly fulfill their mandate to provide a "marketplace of ideas" where

⁴⁴ *Id.* at 501.

⁴⁵ *Id.* at 505.

⁴⁶ *Id.* at 506.

⁴⁷ Press Release, Alliance Defending Freedom, Victory: Shawnee State Agrees Professors can't be Forced to Speak Contrary to their Beliefs (Apr. 14, 2022), <https://adfmedia.org/case/meriwether-v-trustees-shawnee-state-university/>.

students are exposed to different views and ideas, we must provide robust First Amendment protections for academic freedom of higher education faculty.

CONCLUSION

As the Supreme Court has explained, “state colleges and universities are not enclaves immune from the sweep of the First Amendment.”⁴⁸ In fact, “the precedents of [the Supreme] Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large.”⁴⁹

As more and more students, student groups, and faculty face hostility and censorship when they express their views on college campuses, Congress has the duty to stand with these individuals and organizations and defend their fundamental rights. By conducting hearings and passing robust free speech legislation that banishes censorship from public higher education, Congress can help safeguard the First Amendment and preserve our nation’s educational institutions as a true “marketplace of ideas.”

⁴⁸ *Healy*, 408 U.S. at 180.

⁴⁹ *Id.*