

Sample Messages on Balancing First Amendment Rights

Provided by SBCTC July 8, 2020

Dr. Lauren Robel, executive vice president and provost, Indiana University

On the First Amendment

Wednesday, November 20, 2019

This message was sent to the Kelley School of Business community Nov. 20, 2019.

Professor Eric Rasmusen has, for many years, used his private social media accounts to disseminate his racist, sexist, and homophobic views. When I label his views in this way, let me note that the labels are not a close call, nor do his posts require careful parsing to reach these conclusions. He has posted, among many other things, the following pernicious and false stereotypes:

- That he believes that women do not belong in the workplace, particularly not in academia, and that he believes most women would prefer to have a boss than be one; he has used slurs in his posts about women;
- That gay men should not be permitted in academia either, because he believes they are promiscuous and unable to avoid abusing students;
- That he believes that black students are generally unqualified for attendance at elite institutions, and are generally inferior academically to white students.

Ordinarily, I would not dignify these bigoted statements with repetition, but we need to confront exactly what we are dealing with in Professor Rasmusen's posts. His expressed views are stunningly ignorant, more consistent with someone who lived in the 18th century than the 21st. Sometimes Professor Rasmusen explains his views as animated by his Christian faith, although Christ was neither a bigot nor did he use slurs; indeed, he counseled avoiding judgments. Rhetorically speaking, Professor Rasmusen has demonstrated no difficulty in casting the first, or the lethal, stone.

His latest posts slurring women were picked up by a person with a heavily followed Twitter account, and various officials at Indiana University have been inundated in the last few days with demands that he be fired. We cannot, nor would we, fire Professor Rasmusen for his posts as a private citizen, as vile and stupid as they are, because the First Amendment of the United States Constitution forbids us to do so. That is not a close call.

Indiana University has a strong nondiscrimination policy, and as an institution adheres to values that are the opposite of Professor Rasmusen's expressed values. We demand tolerance and respect in the workplace and in the classroom, and if Professor Rasmusen acted upon his expressed views in the workplace to judge his students or colleagues on the basis of their gender, sexual orientation, or race to their detriment, such as in promotion and tenure decisions or in grading, he would be acting both illegally and in violation of our policies and we would investigate and address those allegations according to our processes. Moreover, in my view, students who are women, gay, or of color could

reasonably be concerned that someone with Professor Rasmusen's expressed prejudices and biases would not give them a fair shake in his classes, and that his expressed biases would infect his perceptions of their work. Given the strength and longstanding nature of his views, these concerns are reasonable.

Therefore, the Kelley School is taking a number of steps to ensure that students not add the baggage of bigotry to their learning experience:

- No student will be forced to take a class from Professor Rasmusen. The Kelley School will provide alternatives to Professor Rasmusen's classes;
- Professor Rasmusen will use double-blind grading on assignments; if there are components of grading that cannot be subject to a double-blind procedure, the Kelley School will have another faculty member ensure that the grades are not subject to Professor Rasmusen's prejudices.

If other steps are needed to protect our students or colleagues from bigoted actions, Indiana University will take them.

The First Amendment is strong medicine, and works both ways. All of us are free to condemn views that we find reprehensible, and to do so as vehemently and publicly as Professor Rasmusen expresses his views. We are free to avoid his classes, and demand that the university ensure that he does not, or has not, acted on those views in ways that violate either the federal and state civil rights laws or IU's nondiscrimination policies. I condemn, in the strongest terms, Professor Rasmusen's views on race, gender, and sexuality, and I think others should condemn them. But my strong disagreement with his views—indeed, the fact that I find them loathsome—is not a reason for Indiana University to violate the Constitution of the United States.

This is a lesson, unfortunately, that all of us need to take seriously, even as we support our colleagues and classmates in their perfectly reasonable anger and disgust that someone who is a professor at an elite institution would hold, and publicly proclaim, views that our country, and our university, have long rejected as wrong and immoral.

Lauren Robel
Executive Vice President and Provost
Indiana University

Dr. Clif Smart, president of Missouri State University

Balancing rights and responsibilities when our values are offended

June 2, 2020 by [Clif Smart](#)

During the past weeks and months, disturbing, racially charged situations and tragic deaths have occurred across the U.S. – including Breonna Taylor, Ahmaud Arbery, Christian Cooper and most recently George Floyd. We are now witnessing protests in cities across the U.S., some of which have been marked by violence.

On our own campus we also recently experienced the impact of racially charged posts on social media made by incoming freshmen.

One student posted a disturbing video to My Story on Snapchat. A person in the My Story group re-posted it on Twitter. Perhaps the intent of the video can be debated. Its impact cannot.

Another student used an offensive racial slur while engaging in a social media exchange with a black student from her high school.

Many of you have reached out to share the hurt, anger and disbelief you experienced upon watching the video. It demonstrates a disturbing lack of empathy and respect for the death of Mr. Floyd, his family and others who have suffered similarly while in police custody.

Many others have expressed anger and disbelief at the nature and tone of the hurtful social media posts.

After seeing these social media posts and viewing the video, I, too, was horrified. My first impulse was to rescind the offer of admission to these students. But then I was reminded of a couple of things.

Missouri State University is a public university with a public affairs mission.

As a public university we are legally required to uphold the principles of free speech embodied in the First Amendment to the Constitution. The video – as hurtful, insensitive and offensive as it is – is protected by the First Amendment, as was the language in the social media posts.

I will admit that it was tempting to ignore the First Amendment in this case. Doing so would violate our legal obligations but, more importantly, it would effectively prevent the university from accomplishing its mission.

Missouri State has a responsibility to educate students on the three pillars of our public affairs mission – ethical leadership, community engagement and cultural competence. The video and the social media posts clearly reveal that these students – and, let's be honest, many of us – are in desperate need of education, training and experiences that will help us develop cultural consciousness as well as cultural competence.

We cannot expect or require that students come to us fully formed, possessing all of the skills and characteristics that exemplify Citizen Scholars. It is our job and our duty to help them develop these traits through education and exposure.

Recognizing the impact of the video and the social media post, these students have chosen to withdraw from the university. We had planned to allow them to join our campus community in the fall, knowing that this decision would be ridiculed, questioned and second-guessed. But it was under the conditions that they participate in additional education and training to assist them in both understanding the impact of their actions and in developing cultural competence.

Social media is rife with opportunities to damage reputations or hurt thousands of people with one statement or one video. It is important that we are all mindful of its impact and if we choose to participate, to think very carefully before we post.

As one might expect, these students have been bombarded with hate, ridicule and even death threats. Both are 18 years old. While they displayed poor judgement, they don't deserve to have their lives threatened.

As a university, we are acutely aware that many of our incoming students of all backgrounds may have made poor choices when posting on social media when they were teenagers. These are formative years when people change and grow. As a university, we are not going to police everyone's social media accounts. We legally cannot and, in my opinion, should not bar a student from entry for offensive comments posted as an adolescent. I believe in grace, redemption and the probability that a college education can change people for the better. It did me.

That being said, we will continue to educate our students on the three pillars of our public affairs mission. And given the current environment, we will continue to give special emphasis to the awareness, knowledge and skills required to be culturally competent in a global society and world.

Thank you for all you do for Missouri State.

Clif

Dr. Rosie Rimando-Chareunsap, president of South Seattle College

Email to campus community, February 25, 2020

We are in an election year during truly divisive times, and there is a good chance we'll have outside groups coming to our college (as well as many other colleges across the nation) in the coming months. In addition to groups who may align with or represent your own personal viewpoints, there may also be groups whose messages run counter to your views, or even to our culture and mission as a college. Further, there are also groups who thrive on charged interactions with members of the campus community. The latter are challenging experiences as we strive to balance fundamental constitutional free speech protections with fostering an encouraging and secure environment for our students, faculty, and staff.

As a public higher education institution, South must not only adhere to the rights of outside groups to exercise free speech, but truly serve as an educational venue where concepts and viewpoints—however challenging or offensive to members of our community—can be discussed, debated, critiqued, explored and evolve. Free speech protections are broad, and can include a range of speech that we might otherwise deem unwelcome, offensive, and biased. However, this function is absolutely fundamental to democracy, and as a public institution, we are beholden to protect it.

In conversations over the past several days with students and staff, members of president's cabinet and I have heard direct reports about heightened tensions and safety concerns about the actions of an outside (non-college) group coming to campus. We are focused on implementing ways the college can be supportive and responsive to these concerns, and also work to inform and educate around first amendment rights.

The act of tabling on campus is a protected free speech action, and public college and university campuses are common sites for various groups to reach a potential audience. Regardless of the message, outside groups who table are not representative of the college viewpoint AND they are constitutionally protected.

By the same token, there are sometimes actions that reach beyond the protections of free speech. When individuals have concerns about speech that seems to violate district policies or student conduct expectations, we encourage immediate reporting (see resources at the end of this email) so that each report can be investigated thoroughly. When it comes to actions that may seem to limit free speech protections, each report is held to a legal standard of evidence, in consultation with the State Attorney General's office. Yesterday, we met with our legal counsel from the AG's office on this topic and consulted with local and federal law enforcement on reports we have received. I want to be clear that there are not sufficient grounds to ban any group from coming to campus at this time. We will continue to uphold this practice of responding immediately to reports with thorough investigation practices and, when prudent, consultation with law enforcement.

A primary purpose of this communication is to further inform you of the rights afforded to outside groups based on first amendment protections, and provide guidance on steps you can take as a faculty or staff member to engage or not engage, and support members of our community who may be negatively impacted by the actions of outside groups.

Like all members of the campus community, staff and faculty have the right to express their views. However, counter-messaging or protesting an outside group you disagree with should only be done on breaks or during time off.

Members of the campus community who have recently engaged an outside group as an exercise of free speech found they were videotaped or photographed and had their identities shared online. These actions, while a serious cause of concern and anxiety, are protected forms of free speech according to the State Attorney General's Office. Those who engage in a public conversation in a public space may be recorded and those recordings can be shared online. Secret recordings of private conversations or recording someone without their knowledge in a private space are not protected.

It is a personal decision on whether to engage or avoid an outside group. As I stated in an earlier communication, if you encounter someone sharing a viewpoint with which you disagree, you have the option to ignore them, engage in debate, or hold alternative events, for example. For groups that thrive on charged interactions, it may be best to avoid direct interaction and find alternative ways to share an alternative viewpoint.

Journalists and citizen reporters have first amendment rights to request interviews with members of the campus community as well. It is always your choice to accept or decline an interview request.

As we navigate this environment, I ask that you remain diligent in monitoring the well-being of students and fellow colleagues. As a reminder, if at any time you feel you (or someone you know) are being directly and personally intimidated, harassed or have received threats of violence, please contact Campus Security immediately at 206-934-0911. The college will respond to these reports immediately to attend to your safety, provide additional support, and thoroughly investigate.

Students can also speak with college counselors (please call 206-934-6409) or Bias Incident Report Team (206-934-6455) about how these concerns are impacting them.

We continue to evolve our response and approaches to members of our community as concerns and activities evolve.

Today, Feb. 25, will be the final event of Black History Month, presented by South's Black Student Union. There will also be a Winter Wellness Fair happening in the Clock Tower Plaza and Olympic Hall area throughout the day. I encourage you to be part of activating the campus and joining these events that inspire and speak to who we are.

Thank you for being allies to our students in these divisive times, and know we are doing our best address and respond to concerns from our community. All of our students and colleagues should feel safe when they come to campus, and feel empowered and supported to engage in civil discourse around issues that challenge our world.

Rosie Rimando-Chareunsap, Ed.D.
President, South Seattle College
she/her/hers

Dr. Ana Mari Cauce, president of the University of Washington

On free expression, universities must light the way

August 2, 2016

As we head into the home stretch of the election season there is heightened potential for visits to the UW by candidates or speakers invited by campus groups to speak on topics that may be quite controversial. That makes it a good time to remind ourselves of the fundamental importance of freedom of expression to our University and our nation.

A university should—indeed it must—be a place where any policy or idea, even if offensive or outrageous, can be aired, discussed, examined and debated. That’s a cornerstone of our democratic system, and the University of Washington’s commitment to this ideal is rock solid.

This means we may hear things that many, perhaps most, find highly objectionable. That is often the price we pay for a healthy democracy, and it is a price I think is ultimately worth paying. Although we allow such speech, I also must recognize that purposefully offensive speech that is crass, vulgar or inflammatory is not a genuine call for constructive dialogue and debate. It simply creates heat, not enlightenment.

Passion, emotion and conviction should be celebrated. Often it is what drives us to take action, to stand up against injustice and to make our ideas count. As an educational institution, we strive to give our students the intellectual tools to shed light upon difficult, complicated, messy problems—to apply reason to what can be highly charged, emotional issues and to conduct the debate or discussion with civility and the utmost respect for others’ right to air their points of view.

As part of this commitment, this fall the UW School of Law will be sponsoring a forum about free speech and its limits. I hope as many of us as possible—especially students—will participate.

Our University’s motto is “lux sit” —let there be light. This year, and all years, let us strive to create light, not just heat, even when our dialogues are heated and positions passionately held.