

A black and white photograph of a person from the back, holding a megaphone. The megaphone has a sticker that says "PROTESTERS WELCOME". In the background, another person is wearing a white vest with "PROTESTERS WELCOME" printed on it. A large, curved, light-colored banner with the words "FREE SPEECH" in bold black letters is overlaid on the bottom half of the image.

FREE SPEECH

**How do we foster the campus
community we want?**



**NATIONAL
ISSUES
FORUMS**



**James Madison Center
for Civic Engagement**
JAMES MADISON UNIVERSITY.

How do we foster the campus community we want?

INTRODUCTION

The United States is becoming increasingly diverse and more polarized as we struggle to address complex public problems such as immigration, health care, economic inequality, and America's role in the world. As public trust in our political system waivers, U.S. college campuses are grappling with issues of inclusion, diversity, and freedom of speech. Conversations about free speech on campus are often framed in opposition to diversity and inclusion and have spawned controversies, protests, and even violence. In 2017, a much-cited survey of more than 3,000 college students conducted by Gallup and the John S. and James L. Knight Foundation presented diversity and inclusion as directly opposite free speech, asking students which issues they felt were more important; 53% chose inclusion and 46% chose free speech (see Figure 1). In today's contentious and divided political environment, what should colleges and universities do to meet the roles and responsibilities of higher education to foster the campus community we want?



Consider these questions as you prepare for our discussion:

Are free speech and an inclusive campus in opposition to each other? Do we have to give up one to have the other?

How do we balance the free speech rights of individuals with the responsibilities of the university?

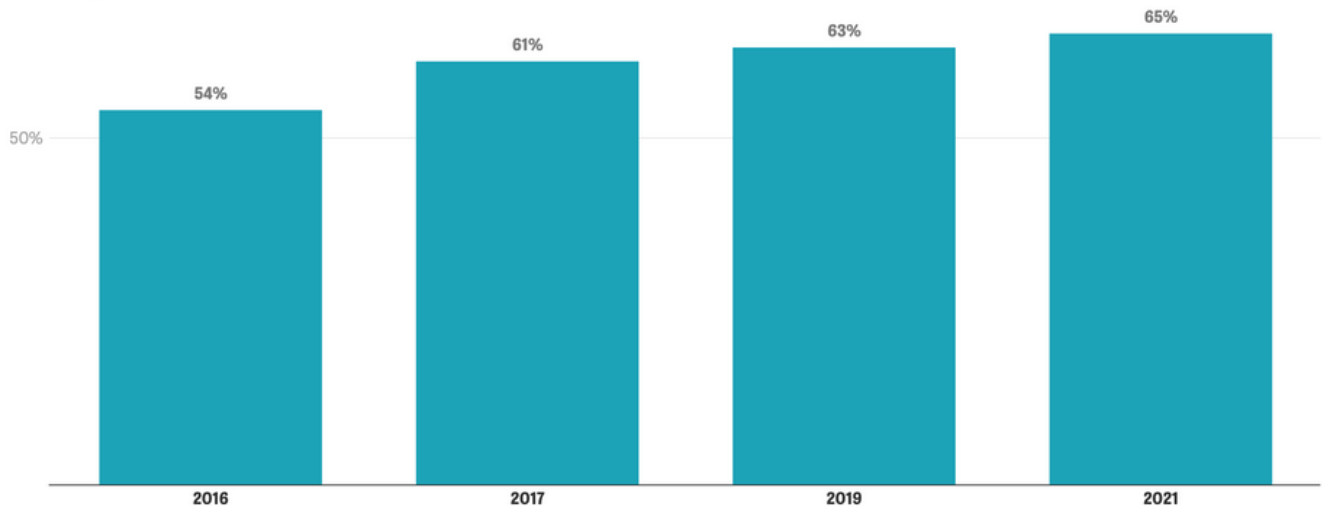
Is this the campus community we want? What is the role of university leaders versus students in creating or changing campus culture?

A Framework for Deliberation

There is a widening divide among students on university campuses about whether or not they feel safe, and if their free speech rights are being protected. According to research conducted by the Knight Foundation, the greatest gaps exist among race and partisanship. Half of Democratic students support schools that facilitate all forms of free speech. Democratic students are more likely to support schools that limit speech that could be harmful to minority groups. Conversely, Republican students believe that free speech is under attack on college campuses, and believe that schools should be exposing students to all kinds of speech, even if that speech is found offensive by a specific group.

A growing majority believe their school's climate stifles free expression

Percent who strongly/somewhat agree that the climate at their school or on their campus prevents some people from saying things they believe because others might find it offensive



In 2019, the question was, "Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree with the following statement: The climate on my campus prevents some people from saying things they believe because others might find them offensive."

Source: Knight-Ipsos, 2021. Knight-Gallup, 2019, 2017, 2016. 2021 base: 1,023 college students • Get the data



This guide presents three options for deliberation about difficult problems regarding free speech and inclusion - for which there are no perfect solutions. Each option offers advantages as well as drawbacks, and each reflects different ways of understanding what is at stake, forcing us to think about what matters most to us.

A Framework for Deliberation

1

Prioritize student safety and well being



2

Affirm the educational value of intellectual curiosity and affirming "both sides" of an issue



3

Uphold the ideals of free speech

1

Prioritize student safety and well-being

This option asserts campuses are responsible first and foremost for protecting student safety and well-being. Campus personnel have a duty to protect students, faculty, and staff from harassment and discrimination and from the impact of harmful speech. People who hold this position believe it is the institution's primary responsibility to protect student safety—both actual and perceived—and physical and psychological well-being, no matter the cost. Threats to safety can disrupt learning and should be curbed when necessary to protect students from harm.

A Primary **Drawback**



Campuses would prioritize safety at all costs. If a campus prioritizes safety, budgetary, or other concerns, student organizations, campus departments, and stakeholders might not invite speakers with controversial opinions, which may limit freedom of expression or opportunities for learning. It is also plausible speakers might turn down invitations.

Option 1: Prioritize Student Safety

Examples of What Could Be Done	Trade-Offs to Consider
Institutions should spare no expense to ensure safety	Institutions cannot guarantee the safety of students and may inadvertently increase institutional liability for harm
Institutions should create policies that uplift historically marginalized voices and dismantle traditional authority structures.	Such policies may underscore the perception student affairs disproportionately supports a left leaning agenda and may create another authority structure that limits dissent and opposing viewpoints
Faculty and staff should provide campus workshops, cultural literacy training, and programming on historical structures and power dynamics	Programming may inadvertently increase conflict, resurface historical trauma, and put historically marginalized students at risk
States should require institutions to create policies that penalize those who disrupt expressive activity or do not follow campus policies.	Students, faculty, and staff may self-censor in order to avoid punishment or sanctions, creating a chilling effect on campus.
Faculty, staff, and students should create safe, ideological spaces on campus for specific student populations (e.g., LGBTQIA+ students, student veterans, first-generation students, etc)	Students may choose to isolate themselves within these spaces, limiting opportunities for cross-cultural engagement.
Institutional leaders should encourage faculty to consider the impact of curricula on students and issue trigger warnings as necessary.	Faculty may alter their delivery and instruction to eliminate potentially valuable and necessary content

2

Affirm the educational value of intellectual curiosity and "both sides" of an argument

This position asserts the primary role of higher education is to stimulate intellectual curiosity and build students' capacity and skills to engage meaningfully in conversations across difference. People who hold this position believe learning often requires discomfort. Instead of limiting that discomfort, we should embrace it and guide students through interpreting their feelings, thoughts, and experiences when they are exposed to ideas that make them uncomfortable. Institutions should invest in support services, campus safety, and guest speaker protocols to encourage student engagement across difference. Through exposure to a range of viewpoints, students learn to question their assumptions and biases, clarify their own values, develop their own ideas, and cultivate a sense of agency in responding to those with whom they disagree.

A Primary **Drawback**



Students could be exposed to ideas that may be harmful. Faculty and staff may not have the capacity to meet the needs of all students or colleagues, especially individuals from historically marginalized groups.

Option 2: Affirm the educational value of intellectual curiosity and "both sides" of an argument

Examples of What Could Be Done	Trade-Offs to Consider
Institutional leaders, including students, faculty and staff, should create space for educationally meaningful diverse perspectives to be heard on campus	Some perspectives may directly or indirectly affect learning or cause harm to students
Faculty should be neutral arbiters of ideas and encourage students to engaged with ideas they find uncomfortable	Historically marginalized faculty, staff, and students may be vulnerable and expected to carry a heavier burden to represent minority perspective, potentially damaging their personal and professional development and increasing potential for physical and psychological harm.
Institutional leaders should promote demographic diversity as a way to broaden conversations and viewpoints on campus.	Historically marginalized individuals may become tokenized and bear an undue burden to develop culturally competent students, faculty, and staff.
Faculty and staff should provide students with expected learning outcomes, counter-narratives, and fact-checking for speakers, which can promote students' critical thinking and reflection.	Students whose educational environment has been adversely affected by offensive speech may need more immediate action and care; they may not be in an emotional or psychological place conducive to learning until a sense of safety is restored.
Faculty and staff should create programming that enables students to engage productively with diverse perspectives while developing their own voice and agency.	Programming may not reach those most likely to benefit from it. If students aren't ready to engage, programming may be insufficient.
Institutional leaders, faculty, and staff should invite speakers to campus based on their potential to contribute to the overall learning of the campus community.	Some speakers ma be prohibited if they are deemed by an institution to lack factual truth or evidence

3

Uphold the ideals of free speech

This position asserts institutions should welcome free speech in all its forms, as the university was created to be a marketplace of ideas. Campus environments should welcome public debate and provide space for diverse opinions and ideas—even when they are potentially controversial and/or offensive. Throughout history, free speech has been used to give voice to minority perspectives. It plays a vital role in ensuring dissenting voices have the opportunity to be heard. As such, free speech cannot be neglected or ignored, even when it may be offensive and potentially harmful.

However, there are time, place, and manner restrictions. The U.S. Supreme Court allows educational institutions, including colleges and universities, to apply “time, place, and manner” limitations on speech, including on campus speakers and demonstrators. The purpose of such restrictions is to regulate speech without impeding constitutionally protected speech. The U.S. Supreme Court requires these limitations not be favorable to one perspective or another, serve significant government interest, be narrowly tailored to achieve that interest, and offer alternative options for speech. Public institutions, which are funded by taxpayer dollars, are considered government entities and, as such, are restricted from impeding speech beyond the narrow contours of time, place, and manner (*Perry Education Association v. Perry Local Educators' Association*, 1983).

Option 3: Uphold the ideals of free speech

Examples of What Could Be Done	Trade-Offs to Consider
States should require institutions to eliminate free speech zones, designated locations where individuals can register to secure time for expressive activity; all public spaces on campus should be open to free speech.	Unexpected or unknown speech or speakers may disrupt educational or academic environments or target students with hateful speech while they are trying to engage in activities of daily living.
Institutional leadership should place emphasis on unrestricted academic freedom in research and in the classroom.	Faculty may espouse ideological perspectives or attitudes students find offensive, yet students must remain enrolled or engaged in that environment due to academic requirements.
Instead of regulating offensive speech, faculty, staff and students should create responsive acts of creative expression to give voice to the impact of offensive speech on students and on campus.	Instead of the university speaking on a group's behalf, this option may put the onus on groups harmed to speak for themselves. They may face harassment or risk direct clashes with offending speakers.
Institutions should allow any speakers on campus, no matter who or what they represent.	The university may be seen as endorsing or condoning an unpopular or offensive message. This may damage the university's reputation or affect funding streams.
Those who disagree with speech should be free to protest or object without institutionally imposed restrictions.	Outside groups may take advantage of the freedom of the marketplace of ideas to overwhelm a speaker they disagree with and drown them out.

A Primary **Drawback**



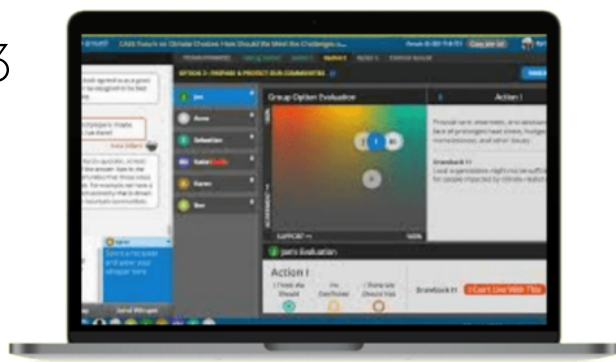
Open access does not automatically equate to equal opportunity.

Promoting the uninhibited marketplace of ideas may benefit only historically privileged groups whose members already enjoy voice, power, and agency. This option may reinforce or worsen barriers for historically marginalized groups.

MARCH & APRIL 2023

BRIDGING WICKED DIVIDES

National Week of Deliberation



Issue guide adapted and edited by James Madison Center for Civic Engagement Staff:

Angelina Clapp, Graduate Fellow,
Annika Thompson, Undergraduate FYRE Research Assistant,
Leia Surovell, Communications and Democracy Fellow,
and **Kara Dillard**, Interim Associate Director

For more information, visit these sites:

<https://sites.lib.jmu.edu/nwod/>

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Published March 9, 2023



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