

**Testimony before the United States House of Representatives  
Higher Education and Workforce Development Subcommittee of the  
House Committee on Education & the Workforce:  
“Diversity of Thought: Protecting Free Speech on College Campuses”**

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## Introduction

Colleges and universities have always been the bedrock institutions designed to equip and educate the next generation dedicated to rigorous intellectual thought and the pursuit of knowledge. Yet, despite the growing proportion of students with access to college, our institutions have become so ingrained in ideological capture that they have strayed from their essential mission to educate the next generation of leaders dedicated to our country's founding principles. It is essential that Congress take steps to ensure that college campuses maintain basic standards of free speech in order to preserve the integrity of our institutions and uphold and protect the First Amendment.

There are countless examples from college campuses across the country, where students and administrators have suppressed free speech on campuses. Recently, protestors and a high-ranking administrator at Stanford Law School prevented Judge Kyle Duncan from speaking, employing tactics contrary to the basic principle of free speech and the university's own policies. I covered this incident with my colleagues in *The Stanford Review*.<sup>1</sup> These are the institutions currently educating the next generation of world leaders, and, without a basic respect for free speech on college campuses, the integrity of both these institutions and these future leaders will slowly degrade.

Controversial speakers are routinely met with intense protests and backlash. But while protests and backlash are entirely acceptable, the suppression of free speech through violent protests, "heckler's vetoes," and other intimidation methods that shut down another's speech, are entirely unacceptable. Unfortunately, these incidents have become an all-too-common

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<sup>1</sup> Joner, Josiah, Thomas Adamo, and Walker Stewart. "Fire Tirien Steinbach." *The Stanford Review*, March 13, 2023, <https://stanfordreview.org/fire-tirien-steinbach/>.

occurrence on college campuses. They are contrary to the core principles of the Constitution, which were designed to catalyze intellectual thought and guide the pursuit of truth. Furthermore, this suppression of speech on college campuses has contributed to a culture that has destroyed intellectual debate in the classroom. For both conservative and liberal students, these attacks on free speech have created a culture of fear for sharing one's opinions.

Universities either lack the systems in place, or the willingness, to guarantee that the basic principle of free speech is respected and upheld on college campuses, and it is evident through the repeated and routine violations of free speech on college campuses. It is essential that Congress work to ensure that these campuses maintain standards of free speech in order to preserve and uphold the First Amendment. Without it, the promise of a rigorous American postsecondary education and the opportunities that follow for students, like me, will diminish as our institutions will no longer be marketplaces of ideas.

## **Incident at Stanford Law School**

On Thursday, March 9, Judge Kyle Duncan of the Fifth Circuit Court of Appeals was invited to speak at Stanford Law School by the Stanford Federalist Society.<sup>2</sup> We at *The Stanford Review* were quick to cover this incident and call on Stanford to remove the dean who actively defied the university's own policy on free speech. When other outlets may not adequately cover the whole story or discuss ideas openly, we will share the student perspective and call on the university to make needed changes. In this incident, we knew many of the law students involved

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<sup>2</sup> Aaron Sibarium. "Dogs-T': Federal Judge Decries Disruption of His Remarks by Stanford Law Students and Calls for Termination of the Stanford Dean Who Joined the Mob." *The Washington Free Beacon*, March 12, 2023, <https://freebeacon.com/campus/dogshit-federal-judge-decries-disruption-of-his-remarks-by-stanford-law-students-and-calls-for-termination-of-the-stanford-dean-who-joined-the-protesters/>.

and aimed to highlight the violations of these basic rights and discuss the needed steps to protect them.

Judge Duncan's scheduled talk was titled "The Fifth Circuit in Conversation with the Supreme Court: Covid, Guns, and Twitter."<sup>3</sup> Days before the event, however, protesting students asked the Federalist Society to cancel the event or move it to an online format because of their concerns with Judge Duncan's previous statements and actions. These students posted flyers that condemned Judge Duncan and called out the individual members of the Federalist Society's board, saying that they should be "ashamed" for inviting Judge Duncan. One of those disagreements that fueled the protestors was Judge Duncan's refusal to address a convicted pedophile by his preferred pronouns in a courtroom.<sup>4</sup> Then, on the day of Judge Duncan's Stanford speech, close to one hundred students protested Judge Duncan, proceeding to enter the event and shout at him during his remarks. The student protestors heckled Judge Duncan profusely, preventing the judge from speaking, in what was one of the latest examples of the "heckler's veto" used to suppress free speech on campus. They held obscene signs and shouted obscene remarks, and Judge Duncan was not able to deliver his lecture. While the protests were led by dozens of students, at the center of the incident was a university administrator: Stanford Law School's Associate Dean for Diversity, Equity and Inclusion.

Frustrated with the disruptive students, Judge Duncan asked for an administrator to hopefully restore normalcy to the room and allow him to speak. After his request for an administrator, Dean Tirien Steinbach stepped up to the podium and pulled out her prepared remarks. In a six-minute speech, Dean Steinbach spoke freely—without students heckling her

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<sup>3</sup> "The Fifth Circuit in Conversation with the Supreme Court: Covid, Guns, and Twitter." Stanford Law School Events. Accessed March 24, 2023, <https://law.stanford.edu/event/lunch-with-judge-duncan/>.

<sup>4</sup> United States of America v. Norman Varner (The United States Court of Appeals for the Fifth Circuit, January 15, 2020), 1, <https://www.ca5.uscourts.gov/opinions/pub/19/19-40016-CR0.pdf>.

speech.<sup>5</sup> This time, when Judge Duncan tried to interject, the students screamed “let her finish!” Dean Steinbach began by condemning Judge Duncan’s “harmful” viewpoints, calling him out for his stances that she disagrees with. She then infamously asked: “Is the juice worth the squeeze?,” asking whether Judge Duncan’s remarks were worth the division that his presence caused. In her speech, the dean affirmed her supposed commitment to free speech. She said, “I really do wholeheartedly welcome you, because me, and many people in this administration, do absolutely believe in free speech,” yet she also sympathized with the movement to change free speech policies because of the “great harm” that it causes. She then continued to contradict her own words. Looking out to the crowd of protesters, those who were holding obscene signs and heckling the judge, Dean Steinbach said, “I look out and I don’t ask ‘what is going on here?’ I look out and I say, ‘I’m glad this is going on here.’” Dean Steinbach contradicted not only her own commitment to free speech but failed to uphold Stanford’s own policies.<sup>6</sup> Instead, she condoned and encouraged the protests that silenced Judge Duncan. Her speech was met with applause from the protestors at the end, and it did not allow for Judge Duncan to properly carry on with the conversation he intended to have with the Federalist Society chapter at Stanford. Federal marshals had to step in and escort Judge Duncan from the event, and Judge Duncan was effectively prevented from exercising his freedom of speech under both the First Amendment and Stanford’s policies.

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<sup>5</sup> Ethics and Public Policy Center, “Judge Duncan event at Stanford,” uploaded March 10, 2023, <https://vimeo.com/806801455?ref=stanfordreview.org>.

<sup>6</sup> “Freedom of Speech and the Fundamental Standard,” Stanford University, accessed March 24, 2023, <https://communitystandards.stanford.edu/resources/additional-resources/freedom-speech-fundamental-standard>

## **Protecting Free Speech: Next Steps**

The incident at Stanford Law School is a very concerning example of students destroying a speaker's right to share their beliefs on campus. However, most concerning from this incident, was the active role of a university administrator in violating Judge Duncan's free speech and their deliberate actions to not uphold his right to speak or control the protestors. The dean did not carry out her duties as a university administrator to uphold Stanford's policies, and her actions only fueled the protestors' disruptive behavior. The incident demonstrates a concerning trend in colleges: the hiring of administrators who are not committed to the principles of free speech or even the university's own policies regarding free speech. Many of these university administrators, like Dean Steinbach, a diversity, equity, and inclusion administrator, have taken a role in universities that places a greater emphasis on restricting what is and what is not acceptable, rather than promoting diversity of thought and free speech, which spurs a functioning society and rigorous intellectual debate.

It is because of incidents like this and administrators like Dean Steinbach, that students, both conservative and liberal, at Stanford and college campuses around the country are too scared to speak up in the classroom and share their viewpoints. It has instilled angst into each student for fear of sharing their opinions. Anything they say might also be viciously condemned by these same university administrators; the best option is to merely stay silent and keep one's opinions to themselves. While these administrators claim to create a more open and inclusive environment, they are in fact contributing to just the opposite: a culture which signals conformity and destroys academic debate because of fear of sharing one's opinions. Debate has been expelled from the classroom and forced to die altogether or take refuge in a few rare remaining groups that still offer forums for open and free discussion.

These incidents are surely not unique to Stanford or conservative speakers. In May of 2021, a student at Stanford Law School was put on hold from graduating for satirically mocking the Federalist Society, and many free speech groups quickly and successfully rushed to advocate for the student's right to free speech.<sup>7</sup> On March 2, 2022, students at the University of California, Hastings College of the Law completely disrupted an event with Ilya Shaprio, heckling Mr. Shapiro and preventing him from speaking.<sup>8</sup> On March 10, 2022, students at Yale Law School outnumbered those in attendance for a bipartisan panel on civil liberties, again holding signs and heckling the speakers.<sup>9</sup> Then, just recently on March 14, 2023, Turning Point USA hosted conservative speaker Charlie Kirk at the University of California, Davis.<sup>10</sup> The event was met with violent protests and resulted in arrests. The list of blatant attacks on free speech goes on, and unless concrete actions are taken to protect speech, the list will indubitably continue to grow.

University administrations have often rightly upheld the principle of free speech and their policies after such incidents, including Stanford Law School Dean Jenny Martinez, who demonstrated her commitment to free speech in a lengthy letter to students last week.<sup>11</sup> More administrators should follow Dean Martinez's lead and take up the mantle to reaffirm their commitment to these principles and stand against these unacceptable shout downs, but campus speech policies are often simply disregarded or poorly enforced in the first place, which directly

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<sup>7</sup> Neil Vigdor. "A Law Student Mocked the Federalist Society. It Jeopardized His Graduation." *New York Times*, June 3, 2021, <https://www.nytimes.com/2021/06/03/us/stanford-federalist-society-nicholas-wallace.html>.

<sup>8</sup> Zach Greenberg. "UC Hastings Proposed Event Policy Smacks down the 'Heckler's Veto'." The Foundation for Individual Rights and Expression, October 19, 2022, <https://www.thefire.org/news/uc-hastings-proposed-event-policy-smacks-down-hecklers-veto>.

<sup>9</sup> Aaron Sibarium. "Hundreds of Yale Law Students Disrupt Bipartisan Free Speech Event." *Washington Free Beacon*, April 1, 2022. <https://freebeacon.com/campus/hundreds-of-yale-law-students-disrupt-bipartisan-free-speech-event/>.

<sup>10</sup> Aaron Corpora. "Charlie Kirk Event at UC Davis Prompts Violent Protest." The Foundation for Individual Rights and Expression, March 20, 2023, <https://www.thefire.org/news/charlie-kirk-event-uc-davis-prompts-violent-protest>.

<sup>11</sup> "Next Steps on Protests and Free Speech," Stanford Law School, published March 22, 2023 <https://law.stanford.edu/wp-content/uploads/2023/03/Next-Steps-on-Protests-and-Free-Speech.pdf>

leads to these incidents. And while the continued violations of free speech represent not only a failure of administrations to truly uphold and demonstrate their commitment to free speech, it also represents a concerning trend in students who believe that their opinions are more important than another's, causing them to stop another's right to speak freely. It is a twofold problem of both the administrators who fail to uphold these policies and the students who demonstrate a complete disregard for these principles.

This is why university administrators need to uphold these principles and why Congress must ensure that colleges and universities are adequately enforcing these policies. Students come to the university setting to receive an education to prepare them for the workforce and challenges of the future, but if administrations continue to condone violations of free speech and fail to take concrete steps to ensure they don't happen in the first place, the acceptance of denying free speech will continue to grow amongst students as they eventually become the next leaders in government and business. Universities must step in to educate these students on the basic principles of free speech, ensure these principles are respected, and then discipline students who still refuse to accept another's right to speak freely. While this is the essential job of university administrators, Congress must ensure that this basic policy is ubiquitous throughout colleges in America.

## **Closing**

We at *The Stanford Review* are one of those few groups on campus still dedicated to the principle of free speech and rigorous intellectual debate. We cover incidents like the one at Stanford Law School, and when other outlets may not convey the whole picture or discuss ideas openly, we will. We are concerned over the precedent that this sets for Stanford and other colleges. It further contributes to a culture at Stanford where students are justifiably fearful to



share their viewpoints. This environment has exiled free expression and debate *outside* of the classroom—the very spot where it is most needed and essential. These actions and policies are destroying American universities, and I have witnessed it myself in my own classes which lack the intellectual debate and vitality I hoped for. Student-run organizations like *The Stanford Review* have become the outlets for students to debate freely, often hosting a higher level academic discourse than any typical classroom will provide.

I chose to attend Stanford hoping to grow in a rigorous intellectual environment that would allow me to explore my academic interests. To be very clear, Stanford has provided just that, but, unfortunately, not through the classrooms. I have found it in other groups at Stanford and smaller settings which model what discussion and debate looks like without the fear of retaliation. It is my hope that future students at our colleges do not continue to experience the degradation of free speech and face the threats that may come with sharing their opinions. While individual schools and administrators have affirmed their commitment to free speech, the issue is a greater national problem. This is not a conservative issue, nor a liberal issue. This is the issue at the core of what defines our society in the United States through healthy dialogue and the free exchange of ideas at our colleges and universities. Congress has an opportunity to ensure institutions preserve First Amendment rights and protect speech on college campuses.