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CIVILITY AND ACADEMIC FREEDOM

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I. Introduction

This paper is intended to provide a foundation for further discussion and debate at the plenary panel on “Civility and Academic Freedom” at the National Center’s annual conference on April 20, 2015. The discussion, below, sets forth a structure for evaluating university policies seeking to promote “civility” in faculty and student discourse. In particular, this paper evaluates the asserted justifications for civility-related policies and their implications for academic freedom. The paper provides, as well, a list of AAUP materials useful for considering the academic freedom implications of civility-related policies in universities.

Proposals for policies that promote “civility” in various forms in universities and colleges affect speech and expression, with serious implications for academic freedom. Some policies are explicit in using the term “civility” and others use related concepts in policies and regulations, including: civility codes; speech codes; trigger warnings; anti-harassment policies; social media policies; free speech zones; and permits for protests and other forms of collective expression. Creation and enforcement of such university policies affect multiple types of relationships: administration-faculty, faculty-faculty, faculty-student, student-student, and administration-student relationships. All of these
policies affect the speech of faculty and students, with some directed at speech and expression taking place within certain relations more than others. For example, campus speech codes may particularly affect faculty-student and student-student relationships. “Trigger warnings” affect faculty-student relations. Where civility issues are raised as being relevant to employment decisions, the faculty-faculty relationship and administration-faculty relationship are particularly affected.

II. Evaluating Justifications for Civility-Related Policies

Justifications given for university policies promoting civility fall into several categories:

1. To protect vulnerable individuals and groups from harm.
2. To create a welcoming and safe environment for learning and living on campus.
3. To promote calm and reasoned discourse as the most productive form of discussion and debate.

The following discussion presents a brief critique of these justifications for civility-related policies and their implications for academic freedom:

A. Protecting vulnerable individuals and groups from harm.

This justification for policies such as campus speech codes and trigger warnings shifts the focus of higher education away from enhancing rights of expression and toward protecting individuals and groups from speech. The faculty and the university, more generally, are placed in the role of buffering students from the direct impact of disturbing speech, ideas, and images. Words, images, and ideas become something to be feared

Civility in discourse may be desirable in many situations and there are multiple ways to encourage civility and respect. This is quite different, however, from regulations restricting speech in the name of civility or from using a standard of civility to evaluate academic or professional performance. It should be noted, as well, that faculty, students, administrators, and others may respond through individual and collective expression to speech that they find inaccurate, objectionable, or offensive. This is part of the power of the public domain of speech, discussion, debate and protest.

**B. Creating a welcoming and safe environment for learning and living on campus.**

Similar to the justification of protecting vulnerable individuals and groups, the emphasis on comfort and safety seeks to create an environment that shields the university from the disturbing nature of speech and ideas. This affects academic freedom inside and outside the classroom. Policies such as speech codes, civility codes, social media policies, trigger warnings, and overly broad harassment provisions will likely promote self-censorship by faculty and students. There are multiple measures that universities can take to create a positive environment for living and learning on campuses. Civility-

C. Promoting calm and reasoned discourse as the most productive form of discussion and debate.

This justification views emotion and reason as being in opposition. Civility-related policies devalue and disfavor passionate, angry, and offensive speech and as discussed above, seek to protect individuals and groups from the effects of such expression. Favoring “calm” discourse has serious implications for academic freedom. Civility-related policies focus on the tone of speech, which deflects attention from engaging with the content of the speech. At the same time, equating calm with reason devalues the positive function of passion, anger, and confrontational speech in presenting well supported, well-reasoned, and persuasive arguments. Privileging calm and polite discourse discourages dissent and limits the potential for speech to lead to institutional and social change. Thus, civility-related policies favor the status quo, since social change often requires vociferous, loud and impassioned speech by individuals that can inspire others to engage in collective action. (see, On Freedom of Expression and Campus

III. Enforcement of Civility-Related Policies

University adoption of civility-related policies reinforces the power of university administrators to restrict speech and academic freedom. The university administration acting as censor encourages or coerces self-censorship by faculty and students, particularly where failing to engage in self-censorship can lead to disciplinary enforcement of civility-related policies. For faculty, enforcement can lead to discipline through employment actions. For students, enforcement can lead to changes in academic status.

A focus on “civility” diverts attention from the university’s central role to fulfill its public mission by encouraging risk-taking in teaching, research, university governance, and public speech. The failure to engage in risky speech restricts the university, faculty, and students’ ability to teach, learn, and grow. Adopting civility-related policies transforms the university into an institution that “manages” dissent rather than creating conditions for enhancing dissent and debate. In the oft-quoted words of the U.S. Supreme Court:

The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation…. Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise, our civilization will stagnate and die. *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957)
AAUP materials relevant to “Civility and Academic Freedom”

Civility, http://aaup.org/issues/civility


1915 Declaration of Principles on Academic Freedom and Academic Tenure.


Rudy H. Fichtenbaum, “From the President: Civility,” http://aaup.org/article/president-civility


