

## **Balancing First Amendment Rights with an Inclusive Environment on Public University Campuses**

Public universities strive to promote free speech, academic freedom, and thought-provoking debate. They also seek to foster an inclusive environment where people from diverse backgrounds and viewpoints are able to feel safe. Both of these values are central to the mission of a public university, but what happens when they fail to coincide? How can public universities strike the balance, and where must they draw the line?

In the late 2000s, Julea Ward, a deeply religious person, was a successful therapy graduate student at Eastern Michigan University. During her required practicum course, she refused to act as a relationship therapist for a homosexual patient. Ward was subsequently expelled from the program for discriminatory behavior. Within the past year, similar events have generated a nationwide debate as protests erupted at various universities across the country. Fraternity members at the University of Oklahoma were expelled after a video of the members singing a racist chant surfaced. In Missouri, students have successfully ousted administrators who in part failed to respond to incidents of hate speech on the University of Missouri's campus. At the University of Minnesota, protestors were arrested after attempting to shout down a speaker.

These events have sparked debate among students, faculty, administrators, and legal scholars and raise a number of interesting legal and societal questions. In what ways may a university regulate the speech of its students or faculty in order to create an inclusive environment? When is it appropriate, if ever, to shout down a speaker or to protest their invitation to campus because the speaker may offend listeners? How should universities accommodate the expression of sincerely held religious beliefs on campus?

This Symposium seeks to address these timely and weighty issues while engaging the *Minnesota Law Review* with broader communities not only within Minneapolis, but also across the country.

### **Key Note Speech by Geoffrey Stone (Broad Issues Facing Higher Education)**

- Geoffrey Stone
  - Edward H. Levi Distinguished Service Professor of Law, University of Chicago Law School

### **Panel One: University Code of Conduct Policies that Limit Student Speech**

Universities, to promote inclusion, have instituted policies that punish students for offensive or discriminatory speech. These codes of conduct raise an important question: how much prohibition on speech is too much?

- Will Creeley
  - Vice President of Legal and Public Advocacy, FIRE
  - *Censorship by Crying Wolf: Misclassifying Student and Faculty Speech as Threats*

- Mary-Rose Papandrea
  - Professor of Law and Associate Dean for Academic Affairs, University of North Carolina School of Law
  - *The Free Speech Rights of University Students*
- Alexander Tsesis
  - Raymond & Mary Simon Chair in Constitutional Law and Professor of Law, Loyola University, Chicago, School of Law
  - *Campus Speech Codes: History, Contemporary Issues, and Proposal*

### **Panel Two: Perspectives on the First Amendment and Public Universities**

This panel will begin with a discussion led by Richard Delgado about the many ironies created by the collision of the First Amendment and public universities. We will then turn to two panelists with valuable insights from their experiences outside of the academy—Judge Alex Kozinski and Nekima Levy-Pounds.

- Richard Delgado
  - John J. Sparkman Chair of Law, University of Alabama School of Law
  - *Four Ironies of Campus Climate*
- Hon. Alex Kozinski
  - Judge, United States Court of Appeals for the Ninth Circuit
- Nekima Levy-Pounds
  - President, Minneapolis chapter of the NAACP

### **Panel Three: Academic Freedom**

The Supreme Court in *Keyishian v. Board of Regents* wrote: “[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”

This panel will discuss how universities may balance the creation of a safe and welcoming environment with academic freedom. How may a university, if at all, shape professorial conduct through its policies?

- Heidi Kitrosser
  - Professor of Law, University of Minnesota Law School
  - *Higher Education, Free Speech and the PC Narrative*
- Robert M. O’Neil
  - Professor of Law Emeritus, University of Virginia Law School
  - *Academic Freedom to Deny the Truth – Beyond the Holocaust*
- Vikram Amar
  - Dean and Iwan Foundation Professor of Law, University of Illinois College of Law
  - *How Much Expressive Freedom do Professors at Public Universities Really Enjoy*