

# Lessons in Academic Freedom

Linda S. Gottfredson  
University of Delaware  
June 16, 2009

**Festschrift for Thomas J. Bouchard, Jr.  
Behavior Genetics Association Meeting  
Minneapolis, MN**

# Preview of Early Lessons Learned

Academic freedom, like free speech, is:

1. Not free
2. Not self-enforcing
3. Not harmless (nor should it be)
4. Often violated by academic institutions
5. Not often defended by academics
6. Does not take heroic efforts to defend, just routine, daily exercise

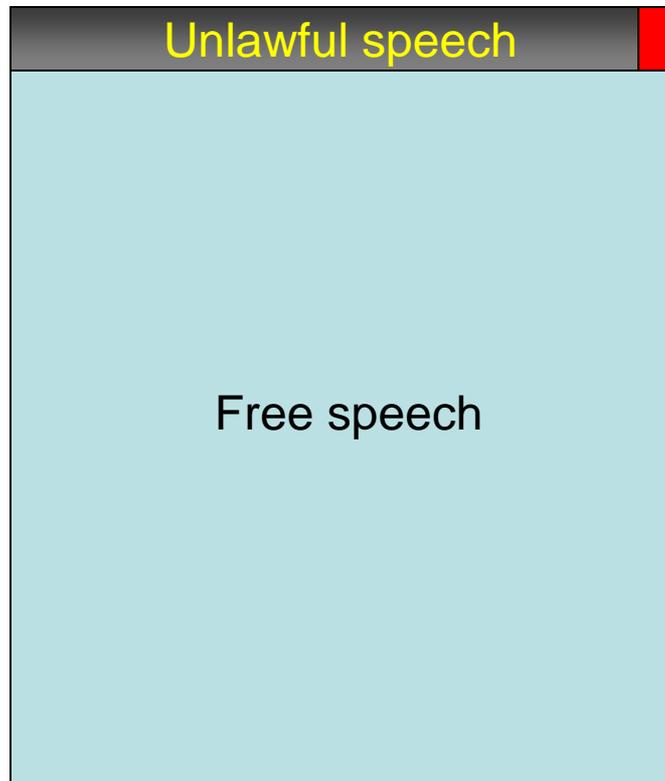
# What is Free Speech (USA)?

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Free speech

- An individual right guaranteed by First Amendment to US Constitution
- Freedom to speak, express, publish own views
- Views may be hurtful, wrong, extreme, offensive, evil

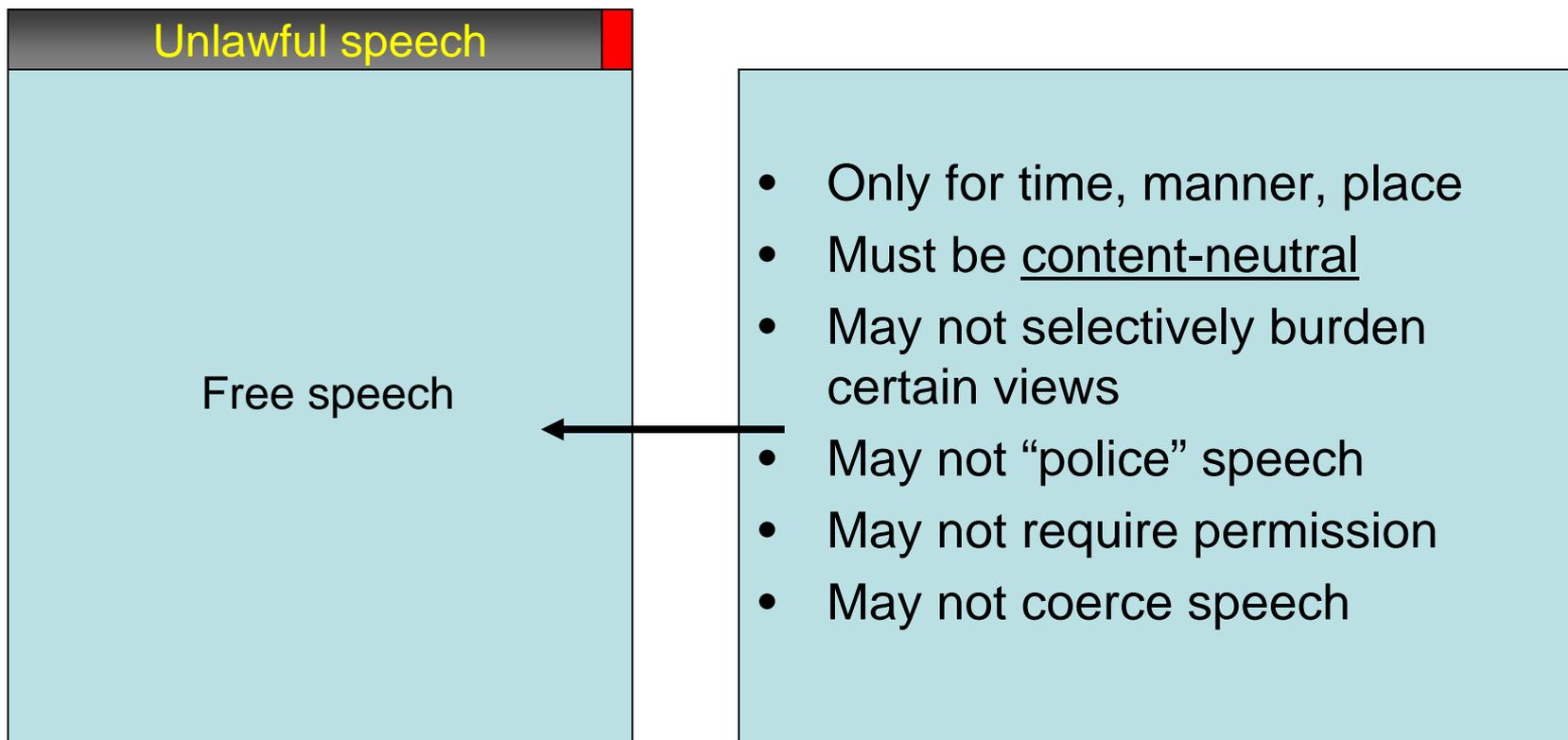
# How Broad?



- Freedom is the rule
- Exceptions rare. Unlawful to:
  - Incite (fighting words)
  - Libel/slander
- Unlawful speech may be punished after the fact, but not prevented
- National security the only cause for **prior** restraint

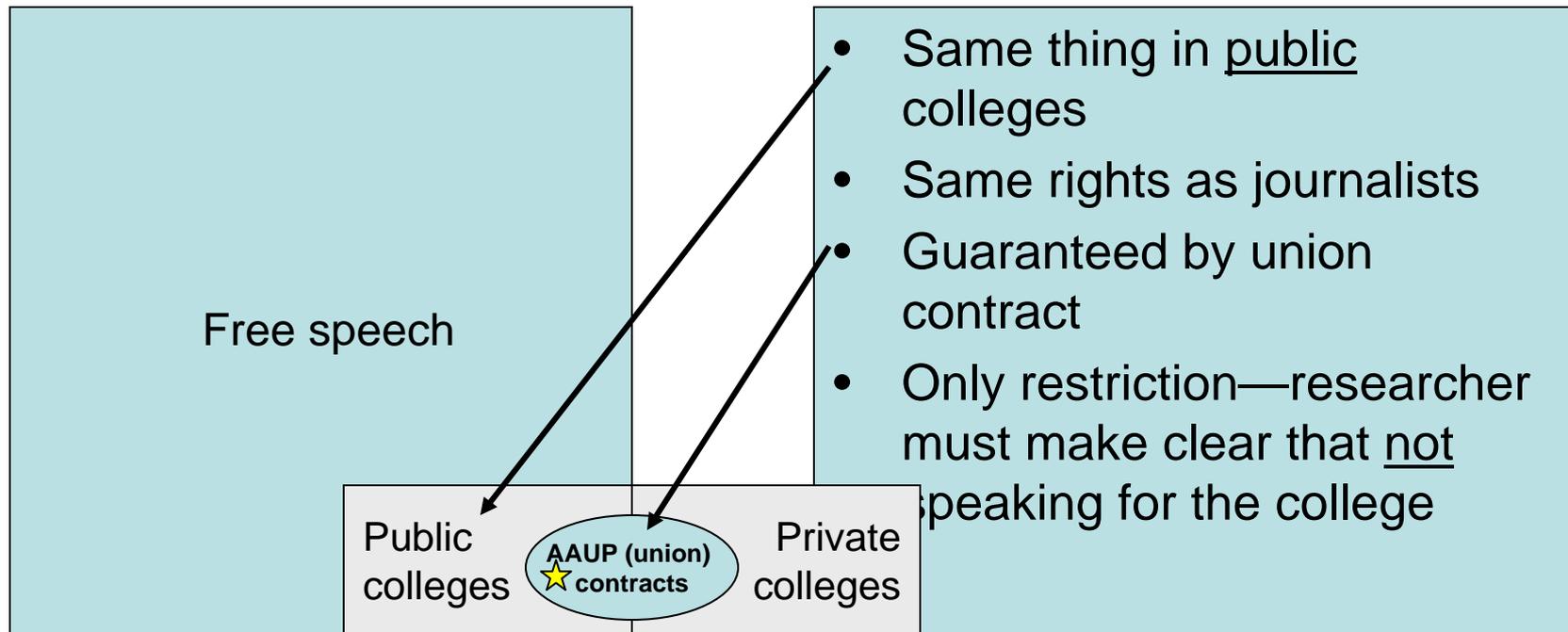
No legal redress against lawful speech.

# Can Gov't Restrict It?



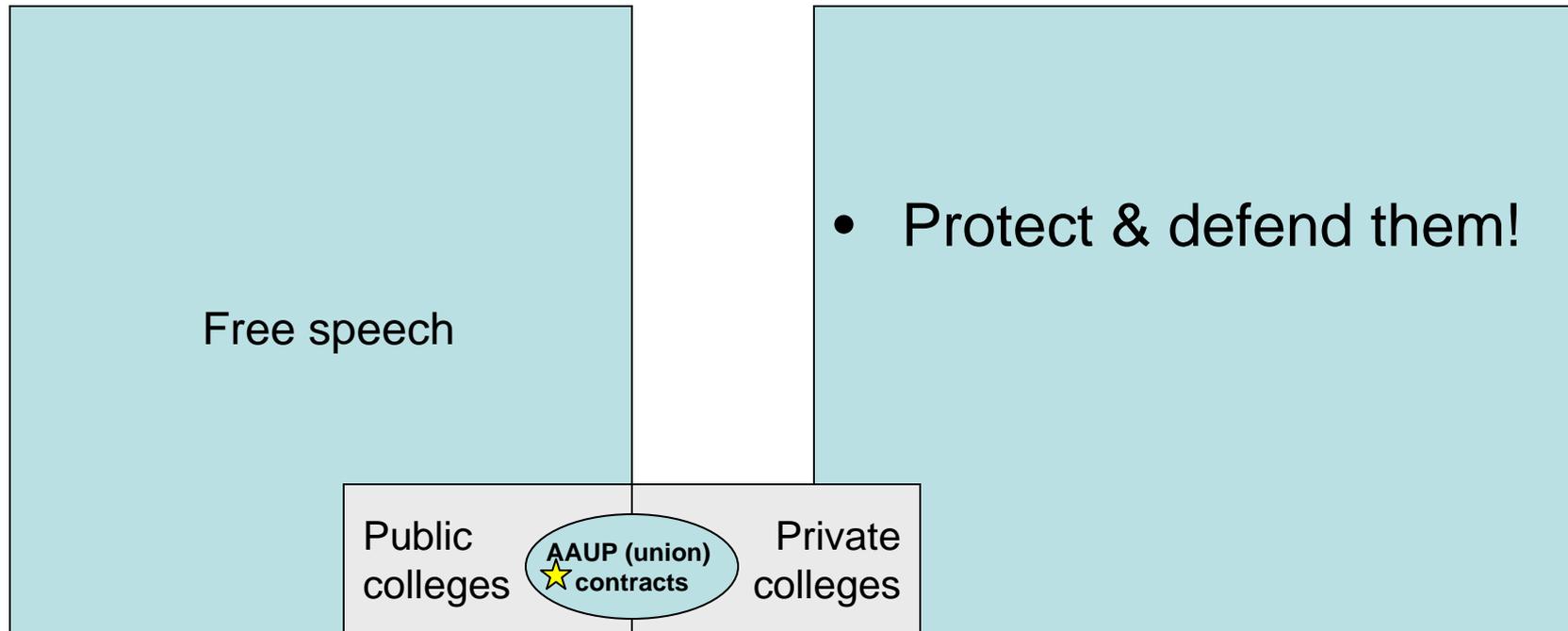
Free speech is not a privilege that institutions bestow, but a right they must observe.

# Relation of Academic Freedom to Free Speech?



U.S. Supreme Court: "Our nation is deeply committed to safe-guarding academic freedom, which is of transcendent value to all of us... That freedom is therefore a special concern of the First Amendment..."

# Top Responsibility with Both?

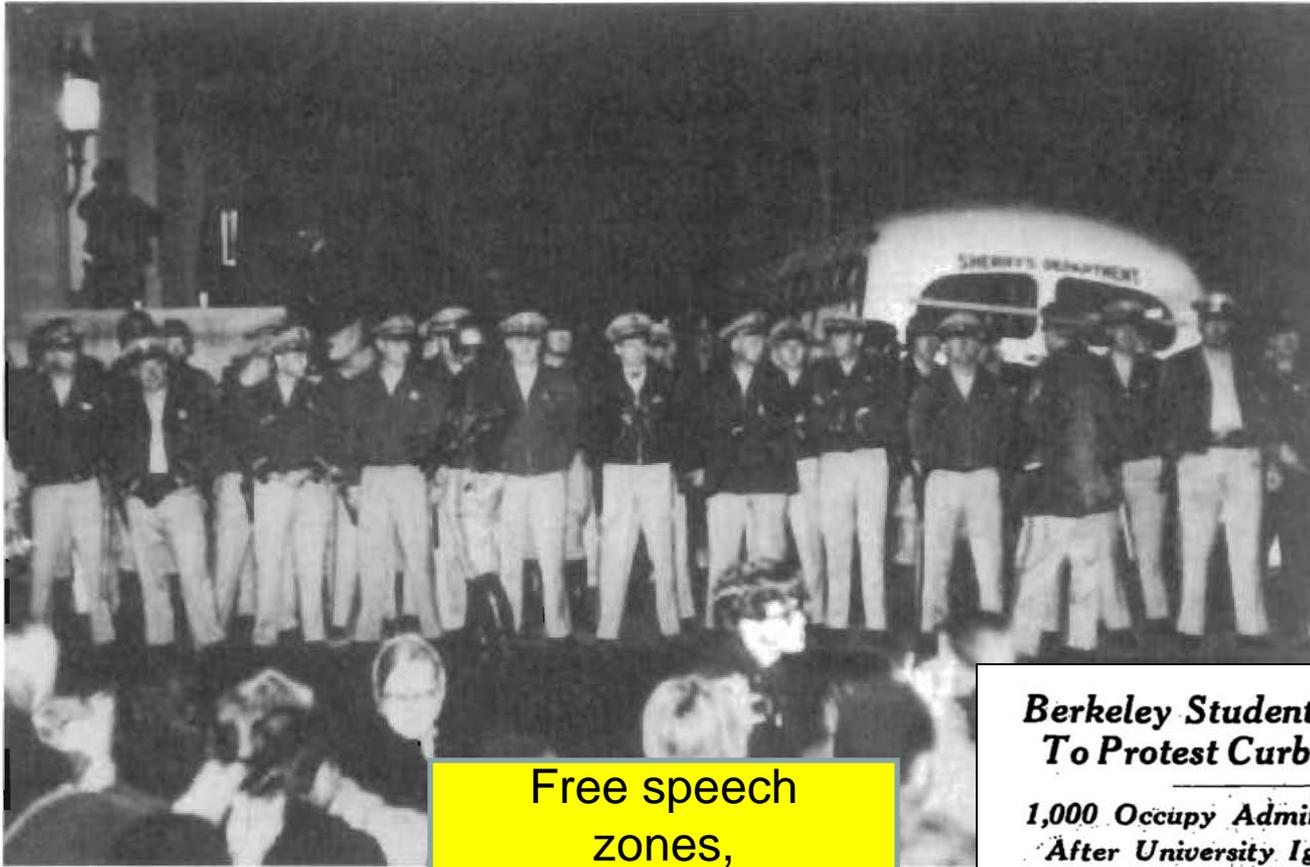


AAUP Statement on Professional Ethics: "Professors recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it."

1. Free speech is not free  
(never has been, never will be)

# University of California at Berkeley, 1964

T H E F R E E S P E E C H M O V E M E N T



OUTSIDE SPROUL HALL, D

BY

Free speech  
zones,  
and no advocacy  
allowed

***Berkeley Students Stage Sit-In  
To Protest Curb on Free Speech***

***1,000 Occupy Administration Building  
After University Ignores Ultimatum  
—Political Activities Are an Issue***

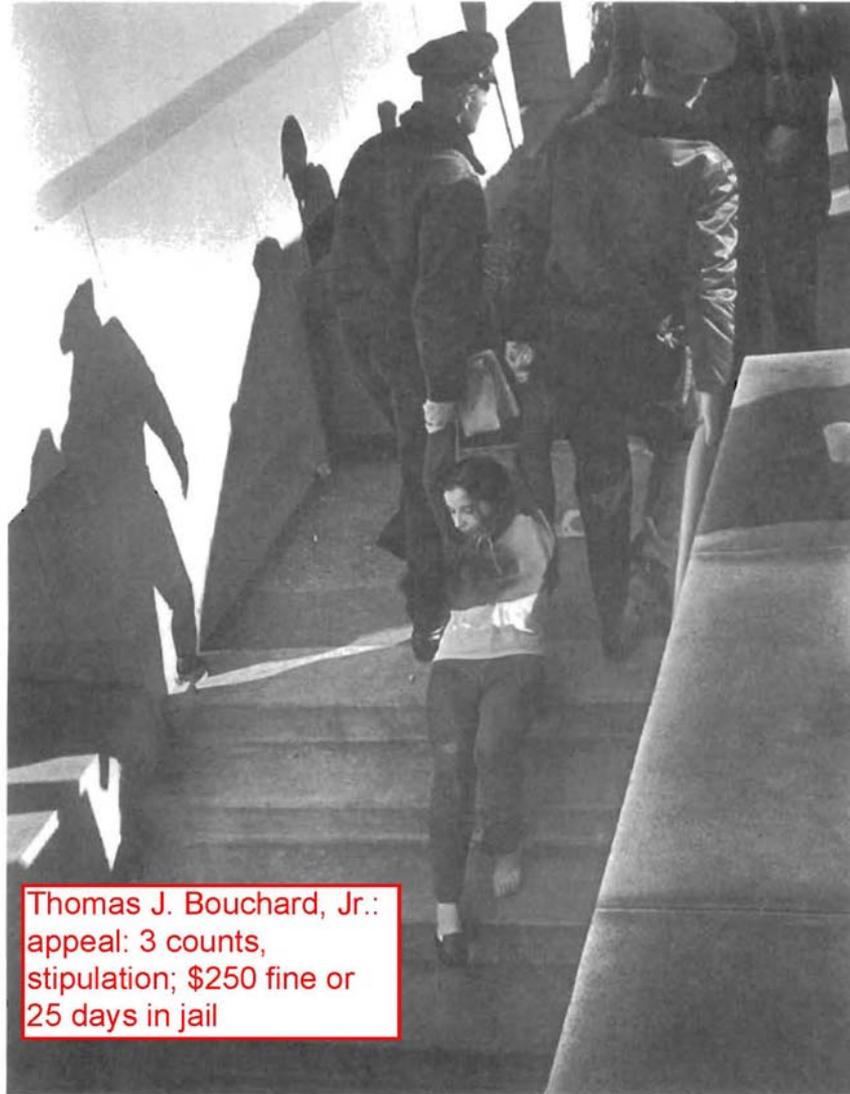
By WALLACE TURNER  
Special to The New York Times

T H E F R E E S P E E C H M O V E M E N T



ON DECEMBER 3, 1964, EIGHT HUNDRED PARTICIPANTS IN THE FREE SPEECH MOVEMENT WERE ARRESTED IN SPROUL HALL ON THE UNIVERSITY OF CALIFORNIA, BERKELEY CAMPUS. THE ARRESTS TOOK SIX HUNDRED POLICE OFFICERS THIRTEEN HOURS. PHOTOGRAPHER UNKNOWN.

T H E F R E E S P E E C H M O V E M E N T



Thomas J. Bouchard, Jr.:  
appeal: 3 counts,  
stipulation; \$250 fine or  
25 days in jail

\$250 in 1964 =  
\$1703 or €1,216  
today

ON DECEMBER 3, 1964, EIGHT HUNDRED PARTICIPANTS IN THE FREE SPEECH MOVEMENT WERE ARRESTED IN SPROUL HALL ON THE UNIVERSITY OF CALIFORNIA, BERKELEY CAMPUS. THE ARRESTS TOOK SIX HUNDRED POLICE OFFICERS THIRTEEN HOURS. PHOTOGRAPHER UNKNOWN.

2. Right to free speech is not  
self-enforcing

# Freedom of Speech Always Under Threat

- Tendency of authorities is always to suppress “bad” ideas
  - That’s why we have First Amendment
- Open and free speech necessarily threatens someone’s interests
  - Democracy is the negotiation of those interests
- Burdening speech more common than banning it
  - “Death by 1,000 cuts”

Examples?

# Violation is easy, But redress is difficult

- Constitutional rights:
  - allow legal redress only after violated
  - seeking legal redress is very costly in time, money, stress
  - violation has to be severe
  - success still uncertain
  - so, deterrence value is minimal
- Same for contractual rights

Have to be harmed first

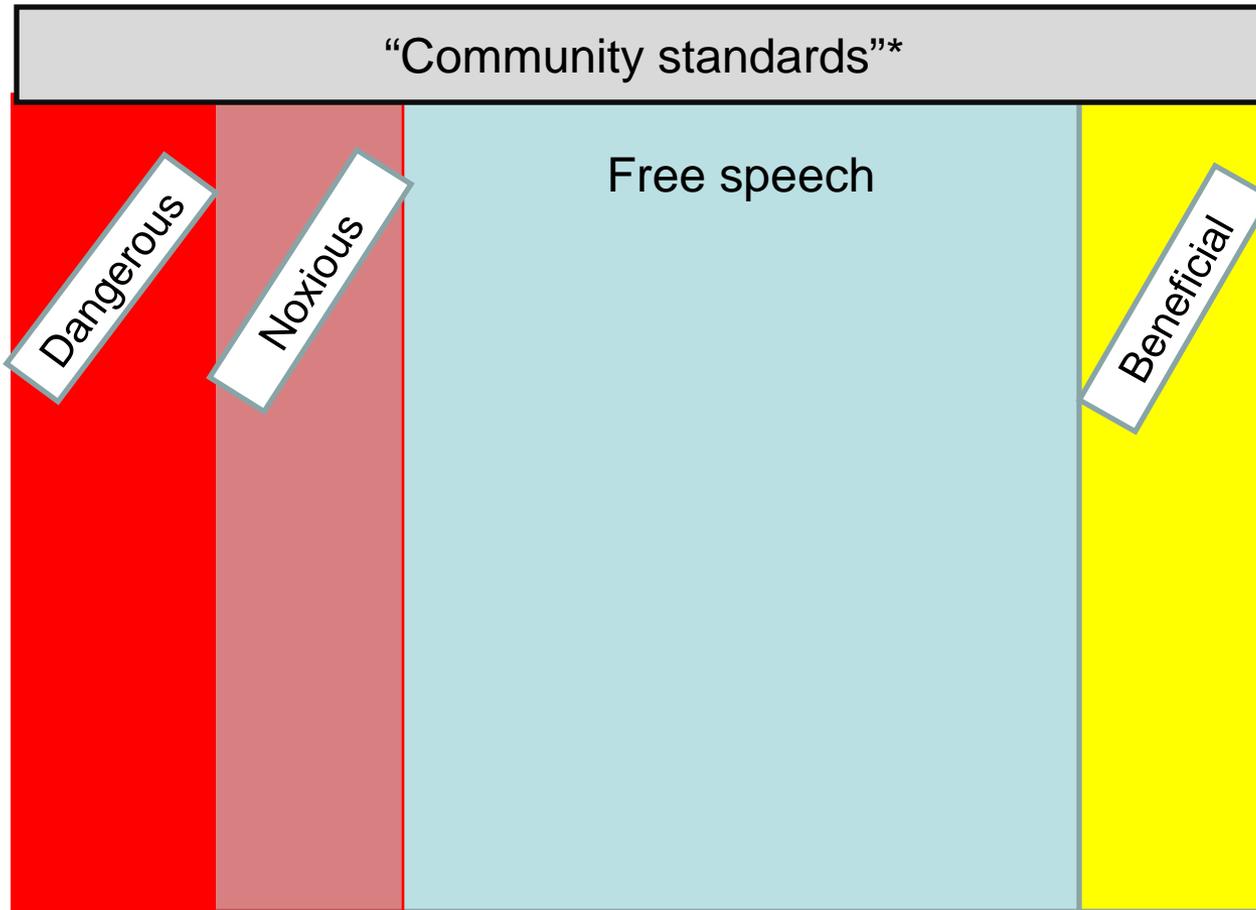
3. Free speech is not harmless  
(nor should it be)

Free speech was revolutionary idea  
Speech undermines orthodoxy  
Ideas can have revolutionary effects

- Galileo & Copernicus—nature of God
- Bacon & Descartes—scientific revolution
- Locke & Mill—relation between individual & gov't
- Darwin & behavior genetics—nature of man

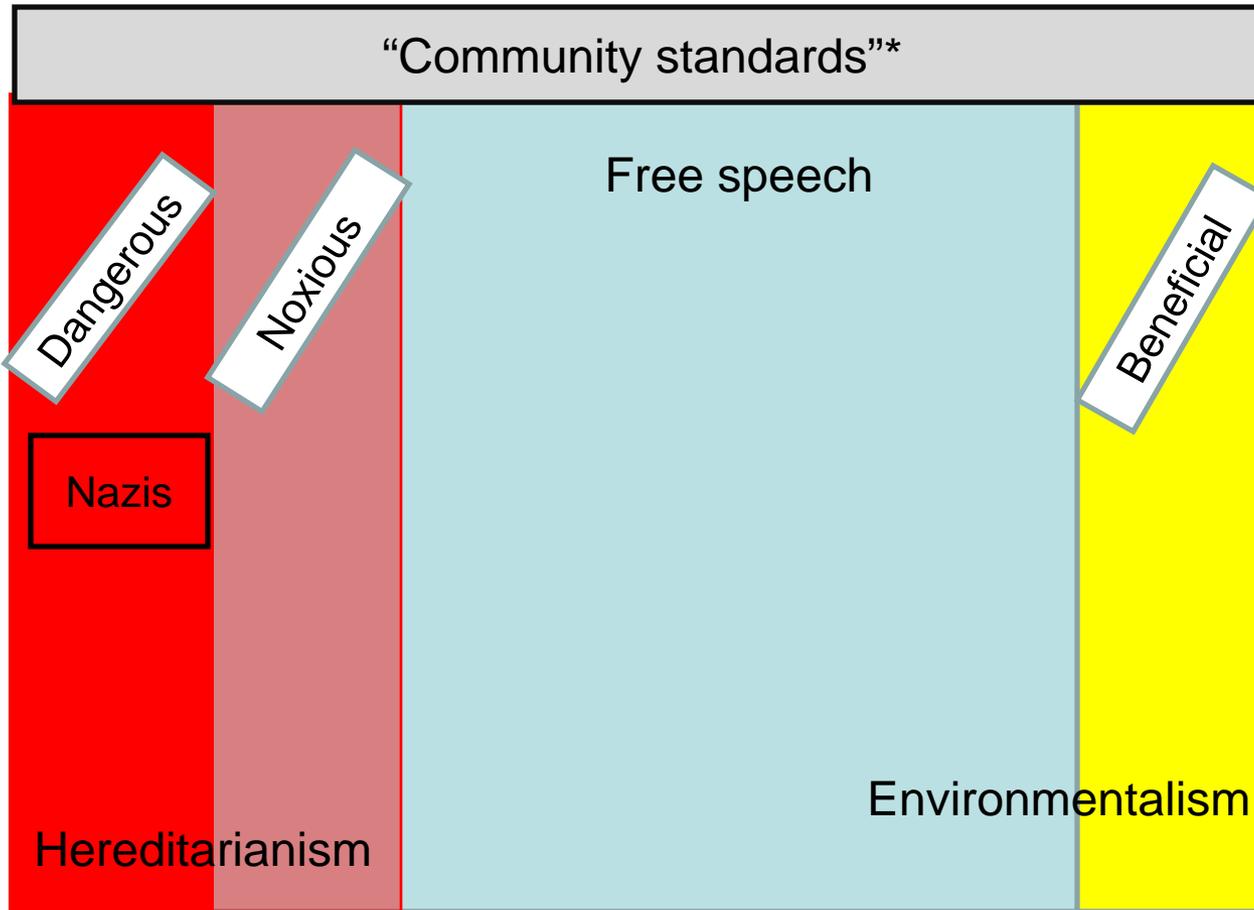
The tensions inherent in free, democratic  
republics

# Standards often used to selectively burden or favor research

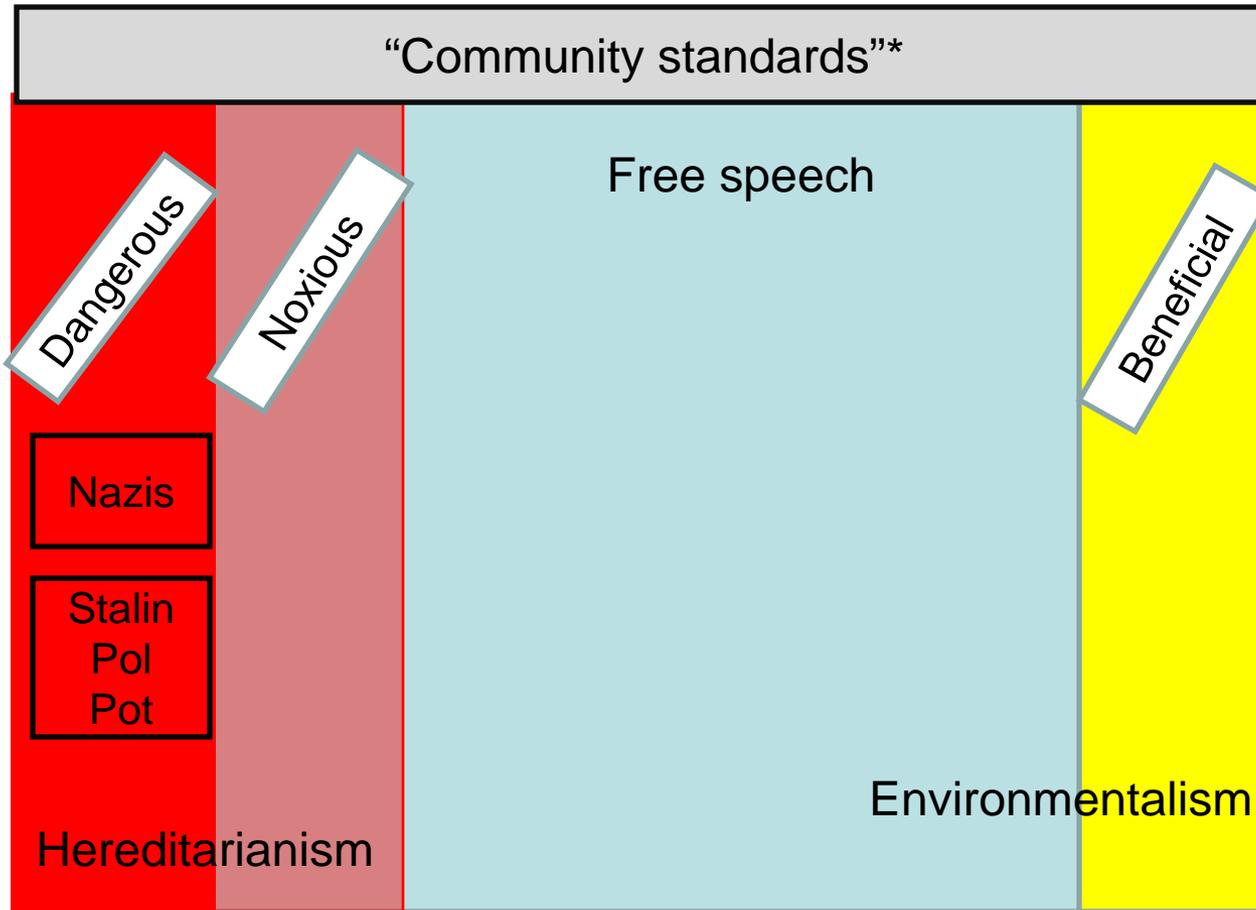


\* Classic censorship

# But what about history of harm!?

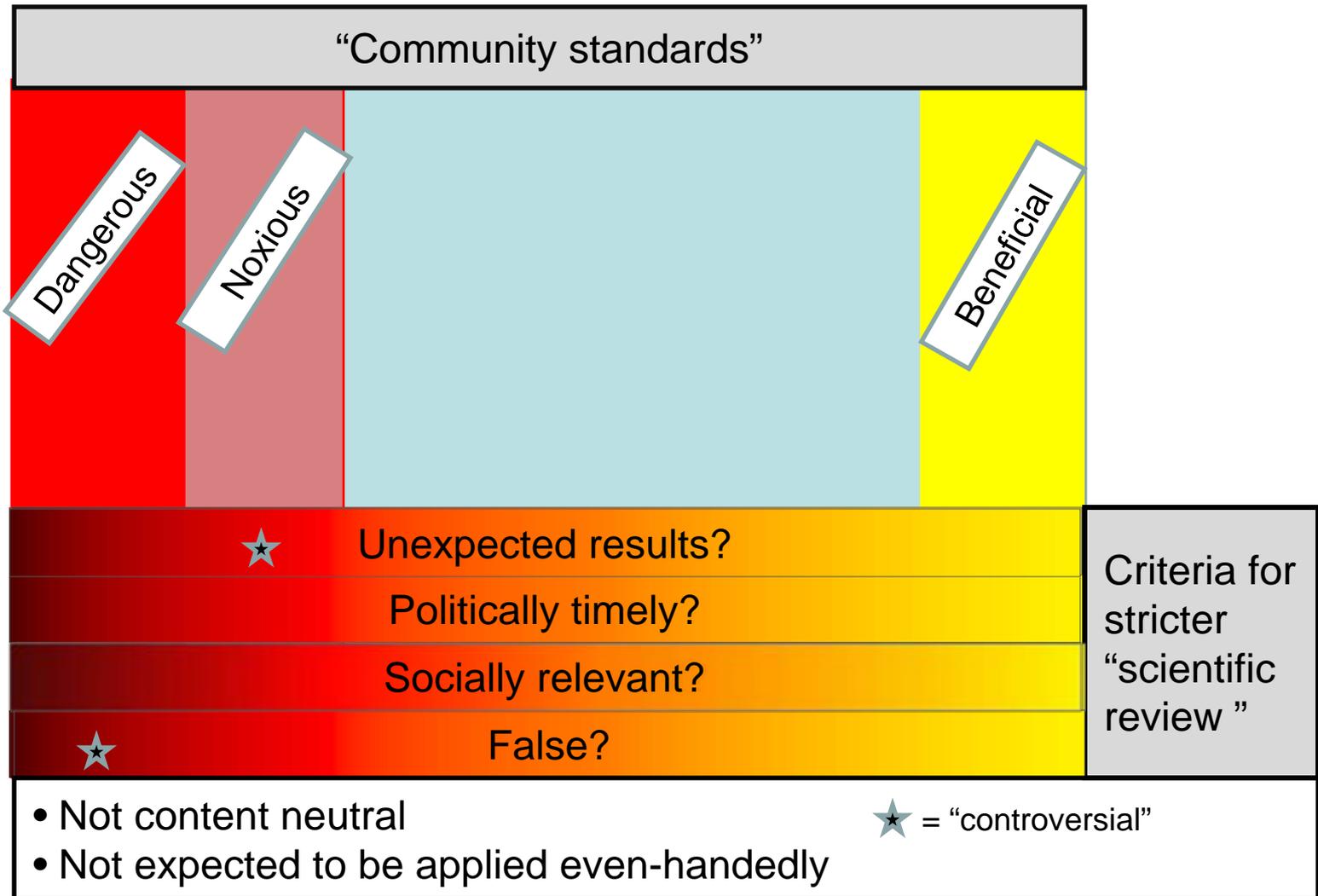


# But what about history of harm!?



- **Need even-handed accounting**

# Scientific criteria also suggested for “increased scrutiny”



Vol. 22, No. 1  
January 1991

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000016247171 MON V22 NO 01  
DR LINDA S GOTTREDDSON  
DEPT OF EDUC STUDIES  
UNIV OF DELAWARE  
NEWMARK DE 19716

# The **AP** Monitor

American  
Psychological  
Association

By Tina Adler  
Monitor staff

What two people who don't know each other would marry in the same year, chose the same hairstyle and glasses and work in similar jobs? Identical twins raised apart—the characters in psychologist Thomas Bouchard's fascinating and controversial study of the heritability of intelligence and personality.

Studies by Bouchard and his colleagues at the University of Minnesota have provided additional evidence that identical twins raised apart are almost as similar in their personality—and to a lesser degree their intelligence—as identical twins raised together. This, Bouchard and others claim, demonstrates that these traits are highly heritable and that home environment has less effect than psychologists have been saying all these years.

Meanwhile, however, some behavioral geneticists and psychologists doubt that genetic influence plays as large a role as Bouchard argues. Others question why the study, published in the Oct. 12 issue of *Science* and picked up by the major media in this country, has received so much attention.

## Seeing double?

### **Controversial** twins study is widely reported, debated



Zachary and Nathan Scally



major domains of personality and intelligence. The twins also described the home environments in which they grew up.

Heredity accounted for 64 to 74 percent of the differences seen in IQ between the identical twins, the researchers concluded. They collected IQ data for only 48 sets because some of the twins couldn't speak English, and the researchers also had some computer failures and couldn't reschedule the tests, Bouchard said in an interview.

Previous studies found that heredity explained 47 to 58 percent of the variance in intelligence, but virtually all the previous studies were limited to children and adolescents, the article stated. The data on the children might be different because, as other studies have found, social and economic status affect children's IQ, but the effect diminishes with age, the article stated.

The twins reared apart were less similar than twins reared together on the IQ tests. Identical twins raised apart have a .69 correlation on the Wechsler Adult Intelligence Scale (WAIS) IQ—full scale, and twins reared together have a .88 correlation.

Both reared apart and reared

influenced, they want to back up a few steps and quantify it before they throw in the debate towel on degree.

Bouchard's study is "very important," but "he's arguing for more genetic influence than is the case," said Robert Plomin, a psychologist at Pennsylvania State University. Other studies, including his own, find that genetic influence accounts for about 50 percent of the variance, and that, he said, is significantly different from 70 percent.

"Tom [Bouchard] would like to say it's all genetic and I don't believe that's the case," said Plomin, who is studying 26,000 pairs of twins in Sweden, including 500 pairs who were separated early in life. Plomin speculated that Bouchard may be getting such a high percent because his twins may be more similar than twins in more randomly selected samples. As he collects more data, Bouchard's 70 percent figure might go down, Plomin said.

Moreover, Plomin added that he believes the pendulum has swung too far away from psychosocial research and towards genetics, particularly in alcoholism research.

"That 70 percent is an estimate," based on Bouchard's subjects and his tests, said Adam Matheny, a psychologist at the University of Louisville. The role of genetic influence is different for different age groups, he said. "In and of itself [the study] isn't conclusive, but it adds signifi-

cantly to studies on adoptive children and other twin studies."

In his own studies on 600 pairs of twins reared together, Matheny said he has found that genetic influence accounts for about 50 percent of the variation in adult twins. However, Bouchard's data are more power-



**Nine-year-old twins in Matheny's U. of Louisville Twins Study.**

ful because they are from reared-apart twins, he said.

Some psychologists question the whole field of behavioral genetics and its use of IQ and personality tests. Asa Hilliard, an education psychologist at Georgia State University, disagrees that anyone can measure intelligence or personality precisely enough to determine the heritability of either.

Bouchard's "study doesn't have any basis because he doesn't have a device" to measure intellect, he said. "What he's measuring may be genetic but he's not measuring intelligence," he said.

He also believes the pursuit of whether intelligence is inherited is misguided. "It is an impedi-

ment" to helping people, because it focuses attention on making comparisons between people and not on learning about the processes that help people learn, he said.

Other researchers argued that these findings only replicate other studies.

"There's surely nothing new here," said Richard Rose, a professor of psychology and medical genetics at Indiana University.

"I'm surprised they published it in *Science*." The IQ data is based on 48 pairs, but the literature on the genetics of intelligence is in the tens of thousands and reports similar findings. "These 96 people don't really add anything to what we already know."

Since research has already shown that genes are very influential, "if I were doing the research, I'd put my focus on the environment" to find out how a lifetime separation has changed what would have happened if the twin pairs had been raised together, he said.

Bouchard defended the significance of his study. One of only three such studies ever done on reared-apart twins, his is the largest and includes many more tests, he said. Also, he and his colleagues collected more information on the home life the twins grew up in, he said.

education and the families' material possessions had slightly above a .4 correlation, the article stated.

There is also the possibility that the amount of time the twins spent together may have affected the results. However the authors wrote that "degree of social contact . . . accounts for virtually none of their similarity."

In the paper, the researchers make a strong pitch for reared-apart twin studies, which some took issue with. Reared-apart

twin studies "provide the simplest and most powerful method for disentangling the influence of environmental and genetic factors on human characteristics," they wrote.

"I certainly don't think that's true," Rose said. It is too difficult to get a representational sample, and there are too few twins to be able to generalize the findings to the whole population, he said. In addition, the age of the twins in the study differs considerably and that, no doubt, affects test performance, he said.

Bouchard disagreed, saying that "age has been regressed out of the data," and "our sample is as good as any other that's ordinarily obtained."

Bouchard said they waited to publish the IQ data until now "so people would know the scope of our study," and so they would have a large enough number of subjects to make it more credible.

Findings showing strong heritability of intelligence have social implications because they "can be used for mischief and it makes some people edgy," said Matheny. "But the public needs to be educated" about their real meaning, he said.

The researchers attempted to



# Suppression comes from both Left and Right

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4. Academic freedom is often violated by academic institutions (usually with impunity—see 1. and 2. above!)

# Foundation for Individual Rights in Education

## Founded in 1998

Foundation for Individual Rights in Education

Very busy

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#### PRESS RELEASE

### Bucknell University Slams Door on Student Satires of Obama Stimulus Plan, Affirmative Action

June 11, 2009

Student rights are under assault at Bucknell University, where a conservative student group's protests against affirmative action policies and President Obama's stimulus plan have repeatedly been shut down or forbidden by administrators using flimsy or patently false excuses. After the Bucknell University Conservatives Club (BUCC) had three events censored in two months, the students turned to FIRE for help.

[Read Full Article >](#)

[Read More About Bucknell University: University Slams Door on Student Satires of Obama Stimulus Plan and Affirmative Action >](#)



#### PRESS RELEASE

### FIRE Releases New Short Documentary on Freedom of Conscience Case at Missouri State, Announces Student Video Contest Winners

June 9, 2009

FIRE is pleased to announce the release of a new video on DVD and [online](#) called "Threats, Coercion, and Bullying at Missouri State." The short documentary covers FIRE's case at Missouri State University (MSU), where social work student Emily Brooker was threatened with expulsion after she refused (as a matter of personal belief) to send a signed letter to the Missouri state legislature in favor of homosexual foster parenting and adoption. FIRE also is pleased to announce the winners of its "Freedom on Campus" student video contest. A grand prize of \$5,000 and an invitation to the Campus Freedom Network's summer conference went to a group of students from Ohio University (OU) for their video, "That's What She Said." Robert Nyerger, Dan Ray, Evan Mitchell, and Aaron Karp produced and filmed a documentary on OU's sexual harassment policy, describing how the policy likely violates the First Amendment.

[Read Full Article >](#)

#### THE TORCH

### Speech Code of the Month: New York University

June 4, 2009

FIRE announces its Speech Code of the Month for June 2009: New York University. NYU's [Anti-Harassment Policy](#) explicitly prohibits "insulting," "teasing," and even "inappropriate jokes" when they are based on a legally protected status such as race, gender, or religion. This prohibition of protected speech is a clear violation of NYU's policy stating that "Free inquiry, free expression, and free association are indispensable to the purposes of the University, and must be protected as a matter of academic freedom within the University..." How is free expression possible when students face punishment for any speech perceived by another as insulting, degrading, or even merely inappropriate? There are many important conversations to be had on matters such as race, religion and gender that will likely—in a truly open debate—lead to feelings of insult or hurt. By subjecting students engaging in this type of unfettered free expression to punishment, NYU is simply shutting down whole avenues of discussion.

[Read Full Article >](#)

#### PRESS RELEASE

### Pittsburgh-Area College Fails to Remedy Violations of Concealed Carry Advocate's Free Speech

June 2, 2009

A student who wants to form a gun-rights group will still be subject to unconstitutional censorship, the Community College of Allegheny County (CCAC) announced yesterday. Christine Brashier, who wants to form a chapter of Students for Concealed Carry on Campus (SCCC), was told through a letter to FIRE yesterday that she will not be punished for her efforts to organize the group, as college officials had threatened in an earlier meeting, but only if she follows CCAC's unconstitutional policies. She must have all of her pamphlets approved before distribution and will not be allowed to use the name of CCAC in any way during her effort to start a group at the college.

[Read Full Article >](#)

[Update: June 7, 2009. Read More About Community College of Allegheny County: Student Denied Right to Start Advocacy Organization >](#)

#### PRESS RELEASE

### Cal Poly Suspends Reporting on 'Politically Incorrect' Faculty and Students

'Bias Incident' Reporting a Disturbing Nationwide Trend

June 1, 2009

California Polytechnic State University (Cal Poly), which has already once been on the losing side of a free speech lawsuit, has suspended an unconstitutional program targeting professors and students whose speech is "biased" or not "politically correct." The program even planned to let students report complaints anonymously, meaning that those deemed "politically incorrect" might never have known whom they had offended or why. Under pressure from the Foundation for Individual Rights in Education (FIRE), Cal Poly has promised that any future CARE-Net program (short for Community Advocating RESpect) "will not function to suppress controversial, offensive, or any other kind of protected speech."

#### THE TORCH FIRE'S BLOG

##### RECENT ENTRIES

[CFN Student Conference to Take Place This Week](#)

[The State of Free Speech on Campus: Yale University](#)

[Rights in the News: Bucknell U. Feeds the FIRE](#)

[At Louisville, Proposed Policy Changes are Problematic](#)



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REPORT: SPOTLIGHT ON SPEECH CODES 2009



# FIRE's Biggest Case (2007-08)

## **Orientation or Indoctrination?**

*The University of Delaware's Troubling  
Residential Life Program and Trustee Responsibility*

Can obtain video at: [www.thefire.org](http://www.thefire.org)

Students  
required to state  
allegiance to  
political  
orthodoxy

Horrendous violation, but right under our noses

# Why so many violations by academic institutions?

- Pretexts:

- The greater social good (social justice, diversity, citizenship, sustainability)
- Improve education (be prepared for global world, learn to be change agent)
- Protect academic freedom (of minority students)
-  – Still free to speak (elsewhere)
- Essential working conditions only a privilege, not a right (office, phone, allowing grant applications)

- Usual motives:

- Institutional self-interest (appease external political forces or strong internal lobbies)
- Personal advancement (in professional organizations or own institution)

5. Free speech is not often defended by academics

# Disincentives to protest violations of principle or persons

- Violations seem small—or deserved
- Institution controls perks
- Fear of same fate
- Too much trouble
- Fear of being tainted by association with disapproved activities

Incentives are to keep quiet, distance self, acquiesce—even join in

But THIS man has defended our rights—  
his entire adult life



Thomas J. Bouchard, Jr., Ph.D.  
University of Minnesota

## Chapter 23

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Thomas J. Bouchard, Jr.

Thomas J. Bouchard, Jr. (born 1937) has been one of the leading researchers to demonstrate that genetic influences have important effects on intelligence and a number of personality traits. His method has been to study the degree of similarity of identical and non-identical twins separated shortly after birth and reared in different families. The results of his studies have both consolidated and extended existing evidence showing that genetic factors are important in the determination of these attributes. His work has also shown that the relevant environmental influences are unique to the individual rather than operating as family effects arising from shared or common family influences such as parental styles of upbringing, discipline, role models, encouragement, and the like.

Thomas J. Bouchard, Jr. was born in 1937 in Manchester, New Hampshire. On leaving high school he served in the United States Air Force for

**Thank you!**

**A lesson for us all**