



“Protecting Freedom of Expression on Campus in the Face of Intolerant Behavior”

A Summary

The Problem:

- Campuses are being severely challenged by behavior that takes away some students’ freedom of speech and right to fully participate in campus life. This is especially so for students – both Jewish and non-Jewish – who want to express their identity as Zionists or their support for the Jewish state.
- Peer-on-peer harassment is the single biggest threat to freedom of expression on campuses today for a wide range of students, but current ideas for dealing with protecting freedom of speech (e.g. the University of Chicago statement) don’t adequately address the problem of peer-on-peer harassment.
- Even when the peer-on-peer harassment that suppresses expression meets the behavioral threshold for peer-on-peer harassment included in almost all universities’ harassment policies, it may not meet the motivational threshold stipulated by state and federal anti-discrimination law (i.e. that the perpetrator be motivated by the race, color, gender, religion, etc. of the victim), that is also included in these policies. This is especially problematic for Jewish students when the anti-Zionist harassment seems to administrators to be motivated by political rather than religious considerations.
- This inequity has created a situation where peer-on-peer harassment directed against some students, including Jewish and pro-Israel students, is ignored or down-played, while the exact same degree of harassment directed against students protected under state and federal anti-discrimination law is addressed promptly and vigorously.
- This, in turn, has led to a situation where students who are not protected under state and federal anti-discrimination law are not afforded the same rights to freedom of expression and full participation in campus life as those students who are protected under state and federal law.

Our Solution:

- University administrators should begin to see peer-on-peer harassment as behavior that suppresses free speech and the right to fully participate in campus life, instead of only seeing it as a form of identity-motivated discrimination.
- Administrators should amend university policies to include the prohibition of peer-on-peer harassment that suppresses any student’s freedom of speech, association or assembly, or unduly interferes with any student’s access to educational opportunities or benefits. Administrators should also institute procedures for enforcing these policies equitably, without regard to the motivation of the perpetrator or the identity of the victim.
- Administrators should issue a public statement assuring all students that they will be equally protected from intolerant behavior that violates their freedom of expression or their right to full participation in campus life.
- Administrators should develop educational programs to teach about the importance of freedom of expression to university life and to encourage the expression of a wide range of views in a productive and respectful manner.