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Save Higher Ed With the Chicago Principles

Respect free speech and don't take sides—a simple approach to avoid campus strife.

By
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As graduation ceremonies end and summer break begins, college and university presidents have an opportunity to reconsider their campus policies on speech and action. What begins in higher-education institutions rarely ends there. We all have a stake in what they decide.

Americans may believe the First Amendment applies across the board to these institutions. It doesn't. Public schools are fully subject to this constitutional cornerstone, but private ones enjoy substantial freedom—limited by federal civil-rights laws and legislation in a handful of states—to craft codes of conduct that are inconsistent with it.

Whatever their motives, the members of Congress who grilled the presidents of Harvard, the Massachusetts Institute of Technology and the University of Pennsylvania (all private institutions) were right to focus on the universities' codes rather than the Constitution. The presidents' legalistic responses weren't merely tin-eared; they revealed a failure to connect speech and action to the broader purposes of the academic enterprise.

Treating speech and conduct as political problems to be managed in the interest of keeping the peace on campus is a recipe for failure. Leaders who adopt this course ensure inconsistencies that damage their institutions and open them to charges of hypocrisy that are difficult to rebut. Look no further than the Jewish students who have been exposed to abuse and harassment that wouldn't have been permitted against other minority groups.

Too many academic leaders have led their institutions into this cul de sac. Only an approach rooted in first principles can lead them out. Here's where these leaders can start:

In 1967, the year campus protests against the Vietnam War surged, the University of Chicago's president appointed a committee headed by the legal scholar Harry Kalven Jr. to prepare a statement on the university's role in "political and social action."

The committee began by defining the university's mission as the "discovery, improvement, and dissemination of knowledge," an endeavor that often challenges existing social principles, institutions and policies. The report then declared that individual faculty members and students—not the university as an institution—are the proper advocates for these challenges. "The university is the home and sponsor of critics; it is not itself the critic," it said. When a university adopts a collective position, it inhibits the freedom of dissent by censoring those who disagree. The report, a precursor to what became known as the Chicago principles, argues for a "heavy presumption against the university taking collective action or expressing opinions on the political and social issues of the day."

The report also acknowledged two limitations on this prohibition. First, when political leaders or segments of society threaten the mission of the university—truth seeking—the university has an obligation to oppose their efforts. Second, when universities do act in their collective capacity—say, by owning property or awarding honorary degrees—their decisions are subject to scrutiny in light of what the committee termed "paramount social values."

Nearly five decades later another Chicago president appointed a committee on freedom of expression in 2014 to examine limits on speech and action in light of its enduring commitment to freedom of inquiry. Its deliberations yielded the Chicago Principles: "It is not the proper role of the University to

attempt to shield individuals from ideas they find unwelcome, disagreeable, or even deeply offensive.” Consistent with this principle, the university in 2016 warned incoming students that it would defend invitations to speakers with controversial views and oppose efforts to silence their expression. The committee stated that the university may restrict expression that violates the law, defames individuals, or constitutes a “genuine threat or harassment,” that invades protected privacy or confidentiality, or is incompatible with the functioning of the university.

With this support, the university’s current president, Paul Alivisatos, had no difficulty justifying his decision to have the campus police disperse anti-Israel encampments on campus this month. We can’t tolerate an environment in which “the expression of some dominates and disrupts the healthy functioning of the community for the rest,” he declared in a statement. In an [op-ed for these pages](#), he revealed that before calling in the campus police, he had authorized negotiations with the protesters but ended them when it became clear that they wanted the university to take sides in the Israel-Gaza war, breaching the core tenet of the Kalven report.

Colleges and universities that want to adopt the Chicago approach should remain neutral on contested issues, defend an expansive practice of free speech, resist efforts to disinvite controversial speakers or shout them down, and discipline members of the university community who harass others, interfere with the functioning of the university or break the law. This strategy won’t solve all their problems, but it’s a principled foundation on which they can build.



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