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Civility and Free Speech:  
Are They Incompatible?

By

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In the first month of the fall semester, we have seen a growing activist spirit on many campuses, including our own, prompted by a wide array of local, national and international issues. Our University's financial contributions to the surrounding community, racial profiling and the "militarization" of police forces in the wake of events in Ferguson, Missouri, as well as escalating tensions in the Middle East are among the concerns that have prompted action by members of our campus community. One of the overriding issues of concern is the limits of free speech and the relationship between free speech and civility.

With very few exceptions, rallies, protests and other public events, as well as individual speech and writing intended to highlight the concerns mentioned above and others, are important, desired and expected features of our campus climate, and I commend everyone involved for

allowing us to learn from each other while confronting important and difficult issues. But what of civility?

Civility is an important value in a university community and a community at large and one that we at Cornell must strive to maintain. However, as events on other campuses last spring and again this fall have shown, calls for civility in dealing with highly charged issues can be perceived as veiled assaults on free speech, which is also an essential university value and one deeply tied to academic freedom. Are these cherished principles of civility and free speech potentially antithetical? How can we reconcile them? Is there a bright line we must not cross?

It has been a fundamental precept of American law, reinforced by U.S. Supreme court decisions, that odious, offensive or hateful speech is nonetheless protected speech. For this reason, hate speech codes at public universities that prohibited and punished persons for offensive speech that "stigmatizes" persons as a group on the basis of their race, national origin, sex or sexual orientation have been struck down as unconstitutional.

By contrast, disciplinary codes that focus narrowly on behavior or conduct that is threatening or harassing to individuals— such as our

own [Campus Code of Conduct](#)—are consistent with First Amendment principles, and prudent to have as a policy matter.

As our Campus Code, notes “In a university community, as in society as a whole, freedom of speech cannot be absolute. Speech that is libelous, or that incites a crowd to riot, deserves no protection. Perhaps no one, in real life, has ever falsely shouted ‘Fire!’ in a crowded theater, but surely no one has a right to do so. Within such commonly accepted limits, however, freedom of speech should be the paramount value in a university community. Because it is a special kind of community, whose purpose is the discovery of truth through the practice of free inquiry, a university has an essential dependence on a commitment to the values of unintimidated speech. To curb speech on the grounds that an invited speaker is noxious, that a cause is evil, or that such ideas will offend some listeners is therefore inconsistent with a university’s purpose.”

[Article III A 2]

The Campus Code similarly recognizes that reasonable time, place and manner restrictions are appropriate to balance the right of free speech with other protected interests [Article III B 1]. This topic, controversial

to some on campus, presently is the subject of discussion and review by the University Assembly.

Those who object to a speaker, as the Campus Code explains, also have rights to make their own position known by a variety of methods as long as they do not interfere with the speaker's right to be heard or the right of others to listen. And, of course, they are free to organize their own events to offer alternate points of view.

In the interest of providing for the safety of all in our community, we cannot and must not tolerate speech that is harassing or threatening to individuals or that incites others to commit violent acts. As long as that line is not crossed, however, we must let free speech happen and, in fact, foster it. The antidote to odious, offensive or hateful speech must be more speech, not less speech. It remains the place of the University to encourage open and free expression, even about topics that generate strong feelings and even when the views being expressed may be seen by some as upsetting or offensive.

As the semester moves forward, there are likely to be occasions where what seems like a bright line in principle becomes a murky line in practice as we confront potentially divisive issues that affect faculty,

students, or staff or that relate to the challenges confronting our campus and the wider world. I call on our shared governance groups to talk about these issues and help us live collectively in ways that promote constructive dialogue and foster greater understanding.

--David J. Skorton