

Testimony of Chancellor James C. Schmidt, UW-Eau Claire  
to the Assembly Colleges & Universities Committee  
April 20, 2023

Remarks as prepared for delivery

Thank you, Chair Murphy and committee members, for coming to the University of Wisconsin-Eau Claire for this discussion on free expression in higher education.

Over the past decade as the chancellor of this great university, I have witnessed the extraordinary capacity of our faculty to provide students with transformational learning experiences.

I am convinced that this campus embodies the virtues of open inquiry and intellectual rigor that the UW System was founded on.

Like all higher education institutions in the past several years, we have welcomed a new generation of students during a polarized political era. But, by maintaining our commitment to each individual's right to be heard, I believe we have held true to the foundational principles that make higher education a unique environment for growth and exploration.

In my testimony today, I would like to explore the nature of a university learning environment and our current student body, including what stood out to me from the Free Speech Survey. Then, I will reflect on the steps we've been taking to fortify First Amendment values in a new generation before taking your questions.

Indeed, no value is more essential to an effective university than to treasure free expression and academic freedom. Universities should be sites of dialogue where no idea, no belief is too controversial to be discussed. Just as importantly, we must be sites where no idea or belief is too sacrosanct to be questioned or reexamined in light of new, meritorious data.

The UW System Free Speech Survey is a valuable tool for understanding how students at our universities feel regarding free speech. It is crucial for us to have a specific data set like this if we are to respond effectively. Like my colleagues around the country, we have noticed generational shifts in how our students choose to engage in class and on campus, and in their beliefs about whether it is

appropriate for the administration to engage in censorship. This shift became evident around 2016, when the last of the Millennials crossed the stage at graduation.

I was supportive of the Free Speech Survey, and appreciate President Rothman's decisions to move forward with the survey and continue talking about its findings. A dataset like this is only as valuable as what we learn from it.

The UW System Free Speech Survey shows we still have work to do to help this generation of students embrace their rights and responsibilities as adults in a university environment. In particular, it showed that a significant minority of UW-Eau Claire students believe the administration should play a role in disinviting speakers who have potentially controversial or disruptive viewpoints. It also showed that students' biggest source of apprehension about sharing a viewpoint in class is the potential backlash they may face from their peers.

In this cultural moment, communication apprehension is to be expected—from students and employees alike—but it is our role to foster best practices for civil dialogue and disagreement.

Universities are meant to be laboratories for discovery and analysis, providing students with the opportunity to develop a more well-rounded view of human history while building proficiency in a career field.

For this exploration to be effective, our faculty must have the academic freedom to provide students with their expert analysis of all the available information. I must say, I have been impressed by the depth of debate our faculty leaders have shown on hot-button topics, and I can tell you that their allegiances are much more nuanced than a binary distinction between political parties.

Our faculty are also continually working together to improve their teaching skills, which is crucial because universities are always welcoming new students to campus. For UW-Eau Claire, these are mostly 18-year-olds coming in waves of more than 2,000 per year, each starting from the same place. Building capacity for civil dialogue among students isn't a one-and-done proposition; it is a continual effort.

The world our students grew up in follows them to campus, and the university must be prepared to welcome and provide a reasonable network of supports for students of all backgrounds.

With more than 3,000 students living in on-campus residence halls, these supports must span numerous university-controlled environments. The nuanced outcomes of free expression questions require additional framing from the moment our students come to campus.

The average 18-year-old student UW-Eau Claire admitted last fall was born in the year 2004. They were one when Facebook and YouTube launched; they were six when Instagram launched. They were teenagers with developing brains when social media allowed them to compare their lives to whatever their classmates chose to upload.

Adjusting to the college student ethos was an even greater shift for this generation than those who came before. Engaging in class discussions brought not only anxieties about appearing incorrect or ill-prepared to their instructors, but fear about a less-than-articulate moment resulting in social media uproar.

When anxieties flare, it is crucial that the administration have a response mechanism for student concerns and have a clear understanding of our regulatory guardrails.

For that reason, I believe UW-Eau Claire's Bias Incident Reporting Team has been effective. Any student concern—be it related to housing, the classroom, or a public event—may be reported to the bias incident team. Let me emphasize that something being reported as a bias incident does not automatically mean that someone has done something wrong. Rather, it means that a team of professionals who are well-versed in the university's free speech obligations are made aware that a student has a concern. This can facilitate follow up from appropriate areas, often leading to conversations about the university's obligation to be a space for all voices and viewpoints. And, in the rarer instances where a crime has been committed or a policy violated, the incident can be routed to the proper channels for adjudication.

On issues of free expression and academic freedom, the university's guardrails come from federal and state laws and rules, and UW System policy. I believe it is a strength of these guardrails that they do not empower the administration to actively choose who does and does not have a right to speak on campus. Rather, administration in Wisconsin is tasked with ensuring the free speech environment is maintained and available to all.

While many current students find hate speech deplorable and believe it should be disallowed, hate speech is presently protected by the First Amendment. And, if the Department of Education found a university had failed to uphold these standards, we would no longer be eligible to disburse federal student aid—a major source of assistance for our students.

At the state level, UW System Administrative Codes overseen by the Joint Committee for the Review of Administrative Rules enumerate the due-process rights of our students and employees. These administrative rules also provide priority for what types of activity can take place in our state facilities. Unless someone runs afoul of one of these limited guardrails, their speech is protected.

There are also protections afforded to any invited speaker who is brought to campus by a university entity under Regent Policy Document 4-21. If a student or faculty member took exception to the views of an invited speaker and attempted to shout them down, there would be consequences. This is consistent with federal case law—universities have an obligation to protect both the rights of speaker to be heard and the rights of the public to hear the speaker.

With these clear regulatory guardrails in place, you may ask why campuses still experience flare ups around issues of free expression. I would highlight a few factors.

As the committee has heard in previous hearings, some issues may be driven by a censorious minority utilizing social media and other tactics to demand change. In instances where the demanded change would violate the university's commitment to free expression values, we are not able to bend. And, as the outcomes of a student disciplinary hearing or employee HR review are not available to the public, this minority may feel their complaints are not being addressed.

Another factor is the acute psychological strain this generation of college students is experiencing. When controversial speech is perceived to be causing harm to a group, advocates and allies may rally to support those impacted. That's okay—more speech is better—but potential harm cannot justify exercising prior restraint against any viewpoints our students may be exposed to. We must produce graduates whose critical thinking skills are nuanced and resilient, and preventing exposure to other viewpoints does not advance this goal.

Finally, students' financial strain may be a factor in how they respond to free speech issues and how many experiences they can access outside of the classroom. Even prior to pandemic-driven inflation, our students were working more hours than in prior cohorts to make ends meet. This is not ideal, as it divides their attention between campus and part time employment and limits their availability to see speakers and events happening outside of classes.

With these factors evident even prior to the Free Speech Survey, I am proud that UW-Eau Claire has taken several steps to enhance how our students become aware of their first amendment rights and responsibilities.

In 2019, UW-Eau Claire's long-standing Center for Constitutional Studies received a sizeable gift from the Menard family. The Menard Center for Constitutional Studies remains focused on educating students about their first amendment rights. It also provided for additional faculty, and a program coordinator to help plan impactful events that advance free speech comprehension.

About one year ago, the Menard Center hosted two academics and public intellectuals who bill themselves as the ideological odd couple: Drs. Cornel West and Robert George. Coming from very different backgrounds and having distinct ideologies, the two professors modeled how the shared value they place on free speech allows them to be close friends despite their marked differences. The discussion attracted approximately 400 attendees from the campus and community, and is an ideal example of the kind of events we need to prioritize.

The Menard Center also examined ways to enhance our required discussion of free expression during student orientations. They developed a new video to help incoming students grasp the rights and responsibilities they can exercise here as

university students. While this one asset alone cannot turn the tide, I'm pleased that our freshmen were among the most well-versed first-year students on First Amendment values in the survey.

For the committee's benefit, and with the chair's permission, I would like to show you the video all incoming students see during orientation. The video, which includes excerpts from the discussion with Drs. West and George, debuted last fall, and will be continually updated to feature voices of current university leaders.

## VIDEO

I hope this gives you a sense of the values we place front and center for every incoming class.

I should mention that in just a few weeks, the Menard Center will host a panel entitled "The Future of Free Speech on Campus," featuring professors from UW-Madison and Carleton College alongside Greg Lukianoff, president and CEO of the Foundation for Individual Rights and Expression. We are very pleased to have this panel on campus soon.

Another resource we developed in 2020 was a new webpage to help students understand their role in maintaining an open campus environment. Titled "Student Expression, Rights & Responsibilities," the page walks students through answers to frequently asked questions that describe the university's responsibility to be a haven of free speech. This resource has received attention from other System institutions and is an invaluable on-campus resource for our community.

Finally, I'll mention that on Monday UW System President Rothman will be on campus to hold an "It's Just Coffee" session with students to hear first-hand how they are navigating the marketplace of ideas.

I'd like to thank the committee for their attention to the quality of higher education in Wisconsin. I believe UW-Eau Claire has managed its First Amendment responsibilities with the seriousness and devotion the state should expect from us. And I believe we are continuing to improve and enhance our

learning environment so all future generations of students can make sense of their precious First Amendment rights.

I'll leave you with the words of then-senator John F. Kennedy from 1959:

“I want to make sure we know all the facts and hear all the alternatives and listen to all the criticisms. Let us welcome controversial books and controversial authors... Let us not be afraid of debate or dissent – let us not avoid criticism or non-conformity – let us encourage it... So let the debate go on – and may the best ideas prevail.”

With that, Chair Murphy, I would be happy to answer any questions you and the committee may have.