



FIRE QUARTERLY

COVER STORY

SPRING 2017

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VICTORY: WICHITA STATE STUDENT COURT RECOGNIZES LIBERTARIAN GROUP, REVERSES STUDENT GOVERNMENT DISCRIMINATION

• WICHITA, KANSAS •

An embattled student group at Wichita State University is finally free to engage in on-campus activism as a registered student organization. On April 12, the Supreme Court of the Wichita State University Student Government overturned the Student Government Association’s unconstitutional decision to deny recognition to Young Americans for Liberty, a libertarian student group, because of the group’s belief in First Amendment principles.

The unanimous decision by the SGA’s judicial branch came less than a week after FIRE wrote to Wichita State President John Bardo to demand that he immediately reverse the SGA’s decision. FIRE asked Bardo to instruct the student government that it cannot engage in viewpoint-based discrimination against prospective student groups.

In the wake of FIRE’s letter, Wichita State Vice President for Student Affairs Teri Hall filed a complaint with the SGA’s Supreme Court and argued to the SGA that “[b]y not passing that resolution, you violated everything you’re supposed to stand for as Student Government. You talk about not discriminating, and you discriminated against [YAL].”

“We are pleased that the Supreme Court of the Wichita State University Student Government did the right thing and reversed the student government’s unconstitutional viewpoint discrimination,” said Ari Cohn, Director of FIRE’s Individual Rights Defense Program. “Hopefully, the senate learned the lesson that



WICHITA STATE UNIVERSITY STUDENTS PARTICIPATE IN A FREE SPEECH EVENT

it cannot unilaterally violate the Constitution without being held accountable.”

On April 5, the SGA Senate considered student Maria Church’s application to form a campus chapter of YAL, which has more than 900 campus chapters nationwide. During the meeting, SGA senators questioned Church about the prospective organization’s political positions, the issues on which it would focus, its affiliations with YAL chapters on other campuses, and the group’s views on the First Amendment.

“Hopefully, the senate learned the lesson that it cannot unilaterally violate the Constitution without being held accountable.”

ARI COHN, DIRECTOR OF FIRES’S INDIVIDUAL RIGHTS DEFENSE PROGRAM

After Church left the meeting, the senators debated whether to approve YAL’s application. Several senators opposed recognizing the group because of its stance on free speech issues and because YAL chapters at other schools have invited controversial speakers to campus. Following the debate, the SGA Senate voted against recognizing YAL.

In an April 7 letter to Bardo, FIRE wrote that the SGA’s decision directly conflicts with longstanding First Amendment jurisprudence. FIRE noted that when a public university delegates its authority over student organizations to a student government, it is

obligated to ensure that its agent does not violate the constitutional principles that bind the public university.

In overturning the SGA’s decision to not recognize YAL, the SGA’s Supreme Court held that “[t]he reasoning of the Senate to not recognize a local student organization for alleged actions of other national members of the organization does not give the Senate the power or jurisdiction to deny them RSO status.”

“While the student politicians who voted against this are standing their ground, we’ve had people from all political persuasions reach out to us offering support,” said Church. “We are encouraged by this small win, but there is still work to be done.”

“While the student politicians who voted against this are standing their ground, we’ve had people from all political persuasions reach out to us offering support.”

MARIA CHURCH, WICHITA STATE UNIVERSITY STUDENT



COLORADO PASSES BIPARTISAN BILL TO STRIKE DOWN SPEECH RESTRICTIONS ON CAMPUS

• DENVER, COLORADO •



COLORADO STATE CAPITOL

On April 4, Colorado Gov. John Hickenlooper signed a bill that will prevent Colorado’s public colleges and universities from quarantining students’ expressive activities into tiny, misleadingly labelled “free speech zones.” FIRE was joined by the ACLU of Colorado in lobbying for the bill, which passed the Colorado General Assembly with bipartisan support.

Senate Bill 17-062 was sponsored by Sen. Tim Neville, co-sponsored by Reps. Jeff Bridges and Stephen Humphrey, and strongly supported by Rep. Dave Williams. Under the law, any lawful student speech in the open, outdoor areas of Colorado’s public campuses may now be subject only to reasonable, content- and viewpoint-neutral time, place, and manner restrictions that are narrowly tailored in furtherance of a significant institutional interest.

“Everyone loses when colleges implement unconstitutional free speech zones,” said FIRE Legislative and Policy Director Joe Cohn. “Students lose their First Amendment rights, colleges lose lawsuits, and taxpayers are left on the hook to pay legal bills. With the passage of this bill, Coloradans will no longer bear the high costs of quarantining constitutional rights into unconstitutional free speech zones.”

Eliminating free speech zone policies is one of FIRE’s top priorities because they are used to stifle campus expression from across the political spectrum. Throughout the country, free speech zones like those prohibited under this new law have been used to prevent students from distributing literature promoting a vegan diet, to stop students from protesting the National

Security Agency and gun restrictions, and even to prohibit students from distributing copies of the U.S. Constitution.

FIRE has found that roughly one in 10 colleges maintain free speech zones. Even more require students to obtain permission before engaging in free speech activities like circulating petitions or distributing literature outdoors.

“This new law will finally allow students of diverse backgrounds here in Colorado the ability to truly engage in the free flow of ideas.”

REP. DAVE WILLIAMS, SUPPORTER OF SB17-062

Public institutions in Colorado are included among the schools with restrictive speech policies; of the nine public Colorado colleges and universities that FIRE includes in its Spotlight on Speech Codes report, five had policies that impermissibly restrict students’ right to protest and demonstrate at the time of the law’s passage.

“I introduced this bill because the rights of students to express themselves on campus were being restricted by policies that unacceptably required students to get permission before publicly assembling or distributing literature and by policies that quarantined students so they could

only exercise their rights on some parts of their campuses,” said Sen. Neville, the bill’s author. “Now that the Governor has signed this legislation into law, free expression on campus can thrive.”

“This new law will finally allow students of diverse backgrounds here in Colorado the ability to truly engage in the free flow of ideas,” said Rep. Williams.

With FIRE’s support, legislation similar to S.B. 17-062 has passed with overwhelming bipartisan support in Virginia, Missouri, and Arizona. 🇺🇸



SEN. TIM NEVILLE, REP. JEFF BRIDGES, REP. STEPHEN HUMPHREY, SPONSORS OF SB17-062





“This fight is about a student’s right to engage in free thinking and debate while attending college in America.”

KEVIN SHAW, MILLION VOICES CAMPAIGN PLAINTIFF



COVER STORY

FIRE FILES FIRST LAWSUIT IN NATIONWIDE 'MILLION VOICES CAMPAIGN'

• PHILADELPHIA, PENNSYLVANIA •

The U.S. Constitution prohibits public colleges from quarantining free speech, but that's exactly what the 150,000 students of the Los Angeles Community College District endure when they wish to exercise their First Amendment rights.

On March 28, Los Angeles Pierce College student Kevin Shaw filed a lawsuit challenging Pierce College and LACCD policies that restrict student free speech rights to tiny "free speech zones." Pierce College is one of nine schools in the LACCD, which serves over 150,000 students and is the largest community college district in the United States.

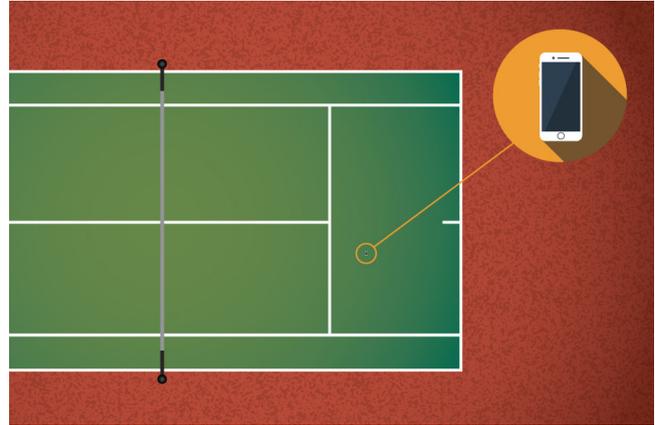
Shaw's lawsuit is the first in FIRE's new Million Voices Campaign, which aims to free the voices of 1 million students by striking down unconstitutional speech codes across the country.

"Students like Kevin go to college to learn and grow in conversation with their peers, but a free speech quarantine like Pierce's threatens to punish students who speak their minds in the wrong place," said FIRE Director of Litigation Marieke Tuthill Beck-Coon. "The law is clear: Public colleges like Pierce can't force students into tiny slices of campus to exercise their First Amendment rights."

In November 2016, Shaw attempted to distribute Spanish-language copies of the U.S. Constitution and recruit new members for his student group, Young Americans for Liberty, along the main public walkway through the heart of Pierce College.

As he prepared to distribute copies of the Constitution, he was approached by a Pierce administrator who told him that he could not distribute literature outside the campus free speech zone, a tiny area on campus measuring approximately 616 square feet and comprising about .003 percent of the total area of Pierce College's 426-acre

campus. For perspective, if Pierce College were the size of a tennis court, the area where students are allowed to exercise their constitutional rights would be smaller than a standard iPhone.



REPRESENTATION OF PIERCE COLLEGE'S FREE SPEECH ZONE

Shaw was told he must fill out a permit application to use the free speech zone. He was also informed that he would be asked to leave campus if he refused to comply.

"When I attempted to hand out copies of the Constitution that day, my only intention was to get students thinking about our founding principles and to inspire discussion of liberty and free speech," said Shaw. "I had no idea I would be called upon to defend those very ideals against Pierce's unconstitutional campus policies. This fight is about a student's right to engage in free thinking and debate while attending college in America."

The lawsuit was filed in partnership with Arthur Willner, a partner at Leader & Berkon LLP, who is co-counsel with FIRE in the case. In addition to challenging Pierce College's unconstitutional free speech zone and permit requirement, the lawsuit also challenges an LACCD policy that requires the president of each LACCD college to designate at least one free speech zone on their campus.

"At the very moment when colleges and universities should be encouraging open debate and the active exchange of ideas, Pierce College instead sends the message to its students that free speech is suspect and should be ever more tightly controlled," said Willner. "This does a disservice to the student body, as well as being contrary to long-established law."

If you are a student who has been censored on campus, FIRE and its Legal Network partners stand ready to protect your First Amendment rights in court. Students interested in submitting their case to FIRE's Million Voices Campaign can do so through FIRE's online case submission form. Attorneys interested in joining FIRE's Legal Network can apply on FIRE's website: thefire.org.



FIRE TESTIFIES BEFORE CONGRESS TO ASK FOR STRONGER CAMPUS FREE SPEECH PROTECTIONS

• WASHINGTON, DC •

FIRE President and CEO Greg Lukianoff testified on Capitol Hill on April 4 about the most alarming First Amendment violations we see in our work defending campus liberties. He provided guidance to the House Judiciary Committee’s Subcommittee on the Constitution and Civil Justice on how Congress can help rectify those violations.

Greg’s testimony highlighted FIRE’s Pierce College lawsuit and how speech codes, including “free speech zones,” stifle expression on campus.

“While many speech codes are absurd, fighting them — even at colleges bound by the First Amendment — has required more than 60 lawsuits since 1989,” said Greg. “And all of the 56 suits that have concluded have resulted in either a speech-protective court decision or the repeal of the speech code. The money and time public campuses waste defending these manifestly unconstitutional codes in court is a national scandal. Campuses should not have to be forced to respect students’ First Amendment rights.”

His testimony also mentioned federal government overreach in Title IX enforcement, the proliferation of “bias response teams” that police protected speech on campus, and growing demands from students, faculty members, and administrators to banish — or “disinvite” — controversial speakers from college campuses.

“The dangers posed by the disinvitation phenomenon are clear,” said Greg in his written testimony. “In refusing to hear out a speaker with whom they disagree — oftentimes on a topic unrelated to their planned remarks — students hinder their intellectual development. Learning how to think critically, grapple with opposing viewpoints, and formulate arguments supporting one’s position is crucial to the enterprise of higher education, and illiberal demands to banish speakers from campus due to disagreement with their views are an unfortunate sign that our colleges and universities are not doing enough to instill that foundational concept in students.”

“While many speech codes are absurd, fighting them — even at colleges bound by the First Amendment — has required more than 60 lawsuits since 1989.”

GREG LUKIANOFF, FIRE PRESIDENT AND CEO

Greg mentioned that with at least 11 disinvitation attempts reported as of his testimony, the pace of disinvitation attempts

in 2017 threatens to break last year’s record. FIRE recorded 43 campus disinvitations or disinvitation attempts in 2016.

Greg urged the committee to demand accountability from public colleges and universities in their respective states and to pass legislation like the Campus Free Expression (CAFE) Act, the New Voices Act, and the Campus Anti-Harassment Act — all of which would further codify campus speech protections.

FIRE’s president and CEO was one of four notable witnesses invited to weigh in before the subcommittee. Also testifying at the hearing were Vanderbilt law professor and Newseum Institute First Amendment Center Ombudsman David Hudson, First Liberty Institute Senior Counsel & Director of Strategic Affairs Ken Klukowski, and Ethics and Public Policy Center Senior Fellow Stanley Kurtz.



GREG LUKIANOFF, TESTIFYING ON CAPITOL HILL

RECENT HEADLINES FROM ‘NEWSDESK’

- Chronicle of Higher Education profiles ‘Free-Speech Warriors’ at FIRE
- Santa Clara University protects student free speech with one hand, censors with the other
- Violent Middlebury protesters injure professor, force invited speaker to flee lecture hall
- ‘So to Speak’ podcast: How Daryl Davis, a black man, defeats the Ku Klux Klan with open dialogue



FIRE IN THE NEW YORK DAILY NEWS: THE COLLEGE SPEECH PROBLEM GETS WORSE

• NEW YORK, NEW YORK •

A version of this article by FIRE Vice President of Policy Research Samantha Harris originally appeared in the New York Daily News on March 25.

Feminist film professor Laura Kipnis is controversial because she believes, among other things, that I have a right to exist. You see, I am the product of a professor-student relationship (turned 40-plus year marriage) – something that is highly controversial on campus these days because of the perceived power imbalances between faculty and students.

For countenancing such relationships and for criticizing other aspects of what she calls “sexual paranoia” on campus, Kipnis, a liberal feminist, has become a polarizing figure. Her opinions are apparently considered so outlandish that a group of six Wellesley College professors responded to her campus appearance by proposing new guidelines for speaker selection.

Their claim: Speakers like Kipnis unfairly “impose” on students by forcing them to spend time engaging with ideas they disagree with.

The horror!

Kipnis, a communications professor at Northwestern University, first made headlines in 2015, when she published an essay entitled “Sexual Paranoia Strikes Academe” in The Chronicle of Higher Education.

Two students filed Title IX sex-discrimination complaints against Kipnis over her article,



TOWER COURT, WELLESLEY COLLEGE

which mentioned some already-public details about sexual harassment investigations at Northwestern. For this, Northwestern subjected her to a lengthy investigation until she publicly exposed her treatment in a second essay entitled “My Title IX Inquisition,” at which point they quickly cleared her of any wrongdoing.

The CERE faculty argued that because of their “controversial and objectionable beliefs,” speakers like Kipnis inappropriately “impose on the liberty of students, staff, and faculty at Wellesley.”

Kipnis, who spoke at Wellesley on March 8, is no Milo Yiannopoulos. But you wouldn’t know that from the reaction of the faculty on Wellesley’s Commission for Ethnicity, Race and Equity, who emailed the college’s faculty listserv shortly after Kipnis spoke on campus with a statement regarding her visit and its aftermath.

The CERE faculty argued that because of their “controversial and objectionable beliefs,” speakers like Kipnis inappropriately “impose on the liberty of students, staff, and faculty at Wellesley.” They lamented the fact that students have to “invest time and energy in

rebutting the speakers’ arguments,” though nobody was forced to attend her speech.

How can someone believe they are educating the next generation of leaders while simultaneously believing that it is an unfairly heavy burden on them for a frank discussion of the changing nature of gender relations and sexual politics to take place in their same general geographic area?

The CERE faculty’s first recommendation for improving the speaker selection process is, unsurprisingly, to appoint themselves as arbiters of who can speak, noting that they are “happy to serve as a sounding board” and help hosts “think through the various implications of extending an invitation.”

To this, the Wellesley community should say “Thanks, but no thanks.” Wellesley students themselves did an admirable job of engaging with Kipnis. And yet these students are being educated by people who believe their job is to protect them from the “distress” and “harm” of challenging ideas.

It’s simply astounding. ❄



LAURA KIPNIS, FEMINIST FILM PROFESSOR



FIRE'S 10 WORST COLLEGES FOR FREE SPEECH: 2017

• PHILADELPHIA, PENNSYLVANIA •

More than 92 percent of American colleges maintain speech codes that either clearly restrict – or could too easily be used to restrict – free speech. Each year, FIRE takes a closer look at campus censorship to identify America's 10 worst colleges for free speech.

The 2017 list of the 10 worst colleges for free speech – published on Feb. 22 in The Huffington Post – includes both public and private institutions. Public colleges and universities are bound by the First Amendment. Private colleges are not required by the Constitution to respect student and faculty speech rights, but the schools on this list promise to do so. This year's list includes:

- Northern Michigan University
- California State University, Los Angeles
- Fordham University
- University of Oregon
- California State University, Long Beach
- Harvard University
- University of South Carolina
- Williams College
- Georgetown University
- DePaul University

Among the institutions on FIRE's annual "worst of the worst" list are a prestigious institution whose law school told a group of Bernie Sanders supporters they could not engage in partisan political speech on campus; a public university that threatened students with disciplinary action for discussing their own mental health; and one school that closed the curtain on a scheduled play about diversity because the administration feared it would be too controversial.

"Colleges continue to find excuses for censoring speech on campus," said FIRE President and CEO Greg Lukianoff. "This list shows that any expression – even expression as innocuous as a chalk message for a political candidate or a discussion of one's own health – is seen by some colleges as fair game for suppression. This type of censorship is not only unhealthy for institutions where debate

and discussion should be paramount, but it is also dangerous for a free society." 🗣️



STUDENT UNION, CALIFORNIA STATE UNIVERSITY, LOS ANGELES



KEATING HALL, FORDHAM UNIVERSITY

ANNOUNCING FIRE'S 2017 STUDENT NETWORK CONFERENCE IN PHILADELPHIA

We are thrilled to announce that our annual FIRE Student Network Conference will take place this year from July 14-16 in Philadelphia at the National Constitution Center.

FIRE's annual conference is a weekend-long workshop designed to teach students about their rights on campus – and provide the tools to assert and defend them. Our conference will bring together 100 college students from around the country and from across the ideological spectrum who share a passion for free speech and due process.

The conference will feature keynote speeches by Jeffrey Rosen, president and CEO of the National Constitution Center, and Daryl Davis, a professional musician and the subject of a newly released

PBS documentary called "Accidental Courtesy: Daryl Davis, Race & America." Davis was recently featured on FIRE's "So to Speak: The Free Speech Podcast" to discuss how he, a black man, uses dialogue to defeat the Ku Klux Klan.

The conference will open with a reception on Friday afternoon and close with lunch on Sunday. It is free to attend and open to current students at U.S. colleges and universities, including graduate students and incoming freshmen. Housing and meals will be provided. Travel reimbursement for up to \$300 per student will be available to help students travel to and from Philadelphia.

For more information, visit thefire.org/conference. 🗣️



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