

The Free Expression Myth on America's Campuses

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April 21, 2008
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I'd like to thank the Political Science Department and the Journalism Minor, in particular David Hendrickson, for inviting me here tonight.

Colorado College finds itself at a moment of great opportunity. The college has this opportunity because, as you know, it has become the object of media attention over a controversy involving a flyer called "The Monthly Bag." The flyer was a completely nonviolent parody of another flyer called "The Monthly Rag." But the flyer was taken down, and its authors were subjected to a three-hour trial, sanctioned, and punished for violence. But Colorado College still has the opportunity to do justice in this case. Will CC stand tall and declare that free expression is one of the best traditions of this great liberal arts college? Or will CC fall short and declare that free expression is just a myth on this campus?

All too often, colleges in America promise free expression, but a lot of them don't really mean it. Liberal arts colleges promise that they are liberal, tolerant, free, and open equally to everyone of every kind and every belief. Students rely on those promises when they choose a liberal arts college like CC rather than, for instance, a religious school like Colorado Christian University. They rely on promises like CC's promise that "no idea can be banned or forbidden. No viewpoint or message may be deemed so hateful that it may not be expressed."¹

At Colorado Christian, members of the community are bound to a [Statement of Faith](#) and to [Lifestyle Expectations](#) that are based explicitly on the Christian Bible. But at a secular liberal arts college, all ideas are tolerated. At Colorado College, there's no orthodoxy on any controversial matter, or is there? There's no creed or credo, is there?

It turns out that on one liberal arts campus after another, there is an orthodoxy after all, and the promise of free expression on those campuses is just a myth. As you know, I work at the Foundation for Individual Rights in Education. You can find countless examples of what I mean by going to our website, <http://www.thefire.org>. Let me give you some recent examples.

¹ This statement appears, I believe without attribution, in CC's "Diversity and Anti-Discrimination Policy," though it is lifted almost verbatim from [a statement](#) of the American Association of University Professors on academic freedom.

Since this is Earth Week, I will start with the case of an environmentalist whom FIRE is defending.

- In Georgia, a student was protesting the construction of new parking garages on campus because he thought the garages would encourage more driving of cars and would produce more greenhouse gases. The university's president [expelled](#) him, notifying him by placing a note under his door. The note said that the student was expelled for being "a clear and present danger" to the campus.
- At [Brandeis University](#), a professor of 47 years had a monitor placed in his classes after he explained how the term "wetbacks" has been used as a derogatory term. A student complained, and the professor was found guilty of racial discrimination and harassment.
- In Indiana, a student-employee was found guilty of racial harassment for [reading a book](#). The book, *Notre Dame vs. the Klan*, is about the defeat of the Klan by Notre Dame students during a riot, but since the cover art shows burning crosses, a coworker complained.
- At [San Francisco State University](#), the College Republicans hosted an anti-terrorism rally at which they stepped on makeshift Hezbollah and Hamas flags. After other students complained that they were offended, the school investigated the College Republicans for incitement, creation of a hostile environment, and incivility.
- In St. Louis, a student was placed on probation and [banned from emailing](#) his classmates after he emailed his fellow students about dropping a course and retaking it with a different professor.
- At the [University of Delaware](#), resident assistants were required to report on students for "Any instance that is perceived by those involved as being racist, sexist, anti-Semitic, homophobic, or otherwise oppressive." Such language required immediate notification of the authorities, day or night, at the same level of urgency as a fire, drug overdose, or sexual assault.
- At Tufts, a student publication was found [guilty of racial harassment](#) for its parody of affirmative action and for publishing uncomplimentary facts about radical Islam.
- In California, an improvisational comedy troupe was [punished](#) for posting innocent promotional flyers that some faculty members interpreted as racist because it reminded them of racial stereotypes from generations past.
- Finally, the [University of California](#) withdrew its speaking invitation to former Harvard president Lawrence H. Summers after a professor complained that Summers "has come to symbolize gender and racial prejudice in academia." No matter that Summers himself has been the victim.

Summers was made a victim after he offered some reasons why women are underrepresented at the highest levels of science. He said that discrimination was likely to be a factor. He added that women may choose the difficult lifestyle of a world-class scientist less often than men do because women and men may value different things in their lives. He also made the biological argument that women tend to have less variability than men, which means that at both the very top and very bottom of the science scale, we are likely to see more men than women even in the absence of discrimination and different life choices. Simply for offering these very reasonable possibilities, Summers was made out as a villain and an enemy of gender equality.

Examples like these occur at public research universities and private liberal arts colleges alike, all over the country. The public schools are legally bound by the First Amendment and morally bound to respect free expression. The private schools, like Colorado College, are not just morally bound but also legally bound to honor their promises of free expression, because those promises are part of the contracts between students and their colleges.

When I say that schools are morally bound to defend free expression, I know that Colorado College, on the whole, agrees with me. Again I quote from CC's Diversity and Anti-Discrimination Policy: "On a campus that is free and open, no idea can be banned or forbidden."

Now, the good news in almost all of these cases is that when the free expression myth is exposed, the school almost always restores the fundamental rights of students and professors. The school will not dare to do in public what it has tried to get away with in private. No school has ever responded to a letter from FIRE by saying, "Oh, you're right, we didn't mean to promise free speech after all. We're now revising our handbook and our mission statement to get rid of all that free speech stuff." No, instead the school reasserts its deep commitment to freedom of expression and does the right thing.

Colorado College now has the opportunity of doing the right thing. And FIRE would love to be able to report that justice has been restored at Colorado College.

But first, let me pose a question: what causes all of these cases of oppression against speech on college campuses? Liberal arts colleges in the United States of America should be the most free institutions on earth. College should be a place where everyone's deepest and most cherished assumptions are challenged. If not, if you never feel offended, you should ask for your money back. College is a place where intelligent, thoughtful people should be willing to debate everything from every angle, and college creates a space where most students actually have the leisure to think carefully and deeply.

At the University of Chicago, where I did my graduate work, being offended in class is practically a tradition. In recent generations it was not uncommon for students to burst into tears during class because the professor had challenged them so thoroughly. And I think that afterward, they appreciated that such a deep challenge had occurred.

So, why all the oppression at colleges today? Let me offer three reasons. First, some people simply have not been educated or empowered to know how to react responsibly when they feel offended. Second, some people intend to act responsibly but make a fundamental mistake in their response. Third, some people intend to act responsibly and know very well what they are doing when they repress expression on a college campus.

First, those who don't really know how to react responsibly when they feel offended. Some of these people steal newspapers or tear down posters or start a fight. These are vigilantes who want to take matters into their own hands. Actually, they have it half right. Indeed the best response to speech you find offensive is to confront it. But don't confront it with force. Confront it with speech of your own.

Some people might say that they don't feel empowered to do that. They blame something like the "campus climate" or their own histories of feeling oppressed. But if the Feminist and Gender Studies Interns are empowered to express themselves on campus, you can be empowered, too. Empowerment resources are all over campus—find them and use them to gain your voice. If you feel so weak that you just can't handle a parody like "The Monthly Bag," you really need to use some of those resources.

Second, those who intend to act responsibly but make a fundamental mistake in their response. Their mistake is that they rely on the power of the college to enforce social norms, norms that the campus community should be enforcing organically. At a liberal arts college, reasonable people disagree all the time about a wide variety of moral norms. We debate moral norms all the time. What's offensive to me may or may not be offensive to you. But I quote again: "on a campus that is free and open, no idea can be banned or forbidden. No viewpoint or message may be deemed so hateful that it may not be expressed." Liberal arts colleges across the country say that free expression is not just one of their highest values; free expression is a non-negotiable value.

If you express yourself in the free and open marketplace of ideas, you take a risk. You risk being shown to be wrong or misinformed or laughable. You might lose your friends. You might lose your job. But you should be able to count on the power of the college to permit you to take that risk. College is a good place to learn the difference between what you are allowed to say as a matter of principle and what you shouldn't say as a matter of practice. At the same time, college is a great place to build some backbone and to learn how to stand tall for what you believe in, even in the face of parody or severe criticism.

But those who make a fundamental mistake in their response are those who call on the power of the college to punish rather than to let social consequences run their course.

Third, those who intend to act responsibly and know very well what they are doing when they repress expression on a college campus. These people are not content to let social consequences run their course. Instead, they want to remake social conditions in their own image. They want to control the campus, and they know it. They have good intentions, for their goal is to change society for the better.

So, why do they repress speech in the name of the good society? The answer is that they are true believers, sure that they know the difference between good and bad, noble and base. They are evangelists on behalf of the idea that by changing what people say, one can change what people believe. For example, they promote gender-neutral language because they believe that gender-neutral language promotes gender equality, or they ban gender stereotypes and allegedly sexist language because they want to protect women from feeling objectified. (I encourage everyone to read [Professor Roberts's study](#) on this topic, published in 2004.²) If you ask me, they have it backwards. Social change isn't that simple.

² Roberts, T-A & Gettman, J.Y. (2004). Mere exposure: Gender differences in the negative effects of priming a state of self-objectification. *Sex Roles*, 51, 17-27. See Roberts's vita at <http://faculty1.coloradocollege.edu/~psych/troberts/Roberts.v.html>.

And they take it a lot further than that. When they encounter speech that doesn't fit their ideological vision of the good society, they feel perfectly justified in stamping it out. They punish. They shame. They contain, they control, they purify. They force the alleged perpetrators to endure a shaming session so that everyone on campus knows what will happen to them if these people are crossed. It is ruthless. It is often bitter. And it chills expression across the campus.³ Everyone knows what happened to the Coalition of Some Dudes, and it will happen again unless students and faculty come together to stand up for their rights.

And the result of censorship is often just the opposite of what the censors intend. When they ban the language that a sexist pig wants to use, when they throw the alleged pig out of the marketplace of ideas, the pig doesn't change his mind; he (or she) just goes back to the pigpen and hangs out with the other pigs. They have artificially sanitized the public space, but they haven't really improved society. Instead, they have harmed it. They have impoverished the social discourse and revealed their own intolerance.

Or, let me put it another way. If you banish anti-feminist ideas from the Feminist and Gender Studies program, you end up with a self-contained, self-marginalized group of people preaching to the converted. The people who really need to hear your message, from your point of view, have gone elsewhere. They are becoming doctors or economists, the leading men and women of society, and you have failed to engage them in dialogue.

There is a better way to address the issue of sexist language if you believe it is a problem. Again I refer you to Professor Roberts's own 2004 study. She reports that education and empowerment, not repression, are the proper responses.⁴

Again, Colorado College still has a great opportunity to do the right thing. In the case of "The Monthly Bag," the authors took a risk. They risked social sanctions in case they offended someone with their parody. But they also relied on CC's written promise not to officially punish them for their innocent speech. The three-hour hearing they had to endure for putting up a poster is a black mark in the history of this college. That mark can be erased if the students are found innocent, and that black mark will become a gold star if this event leads the college to revamp its policies so that this will never happen again.

I would be somewhat sympathetic to the censors if their rationales had been consistent or if there had been a real threat of violence in the flyer. Certainly, the authors juxtaposed weaponry and sexuality, and they identified themselves only as "The Coalition of Some Dudes." But that's nothing at all like a threat of violence. The flyer was obviously a parody and obviously completely benign. Again, if any person felt threatened, that's their problem for being oversensitive. There is a world of difference between *feeling* threatened and *being* threatened. A

³ I only have to mention how some on campus have treated the ideas in the mandatory [Hattie Hill](#) sessions, and many at CC will know what I mean.

⁴ Specifically: "Bargh (1989) and Wegner (1994) have each proposed that there are three steps to controlling automatic behavioral or attitudinal responses [in other words, three ways of helping women understand that they do not have to feel objectified when they encounter alleged language of objectification]: (1) awareness of the influence of the possibility of influence, (2) motivation to control the influence and response, and (3) the mental capacity to engage in the control process. These steps, they argue, enable individuals to gain conscious control over ambiguous influences."

subjective standard of threat cannot be maintained in a free society or a free campus. Even the [Office of Civil Rights](#) of the U.S. Department of Education has insisted that nothing in the law on harassment is intended to limit the Constitutional guarantee of freedom of expression.

Anyway, the real crime for which the Dudes were punished, as everyone who has followed the case knows, was not at all about violence. They were punished because they caused offense. That's what the three-hour hearing was all about, and that's what most of the campus dialogue I've seen has been about. It is shameful to invoke the Virginia Tech and Northern Illinois University tragedies in this case, as some on this campus have done. Invoking a true tragedy in this case belittles those victims. Playing the rape card in this case trivializes the real victims of sexual assault. Again, the Monthly Bag was not in any way violent or threatening to any *reasonable* person.

If I were reviewing the Dudes' appeal, this would be an easy case because the path to justice is so clear and so clearly in the best interests of the college. There is a good reason why the media in Colorado Springs, in Denver, and around the country have been [all over this case](#).⁵ What has happened to the Dudes is profoundly unjust. I would find the students innocent, and I would apologize to them for the abuse they suffered during their hearing and for the college's choice to make the case a disciplinary matter. There is no shame in that President Celeste can act on the disciplinary matter and the matter of censorship as two separate matters. Celeste and everyone else on campus is free to admonish, but not to officially sanction or punish in this case. It would not be hard to reverse the finding of guilt while maintaining that the Dudes should be more thoughtful in the future.

I would do all of this immediately in order to save the college further ridicule and embarrassment. I seriously doubt that the Trustees of Colorado college are content with the way your school has been depicted in public over the past month. And I doubt the Trustees will be happy to get a packet from FIRE containing the large and growing pile of negative press. Instead, I want the Trustees to see a press release that honors Colorado College for upholding its great tradition of free expression.

It is up to President Celeste and everyone else on campus to restore the good name of Colorado College and show the world that at Colorado College, free expression is not a myth or a broken promise.

Thank you.

⁵ To date: [Star Chamber at CC](#)," Vincent Carroll, *Rocky Mountain News*, April 16, 2008; "[Joking students called on the carpet](#)," Jenel Stelton-Holtmeier, *Denver Post*, April 12, 2008; "[CC's free-speech fears](#)," Vincent Carroll, *Rocky Mountain News*, April 8, 2008; "[Flyers prompt free speech debate at Colorado College](#)," Heather Skold, *KRDO News Channel 13*, April 3, 2008; "[Satirical Flier Raises Ire](#)," Peter Marcus, *Denver Daily News*, April 3, 2008; "[Flyers spark free speech debate at CC](#)," David Tauchen, *KOAA NBC*, April 2, 2008; "[Free speech an issue at CC after satirical flier is prohibited](#)," Brian Newsome, *The Gazette*, April 1, 2008; "[Quick Takes from Inside Higher Ed: Double Standard Alleged](#)," Scott Jaschik, *Inside Higher Ed*, April 1, 2008; "[Colorado College satire causes a stir](#)," Joe Murray, *The Bulletin*, March 31, 2008; and much more.