CONTENTS

Prologue: On Trying  xi

1 Think If You Should: Paradigm Shifts on Campus Discourse  1

2 Try to Love the Questions and Seek Answers  21

3 Understand the Rules and Norms of College Discourse  53

4 Listen and Read with a Mindset of Informed Generosity and Grace  109

5 Communicate to Be Understood  155

6 Where Do I Fit? Engage in Self-Reflection  194

Acknowledgments  211

Appendix: Reflection Questions for Faculty  215

Index  219
1

Think If You Should

PARADIGM SHIFTS ON CAMPUS DISCOURSE

If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.


Your scientists were so preoccupied with whether or not they could that they didn’t stop to think if they should.

—*Jurassic Park* (1993)

The quotations above represent two central aspects of this book’s subject matter: the skill of good-faith dialogue. The first is from *Texas v. Johnson*, a Supreme Court decision that struck down a criminal ban on flag desecration.¹ Mr. Johnson,

who had burned a US flag outside of the Republican National Convention as a form of protest, was prosecuted under a law that banned burning flags. The Court ruled that the Texas flag desecration law (which permitted people to burn flags in order to dispose of them, as required by military protocol, but not in protest, as Johnson had)\(^2\) violated the First Amendment right to freedom of speech. The fact that the expression was distasteful to others, the Court concluded, did not entitle the state of Texas to outlaw it.

This is the essence of expressive freedom (what is often shorthanded as “free speech”): authorities may not pick and choose which speech to censor or punish based on viewpoint. And we, the people, have the freedom to express ourselves regardless of whether our ideas are popular or palatable.

The second quotation is from the 1993 movie *Jurassic Park*, in which a wealthy businessman hires scientists to develop living dinosaurs from preserved genetic material and display them in an amusement park. (Spoiler alert: it does not go well.) A mathematician hired as a consultant—aft er the fateful decision to reproduce prehistoric carnivores was made—observes that the scientists were so focused on what they could do, that they made a huge (and deadly) error regarding what they should do.

This quote captures what our First Amendment does not—the complex and fascinating question of how we should use our freedom. In this book, I propose that learning and practicing

good-faith dialogue is a better use of that freedom than debating, trolling, or retreating to the comfort of untested certainty. Good-faith dialogue encompasses far more than just the freedom to speak—and yet it cannot flourish without that freedom.

Academic dialogue requires both freedom and compassion to thrive. It has become conventional wisdom that these two priorities are in tension and that administrators tasked with promoting equity and inclusion are at odds with faculty, students, or politicians concerned about preserving free inquiry. But what if equity—including communicating and listening with care—was not a limitation on freedom, but rather a skill that opens doors to deeper understanding? In my experience, people have deeper, more meaningful, rigorous, and productive conversations once we understand that speaking and listening across differences is a core skill, much like writing, research, or keeping a budget.

This is the shift in thinking I ask of my students and fellow educators and that I will share with you. Dialogue is a skill that can and must be taught and practiced in an atmosphere where participants enjoy liberty, embrace personal responsibility and accountability, accept the possibility that we could be wrong, and commit to try again tomorrow where we fall short today.

**Why Isn’t It Enough to Learn about “Free Speech”?**

This book concerns itself with expression: the act of intentionally conveying meaning through speech, actions, art, or some combination of these. Dialogue, including good-faith dialogue,
involves expression, as well as (importantly) listening and learning. Asking questions, reading assigned materials, conducting research, and listening to the people around us are all critical components of the learning process. But what most of us call “class participation” isn’t the subject of many books. In my experience, teachers and students don’t talk enough about what good class participation entails. In these pages, I will explore many communicative elements of this work, including reading, listening, formulating questions, communicating ideas orally and in writing, deploying evidence with precision, accepting feedback, and synthesizing and comparing concepts and ideas.

When we talk about “free speech,” we really mean the broader category of expression and expressive conduct (such as saluting a flag or kneeling during the national anthem). Many conversations about expression in the United States today concern themselves mostly with the question of whether anyone—for example the government, a school, or a corporation—may punish expression or stop it from happening at all. That is an important question, and I will introduce you to the rules (such as laws against harassment) and norms (such as the practice of avoiding profanity) that apply to many kinds of speech and expressive conduct. To understand matters of particular interest to higher education communities (such as invited speakers, hateful speech, student protests, and misinformation) we must explore these rules and norms.

But communication is about far more than rules. To understand this, consider one way you express yourself: clothing. When you get dressed, you probably follow certain rules, such as “no shirt, no shoes, no service.” You also follow certain practices we call norms. Casual clothes for a movie theater but
slightly nicer clothes for a date, and more formal clothes for a debate tournament or job interview. The government did not create these norms but failing to follow them can have real consequences.

Your clothing choices often reflect how you want to present yourself and what you want to express. Maybe you wear a t-shirt with your favorite band’s name on it to show what kind of art you enjoy. You might dress particularly carefully for a job interview to convey that you will fit in with the organization and that you take the opportunity and the occasion seriously.

A school’s dress code would not give a new student any idea of how students dress in their community, nor how they can show their own personal style. If you have ever moved to a new community or school, you might have felt curious or even anxious about these unwritten norms and looked to other community members for guidance. Maybe your clothing choices made for an awkward first day at school or at an internship—overdressed, underdressed, or simply out of place.

Just as the dress code can’t teach us how to fit in (or stand out), the rules governing speech and expression don’t tell us how to become successful learners, effective communicators, responsible community members, or supportive friends. Copyright law says we may not pass off Beyoncé’s Renaissance as our own—but it doesn’t teach us to write songs. The First Amendment prevents the governor from censoring her challenger’s political ad, but it doesn’t help us determine whether claims in the ad are true. There are laws against assault and harassment but there is no law on how to be kind. That is why I often remind students that the First Amendment is only a limitation on government—not a blueprint for how to live.
Being a skilled and effective communicator means more than understanding what we are free to say. It means reflecting on what we want to communicate and why; our strengths and challenges as listeners, including listening with curiosity; becoming comfortable with questions and developing research skills to seek answers; learning how to convey our thoughts in clear and understandable ways; and receiving and responding to feedback with gratitude.

What’s So Special about Good-Faith Dialogue?

College courses (and civic life) require us to practice a form of listening, speaking, and questioning that we might not have practiced much before. As you will learn in Chapter 3 of this book, students in K-12 schools in the United States have limited freedom of expression compared to college students or other adults. If you arrive at college without much practice discussing complex issues, solving challenging problems in collaboration with others, or expressing disagreement with peers or authority figures, you’re not alone.

Much of the dialogue outside of academic spaces doesn’t provide a great model for what we try to do in college or for when we are trying to solve problems in the public interest. By the time we reach college, most of us have been exposed to political campaigns in which candidates representing the major political parties make their case to voters. Political campaigns expose us to conflict and disagreement (also features of academic and civic dialogue), but they are fundamentally different from what we do in classes. Campaigns generally present binary possibilities. You may vote for candidate A or B, red or blue. In
academic dialogue, by contrast, there are infinite answers to the questions we explore. While a campaign asks “Who is the better choice?” in an academic dialogue, we ask “How might we better understand a problem, and what would we need to know in order to address it?”

I believe that the kind of dialogue we practice in our college classrooms is a good model for civic engagement: working collaboratively to address common problems and create practicable solutions. This is different from partisan campaigning, where the goal is not solely to solve a substantive problem, but to get a majority of voters to select one candidate (even as many candidates run for office with the objective of solving a specific problem). In academic dialogue, “winning” means coming to greater understanding.

Learning collaborative, productive dialogue in pursuit of truth and shared solutions requires us to make a paradigm shift: a change in the assumptions we make and the approaches we take. This paradigm shift is from seeing the state of college discourse as a national crisis of self-censorship, to a teaching problem that results from our extremely ambitious effort to educate the most diverse generation in recent US history at a time when polarization, disinformation, and mistrust characterize American life.

Changing our mindset from culture crisis to a matter of skills and competencies requires all of us to make three shifts in the way we imagine speech: first, de-emphasizing speech rights (even as we zealously protect them) and focusing on responsibilities. Second, responding to mistakes and harm with education and restorative measures, not with punitive reactions. And finally, seeing college as a place for collaborative inquiry, not combat and debate.
From Rights to Responsibilities

The First Amendment, by limiting government authority to regulate our speech, gives us the space to engage in deep and important conversations, even when it means sharing ideas that are challenging or disagreeable. This is, as the Supreme Court explained in *Texas v. Johnson*, a bedrock principle of our First Amendment, which protects our freedom to express ourselves even when we shock or offend our neighbors.

The First Amendment protects our freedom to learn from different or opposing views but it is up to each of us to decide how we should seek knowledge. Fictional works such as *Frankenstein* and *Jurassic Park* describe how science, thoughtlessly practiced, can lead to disaster. Although words are not like dinosaurs running rampant in human society, our choices about what we say have consequences. Contemporary experience shows us, for example, that misinformation can affect public health and safety.³

Even legally protected speech can have social, professional, or academic consequences. If you burn the flag in protest, your neighbor is free to disinvite you from her fourth of July party (a social consequence). If you’re a political candidate, you might lose your election because you alienated voters who equate flag desecration with disrespect for our country (a professional consequence). And if you video yourself burning a flag and submit the video as a final project in a political

science class, you might receive a low grade—not because the professor disagrees with you, but because you were supposed to write a research paper (an academic consequence).

Sometimes we are willing to pay a cost for exercising our freedom of expression. Generations of activists have risked arrest and imprisonment for choosing to violate unjust laws (such as laws mandating segregated lunch counters). And politicians sometimes take unpopular stands knowing that they are likely to lose public support or professional allies and thus eventually, perhaps inevitably, their jobs. This book will not presume to tell readers there is one right way to exercise our freedom of expression or when to engage in civil disobedience. Instead, it will encourage you to understand the speech rights that our system of government protects and to consider the responsibilities that come with being the kind of student and civic participant you aspire to be.

*From Punitive to Restorative Responses*

Many American children are taught to respond to insults by saying “sticks and stones may break my bones, but words can never hurt me.” This saying is meant to undermine the power of bullies by showing them that their taunts have no effect. I’ll leave it to you to consider whether this strategy actually works and whether to encourage your own children or younger siblings to deploy it when faced with hurtful words.

It might be comforting, but the sentiment is not, strictly speaking, true. Words can do harm. The First Amendment protects some speech that inflicts emotional harm on individuals (including so-called hate speech) or expressions that harm society, such as by misinforming us about matters of public
concern. Words can damage relationships, and relationships are necessary if we are going to address society’s biggest problems, or just be happy people.

What we should do about the harm our speech might cause is a hard question worth considering. Many of us expect transgressions to result in punishment. In primary and secondary schools, rule-breakers face punishments such as detention, suspension, or even expulsion. including for speech that violates rules. As I will explain in Chapter 3, K-12 schools have a great deal of power to limit and punish student expression. Those of you who experienced primary and secondary education more recently than I did might have fresh memories of teachers or administrators wielding this authority. As you read this text and develop an impression about the relationship between expressive freedom and education, I encourage you to consider whether you agree with the system of limitations imposed earlier in your education. In the meantime, this text will help you understand and adopt the mindsets and practices that characterize scholarly inquiry and communication.

A community of inquiry, a place where adult learners recognize what they do not know, explore challenging questions, and try to solve seemingly intractable problems together, benefits from a different approach. In an academic community we presume all members are acting in good faith. When people are making good-faith efforts to learn and solve problems together, a community of inquiry responds to errors and transgressions with more inquiry, more speech, and more opportunities to learn and grow. Each member learns to show grace, and benefits from receiving grace as we strive and stumble through our journey to better understanding. We approach one another as
colleagues, not competitors, and offer and receive the help we all need to develop our skills. Sincere apology, commitment to do better, shared responsibility, and deep listening—not punishment—together constitute a restorative approach.

From Debate to Inquiry

College discourse requires us to shift from a mindset of debate to inquiry. Debate involves opposing arguments being put forward and defended, often for an audience. In college classrooms, we are not opponents competing for voters’ approval nor combatants in a judged performance. College classes are places for inquiry, which is a process of questioning. To be a student is to ask questions about the world around us; to question our own preformed opinions; and to interrogate our community’s prevailing ideas and values. To debate is to prove that we are right. Inquiry requires us to understand what we do not yet know with certainty, and to entertain the idea that we might be wrong.

In short, being a scholar (and, I would argue, an engaged member of society) requires us to try to love the questions and learn to live in a state of curious uncertainty.

What Does It Take?

To develop a mindset of inquiry and build your skills as a reader, listener, and communicator, you will need to:

1. Learn to love the questions and to seek answers with integrity
2. Understand the rules and norms that apply to your conversations
3. Listen and read with a mindset of informed generosity and grace
4. Communicate to be understood
5. Engage in self-reflection

This book won’t tell you what’s okay to say and what isn’t. Instead, as you explore these pages you will become more familiar with the rules and norms that govern academic and civic discourse—including the discourse of writing—and acquire tools to guide how to use your freedom and build your skills.

What’s In It for Me?

The responsibilities that come with academic dialogue can seem very costly. Expressive freedom, by which I mean minimal regulation and restriction on what may be said, often requires us to be confronted by ideas we don’t like and share space with people who don’t like us. Restorative approaches to transgression can feel at odds with our social reality that conditions us to believe “justice” requires punishment. The exercises of inquiry and collaborative problem solving deny us the instant gratification that comes from certainty and winning an argument. As anyone who has spent time on social media can tell you, exercising intellectual humility and communicating with compassion are not a recipe for going viral. So why learn to love the questions themselves and try to master the skill of collaborative inquiry and responsible communication?

These are questions I particularly love, and which are at the core of my work on productive dialogue:
• Why does the First Amendment protect even unkind and cruel speech, and why should academic communities do the same (even in cases when they don’t have to)?

• Why take a restorative rather than punitive approach to speech that is “bad” or “wrong?”

• Why try to communicate responsibly and with compassion when sensationalism, name-calling, and inciting anger can lead to commercial and electoral success?

You and I might come to different conclusions about these questions. But I hope that you engage deeply with them as you read this book, and that you continue to consider them throughout college and life. I promise my students I won’t grade them on the opinions they hold or the way they vote. And my hope is that this value comes through in your experience with this book. A thoughtful reading could lead you to conclude (as I have) that rules against profanity are silly. But maybe you will conclude that people who resort to profanity give insufficient weight to their responsibilities as communicators (if so, I hope you’ll send me your thoughts; I am still a learner too, after all).

But I do know that this thing I’m encouraging you to try—to learn and practice productive civic dialogue—competes for attention with other priorities in our lives. You have other reading assignments, papers, jobs, and internships. The alluring sirens of censorship and performance, with their easy answers and quick rewards, are loud. So just this one time, as we get started, I’ll explain why I think it’s worth protecting expressive freedom; why I prefer grace to punishment; and why I believe we should

4. In Chapter 3 we will explore how public and private universities differ, and how context (classrooms, residence halls, online) affects the nature and extent of expressive freedom.
practice inquiry responsibly and kindly, rather than wield our expressive freedom like a club.

Why Protect Expressive Freedom and Practice Informed Generosity?

To quote Supreme Court Justice Anthony Kennedy, “times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress.”

Humans are imperfect. We can be hampered by the limits of our experience, and even our good-faith solutions to intractable problems can prove, upon further examination, to be wrong. In fact, often it’s the things we all agree on that we get the most wrong.

Take, for example, our nation’s policy response to drug addiction. In the 1970s through 1990s, the United States and many states enacted laws that led to mass incarceration. Support for these laws was bipartisan. Arguably, to borrow Justice Kennedy’s phrase, times blinded politicians across the political spectrum to the dangers of criminalizing addiction. Later generations have come to see that some of our laws in this realm are indeed oppressive. Today, drug law reform is becoming an uncommonly bipartisan area of interest, even in our extremely polarized times.

If we are to understand the limitations of our wisdom, we need dialogue. Granting authorities the power to restrict criticism of dominant ideas can lead us to make even more mistakes—from unjust laws to unjust wars. If the passions of a moment can blind us to truth, we must rely upon each other to help us learn when and where we have been wrong. This requires freedom of expression.

In my own experience, hard conversations across principled differences have been some of the most rewarding in my life. There is no greater threat to excellent writing than unearned certainty; everything I have ever written—from my constantly evolving course syllabi to this book—has benefitted from critical dialogue. It is the tough conversations (as distinguished from the mean or dishonest ones) that produce the best ideas.

Why Grace Rather Than Punishment?

Let’s be honest (dishonesty is inherently uncivil). It feels good to see bad guys get punished. Anyone who has watched a movie can tell you that. Perhaps it’s human nature to cheer for the bad guy to go to jail, or to be humiliated, or to face steep consequences by other means. Perhaps it’s baked into our consciousness as members of a society that incarcerates an extraordinary percentage of its citizens.

Regardless of how satisfying or appealing it is to punish and shame transgression, I would posit that punishment is not the best answer to hurtful speech—even intentionally hurtful speech that falls short of harassment and threats. My primary reason for believing this is the same as my reason for teaching: I believe human beings are capable of learning what they didn’t know and therefore capable of changing. And I believe college students in particular want to learn. The opportunity to learn means the opportunity to do better next time.

Beyond that, I have a very practical reason for opposing punishment for most hurtful speech: I believe society is better off if people continue to try to learn and work together in places like universities—even when they disagree—than if the people most in need of exposure to diverse human perspectives are exiled to places where they are unlikely to find them. I hope we can all spend more time exposed to the good-faith inquiry and dialogue that characterizes academic life.

A restorative approach is not without cost—particularly to those who are the most likely targets of hate or recipients of unwitting ignorance, people often from minoritized or marginalized groups. Reducing that cost is an important responsibility that students, faculty, and administrators should all make our mission.10

10. Like many advocates for expressive freedom, I am also conscious that speech restrictions adopted to make a school or society more inclusive can be used to suppress speech that people in power are opposed to.
Why Does Practicing Responsible Speech Make for a Better You, a Better University, and a Better World?

Learning is the engine of human progress. Freedom is essential to learning, but a learning community without academic standards ceases to be a learning community at all. Schools are, by definition, places that evaluate ideas. When I select a peer-reviewed journal article but not a conspiracy theory website for a course reading, I am expressing a core function of a university: to promote knowledge.

A learning community where some members know they are unwelcome cannot call itself a place for the free and robust exchange of ideas. When some members of the community are denigrated, when they must divert their energy to protecting themselves and educating peers, their opportunity to thrive diminishes—and with it, the community’s access to their contributions diminishes too. Communicating in a way that respects all community members is essential to ensuring a truly open, productive dialogue.

Furthermore, the skill of communicating to be understood is an essential one beyond college. Whether we are representing a business to clients and customers, advocating for political change, providing medical advice and care, or navigating personal relationships, the capacity to communicate respectfully and effectively is essential.

Although to my knowledge most colleges do not have a civil discourse major or a required class on productive dialogue, inquiry and dialogue skills are fundamental to being an excellent
college student and writer. Some of the most challenging aspects of college writing—including posing and answering original questions and deploying credible evidence accurately—are elements of constructive dialogue as well.

Finally, at a time when students (and teachers!) are burned out from standardized tests, building resumes, and intense competition, I am suggesting an approach that encourages you to find ways to seek joy, excitement, and personal investment in what you are learning. When we love to learn, when we feel at ease with uncertainty, when we can see our classmates as fellow adventurers—not adversaries—we can love more than the questions. We can love our college experience. It is my hope that you find some ideas—and questions—to love on these pages. Let’s get started.

Discussion Questions and Classroom Exercises for Chapter 1

- What are your responsibilities as a class discussion participant? What are the professor’s responsibilities? How do we support one another in meeting those responsibilities?
- What is the purpose of punishment in general? What is the purpose of punishment in a school setting?
- Under what circumstances is punishment the right response to student speech?
- Is there a topic related to this class that you would like to know more about?
- How hard is it for you to ask questions or say you don’t know in a classroom space like this one?
• Practice saying “I don’t know.”
• An “I don’t know” ice breaker: Student 1 asks a question that no other student could answer (e.g., what book am I reading for pleasure right now; what was my high school softball team’s win-loss record) and calls on student 2. Student 2 answers “I don’t know.” It is now student 2’s turn to ask a question and call on student 3. The exercise is complete when everyone has asked a question and responded “I don’t know” in front of the class.

Writing Exercises for Chapter 1

• Imagine your ideal learning community. How would people treat one another? How would they handle disagreement? What would they accomplish in collaboration with one another? How would they address mistakes? How would they handle problems? What voices would you want to hear there? How would you bring those voices in?
• Who do you want to make proud? Picture the person you want to make proud—whether a parent, a mentor, a friend, or yourself. What would it take to make them proud? What will be challenging about that, for you? Are there times when being that best vision of yourself becomes harder?
• Write a mission statement for yourself. What do you want for yourself? What will you ask of yourself? How does your time in class fit into this mission?
• Consider a time when you have been wronged. Did you hope the wrongdoer was punished? What did you want to see happen? What was the resolution? If you had the
power to address the issue, what would you want? What would justice look like to you?

- Now consider a time when you violated a rule or wronged someone else. What were the consequences, if any? Do you think justice was served? If you were judging your own case, would you have ordered a punishment? Would you take some other approach?

- Select a topic about which you consider yourself reasonably well informed. What more could you learn or do you still need to know? What does it take to be an expert on this topic? Consider a question in your field of interest where many well-informed people disagree. Ask yourself: What would you—or someone new to the topic—need to know in order to form an opinion on the dispute?

- Set a goal for your reading, listening, and communicating this semester. What do you want to work on? What would success look like to you?
INDEX

abortion, 87, 122
academic disciplines. See disciplines, academic
academic freedom, 54–55, 60–61, 61n10, 102
academic setting: dialogue in, 115; inquiry in, 22; objective standard grounding, 40–41
academic writing: complexity not required by, 178; dialogue within, 164; standards binding, 94–95
accessibility, of communication, 177–78
actions, during disagreement, 207
activists: freedom of expression exercised by, 9; hate speech responded to by, 81; speech rights of, 64
addiction, drug, 14
administrators: equity promoted by, 3; speakers disavowed by, 82; students informing, 202n5
admissions processes, students impacted by, 37n6
alcohol use, 103
American Association of University Professors (1940), 53
American University (AU), 93, 198
anecdotal evidence, illustrative examples differentiated from, 173–74, 193
Angel Action (counter-protest), 152n24
answers, questions limiting, 48
apologizing, with integrity, 181, 184–85
The Apology of Socrates, 165
appearance codes, 67
AU. See American University audience, 176, 188
autonomy, respect for, 178
bad faith questioning, 43–44
Baldwin, James, 109n1
bandwidth, 205–6
Bates, Caleb, 116n2
behavior, norms of, 106
Beyoncé (singer), 5
bias: in classrooms, 218; expertise differentiated from, 46; information evaluated for, 46; speakers harboring, 87
binary questions, 27–28, 51–52; disagreement and, 30; exploration beyond, 24; political campaigns presenting, 6; “Under What Circumstances” question translating, 26. See also false binary

219
biology, marine, 42
citizenship, expressive freedom enabling, 185
bipartisanship, viewpoint neutrality contrasted with, 89
civic engagement, college dialogue compared with, 7
“Bong Hits 4 Jesus” (banner) Frederick suspended for displaying, 64–65, 75
civil discourse: critics of, 156; to productive discourse, 159; students concerned by, 31–32
civil marriage, religious marriage contrasted with, 187–88
civility, 99–100
calling in, 131–32, 150, 152, 218
calls for, 134, 162, 191; class discussions on, 160–61; classroom discourse and, 159–60; debate during, 163–65; discussion during, 164–65; faculty stewarding, 98
cancels culture, 25–26, 93
canonical, 49
Cannabis, legalization of, 104–5, 187
Carlin, George, 99
censorship. See self-censorship
chilled speech, 92
Christmas, schools closed by, 137
class discussions, 135, 148; on abortion, 87; on class time, 160–61; standards binding, 94–95; "Under What Circumstances" question on, 150; values about, 207
class meetings, 162–63
class participation: course engagement contrasted with, 162; grades for, 160; learning facilitated by, 4
class policy documents, 89–90
class time, 134, 162, 191; class discussions on, 160–61; classroom discourse and, 159–60; debate during, 163–65; discussion during, 164–65; faculty stewarding, 98
classroom discourse, class time and, 159–60
classrooms: bias in, 218; exercises in, 23, 38–39; productive discourse beyond, 185; profanity in, 101; space for other voices made in, 139–40; speech in, 89; The View contrasted with, 157; viewpoint

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discrimination in, 89–92. See also college classrooms
clothing, communication through, 4
collaboration: compromise differentiated from, 31–34; disagreement contrasted with, 19; framework for, 166
college campuses: common ground built into, 33; expression on, 42, 63; First Amendment on, 63–64; self-censorship on, 93; speech on, 52, 63
college classrooms, 147, 159–62; discourse in, 157–58; good faith in, 137, 179–80; societal defaults reflected in, 138–39
college dialogue, 196–97; civic engagement compared with, 7; generalization avoided by, 169–70; informed generosity within, 120
college discourse: challenge of, 197–99; debate in, 11; inquiry in, 11; punitive responses to, 9–11; responsibilities and, 8–9; restorative approaches to, 9–11; self-reflection on, 197–99; speech rights and, 8–9
college-level standards, 34–37

common ground, 32–34, 52
communication, 164; accessibility of, 177–78; to be understood, 158, 166; for change, 185; to change minds, 187; through clothing, 4; across difference, 202, 208; goals and, 186, 190–91, 197; purposive, 159–62; skill of, 17. See also speech
community, 195, 208; dress codes not reflecting, 5; faculty building, 216–17; high school compared with college, 209; inclusivity in diverse, 178; of inquiry, 10–11; self in relation to, 197; standards set for, 216; students within, 91. See also learning community
“Comparing Debate, Discussion and Dialogue” (handout), 163n2
compelled speech, 71–72, 72n26
compromise, collaboration differentiated from, 31–34
conclusions, question critically examining, 41
Confederate flag t-shirt, 52
Confederate monuments, in Virginia, 22–23, 38–39
conservatism, 169, 201
conservative students, 201
Constitution (US), 49. See also First Amendment
content discrimination, 87–89
course engagement, 161–62
COVID-19 pandemic, 27
credibility, context influencing, 174–75

See also administrators; faculty; students; universities
critics, 124–25, 156

critique, 164–65; of campus discourse, 163; peer, 131, 152; productive, 130

cruz, Ted, 172–73, 173n5

current events, 153

data, 44–45, 47–48

death with dignity (movement), 111

debate, 27, 196–97; during class time, 163–65; in college discourse, 11; dialogue contrasted with, 3, 163; inquiry contrasted with, 11, 22–23, 158

defamation, 84

default students, 199–200

defensiveness, gratitude contrasted with, 125

denial of humanity, disagreement distinguished from, 147–48

developmental self-censorship, 92, 105

dialect, 90, 90n52

dialogue, 4, 15, 44, 165, 197, 201; academic, 12; in academic setting, 115; within academic writing, 164; campus discourse and, 6–7; about campuses, 141; college-level, 204; compromise and, 32; debate contrasted with, 3, 163; difference across, 205; disagreement navigated with, 110, 153–54, 164; empathy in, 129–30; good faith, 6–7, 178, 179; inclusive, 128–29; mental health impacted by, 206; professors discouraging, 94; restorative approaches to, 125; skills for, 17–18. See also college dialogue

dialogue facilitators, 144–45, 167

dietary practices, Kosher and Halal, 180

difference: communication across, 202, 208; across dialogue, 205; listening across, 110, 208. See also critique; debate

disabled people, physician-assisted suicide impacting, 110–12

disagreement: actions during, 207; binary questions and, 30; collaboration contrasted with, 19; denial of humanity distinguished from, 147–48; dialogue navigating, 110, 153–54, 164; students improving through, 205

disciplinary standards, 174–75, 192

disciplines, academic, 41, 140, 174–75, 192; approach distinguishing, 42; research questions influenced by, 51; studying across, 141–42

discourse, productive differentiated from unproductive, 180

discourse, 7, 159–60; in college classrooms, 157–58; norms of, 99; rules of, 108. See also campus discourse; civil discourse; college discourse; productive discourse
discourse, campus. See campus discourse

discrimination: content, 87–89; political affiliation as base of, 62n12; viewpoint, 89–92, 189
discussion, class. See class discussions
discussion, during class time, 164–65
diversity, 200–202, 204; of colleges, 140; self-reflection on, 197–99; students and, 203
dress codes: community not reflected by, 5; girls targeted by, 67; of high school, 104
drug addiction, in US, 14

empathy, in dialogue, 129–30
employers, 56; expression limited by, 56n6; free speech and, 190; viewpoint discrimination by, 189
engagement, course, 160–61
Epps, Garrett, 136
equality, marriage, 187
equity, administrators promoting, 3
evidence: anecdotal, 173–74, 193; claims in relation to, 172; “just in my opinion” lacking, 182; opinions built from, 21; positions developed by, 37
expertise, bias differentiated with, 46
express, 3–4, 88; on campus, 71; on college campuses, 42, 63; employers limiting, 56n6; examples of, 58; First Amendment protecting, 58–59; harassment contrasted with, 87n51; hateful, 82–83; K-12 schools limiting, 10; private universities restricting, 72–74; secondary school limiting, 65–66; of students, 68. See also communication; free expression; freedom of expression; hateful expression; speech expressive freedom, 2, 12, 13, 47, 59, 136; on campuses, 74; citizenship enabled by, 185; in higher education, 68, 102; informed generosity and, 14–15; at private universities, 69–70, 81n45; University of Chicago centralized by, 70 extremism, 148–49

facilitator, dialogue, 144–45
faculty: challenging material taught by, 217; class time stewarded by, 98; community built by, 216–17; harassment addressed by, 98; professional standards of, 60; reflection questions of, 215–18; students informing, 202n5; trust established by, 216. See also professors
false binary, 44; oversimplification and, 49; polarization requiring, 25–26; questions rejecting, 25
feedback, 129, 130, 149, 168, 184; constructive, 207; grace and, 112; gratitude with, 179–80; responding to, 192. See also critique
First Amendment (US Constitution), 1–2, 5, 8–10, 53, 71, 82–83; on college campuses, 63–64; compelled speech violating, 72, 72n26; expression protected by, 58–59; free speech included in, 54; hateful expression protected by, 85–86; incitement excluded by, 77; political speech prioritized in, 74–75; private entities protected under, 69, 69n22; in schools, 63; speech limited by, 146–47; speech regulation violating, 156; universities bound by, 81
First Amendment–like protections, at private universities, 69–72
flag desecration, 1–2, 75
forgiveness, 119
Frankenstein (Shelley), 8
Frederick, Joseph, 64
free expression: burdens and benefits of, 77–78; online speech and, 189; policy statements on, 71; professors agreeing with, 90
free speech, 47, 57–60; campus discourse and, 3–6; on campuses, 54–55; employers and, 190; First Amendment including, 54; limits of, 83; protected speech contrasted with, 61–62; realist model of, 151; triumphalist model of, 151
freedom, academic, 54–55, 60–61, 102
freedom of expression: activists exercising, 9; at higher education, 56; laws and, 42, 154; restrictions on, 55; standards influencing, 57; of students, 6, 64. See also expressive freedom
freedom of inquiry, 70
freedom of speech, 48–49, 58
freedom to not speak, 59
“freshman forgiveness” policy, 32–33
gas prices, 122
the general, the specific blurred with, 50–51
generalizations, 97, 169–70
generosity, informed. See informed generosity
generosity, unequal burdens of, 137–39
girls, dress codes targeting, 67
goals, 206, 210; communication and, 186, 190–91, 197; productive discourse linked with, 195–96; professional, 188–90; self-reflection on, 196–97
golden age, imaginary, 51
golf industry, millennials killing, 142–43
good faith: in college classrooms, 137, 179–80; informed generosity and, 119–21; listening enabled by, 118–19; listening generously and, 121–23; rebuttable presumption of, 117, 118
grace, 119; feedback and, 112; punishment contrasted with, 15–16; unequal burdens of, 137–39
grades: for class participation, 160; for course engagement, 161; political orientation not considered in, 216
gratitude, 125, 179–80
Gurin, Patricia, 163n2
hairstyles, school districts restricting, 67
Halal dietary practices, 180
harassment, 85, 87; expression contrasted with, 87n51; faculty addressing, 98; targeted speech distinguished from, 86
hate crimes, 79–80, 80n42
hate speech: activists responding to, 81; hate crimes differentiated from, 79–80; private universities limiting, 107; as protected speech, 76–78, 81
hateful expression, 80–81; First Amendment protecting, 85–86; regulation of, 82–83; school not disrupting, 68–69
health, mental, 205–6

high schools: community of colleges
contrasted with community of, 209;
dress codes of, 104; speech rights
limited by, 64–67

higher education: academic freedom
valued by, 102; expressive freedom
in, 68, 102; freedom of expression
at, 56. See also colleges; universities

Holmes, Oliver Wendell, 125–26

hot moments, 207, 218

humanity, denial of, 147–48

humans, as social beings, 199

humility, intellectual, 35–36

“I don’t know” (ice breaker), 19

identity, 150, 180, 203, 208; hate crimes
not considering, 80n42; listening
generously and, 116; students
sharing, 200

ideology, 169

illustrative examples, anecdotal
evidence differentiated from, 173–74,
193

imminent lawless action, incitement
of, 77, 83–84

impact, intent distinguished from,
125–28

imposter syndrome, 218

incarceration, mass, 14

incitement, of imminent lawless action,
77, 83–84

information, 46–48

information literacy, 47, 149, 193; data
interpreted with, 44–45; library
research training improving, 192;
rankings and, 52

informed generosity: within college
dialogue, 120; expressive freedom
and, 14–15; good faith and, 119–21;
inquiry applied through, 121

inquiry, 17–18, 28, 123, 143, 157, 166; in
academic setting, 22; broad under-
standing about field of, 45–46;
collaborative, 39; in college dis-
course, 11; community of, 10–11;
debate contrasted with, 11, 22–23,
158; freedom of, 70; informed
generosity applying, 121; in listen-
ing, 113–17; mindset of, 11–12, 34–37,
101–2; modes of, 41–42; practice of,
35; process of, 95n62; in reading,
113–17

Instagram (social media), 171

institutional review board (IRB), 71n25

institutions, seeking to understand,
185–86

integrity, apologizing with, 181, 184–85

intellectual humility, 35–36

intent, impact distinguished from,
125–28

interests, 29–30

IRB. See institutional review board

Jefferson, Thomas, 23

Jones, Robert, Jr., 109

journalism, by students, 74

Jurassic Park (film), 1, 2, 8

“just in my opinion” (phrases), 181–82

justice, 20

K-12 schools, expression limited at, 10

Kennedy, Anthony, 14

kindness, 177
King, Martin Luther, Jr., 54
KKK. See Ku Klux Klan
Kosher dietary practices, 180
Ku Klux Klan (KKK), 76, 78

language proficiency, 90, 90n52
“Law and the Political System” (course), 115
laws, freedom of expression defined by, 42, 154
learning: class participation facilitating, 4; love of, 209; recall as beginning of, 34
learning community, 125, 181; diverse, 138; ideal, 19; mistakes as part of, 119; standards defining, 17
left-wingers, 170
“Letter from Birmingham Jail” (King), 54
Letters to a Young Poet (Rilke), 43
LGBTQ people, WBC condemning, 81
liberal students, 201, 204
liberalism, 102–4, 201, 204
line-drawing question, 40
listening: by dialogue facilitators, 144–45; across difference, 110, 208; engaging with varied discipline and perspectives improving, 140–42; good faith enabling, 118–19; inquiry in, 113–17; with open mindedness, 109, 133–34; responsibilities and, 149; to understand, 119–20; as valuable, 134–35; for who is being centered, 142–44
listening generously, 114, 120, 146, 151, 157, 184; cost of, 136; to critics, 124–25; good faith and, 121–23;

identity and, 116; limits to, 133; mechanics of, 123–24
literacy, information, 149. See information literacy

Mahanoy Area School District v. BL (Supreme Court case), 65n16, 66
marine biology, 42
“marketplace of ideas,” 102
marriage, religious contrasted with civil, 187–88
marriage equality, for same-sex couples, 187
mask mandates, 27, 29–30
mass incarceration, 14
McMillan Cottom, Tressie, 141n6
media coverage, “both-sidesism” characterizing, 22
mediators, 167
meetings, class, 162–63
mental health, 205–6
middle ground, 31–34
millennials, golf industry killed by, 142–43
mirroring (technique), 167–68
misinformation, 136, 191
misleading questioning, 43
mission statements, of universities, 70
monument, Confederate, 22–23
monuments, partisan gaps in support for removal of, 24n1
Morse v. Frederick (court case), 64–67, 104–5
multidisciplinary thinking, 52

Nagda, Ratnesh, 163n2
Nazis, rights of, 76
neutral inevitability, viewpoint, 87–89
New York Times (newspaper), 47, 140, 141n6
normative self-censorship, 92, 105
norms, 4–5, 55, 192; of behavior, 106; cultural, 151; of discourse, 99; liberalism and, 102–4; against profanity, 100–101; of speech, 106
objective claims, 95n62, 97, 183
objective standard, 40–41, 130–31
online spaces, bad-faith in, 191
open mindedness, 121–22; listening with, 109, 133–34; reading with, 133–34; rules created from, 113
operational definitions, 168–71, 192, 193
opinions: evidence building, 21; formation of, 157; of students, 37, 91–92
outliers, students as, 208; gift of, 204–5; self-reflection on, 197–99; shared knowledge and, 138
oversimplification, false binary and, 49
Overton window, of policy outcomes, 186, 192, 193

pandemic, COVID-19, 27
papers, 176
participation, class. See class participation
partisanship, 169
peer critique, 131, 152
perception, 126–27
PERIL. See Polarization & Extremism Research & Innovation Lab
personal protective equipment (PPE), 27, 30, 31
physician-assisted suicide, disabled people impacted by, 110–12
polarization, 149n23; false binary required for, 25–26; viewpoint neutrality and, 89; writers impacted by, 140
Polarization & Extremism Research & Innovation Lab (PERIL), 149n23
policy outcomes, Overton window of, 186, 192, 193
political campaigns, binary questions presented by, 6
political orientation, grades not considering, 216
political speech, 74–76
poll questions, 48–49
Popper, Karl, 146, 151
positions, 40; evidence developing, 37; interests and, 29–30; rules made from, 27–31
PPE. See personal protective equipment presentations, 176
primary schools, 10, 65–66
priming, of poll questions, 48
private entities, First Amendment protecting, 69, 69n22
private universities: expression restricted at, 72–74; expressive freedom at, 69–70, 81n45; First Amendment–like protections at, 69–72; hate speech limited by, 107; public universities contrasted with, 13n4, 72n26
productive discourse: civil discourse to, 159; beyond classroom, 185; goals linked to, 195–96
productivity, 188–90
profanity, 99; in classrooms, 101; norms against, 100–101; rules against, 13
professional goals, 188–90
professional standards, of faculty, 60
professors, 53; academic freedom protecting, 61, 61n10; dialogue discouraged by, 94; free expression agreed with by, 90
project, student, 115–16
protected speech, 74, 85; consequences of, 8–9; free speech contrasted with, 61–62; hate speech as, 76–78, 81; at public universities, 189
protests, by students, 71, 135
provable claims, 96, 170
public affairs, 153
public universities, 82; compelled speech at, 72; private universities contrasted with, 13n4, 72n26; protected speech at, 189
public voice, 188–90
punishment, 10, 18, 19; grace contrasted with, 15–16; in primary and secondary school, 10; restorative approaches contrasted with, 12
punitive responses, 9–11, 158
questions. See specific topics
relevance, context influencing, 174–75
religious marriage, civil marriage contrasted with, 187–88
Renaissance (album), 5
Republican National Convention, 2 research, 51, 149n23; ethical rules regarding, 71n25; methods course, 38; priorities demonstrated through, 142; training in library, 192
research questions, discipline influencing, 51
Reserve Officer Training Corps (ROTC), 55
respect, for autonomy, 178
responsibilities, speech, 18, 60; avoidance of, 181–82; college discourse and, 8–9; listening and, 149; “sorry if you were offended” shifting, 184–85; speech rights and, 8, 155, 158, 178
restorative approaches: to college discourse, 9–11; to dialogue, 125; punishment contrasted with, 12; punitive responses shifting to, 158
restorative communication context, 130–31
rights, speech. See speech rights
Rilke, Rainer Maria, vii, 43
Roberts, John, 65
Rodriguez, Jaclyn, 163n2
Roe v. Wade (Supreme Court case), 122
ROTC. See Reserve Officer Training Corps
rules, 4–5, 20, 98–99, 192, 209; of campus speech, 55–56; of discourse, 108; ethical, 71n25; interests crafting, 29–30; open mindedness
creating, 113; positions made into, 27–31; against profanity, 13; “Under What Circumstances” question answered by, 30. See also norms

same-sex couples, marriage equality for, 187
Scalia, Antonin, 49
school districts, hairstyles restricted by, 67
schools: Christmas closing, 137; First Amendment in, 63; hateful expression not disrupted by, 68–69; K-12, 10; as platforms, 82, 135, 151; primary, 10, 65–66; secondary, 10, 65–66; speakers and, 135. See also high schools
Schwartz, Lara H., 21
Second Amendment, student project exploring, 115–16
secondary schools, 10, 65–66
Seidman, Louis Michael, 146
self, 208; community in relation to, 197; developing sense of, 198n2
self-censorship, 7; on college campuses, 93; developmental, 92, 105; normative, 92, 105
self-reflection, 194–96
sensitivity, 210
setting, academic. See academic setting
Shelley, Mary, 8
Shepard, Matthew, 152n24
Snyder v. Phelps (Supreme Court decision), 76, 80, 82
social media, students on, 188–89
Socrates, 54
“sorry, but” (phrases), 181, 183
“sorry if you are offended” (phrases), 181, 184–85
sources, 175
speak, freedom to not, 59
speakers, on campuses, 71; administrators disavowing, 82; bias-harried by, 87; schools and, 135; students against, 104; “Under What Circumstances” question on, 151–52
the specific, the general blurred with, 50–51
speech: academic, 89; chilled, 92; in classrooms, 89; on college campuses, 52, 63; compelled, 71–72, 72n26; consequences of, 129, 189; core political, 74; First Amendment limiting, 146–47; freedom of, 48–49, 58; harm inflicted through, 9–10; norms of, 106; online, 189; political, 74–76; primary schools limiting, 65–66; responsible, 17–18; standards for, 89, 155; targeted, 86. See also campus speech; free speech; online speech; protected speech; responsibilities, speech
speech, targeted, 86
speech rights, 83; of activists, 64;
activities covered by, 57–58; college discourse and, 8–9; high school limiting, 64–67; of Nazis, 76; responsibilities and, 8, 155, 158, 178; of students, 65–66, 107
Springfield State University (fictitious university), 22–23, 38–39, 40
standards: academic, 17; academic writing bound by, 94–95; class discussion bound by, 94–95; college-level, 34–37; community setting, 216; disciplinary, 174–75, 192; freedom of expression influenced by, 57; learning community defined by, 17; objective, 40–41, 130–31; professional, 60; for speech, 89, 155

Statement of Principles on Academic Freedom and Tenure, by American Association of University Professors, 53

student project, exploring Second Amendment, 115–16

students, 82, 196–97, 209; administrators informed by, 202n5; admissions processes impacting, 37n6; Black, 203; campus speech concerning, 216; civil discourse concerning, 31–32; closed-mindedness of, 106; colleges perceived by, 198; within community, 91; Confederate flag t-shirt disliked by, 52; conservative, 201; default, 199–200; disagreement improving, 205; diversity and, 203; expression of, 68; faculty informed by, 202n5; familiarity with concepts of, 215; freedom of expression of, 6, 64; identity shared by, 200; journalism by, 74; liberal, 201, 204; mission shared by, 116; opinions of, 37, 91–92; protests by, 71, 135; on social media, 188–89; against speakers, 104; speech rights of, 65–66, 107; Supreme Court siding with, 65n16; understand perceptions of, 218; universities perceived by, 201–2

subjective claims, 95n62, 96, 183

suicide, physician-assisted, 110–12

Supreme Court (US), 8, 14, 45–46, 59, 75; burning a cross protected by, 78; Constitution interpreted by, 49; on flag desecration, 1–2; Roe v. Wade overturned by, 122; students sided with by, 65n16. See also specific cases

Talamas, Alicia, 37n7

targeted speech, harassment distinguished from, 86

teacher training, 216

Texas v. Johnson (1989), 1, 8, 75

text, values reflected in, 41

thinking, multidisciplinary, 52

threat, true, 84

time, class. See class time

Tinker, Mary Beth, 64, 66

Tinker v. Des Moines Independent School District (Supreme Court case), 64, 66, 75

training, teacher, 216

triumphalist model, of free speech, 151

true threat, 84, 125

trust, faculty establishing, 216

Twitter (social media), 190

“Under What Circumstances” questions, 27, 33, 52; binary questions translated using, 26; on class discussions, 150; on Constitution, 49; rules answering, 30; on speakers, 151–52
unintentional racism, 125
Unite the Right (rally), 148
United States (US), 4, 14, 58, 102, 137.
  See also First Amendment;
  Supreme Court
the universal, the usual converted
  into, 171
universities: First Amendment
  binding, 81; mission statements of,
  70; students perceiving, 201–2. See
  also private universities; public
  universities
University of Chicago, expressive
  freedom centralized by, 70
US. See United States
US v. O'Brien (Supreme Court case),
  59n8
the usual, converted into the
  universal, 171
Vietnam War, 64
The View (TV talk show), 157
viewpoint discrimination, 89–92,
  189
viewpoint neutrality, 87–89;
  academia without, 94–98;
  bipartisanship contrasted with, 89;
  polarization and, 89
Village of Skokie v. National Socialist
  Party of America (Illinois Supreme
  Court), 154
Virginia, Confederate monuments in,
  22–23, 38–39
"The Walking Dead" (symposium), 110
Washington, George, 23
Washington Post (newspaper), 140
"we," use of word, 171–72
Westboro Baptist Church (WBC),
  76, 78, 81
"What would I need to know?"
  question, 38–39
"Where Would You Draw the Line?"
  question, 40
"writer-based prose," 176
writers, 171; audience centered by,
  176; complex language used by,
  178; polarization impacting, 140
writing, 112; assignments, 23, 96–97;
  original questions improving, 25;
  priorities demonstrated through,
  142. See also academic writing