

UW-Madison Professor Timothy Yu Statement on Regent “Freedom of Expression” Policy

I am here to express my deep concerns about the Regents’ “Freedom of Expression” policy under discussion today. In 2015, the Regents worked with UW faculty to create and adopt a strong statement of the UW System’s commitment to free speech. However, the policy under discussion today, which was developed without such consultation, is not a protection of free speech, but a measure that seeks to punish students for exercising their protected rights of protest. The new policy alarmingly focuses its energy on mandating new, harsh punishments for student protesters, punishments that go beyond those mandated for any other disciplinary infraction. Far from adding new protections for free speech, this proposed policy creates new punishments for those who exercise their free speech rights by engaging in protest, unreasonably favoring the right of visiting speakers not to be interrupted over the right of others to express their objections.

The proposed new disciplinary policies raise several concerns. First, they create a new, and worryingly ill-defined, new form of misconduct: “disrupting the free expression of others.” While the intention here is clearly to ban students from attempting to shout down or obstruct a speaker, how are we to define what is “disruptive” of someone else’s expression? Is holding up hostile signs, or booing, or chanting loudly outside the hall, “disruptive”? Is publicly criticizing a speaker “disruptive” if it causes the speaker to cancel their visit? Is arguing with a speaker disruptive? Our disciplinary policies already include a ban on “disruption of university-authorized activities,” which offers an existing, sufficient standard that does not rely upon a vague definition of “the free expression of others.”

Second, the new policy mandates suspension for a second offense and expulsion for a third--harsh punishments that are not mandated for any other kind of misconduct. Why is protesting against a visiting speaker so disturbing that it requires the harshest punishment mandated by Regents policy? The adjudication of student misconduct should remain where it currently is – at the campus level – so that appropriate action can be taken, rather than mandatory punishments. Moreover, these punishments are clearly designed to deter student activists from future protest – a form of punishment that will fall disproportionately on a small group of students. Such punishments chill speech rather than protecting it.

I fear that the most likely practical impact of this proposed policy will be not be to enhance academic freedom and free expression on campus, but, ironically, to create a “safe space” on campus for bigoted and hateful speakers by creating harsh new punishments for students who speak out against them. I urge the Regents to reconsider this policy and its potentially chilling impact on the free speech rights of students.

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