

An Equity Lens to the UW-System Campus Protest Policy

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Literature Review

As more diverse people have entered higher education, campus administrators have had to acknowledge that the societal issues that diverse people bring to the table do not get left at the outskirts of campus (Wheatle, 2019). Due to this diverse influx of voices on campus, studies and literature has emerged following the course of student activism and the potential to create more inclusivity. Alongside political and public pressure, universities are learning to answer to students and student activism as hate speech emerges on college campuses.

This literature review will cover three main themes pertinent in contextualizing my recommendations for the Board of Regents: student activism as legitimate civic engagement, the evolution of free speech on campus, and an in-depth look at the UW-System Campus Protest Policy. Through this literature review, I will highlight important details and studies regarding the importance of student activism and its continued potential for creating change with the difficult balance of free speech and inclusion.

Student Activism

Student activism is not a new phenomenon, and whilst activism has been defined in many varying ways, in this paper, I use Chambers and Phelps's (1993) definition from their NASPA article *Student Activism as a Form of Leadership and Student Development*. They define activism as participation in group activities or behaviors to create change, whether in attitudes, knowledge, behaviors, or symbols and that this change can be directed to individuals, groups, or systems with a purpose to address inequities whether real or perceived.

Student activism has been at the very core of change within universities in the United States. Between 1870 and 1900, many of the protests that occurred across the nation centered on student dissatisfaction and the removal of in loco parentis (Chambers & Phelps, 1993). These

protests forced institutions to review their conduct policies and rights for students. The 1960s, in tangent with the Civil Rights Movement, saw a surge of activism that focused on the exclusion of Black students from schools. By the 1970s, students and their activism brought about changes within higher education that included student input on courses, policies, and procedures (Wheatle & Commodore, 2019).

Student activism is beyond a co-curricular activity and a simple disagreement with university policies and procedures. With the cooperation and support of faculty, staff, and administration, students can thrive in environments committed to hearing their concerns. In the absence of support, students suffer emotionally, mentally, and academically in the long run.

Civic Engagement

Student activism is not a nuisance on university campuses, but a form of leadership development with students that fall in line with student development theories (Chambers & Phelps, 1993). Educational environments go beyond the classroom and should provide opportunities for students to be involved in ways that they find engaging for their own learning. Participating in, or observing, political and social activism is a necessary learning experience. Hamrick (1998) noted that “campus dialogue and disagreement can be interpreted as indicators of the vital and engaged community in which democratic learning and exercise of citizenship is not only permissible, but nurtured” (p. 456).

In the *2020 Public Policy Agenda*, the American Association of State Colleges and Universities highlighted the promotion of civic engagement as a critical educational responsibility of campuses. The authors noted that: “the undergraduate experience... entails inculcating in students a sense of civic responsibility and active community engagement... to

prepare students to be the informed, engaged citizens our communities need (American Association of State Colleges and Universities [AASCU], 2020, p. 10).

There are no better means of creating engaged citizens than highlighting the efforts that student activists make on college campuses to create more inclusive communities. In a case study, Biddix et al. (2009) studied a specific student protest that had occurred at one midwestern university using 300 pages of archival data and interviews with the parties involved to include administrators and student protestors. They identified that two civic engagement learning outcomes were evident with student protestors. The first learning outcome indicated that students used multiple avenues of approach to engage in dialogue to get their point across. Protestors used electronic communication with executive administrators, sit-ins, and informal meetings to communicate their message of dissatisfaction with the university. The second outcome found that although students used disruptive actions to draw attention to their cause, administrators did not use any force to remove the students nor detract from their message. Students and the greater campus community were invited to weigh in on a policy statement on demonstrations and disruptions on campus. This case study is important to our understanding of student activism because it showcases that student voices are those of change and deserve the right to be heard in policymaking. Student activism is a form of civic engagement that deserves merit.

A longitudinal study conducted by Sax (2004) analyzed a first-year student survey and followed up four and nine years after college entry to gauge the change in college experiences, perception of college, and whether higher education prepared its students for civic life. Sax (2004) found that students who attended a college where the general population was committed to social activism were more likely to engage civically beyond their years at an institution. Institutions with students committed to social change are more likely to influence other students

at the same institution—even if these students do not engage in activism—to be committed to engage with their communities by “helping others in difficulty, influencing social values, influencing the political structure, and participating in community action programs” (Sax, 2004, p. 77). Additionally, Sax (2004) recommended that institutions provide a strong foundation of support, resources, and ranging opportunities for engagement because it shows an investment in students and their learning process, which ultimately pushes students to invest in the welfare of the larger society.

These studies showcase the legitimization of student activism as civic engagement and highlight the importance of institutional support from administrators, as well as, faculty and staff responsibility to engage with student activists to lift the burden from their shoulders.

Institutional Support

Separate studies are essential in highlighting the type of environments created when there is no support for student activists or when student activists are not seen as legitimate in their concerns. Hoffman (2016) conducted a case study on an activist group at the University of Missouri in the wake of Black Lives Matter and focused on institutional response to student activism. This specific student activism called out the dissonance between institutional values of diversity and the university’s actions (Hoffman, 2016). During student protests, the president of the university simply referred students to the diversity statement of the university without listening to their demands for change. The authors found that collaboration between executive administration and student activists is not useful when the administrative actions counter student demands, creating deep mistrust between administrators and students. Additionally, students saw administrators as “gatekeepers, antagonists, supporters, but not collaborators” (Hoffman, 2016, p. 279). Administrators asked students to use specific channels to have their concerns heard, but

these channels were either inaccessible or used as a means to silence or continue their inaction. Students had attempted to use the channels requested before engaging in protests, sit-ins, and issuing of lists of demands.

The above study is vital to understand importance of institutional support. Universities lose opportunities to engage in institutional conversations and create change when dismissing student activist concerns (Hoffman, 2016; Templeton et al., 2016).

Faculty and Staff Activism and Support

There is a tendency to consider “the institution” as chancellors, directors, department chairs, and lean on them to be the only changemakers. Student activists partnering with faculty and staff is important as well. Through these partnerships, all parties—including the campus as a whole—benefit from the collective faculty/staff and student labor (Kezar, 2010). Faculty and staff work behind the scenes as advocates, educators, and mediators while also balancing their employment position at universities. Kezar conducted a study across five different types of campuses and found that the type of campus (private, public, technical, small/large) and the overall favorability to student activism determined the type and the degree of support faculty and staff would give to students. Partnerships with faculty and staff were mutually beneficial, but especially for students. Students were given the ability to learn the system’s ins and outs, different strategies of protest in different contexts, networking capabilities within faculty and staff realms, and the type of language required to negotiate with those in power (Kezar, 2010).

Rather than placing the burden on students to create change on campuses, Kezar et al. (2011) focused on the grassroots phenomenon in faculty and staff activists for the same change that student activists work for. The researchers conducted interviews with faculty and staff at universities that had more than one faculty and staff activist effort (Kezar et al., 2011). They

found that even without holding positions of power, faculty and staff activists use a combination of nine different tactics to do their activism and are more than capable of creating change depending on institutional size and context. While the focus of my paper is on student activism and its legitimacy on campuses in regards to free speech, I want to highlight the faculty and staff responsibility to also create change within their own realms, regardless of their positionality.

Student Activism as Labor

The surge of activism that erupted alongside the Civil Rights Era in the 1960s was a direct reflection of Black student leadership. Black students integrated into predominantly white institutions (PWIs) in greater numbers and, by virtue of their identities and the realities they lived, forced universities to adjust in their policymaking and university makeup, producing Black studies departments and more diverse hiring (Favors, 2017).

Students with historically marginalized identities make up most student activists on campus today. In a study of undergraduate students from 14 institutions, Linder et al. (2019) found that students who participated in activism did so to legitimize their existence on campus and change institutional practices to make them more equitable. Activists noted that they knew change came slow but that they engaged “out of a sense of responsibility or survival, rather than choice” (Linder et al., 2019, p. 47). The students also acknowledged that their activism sometimes forced them to forgo their studies to act as changemakers for the sake of their own identities. There is an emotional, personal, and mental consequence that student activists suffer through at the cost of their education. While activism can be legitimized as a means of civic engagement and student developmental growth, often overlooked are the negative consequences to activism’s exhausting nature (Linder et al., 2019; Logan et al., 2017). The researchers of this study noted that students should have the opportunity to grow and learn without combatting

oppressive institutions and the heavy burden of changing institutions. Universities and the types of non-inclusive environments they create come at the cost of students of marginalized identities and their retention and graduate rates (Hurtado et al., 1998; Ma, 1995).

As administrators, it is essential to reflect on why the emphasis is placed on student activism to change campuses, rather than changing the oppressive structures that force students to engage in activism in the first place.

Free Speech

Freedom of Expression and Speech Codes

One of the earliest cases of free expression for students was *Tinker v. Des Moines* (1969). In the wake of the Vietnam War, high school students wanted to voice their objection to the war by wearing black armbands and fasting. Upon notification of this event, school administrators quickly passed a policy that prohibited students from wearing armbands and imposed sanctions on those who refused to abide by this policy. When the case went to the District Court, they indicated the administrators acted justifiably out of fear of a disturbance. Once appealed to the Supreme Court, they noted that the school officials could not prohibit this type of speech out of mere suspicion that it might disrupt the learning environment (*Tinker v. Des Moines*, 1969, para 5). Recently in the last few decades, student protests and university administrators have focused more on hate speech ideas and whether they deserve to have a place on campus.

The 1980s saw a surge of hate speech codes that swept the nation, and *Doe v. University of Michigan* (1989) was the first case that challenged campus free speech codes (Bohannon, 2020). The University of Michigan speech code was enacted in 1988 and prohibited speech that stigmatized or victimized individuals based on their identity but was struck down in 1989 for being unconstitutional and not under the First Amendment's protection (Bohannon, 2020). In

1991, the University of Wisconsin Board of Regents attempted to pass a hate speech code policy, but a federal court judge voided it due to its violation of the First Amendment (Bohannon, 2020; Collison, 1991; Leonard, 1993). In 1992, the Supreme Court's ruling in *R.A.V. v. St. Paul* (1992) and its Supreme Court ruling forced universities across the nation to revise or remove their hate speech codes. The city of St. Paul charged a man under the Bias-Motivated Crime ordinance after he and a few teenagers assembled a cross and set it on fire in the yard of a Black family. The Supreme Court ruled that they were not able to regulate this expression even if it was one rooted in racial hatred because regulating speech based on content violated the First Amendment (Ma, 1995; *R.A.V. v. St. Paul*, 1992).

The argument against regulating free speech is further complicated when looking at previous civil rights movements. Civil rights and social justice movements have always been unpopular with the public and are a symbolic threat to existing oppressive power structures (Bohannon, 2020). Because of the nature of social justice movements, the push for civil rights leans on facets of free speech to push for change. The University of Michigan and their short-lived free speech code is an example of the nature of free speech. From its application until it was struck down, more than 20 Black students were charged with racist speech, but racist speech from white students went unpunished (Bohannon, 2020). In addition, the American Civil Liberties Union has challenged more than 20 college or university speech codes, including a case that was in favor of a neo-Nazi who organized a mass white power march, indicating that the laws attempting to block their protest could have been used to stop Dr. Martin Luther King, Jr. (Bohannon, 2020; Leonard, 1993).

The nature of free speech is seemingly straightforward, except when it comes to the type of harm done to marginalized folks, making it difficult to understand or support. The thought of

hate speech being defended is one that four members of the Supreme Court in *R.A.V. v. City of St. Paul* found disturbing, stating:

I see no First Amendment values that are compromised by a law that prohibits hoodlums from driving minorities out of their homes by burning crosses on their lawns, but I see great harm in preventing the people of St. Paul from specifically punishing the race-based fighting words that so prejudice their community. (as cited in Ma, 1995, p. 705)

What was truly missing from the justification of this case was the acknowledgement of the harm done by this type of expression, and that is the harm that deserves to be acknowledged when looking at regulations on free speech.

The Cost of Hate Speech

It is important to note that at the time of the Constitution's writing, part of the United States population was property and not considered a full person. Slaves and their speech held no value, nor was it seen as a human right for them (Wheatle & Commodore, 2019). When considering the harm done in the face of hate speech, seldom is historical context or marginalization addressed. Denying the existence of psychological harm to marginalized folks in hate speech is dangerous because harm should be used to justify limiting some types of speech in certain contexts (Cohen, 2017). Campus administrators often tell students that the only way to quell hate speech is more speech. Requiring historically marginalized groups to speak more in the face of hate is a burden and comes at a price. Early critical race theorist Mari Matsuda (1989) stated:

The kinds of injuries and harms historically left to private individuals to absorb and resist through private means is no accident. The places where the law does not go to redress harm have tended to be the places where women, children, people of color, and poor

people live. This absence of law is itself another story with a message, perhaps unintended about the relative value of different human lives. (p. 2322)

Matsuda highlighted that the lack of legislation around hate speech, whether intentional or unintentional, tells the value that society places on the value of marginalized folks' lives.

Universities must reckon with the fact that “minority students and women pay a higher price for free speech than whites and men” (Cudd, 2019, p. 443). The experiences that marginalized students experience are directly attributed to the type of attitudes they have towards speech, even when it is not aligned with what institutions believe in.

Campus Free Speech Attitudes

While the call for speech codes reflect genuine want and desire to lighten the load of racial tension that occur on campuses and across the country, many arguments against free speech codes indicate that they are counter to university missions (Coleman, 1996; Leonard, 1993). Many fear that by enacting free speech codes, that they threaten the value of knowledge, lead to the subtle control of allowing only certain thoughts to flourish on campus and that they worsen tensions by glorifying speakers who have been shouted off-campus as a marker of martyrdom (Leonard, 1993).

The *2020 Public Policy Agenda* highlighted the importance of protecting and promoting free speech on public colleges and universities in that “freedom of speech is a cherished American tradition enshrined in the nation’s founding document” (AASCU, 2020, p. 9). The agenda discussed public university administrators as custodians of freedom of speech due to being funded by taxpayer money and considered governmental entities and are prohibited from limiting free speech based on content. The First Amendment constrains universities because they rely on the financial and state support for their research and tuition; therefore, they need to

justify any restrictions they must protect speech (Cudd, 2018). The only limitations that public colleges can enforce is “time, place, and manner” (ACE, 2018; NASPA, 2020), which indicate there may be limitations on duration, frequency, times of activities, regulations on certain areas of campus that can be used for free speech or require a reservation, and the form of communication used such as volume (ACE, 2018; NASPA, 2020).

The Chicago Committee on Freedom of Expression published a statement in 2014, indicating that it is not the university’s responsibility to “shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive” (Committee on Freedom of Expression, 2014). Regardless of how offensive speech could be, the committee stated that without the freedom to exchange deeply problematic ideas that universities would cease to exist as sites of knowledge exchange (Committee on Freedom of Expression, 2014).

The social norms surrounding what is acceptable speech is changing, as noted with the influx of diverse bodies that are entering campuses. A national study was conducted by the Knight Foundation in 2018 and surveyed student attitudes on freedom of expression and diversity. It concluded that students are just as equally divided as universities about what is important when considering inclusive campuses and freedom of speech. Knight (2018) found that 40% of students believed that hate speech should not be protected under the First Amendment. Similarly, when it came to disruption and campus protests, half of the students surveyed believed that it was acceptable to shout down speakers to prevent them from talking, and 85% of students believed that engaging in sit-ins or similar attempts to disrupt campus operations were acceptable forms of protests.

In line with the research thus far in this paper, the study noted the demographics of the students who responded in favor of inclusivity over free speech were students of color, women,

and those who held more democratic political affiliations. With this research showcasing the deep divide that students feel across the nation as it relates to the First Amendment, universities must therefore find means of addressing free speech and inclusivity concerns. While this survey displays the number of students who feel offensive and hate speech should not be protected, arguments note that the removal of language and speech that is offensive does not address the source of people's prejudices, and the lack of exploration into these prejudices by means of hate speech codes are against university missions as sites of building knowledge and critical thought (Coleman, 1996; Cudd, 2019; Leonard, 1993). With this understanding, the question still stands: how do universities balance the values of inclusion and free speech?

The Value of Inclusion and Free Speech

The conflict between inclusivity and free speech is seen in student protests that have erupted over the nation these past few years and the backlash that universities have seen as a result. Within the past decade, there has been an influx of student protests across the nation denouncing and shutting down speakers that hold harmful ideologies about marginalized groups. In 2014, former U.S. Secretary of State Condoleezza Rice was invited to the Rutgers University commencement ceremony but later declined the invitation due to student protests that denounced her human rights violations while operating under the Bush administration (Sguelglia, 2014). In 2017, Charles Murray, Milo Yiannopolus, and Richard Spencer were forced to cancel their speeches and appearances due to student protests. Charles Murray, a social scientist who believes in the inferiority of people of color, women, and poor folks based on genetics, was shouted offstage at Middlebury College (Jaschik, 2017; Peters, 2018; Reilly, 2017; SPLC, 2020). Political commentator and agitator Milo Yiannopolus canceled a speech at Berkeley (Lederman & Jaschik, 2017). Richard Spencer, a believer of ethnic cleansing and organizer for the "Unite

the Right” Charlottesville rally, was protested by students at the University of Florida, Auburn University, and Texas A&M (Reilly, 2017).

These student protests have caused a storm of controversy with politicians on whether campuses are truly upholding freedom of expression (Lederman & Jaschik, 2017; Segarra, 2017). With public universities being the receivers of taxpayer money and government aid, states all over the country have created legislation to pass and carry out punishment for students who violate others’ free speech (Anderson, 2020; Bauer-Wolf, 2019). But while legislation and punishment can be used to get rid of disruptive student protestors, my literature review has highlighted that there is value in supporting, listening, and understanding the reasons for protests.

In the changing nature of student attitudes towards free speech, universities are putting free speech at the forefront of their efforts, but often forgotten is, “freedom of speech and inquiry are primary values for universities, but so are inclusion and diversity, which are essential for educational and intellectual excellence for fulfilling the public mission of universities” (Cudd, 2019, p. 427).

In the same fashion that universities passionately talk about, uphold, and refer to free speech as an institutional value, they should also do the same for diversity and inclusion. In *Safe Spaces, Brave Spaces: Diversity and Free Expression in Education*, John Palfrey (2017) centered the responsibility on universities to communicate the norms around hate speech, even when they cannot punish it. He stated, “No speech code or handbook... can anticipate every controversy” (Palfrey, 2017, p. 102). This realization means that prioritizing inclusivity of universities can create environments where students know that while it is well within their right to spew hate speech, the institution finds it repulsive and against their values. Within the classroom, even while students are reserved the right to ask questions and express skepticism about content,

Palfrey (2017) stated educators have a role in challenging and silencing inaccurate and disrespectful statements. Other than bad press, there is little consequence to reiterating university values of diversity and inclusion when oppressive speakers come to campus to spew hate and simply stating that the university does not condone those ideologies or behaviors (Cudd, 2019).

An example of Palfrey's recommendation was President Kent Fuchs's statement regarding Richard Spencer's rally at the University of Florida in 2017. In acknowledging the mission of the university, he stated that Spencer's ideologies were not in line with them: "our mission is to engage in the world's preeminent scholarship and education for the public good, not to sow lies, discord, and violence" (Fuchs, 2017, para. 2). In his statement, he said that the university denounced the racist and white supremacist ideologies that Spencer held and that he continued to be equally as appalled as students that the university was required by law to allow Spencer to speak on campus (Fuchs, 2017).

Despite universities' strong focus on the value of free speech, universities have been long criticized as "echochambers of political correctness" (Segarra, 2017, para. 2). Conservative lawmakers have also commented that universities have done a "miserable job at protecting free speech rights" (Bauer-Wolf, 2019, para. 26), drawing even the attention of President Trump. In 2017, President Trump wrote an executive order that required universities to promote free speech, an order that was "redundant with the Constitution and therefore purely symbolic" (Cudd, 2019, p. 429).

In an effort to quell controversy with conservative lawmakers and the public about university commitment to freedom of expression, universities across the nation have put sanctions in place. These sanctions aim not to regulate the type of offensive and hateful speech

on campus but to ensure that, no matter the type of speech, student protestors do not disrupt others' First Amendment rights.

The UW System Campus Protest Policy

Named one of the harshest free speech policies and sanctions of the nation (Bauer-Wolf, 2019), the UW System Campus Protest Policy was created to punish students who infringe on others' rights to free speech on campus. The UW System policy highlighted throughout this entire paper is Regent Policy Document 4-21, *Commitment to Academic Freedom and Freedom of Expression*. This policy applies to all UW System students, employees, and visitors. Its purpose is to “communicate the board of regents’ commitments to academic freedom of expression, and expectations for those who violate these freedoms” (Board of Regents, 2017, para. 2).

The policy highlights universities as sources of “scholarship, research, and creative expression, and to reach conclusions according to one’s only scholarly discernment” (Board of Regents, 2017, para. 4) in that these avenues hold the right for individuals to explore ideas both in and outside of the classroom as both part of the university and as an individual citizen of the public. The policy reiterates that it is not within university duties to “shield individuals from ideas and opinions they, or others, find unwelcome, disagreeable, or even deeply offensive” (Board of Regents, 2017, para. 5).

This policy reserves the right to restrict expression that violates the law, is discriminatory or sexual harassment, a true threat, invasion of privacy or confidentiality, disrupts the function of an institution, and is in violation of reasonable time, place, and manner. This extends to speakers who are invited onto campus. Of utmost importance in this policy is the upholding of laws and

the idea that university communities must be able to handle and be responsible in their ability to debate civilly with ideas that they may oppose.

For students who are found engaging in “violent or other disorderly conduct that materially and substantially disrupts the free expression of others,” they are given a “range of disciplinary sanctions” (Board of Regents, 2017, para. 11). A first strike would give the student a chance to be heard before a committee and the right for an appeal. The second strike would launch a formal investigation and disciplinary hearing; a student responsible for disrupting free expression of others a second time will be suspended for at least one semester. This second strike can occur during any course of time during a student’s enrollment in a UW institution. A third strike constitutes expulsion; in the UW System, a student who is expelled from one UW school is expelled from all UW schools. The only way to apply for readmission to the same or a different UW school is to file a petition (Board of Regents, 2020).

This policy is important because it highlights the final product due to student activism and the evolving nature of free speech across campuses in the nation. A thorough reading into the policy creates a better understanding of the stance that the UW System Board of Regents has on its outlook on student activism and their commitments to both diversity and free speech, and which of those principles they hold more valuable.

Theoretical Frameworks

Critical Race Theory

Critical Race Theory (CRT) is a theoretical model used to examine the relationship between racism and power. CRT is used to question the very foundation of the United States’ idea of order, equality, legal reasoning, and neutrality in law. The basic understanding of CRT is that racism is a foundational part of the United States society built into systems. Because racism

is built into systems, CRT recognizes that racism cannot be corrected or rid of by laws because laws require approval within the system and those already in power (Bodenheimer, 2019).

Within CRT, there are three themes that are important for the scope of this paper: empathetic fallacy, interest convergence, and colorblindness.

Empathetic Fallacy

Empathetic fallacy assumes that the act of offering an alternative perspective or narrative is enough for someone's empathy to take over and that simply being exposed to new information will ensure an intellectual exchange. In the context of hate speech, when a person of color is spat a derogatory term, it assumes that talking or giving more speech in the face of hate speech is safe and enough to change the person's mind. Power relationships between people make it impossible for historically marginalized groups to speak back when it comes to certain types of speech. Assuming that people will change deeply rooted prejudices simply out of the good of their heart is false because people mostly seek out information to affirm their beliefs already (Delgado & Stefancic, 2017, p. 33).

Interest Convergence (Material Determinism)

The concept of interest convergence states that because racism upholds white people's interests, there is little to no incentive for white folks or the existing system to get rid of it. Any actions that are used to dismantle racism seemingly must always be at the benefit of white folks. Derrick Bell (1980) critiqued the timing for *Brown v. Board of Education*. Further archival research in the Department of State and Department of Justice found that the decision for *Brown v. Board of Education* was made, not because the United States had a racial reckoning and believed that people of color were being discriminated against but that it was to improve the U.S. image to third world countries during the Cold War (Delgado & Stefancic, 2017, p. 22-24).

Colorblindness

Colorblindness is the belief that regardless of histories or current situations, that all people are afforded equal treatment. While ideologically nice to think of, it does not acknowledge the different harm done, whether current or historically, to others and keeps marginalized folks in subordinate positions. Delgado and Stefancic (2017) noted, “rights are almost always cut back when they conflict with the interests of the powerful” (p. 26). The authors of CRT mentioned that hate speech targets specific people with marginalized identities but receives legal protection and empowers those in power while leaving marginalized folks powerless.

Strain Theory

Strain theory is a sociological concept adapted by sociologist Robert K. Merton that studied deviant behaviors and the underlying reasons between them. Merton (1938) created this theory to explain “deviant behavior as an inevitable outcome” of the type of strain that individuals and groups engage in when “deprived of ways to achieve” (Crossman, 2019, para. 1). The theory believes that deviance will occur when there is a strain between cultural and societal goals or values and the means to achieve these goals or values. Marginalized folks are more likely to experience strain when attempting to engage in the same opportunities as more privileged folks, but find cultural or social barriers in their opportunities. Merton believed there were five responses to strain; of note for the scope of this paper is innovation and rebellion. These concepts are important for this paper to understand the source of the strained relationship created by universities between free speech and student activism.

Innovation

An innovative response to strain is when individuals or groups use unconventional means to achieve goals (Crossman, 2019). Innovation means individuals or groups accept the goals of society, but use alternate means to achieve these goals when they are not inherently given the tools to achieve these goals. In the scope of this paper, it would look like students counter protesting a controversial and white supremacist speaker at a university in a way that is not disruptive of the actual event taking place. This response to strain means that individuals or groups understand the importance of a social value such as free speech and aim to uphold that value for both themselves and others at a university.

Rebellion

A rebellious response to strain is when individuals or groups reject the social values or goals and work to completely replace them in unconventional ways (Crossman, 2019). Rebellion is focused more on collective activity and creating space for new goals and norms to achieve those goals. In the scope of this paper, it would look like students protesting a controversial and white supremacist speaker invited to the university to completely stop them from speaking at an event. This response to strain means that students understand that the social value of free speech, but reject the idea that harmful ideas deserve a platform at a university.

Equity Lens on Policy Review

The Equity Lens on Policy Review was adopted by the Minnesota State Office of Equity and Inclusion to be a tool for “capacity building, education, and establishing common language in the context of policy review (Minnesota State Office of Equity and Inclusion, 2018, p. 2). An equity focus recognizes that to eliminate disparities in educational outcomes of students from underserved populations that accountability should not be on students but on institutional entities

to create change. By engaging with this tool, institutions will be able to diagnose policies and their potential impact on marginalized folks through step-by-step analysis.

The first section of the tool requires stakeholders to answer a series of questions about the policy purpose, its beneficiaries, and its assumptions about the impacted target population. The second section is the tool for stakeholders to create the policy review team, pulling from all areas of campus and subject matter experts in areas such as field expertise or facilities and planning. The third section focuses on outlining timelines for a plan of action in prioritizing which policies get reviewed first or the process of how to address policies when they are flagged by students and other entities on campus. The final section is a thorough questionnaire about the purpose, impact/outcome/design, and the responsibility and accountability of the policymakers to adhere to equitable and inclusive outcomes. While this policy has not been tested in any sample practices, I hope to use it in analyzing, understanding and providing recommendations to the Board of Regents on their UW System Campus Protest Policy.

Sample Practices

Due to the emerging nature of research on student protest policies and free speech, there is little to no samples I can draw on to inform my paper. Instead, I will be using this section to highlight the NASPA recommendations to colleges and universities.

This year, NASPA issued their first guide, *Free Speech and the Inclusive Campus: How Do We Foster the Campus Community We Want?* with an understanding that the increasing polarization of college campuses is a microcosm of the greater nation. The research that is entailed in this issue took the form of interviews and conversations with campus stakeholders and resulted in three different options for universities when identifying responses to free speech, with each option showcasing the advantages and disadvantages.

The first option is to prioritize student safety and wellbeing. This option means that universities affirm that they are responsible for the protection of students and their well-being, whether it be real or perceived safety concerns. It acknowledges students' historical marginalization and the unequal nature of the freedom of expression to prioritize these voices but not suppressing other voices. It involves a focus on the impact of hate speech on campus and creates the environmental foundation to support students to be empowered to speak up against hate. Examples include creating safe spaces for marginalized populations of students, create policies to uplift these students' voices, and encourage the use of trigger warnings as necessary. The potential consequences of this option are that it may limit the student organizations or departments' ability to invite controversial speakers to campus.

The second option is to affirm the educational value of intellectual curiosity and engaging with ideas across difference. This option means that universities believe higher education's primary role is to engage in conversations across differences and build student skills to do this type of engagement. It focuses on the idea that there are no off-limit topics if it contributes to student learning. Examples of this option include: providing students with counternarratives to engage in their critical thinking skills and engaging with uncomfortable ideas. A potential consequence of this option is that students may engage in ideas that can be harmful to them intellectually, especially those from marginalized groups.

The third option is to uphold the ideals of free speech. This option indicates that all speech should be welcomed on campuses because higher education was created as a means to be a marketplace of ideas. It focuses on higher education as a representative of our democracy. It should represent the very ideologies that exist in broader society and that the only way to combat hate speech is more speech, not regulations. This option calls for eliminating regulations on free

speech zones, emphasizing unrestricted academic freedom, not regulating offensive speech, and allowing any speakers on campus. The potential consequence of this option is that this may reinforce the power and access that privileged groups already have and widen the gap between that of marginalized groups.

In my recommendations, I will be using concepts from all three of these options to revise the current UW System Campus Protest Policy to create a more equitable policy on campus to enable both student activism and free speech to thrive.

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