



Chasm in the Classroom: Campus Free Speech in a Divided America

Executive Summary

An increase in hate crimes, political polarization, and heightened racial tensions have created new challenges for free speech and inclusion on campus. In *Chasm in the Classroom: Campus Free Speech in a Divided America*, PEN America analyzes recent trends including the rise of hateful speech and incidents of bigotry on campus; shutdowns and disinvitations of controversial speakers; outrage campaigns against faculty members for their speech; the mixed views of a new generation of students on issues of free speech and hate speech; and the perils and pitfalls of federal and state legislative measures purportedly aiming to protect free speech in polarized campus environments. The report also lays out our concerns about attempts to limit the space for open debate and free expression on college campuses. Finally, the report features [PEN America's Principles on Campus Free Speech](#), updated for 2019 and offering cogent guidelines for students, faculty, and administrators on how to navigate fraught speech-related controversies in ways that ensure a robust defense of free speech while advancing diversity and inclusion.

Chasm in the Classroom is a follow-up to the October 2016 report, *And Campus For All: Diversity, Inclusion, and Freedom of Speech at U.S. Universities*, PEN America's first full-length report examining the state of free speech on America's college campuses.¹ In that report, we examined the challenges of reconciling free speech with diversity while debates raged over concepts like microaggressions, trigger warnings, safe spaces, and disinvitations to campus speakers. We stated vociferously that the imperative for universities to become more open, inclusive, and equal for students of all races, genders, nationalities, and backgrounds can and must be pursued without compromising robust protections for free speech and academic freedom. With this new report, we affirm the analysis published in *And Campus for All*, and

¹ "And Campus for All: Diversity, Inclusion, and Freedom of Speech at U.S. Universities," PEN America, October 17, 2016, 27, pen.org/wp-content/uploads/2017/06/PEN_campus_report_06.15.2017.pdf

maintain a fervent view that these dual sets of objectives must coexist for the university to fulfill its role.

Since the publication of *And Campus for All*, the issue of campus free speech has only grown in prominence. In *Chasm in the Classroom*, PEN America squarely examines the state of free speech on American college campuses in consideration of the context of the Trump presidency, social media-driven outrage, and our current political polarization. We discuss how campuses have become flashpoints of umbrage, and how social media has fed this sensationalism as armies of like-minded digital citizens foment public pressure on universities to react to supposed outrages. We have all seen the videos: the shouting student, the offensive professor, the accosted administrator. Short clips catch fire, eliciting outraged comments, viral shares and retweets—all the while making it difficult for those involved to correct the record.

In this way, the national debate over free speech on campus has become, in the Trump era, a deeply partisan feud, with each side trying to catch the other in transgressive acts that can be amplified to rile up the faithful. It is at once a territorial conflict over which values will prevail on campus and a proxy for a much larger political battle over the future of American society. And if there are legitimate concerns about whether there is still space for patience, good faith, and reasoned debate on campus, it bears recognizing that there is little evidence of such values in our national discourse at this moment either.

PEN America's approach to campus free speech involves pushing back on oversimplified narratives and giving due weight to both legitimate concerns about the state of free speech on campuses as well as to the importance of making campuses equitable spaces where all students have a chance to succeed, and all voices are heard. We do not believe that campuses are experiencing a unique crisis separate from the tensions and fissures pulling apart American society at large. However, we do see a looming danger that our bedrock faith in free speech as an enduring foundation of American society could give way to a belief that curtailing harmful expression will enable our diverse population to live together peaceably. Failures of political leadership, persistent racism and bigotry, the weaponization of speech on digital platforms, and gaps in civic education are combining to undermine the consensus for an open marketplace for ideas. These forces imperil the foundational precept of First Amendment jurisprudence: that government must not be empowered to regulate speech. The implicit societal bargains that make free speech possible— taboos, social norms, respectful modes of discourse, effective retractions and corrections, contextualization—are being pulled at and eroded from various sides. Only by doubling down on the underpinnings of free speech both on campus and throughout society will we be able to save this cherished ideal.

Efforts to improve the climate for free expression on campus should begin by educating students about both the legacy of free speech and its value to the causes they hold dear, and by explaining

how censorship—even of abhorrent speech—can distort discourse and impair individual freedom. Arguments that the imperative of countering racism may sometimes warrant curbs on free speech should be engaged, rather than dismissed. Free speech must be taught and framed in ways that make sense and are compelling to racially, ethnically, and ideologically diverse students, lest a rising generation come to believe that speech protections are at odds with progressive values.

Campus Free Speech in a Divided America

Today’s campus speech debate raises pressing concerns over how to reconcile the imperative of creating inclusive, equal societies in which all voices can be heard with the bedrock principle of protecting free speech. PEN America’s point of departure is that both of these objectives are compelling and worthy of respect and that, through reasoned efforts and dialogue, more can be done to help them comfortably coexist. Our aim is to shed light and spur thinking on how to nurture a campus community that robustly defends free speech and allows for academic and social discourse that is truly inclusive and transcends boundaries.

In the **Introduction** to this report, PEN America critically examines the competing narratives that have shaped Americans’ perception of the state of free speech on U.S. college campuses today. Today’s universities are the staging ground for heated debates about the utility of free speech, appropriate responses to hateful speech, and the difficult work of building an inclusive academic community that nonetheless reserves space for disagreement. In an increasingly polarized country, the campus has become a touch-point for national anxieties. Incidents that were often previously resolved at the local level—by interactions between students and faculty or administrators—have instead become media firestorms, with different actors processing them through the lens of national-level politics. The result is a sometimes vicious feedback loop of polarization, where campus actors stand ready to react with outrage at the provocations of others, while increasingly feeling justified in themselves acting provocatively.

Conservatives and progressives put out dueling narratives that increasingly promote caricatures of their ‘opponents’: the snowflake-liberals who do not understand the value of free speech, versus callous and complicit conservatives who hide behind free speech to promote noxious and hateful views. In order to craft thoughtful solutions to these campus controversies, all stakeholders—students, faculty, administrators, journalists, policymakers, and others—must move past these simplistic narratives and accept that no group has a monopoly on the truth. There is danger in accepting only a single story about the current state of affairs.

Section I focuses on the rise of hateful expression and intimidation on campuses in the Trump era. PEN America argues that the continued prevalence of campus speech controversies is inextricable from the rise in hateful expression on- and off-campus since 2016. On campus

manifestations of this trend have included racist screeds, hate-motivated violence, anti-Semitic symbols, and white supremacist propaganda.² This climate has sparked increasing anxieties among many members of campus communities, and spurred people to look to campus administrators to uphold their universities' stated commitments to moral values such as inclusivity and mutual respect.

At the same time, new examinations of the connections between speech and harm, particularly against the background of a national rise in hate incidents, have helped shape students' expectations of how universities should respond to hateful speech. We explore how President Trump's divisive rhetoric and policies have obscured the lines between hateful speech and appropriate civic discourse in ways that pose new challenges for campus administrators. While campus conversations about race and inclusion did not begin with Trump, they take on both a new urgency and a new ambiguity: where some see phrases like "Make America Great Again" or "Build the Wall," as anodyne political slogans, others see racism and xenophobia. We discuss how campus leaders can best respond to hateful speech or bias in ways that both foster inclusion and respect free speech principles.

Section II summarizes and analyzes controversies surrounding efforts to shutdown or shout-down speakers invited to campus in the past two years. PEN America previously discussed the issue in *And Campus for All*; since then, however, efforts to disinvite or disrupt controversial speakers have continued to arise, and with them, thorny questions about how universities balance a speaker's right to speak with others' right to protest. We explain how these incidents came to a remarkable crescendo in 2017, with many high-profile incidents leading to speaker cancellations and, in some cases, even violent confrontations. We discuss the rise, and seeming fall, of a group of professional provocateurs and how students' intense reactions were often motivated by concern for racial injustice and by the heightened anxieties of the Trump era. We offer advice on how these situations can best be mitigated and discuss how colleges and universities can take care in how they bestow their imprimatur on guests, fulfilling the dual roles of maintaining an ethical voice and serving as an open platform for all ideas.

PEN America continues to propound our view that campus leaders must hold a strong line against tactics that silence speech and prevent students from hearing and engaging with a range of perspectives. These tactics include the "heckler's veto"—in which protesters disrupt a speech or event to the point where the presenter's speech has been effectively silenced, and which

² Dan Bauman, "After 2016 Election, Campus Hate Crimes Seemed to Jump. Here's What the Data Tell Us," *The Chronicle of Higher Education*, February 16, 2018, [chronicle.com/article/After-2016-Election-Campus/242577](https://www.chronicle.com/article/After-2016-Election-Campus/242577); Jeremy Bauer-Wolf, "A Surge of Anti-Semitism," *Inside Higher Ed*, December 5, 2018, [insidehighered.com/news/2018/12/05/anti-semitic-incidents-surge-college-campuses-after-pittsburgh-synagogue-shooting](https://www.insidehighered.com/news/2018/12/05/anti-semitic-incidents-surge-college-campuses-after-pittsburgh-synagogue-shooting); Joe Heim, "Hate Groups Make Unprecedented Push to Recruit on College Campuses," *The Washington Post*, January 12, 2018, [washingtonpost.com/local/education/hate-groups-make-unprecedented-push-to-recruit-on-college-campuses/2018/01/12/c66cf628-e4f8-11e7-833f-155031558ff4_story.html?utm_term=.53095b469d1b](https://www.washingtonpost.com/local/education/hate-groups-make-unprecedented-push-to-recruit-on-college-campuses/2018/01/12/c66cf628-e4f8-11e7-833f-155031558ff4_story.html?utm_term=.53095b469d1b)

represents an infringement on the free speech of others. And of course, the use of violence to protest or silence a controversial speaker, while rare, is a dangerous and misguided approach, to be condemned by all responsible actors. Vigorous and robust forms of non-violent student protest, however, must be permitted and enabled. Protest is itself an expressive act and a protected form of speech. University administrators who create a hostile climate for the right to protest on their campus risk sacrificing free speech in the name of saving it.

Section III examines attacks on faculty in 2017 and 2018 because of their speech, spurred by outrage on the left and the right. In the past two years, PEN America has documented dozens of incidents in which college faculty or staff from across the political spectrum have faced harsh rebukes of their academic perspectives or personal opinions. Partisan and social media-fueled ‘outrage machines’ play a disproportionate role in shaping the public’s perception of these controversies, bringing significant pressure to bear on administrators to take forceful action.

We explain how speech by faculty has often become a proxy for broader political jostling over the core values of American society. We discuss the increase in online harassment of faculty and the rise of new challenges concerning the nature of social media and professors’ public personae—issues related to academic freedom and universities’ duty of care for their students. We offer advice on how faculty and their institutions can respond to different kinds of challenges to faculty speech, noting that campus leaders must be full-throated in defense of their faculty members’ academic freedom. At the same time, when faculty engage in speech that is contrary to a university’s values, administrators need not shy away from criticizing that speech. Additionally, if a faculty member’s speech calls into question whether they can adequately execute their duties—a provision which must be interpreted as a high bar—the university may consider additional action.

Section IV reviews survey research on college students’ attitudes toward free speech and reports on qualitative interviews with students that add nuance to oversimplified understandings of their views, including findings from PEN America’s own series of small-group convenings at universities across the country from the 2017-2018 academic year. This section highlights that attempts to depict progressive students as universally dismissive of free speech principles is an over-simplification: many students are thoughtfully working to reconcile support for free speech with on-campus concerns over solidarity, inclusion, and their own values. Meanwhile, conservative students have expressed feelings of isolation and stigmatization because of their political beliefs, but here too, there are differing views. While some conservative students find themselves defensively supporting provocative speakers as a form of protest against campus climates they perceive as dismissing their viewpoints or beliefs, others remain highly skeptical of these confrontational tactics.

We emphasize that college is a time for education, exploration, and growth, suggesting that commentators and researchers bear this in mind when examining speech-related incidents on campus. As such, administrators must rise to the challenge of cultivating students' understanding of free speech in a way that instills a deep appreciation of the importance of this civil liberty to an open and democratic society.

Section V of this report discusses federal and state efforts to introduce legislation related to campus speech. Since 2017, over 30 states have proposed or passed new laws specifically focused on campus speech. As these debates continue to roil campus communities, different political actors and free speech groups continue to propose new legislative or regulatory “solutions.” We examine some of the most significant regulatory proposals in this vein, including the Goldwater Model Bill and the FORUM Act, and summarize state-level bills related to campus speech that were introduced or passed in 2017 and 2018.

Generally, PEN America supports hortatory language and educational efforts around campus free speech, but concerning legislative solutions, we sound a cautionary note: while many elements of these proposals are laudable or well-intentioned, overall the intrusion of lawmakers into college and university governance risks further politicizing an already-polarized campus atmosphere. Furthermore, such legislative proposals risk backfiring, curtailing free speech instead of protecting it.

PEN America also examines the proposed Anti-Semitism Awareness Act and recent Department of Education changes to its guidance strictures for Title IX investigations, and we review the role of the Justice Department in 2017 and 2018, under former Attorney General Jeff Sessions, in raising alarms over free speech that were often politicized and one-sided. We also express our concerns about President Trump's recent Executive Order directing a number of federal agencies to take “appropriate steps” to ensure universities are promoting “free inquiry” on their campuses as a necessary precondition to receiving federal research funding and education grants.³ The words of the Executive Order itself—which are anodyne and vague—stand in stark contrast to President Trump's own rhetoric on the issue, dramatically increasing the risk that universities will implement unduly strict controls on the speech of students and faculty in order to ensure they do not run afoul of the Executive Order. We warn that this new Executive Order must not be implemented by government officials through a partisan prism.

Finally, in a concluding **Special Section**, this report looks abroad at other countries where campus speech issues are playing out in ways that echo developments in the United States, including Australia, Canada, and the United Kingdom. The state of speech on campus--and its

³ “Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities,” Federal Register, March 21, 2019, accessed March 25, 2019, [federalregister.gov/documents/2019/03/26/2019-05934/improving-free-inquiry-transparency-and-accountability-at-colleges-and-universities](https://www.federalregister.gov/documents/2019/03/26/2019-05934/improving-free-inquiry-transparency-and-accountability-at-colleges-and-universities)

perceived contraposition with other values like inclusivity and equality--is not merely an American debate: other countries are having their own social and political conflicts about free speech and about the demands of a new generation of students. Still, the United States wields a disproportionate global influence over how college administrators and faculty frame the issue: In Australia and Canada, legislators have advocated the official adoption of American standards on campus speech, despite the fact that these countries have different legal approaches toward hate speech.

We discuss attacks on academic freedom in countries around the world and caution that campus speech debates in the United States can have unintended global ramifications. Perhaps PEN America's greatest fear is that autocratically inclined leaders--like Victor Orbán of Hungary or Jair Bolsonaro of Brazil--may be able to wield the trope of the 'out-of-control academic left' as a cudgel against their political and ideological opponents, enabled by credulous international audiences who have been habituated to believe that strong measures are needed to solve the campus "crisis."

Throughout this report, PEN America aims to shed some additional light on these campus controversies, in part because we are concerned that instead there has been too much heat. Certainly, there is a serious need for sober reflection on the state of free speech on college campuses today. We intend this report to elevate the concerns of those who fear that the value of free speech and robust debate is being lost amongst the noise and the fury. But complex issues are rarely satisfactorily addressed through simple solutions. Despite a raft of legislative proposals and government pronouncements, there is simply no substitute for a thoughtful faculty member or administrator: one who engages with student concerns, who patiently and empathetically demonstrates university values—including the indispensable values of free speech and academic freedom—and who acts as out of principle rather than external pressure or political expediency. Promoting greater dialogue, understanding, and awareness of the First Amendment on campus, and providing a forum to examine tensions that entwine racism, diversity and inclusion, may go a long way to helping de-escalate many of today's most intractable social and political conflicts.