



National Association of College and University Attorneys
Presents:

**Can Your Hear Me Now? Hot Topics in the World of
Faculty Free Speech and Academic Freedom**

Webinar

February 10, 2025

12:00 PM – 2:00 PM Eastern
11:00 AM – 1:00 PM Central
10:00 AM – 12:00 PM Mountain
9:00 AM – 11:00 AM Pacific

Presenters:

Monica Khetarpal

Principal

Jackson Lewis P.C.

Alexandra Mitropoulos

Senior Counsel

Hirsch Roberts Weinstein LLP

Contents

1. Speaker Biographies, 1-3
2. Materials, 4 -6
3. NACUA Webinar CLE Forms, 7 - 9
4. PowerPoint Slides, 10 - 53

Can You Hear Me Now? Hot Topics in the World of Faculty Free Speech and Academic Freedom



Monica H. Khetarpal is a principal in the Chicago, Illinois, office of Jackson Lewis P.C. and co-leader of the firm's Environmental, Social and Governance (ESG) resource group and Higher Education Industry Group. She is an experienced litigator and advisor, providing skilled advocacy and thoughtful advice, training, and strategic planning for her clients.

Her litigation experience includes employment, civil rights, and education-related cases, including those involving allegations of discrimination, harassment, wage and hour violations, and leave management, as well as a variety of contract and tort issues such as breach of employment and educational related contracts, defamation, whistleblower claims, and sexual misconduct. She regularly handles matters at all levels, from administrative agencies to jury trials to appeals in both state and federal courts. She also counsels clients through the mediation process, and provides advice regarding best practices to avoid litigation.

Monica's advice and counsel practice focuses on diversity, equity and inclusion matters, review and implementation of ESG policies, and crisis management. She has earned Certificates from Cornell University and the Public Relations Society of America to support this work. She draws on her substantial litigation experience, bringing both strong interpersonal skills and the legal acumen that come from years litigating a myriad of issues. Monica believes there is no one-size-fits-all in this area and ensures that her advice is tailored to the unique needs of each client. She regularly advises on discrete ESG related issues, such as pipeline initiatives, mentoring and employee resource groups, employee surveys, and goal setting. She also conducts larger scale compliance reviews to ensure DEI and ESG programs align with the constantly evolving applicable law in this area. She also conducts climate assessments, in cases where clients are looking to proactively improve their DEI profile, or in response to clusters of complaints or individual high-profile concerns. Monica frequently assists in crisis situations which have generated media attention, balancing reputational and legal risk factors through effective communications as well as proactive legal work. When her recommendations include training, she provides engaging group, one-on-one, and executive training in areas such as unconscious

bias, microaggressions, inclusion, generational diversity, active bystander, and communication best practices.

Monica also focuses a significant portion of her practice on representing higher education clients and serves as co-leader of Jackson Lewis' Higher Education industry group. The group focuses on solving workplace law and other civil rights challenges facing higher education institutions. It represents both public and private universities in a range of matters including employment (including tenure) cases, Title IX claims, collegiate sports, academic policies and practices, ADA and Section 504 compliance, privacy and data security, immigration, benefits, strategic investigations, student claims, constitutional and state statutory issues, and traditional labor matters.

In her personal education practice, Monica has represented higher education and K-12 institutions throughout her career. She has experience defending a variety of employment and student-related claims, such as denial of tenure, pay equity, sexual misconduct, reputational harm, and breach of contract cases. She also provides advice and counsel regarding high profile faculty and student matters, revising strategic policies and procedures, and conducting internal investigations and climate assessments. She has partnered with her clients in managing the student, faculty and media issues unique to the higher education setting, with a particular emphasis on diversity, equity, and inclusion matters in both student and employee populations.

Monica also devotes a significant amount of time to encouraging diversity, equity and inclusion within the legal profession. She is a mentoring coordinator for the firm's Chicago office and has also served on the Board of the South Asian Bar Association of Chicago, SABA's Foundation, and the Diversity Scholarship Foundation's Unity Dinner planning committee. She was the 2018 recipient of the Advocate for Diversity Award from Chicago's Diversity Scholarship Foundation. Monica also frequently speaks on topics related to women in the law and successful work-life balance, and founded the Chicago chapter of the firm's Practicing and Parenting group to support attorneys who balance their legal practice with raising children.



Alexandra A. Mitropoulos (“Allie”) is Senior Counsel at Hirsch Roberts Weinstein LLP. She advises and represents colleges, universities and other nonprofits on policy, compliance, and risk management issues. In addition to her role at the firm, Allie is also Deputy General Counsel at Berklee College of Music.

Allie has significant experience conducting investigations for employers, secondary, and post-secondary schools on a wide range of issues, including sexual violence and harassment, retaliation, and discrimination on the basis of gender, race, and disability.

In addition, Allie has particular experience in the areas of campus safety and security, Title IX, the Clery Act, state, federal and international data privacy regulations, the Family Educational Rights and Privacy Act (FERPA), student affairs, faculty misconduct, and complex contracts. She defends colleges and universities in an array of litigation matters in both state and federal court. In addition, Allie provides advice on policies and procedures, and conducts training.

Allie’s practice also includes advising businesses and nonprofits on a variety of employment matters affecting not only their day-to-day operations but also their long-term business objectives. Allie works on a wide range of cases and issues, including pay equity, privacy laws, anti-discrimination statutes, contracts, and employment policies and practices.

Materials

- I. American Association of University Professors (AAUP), "[Statement on Academic Boycotts](#)" (August 2024).
- II. Luis Arroyo, Beong-Soo Kim, and Mark Merritt, "[Unleash the Debate: Free Speech and Employment in Higher Education](#)" (NACUA 2024 Winter Workshop).
- III. Kelly Cruz, Latosha Dexter, and Jaime S. Hammer, "[Social Media Policies on Campus: How Much Do You Want to Know?](#)" (NACUA 2023 Annual Conference).
- IV. Tamara Britt and Lauren Hartz, "[At the Top of Your Feed: Social Media Issues on Campus](#)" (NACUA Webinar Feb. 6, 2023).
- V. Nathan Lukkes, Leah Watson, Jeremy C. Young, and Lucy France, "[An American Tug of War: Legislative Control Over Discussions of Race and Other Academic Content](#)" (NACUA 2022 Annual Conference).
- VI. Alexander R. Bilus, Janelle Ramsel, Michael Siller, and Robert Zielinski, "[Now You Say It, Now You Can't](#)" (NACUA 2022 Spring CLE Workshop).
- VII. Sampling of NACUA New Cases and Developments

Sampling of NACUA New Cases and Developments

I. [Josephson v. Ganzel \(6th Cir. Sep. 10, 2024\)](#)

Memorandum Opinion affirming the district court's denial of Defendants' Motion for Summary Judgment. Plaintiff, a former professor of psychiatry and Division Chief at the University of Louisville School of Medicine (the Medical School) brought claims alleging retaliation in violation of his First Amendment rights against multiple administrators at the Medical School. In 2017, after plaintiff shared his thoughts on treating childhood gender dysphoria during a panel discussion sponsored by a conservative think tank, which led to dissention amongst faculty, the Medical School first demoted him and then, did not renew his employment contract. The Sixth Circuit affirmed the district court's rejection of the Medical School's immunity defenses, finding that Plaintiff's request for reinstatement as a faculty member and expungement of any reference to nonrenewal from his personnel file, are prospective in nature, and thus, not barred by Eleventh Amendment. The Circuit also found the Medical School was not entitled to qualified immunity since protections for Plaintiff's speech were clearly established at the relevant time, and that a reasonable jury could find retaliation occurred where (1) Plaintiff participated in the off campus, privately funded panel in his individual rather than official capacity, which a moderator specifically advised attendees about prior to Plaintiff voicing his own views regarding treatment of children with gender dysphoria, which is a matter of public concern; (2) limited evidence supported that Plaintiff's remarks yielded disharmony amongst his colleagues, including when he stormed out of a contentious faculty meeting, but that the Medical School produced no evidence that the remarks otherwise impacted either patient care or recruitment of other personnel and thus no "significant disruption" occurred; and (3) genuine factual disputes remained regarding whether Plaintiff's demotion and subsequent termination was due to poor performance or his protected speech.

II. [Carr, et, al. v. Tr. of Purdue Univ.; Tr. of Indiana Univ. \(S.D. Ind. Aug. 14, 2024\)](#)

Order granting Defendants' Motions to Dismiss and denying Plaintiffs' Motion for a Preliminary Injunction. Plaintiffs, all tenured professors at Indiana public postsecondary institutions, sought a preliminary injunction to enjoin enforcement of Senate Enrolled Act 202 (SEA 202) against the Trustees of Purdue University, the Trustees of Indiana University (collectively "Boards") and Intervenor, the State of Indiana. Plaintiffs alleged that SEA 202, which directs Boards to "adopt new policies aimed at ensuring that faculty members' pedagogies align with the principles of free inquiry, free expression, and intellectual diversity" violates the First and Fourteenth Amendments. Plaintiffs assert that SEA 202 had a "chilling effect" on their employment because they "felt compelled to make changes to their syllabi" to abide by the policy and such efforts have been burdensome to university faculty members. Defendants argue "any injury that

plaintiffs could potentially face would be attributable to the presently non-existent university policies, rather than to SEA 202 itself.” Because the court concluded Plaintiffs’ claims were “premature” requiring an “attenuated chain of inferences” and their injuries were “inchoate” due to the lack of institutional policies implementing SEA 202, it denied the request for preliminary injunction, granted Defendants’ motions to dismiss based on lack of jurisdiction, and dismissed the case without prejudice noting that it “express[ed] no view as to the merits of the[] constitutional claims, which must await further factual development.”

III. [Idaho Federation of Teachers v. Labrador \(D. Idaho July 2, 2024\)](#)

Memorandum Decision and Order denying Plaintiffs’ Motion for Preliminary Injunction and granting Defendants’ Motion to Dismiss. Plaintiffs, individual university professors and teachers’ unions with members in the state of Idaho, brought free speech and vagueness challenges to Idaho’s No Public Funds for Abortion Act, which provides that no public funds may be used to “promote abortion” or “counsel in favor of abortion” and imposes criminal penalties for public employees who violate the prohibition. The Attorney General of Idaho, however, issued an opinion letter stating that academic speech does not fall under the Act and would not be prosecuted. In denying preliminary injunction and granting defendants’ motion to dismiss, the court found that without a risk of prosecution plaintiffs failed to demonstrate injury or redressability to establish standing.



Attendance Record Webinar

Can You Hear Me Now? Hot Topics in the World of Faculty Free Speech and Academic Freedom

February 10, 2025

If you are an attorney applying for Continuing Legal Education credits (CLEs), you must sign this attendance record to verify your attendance. Please complete and return this form no later than Wednesday, February 19th to the CLE Credit Submission Portal (www.nacua.org/submitCLE).

***Total CLE Credits = 120 minutes**

Organization

PRINTED Name

SIGNATURE

State & Bar Number (If Applying for CLE)



Certificate of Attendance

Webinar

Can You Hear Me Now? Hot Topics in the World of Faculty Free Speech and Academic Freedom

February 10, 2025

- **Attorneys from MD, MA, MI, SD, or DC:** These jurisdictions do not have CLE requirements and therefore require no report of attendance or filing.
- **Attorneys from AK, AZ, CA, CO, CT, DE, HI, IN, IA, KY, MN, MO, MT, NH, NJ, NY, VT, WI, or WY:** Do not return this form to NACUA. Please keep this form for your records to submit directly to your state CLE commission or in case your state bar audits you for CLE compliance. Please also remember to sign the attendance record.
- **Attorneys from all other states:** Please complete and return this form no later than Wednesday, February 19th to the CLE Credit Submission Portal (www.nacua.org/submitCLE). Please also remember to sign the attendance record.

NACUA certifies that this program has been presumptively approved and conforms to the standards prescribed by the rules and regulations of the State Bars of AK, AZ, AR, CA, CT, DE, HI, NV, NH, NJ, NM, PA, RI, VT, WV and WY. NACUA will apply for CLE credits from the following states: AL, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NE, NC, ND, OH, OK, OR, SC, TN, TX, UT, VA, WA and WI.

The New York Approved Jurisdiction policy may apply to this program. New York attorneys may apply CLE credit from one of the approved jurisdiction states towards their NY CLE requirement. For more information and to review the policy, please visit www.nycourts.gov/attorneys/cle/approvedjurisdictions.shtml.

Note: Restrictions vary state by state and not all states will accredit this webinar.

Upon receipt of this certificate of attendance and your attendance record, NACUA will process the credits through the applicable state if approved.

Certification

NACUA will apply for a total of 120 minutes. By signing below, I certify that I attended the above activity and request minutes of CLE credits.

Name

State & Bar Number

Address

Email

Signature

Authorized By:

Amanda McLean

Amanda McLean
Meetings and Events Coordinator



Can You Hear Me Now? Hot Topics in the World of Faculty Free Speech and Academic Freedom

February 10, 2025

FOR KANSAS, NEW YORK, OHIO AND PENNSYLVANIA ATTORNEYS ONLY

*This is a supplementary document to keep track of the verification codes for each program. Please complete and return this form no later than Wednesday, February 19th to the CLE Credit Submission Portal (www.nacua.org/submitCLE).

Date / Time	Session Title	Verification Code 1	Verification Code 2
2/10/2025 12:00 PM ET	Can You Hear Me Now? Hot Topics in the World of Faculty Free Speech and Academic Freedom		

Can You Hear Me Now? Hot Topics in the World of Faculty Free Speech and Academic Freedom

Monica H. Khetarpal, Principal, Jackson Lewis PC
Alexandra A. Mitropoulos, Senior Counsel, Hirsch Roberts Weinstein LLP

Agenda

- Relevant Policies and Laws
- Legal Overview
- Hot Topics in the Faculty World
- Social Media Use
- Impact on External Stakeholders
- Practical Suggestions for Managing These Issues on Campus
- Audience Q&A

Relevant Policies and Laws – Free Speech and Academic Freedom

First Amendment

University Policies

Faculty Policies

State Laws

Employee Handbook

**Student Handbook
and Code of Conduct**

Freedom of Speech

- First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; **or abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
- Applies to all **public** colleges and universities.
- Many **private** colleges and universities may have similar policies.

Public Employees

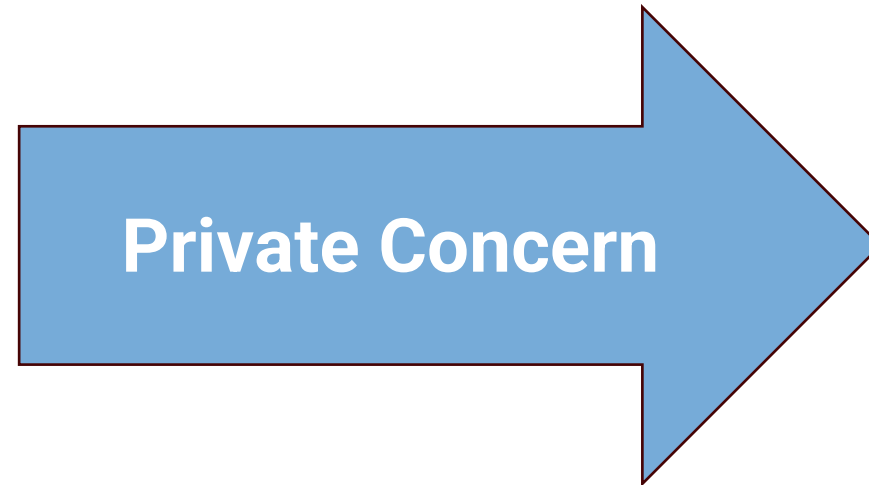
- ***Garcetti v. Ceballos*, 547 U.S. 410 (2006).** “When public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”

...But does the *Garcetti* opinion apply to scholarship or teaching?



Speech as a Private Citizen

- Is the speech a matter of public or private concern?



Speech as a Private Citizen Cont.

- ***Snyder v. Phelps*, 562 U.S. 443, 453 (2011).** “Speech deals with matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community; OR subject of legitimate news interests; that is, a subject of general subject of general interest and of value and concern to the public.”
- Courts evaluate “content, form, and context of [the] speech as revealed by the whole record” when deciding whether speech is of public or private concern.

Balancing Test

- (1) Did the employee speak on a matter of public concern?
- (2) If yes, “the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.”



The Balancing Test on Campus

**Did the speech
create an adverse
impact on university
operations?**

**Other state laws may
help define adverse
impact or disruption.**

Examples of Speech NOT of Public Concern

Criticisms of internal management decisions

Public employee complaints about the structure of purely internal administrative bodies

Internal budgetary allocations within a college

Management practice or decisions allocating management responsibility to certain individuals

See Gardetto v. Mason, 100 F.3d 803, 813-14 (10th Cir. 1996); *Clinger v. New Mexico Highlands Univ.*, 215 F.3d 1162, 1166-67 (10th Cir. 2000).

Relevant Case Law

- ***Pickering v. Board of Education*, 391 U.S. 563 (1968).** “[A] teacher’s exercise of his rights to speak on issues of *public importance* may not furnish the basis for his dismissal from public employment.”
- ***Connick v. Myers*, 461 U.S. 138 (1983).** “When a public employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest, absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of a personnel decision taken by a public agency allegedly in reaction to the employee’s behavior.”
- ***Kennedy v. Bremerton School District*, 142 S. Ct. 2407 (2022).** The coach’s prayer was private speech, not within the scope of his official duties, and did not seek to convey a government-created message.

What About Private Universities?

**Contracts: Usually
handbooks, bylaws,
or policies**

**Tenure Rights: Basis
for discipline and
discharge**

Relevant Case Law

- ***McAdams v. Marquette University*, 914 N.W.2d 708 (Wis. 2018).**
 - Wisconsin Court adopted the AAUP standard
 - Arguably much higher burden than the First Amendment, at least for statements outside the classroom or administrative context.
- But see...
 - ***Crenshaw v. Erskine College*, 850 S.E.2d 1 (S.C. 2020).** “Rather, this is an ordinary breach of contract case in which the terms of the contract are set forth in The College Faculty Manual”
 - ***Wang v. University of Pittsburgh et al.*, No. 2:20-cv-1952 (W.D. Pa. Dec. 21, 2021).** “The actual malice standard holds a high constitutional bar under the First Amendment, and Dr. Wang cannot satisfy this burden based on the allegations in the Amended Complaint.”

Other Laws That May Impact Speech

State laws that apply free speech principles (e.g., CA's Leonard Law)

State and federal anti-discrimination laws

Public policy laws (usually focused on discharge)

State laws regulating curriculum, subjects, or other aspects of educational decisions

Other Laws That May Impact Speech

Whistleblower Statutes: These statutes generally prohibit employers from taking action against an employee for making complaints or reporting conduct that is unlawful.

**Title VII 42 U.S.C.
§2000e3(a)**

**Age Discrimination
in Employment Act,
29 U.S.C. 623(d)**

**Fair Labor
Standards Act, 29
U.S.C. §215(a)(3)**

ERISA, 29 USC 1140

**Americans with
Disabilities Act, 42
U.S.C. § 12203(a)**

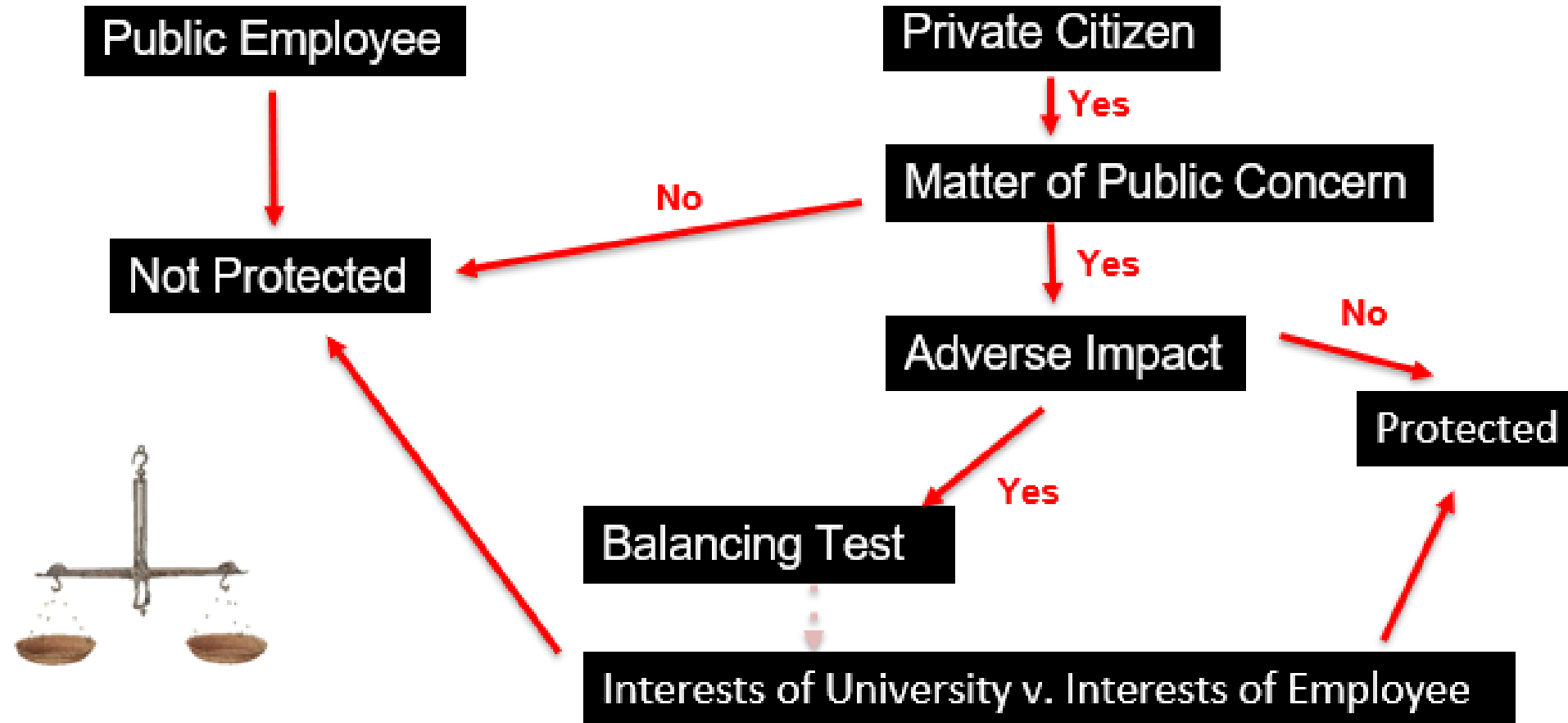
**The Family Medical
Leave Act, 29 U.S.C.
§§ 2615(a)(2) and (b)**

**USERRA, 38 U.S.C.
§ 4311**

Other Laws That May Impact Speech

- National Labor Relations Act
 - Only applies to statutory "employees" as defined in the Act.
 - ***National Labor Relations Board v. Yeshiva University*, 444 U.S. 672 (1980).** Employers may not punish covered employees for engaging in concerted activity. BUT this may not cover faculty, who may instead be seen as managerial.

University Employee Speech

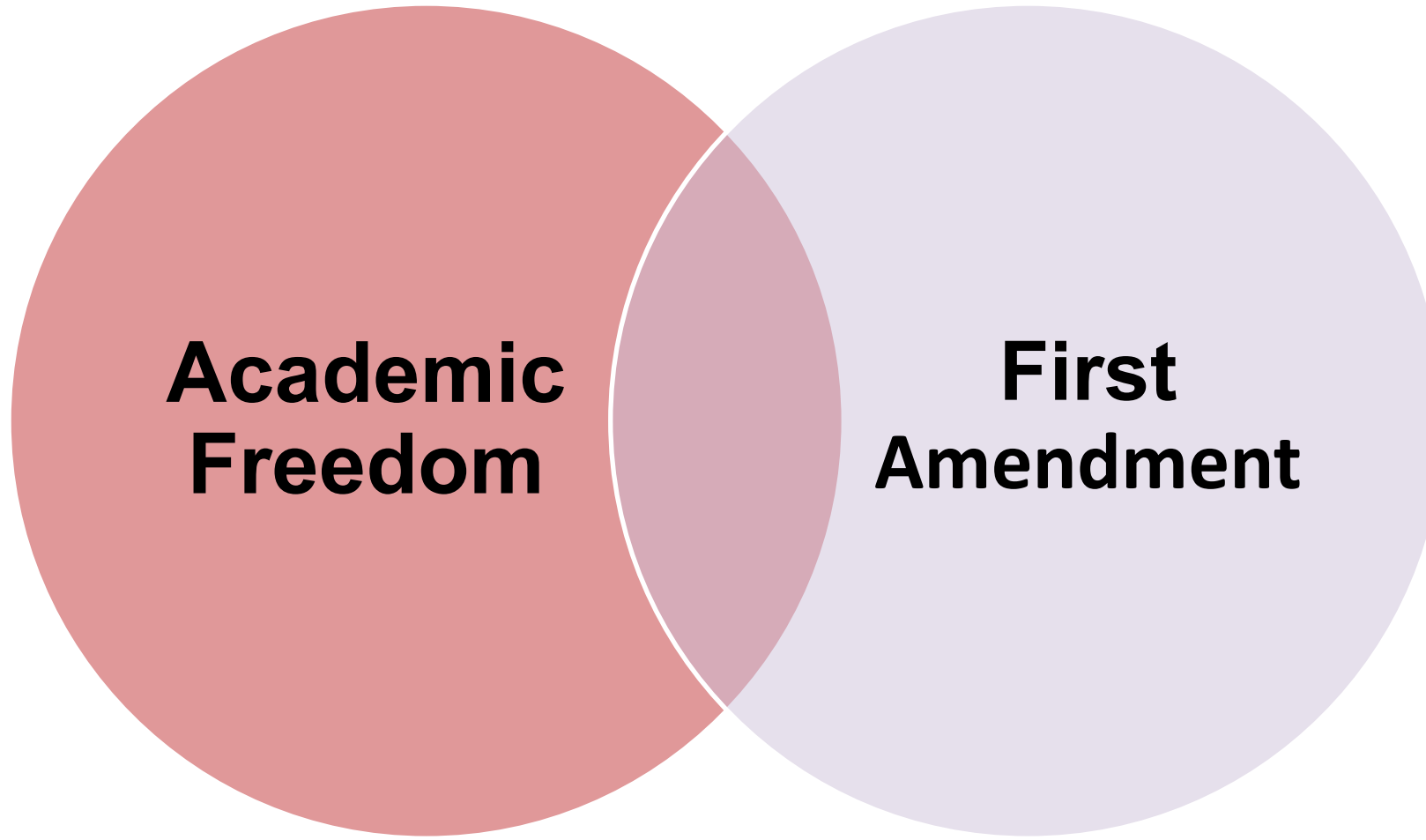


What is Academic Freedom?

“Academic freedom is the freedom of a teacher or researcher in higher education to investigate and discuss the issues in his or her academic field, and to teach and publish findings without interference from administrators, boards of trustees, political figures, donors, or other entities. Academic freedom also protects the right of a faculty member to speak freely when participating in institutional governance, as well as to speak freely as a citizen.”

Definition taken from AAUP (<https://www.aaup.org/programs/academic-freedom/faqs-academic-freedom>)

Academic Freedom vs. First Amendment



Academic Freedom: Relevant Case Law

- ***Garcetti v. Ceballos*, 547 U.S. 410 (2006).** Public employees do not have a First Amendment protection for speech issued as part of their official duties.
- ***Sweezy v. New Hampshire*, 354 U.S. 234 (1957).** The Supreme Court recognized the significance and protections of academic freedom
 - Justice Frankfurter's concurrence noted that "a free society [depends] on free universities" and that institutions were shielded, in part, from the intervention of governmental authorities, which would be deleterious to the "intellectual life" of the university. He concluded "[i]n the political realm, as in the academic, thought and action are presumptively immune from inquisition by political authority."

AAUP Statement of Principles of Academic Freedom and Tenure (1940)

1. Teachers are entitled to **full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties**; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to **freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject**. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. **When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations**. As scholars and educational officers, they should remember that the **public may judge their profession and their institution by their utterances**. Hence they should at all times be **accurate**, should exercise **appropriate restraint**, should **show respect for the opinions of others**, and should make every effort to indicate that they are **not speaking for the institution**.

Where Do Academic Freedom Guidelines Live?

**An
Institution's
Faculty
Handbook**

**University
Policies and
Procedures**

**AAUP
Statement and
Principles of
Academic
Freedom and
Tenure**

Hot Topics in the Faculty World

**This is a rapidly
changing area....**

What Topics are Eliciting Faculty Speech?

- Objections to recent executive orders:
 - (1) Ending Illegal Discrimination and Restoring Merit-Based Opportunity
 - (2) Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- There are carve outs for academic institutions, but they are limited:
 - The executive order on Ending Illegal Discrimination and Restoring Merit-Based Opportunity states that it “does not prevent...institutions of higher education from engaging in First Amendment-protected speech” and also does not “prohibit persons teaching at a Federally funded institution of higher education as part of a larger course of academic instruction from advocating for, endorsing, or promoting the unlawful employment or contracting practices prohibited by this order.”

What Topics are Eliciting Faculty Speech?

- Gaza related speech
 - Faculty joined students last year in Gaza related protests.
 - Faculty also joined encampments and were arrested as part of those protests.
- In general, expect faculty to support student protests for many topics.

What Topics are Eliciting Faculty Speech?

- **Protesting protest rules**
 - Following last year's encampments, many schools put in place new policies governing protests on campus.
 - Even when they generally followed permissible time place and manner restrictions, students and faculty took issue, calling the restrictions a limitation on expression.
 - Faculty and students have intentionally violated these restrictions
 - For example, participating in silent protests lasting just a bit longer than the time they were supposed to end.

What Topics are Eliciting Faculty Speech?

- State laws
 - Certain state bills and laws have sought to exert oversight over curricula.
 - Several states have passed laws that prevent or limit teaching about diversity, equity, and including (DEI) or gender identity.

What Topics are Eliciting Faculty Speech?

- On the other hand, several states have protections for freedom of speech in academic settings:
 - *Adams v. Trustees of the University of North Carolina at Wilmington*, 640 F.3d 550 (10th Cir. 2011).
 - *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021).
 - *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014).
 - *Hardy v. Jefferson Community College*, 260 F.3d 671 (6th Cir. 2001).

What Topics are Eliciting Faculty Speech?

- Ties to labor
 - AAUP has issued statements and resources on this topic.
 - Faculty have generally expressed concern that the increased use of non-tenured positions – lecturers, adjuncts – allow administrators to lean on them to curtail academic freedom, change curricula, and generally comply with the Administration's orders.

What Topics are Eliciting Faculty Speech?

- Immigration
 - President Trump rescinded a decades-old policy that designated colleges as “sensitive” areas not subject to deportation activities except in rare cases.
 - Immigration experts do not expect to see sweeping raids on campuses, but some institutions have changed policies – or have articulated existing policies.
 - Some faculty groups have hosted “Know Your Rights” sessions.

Where is This Speech Going to Take Place?

In the Classroom

**On Departmental
Pages (Sanctioned
by the University or
Not)**

**On Departmental
Social Media
(Sanctioned by the
University or Not)**

**On Personal Social
Media**

**Faculty Senate or
the Link –
Administrative
Roles on Campus**

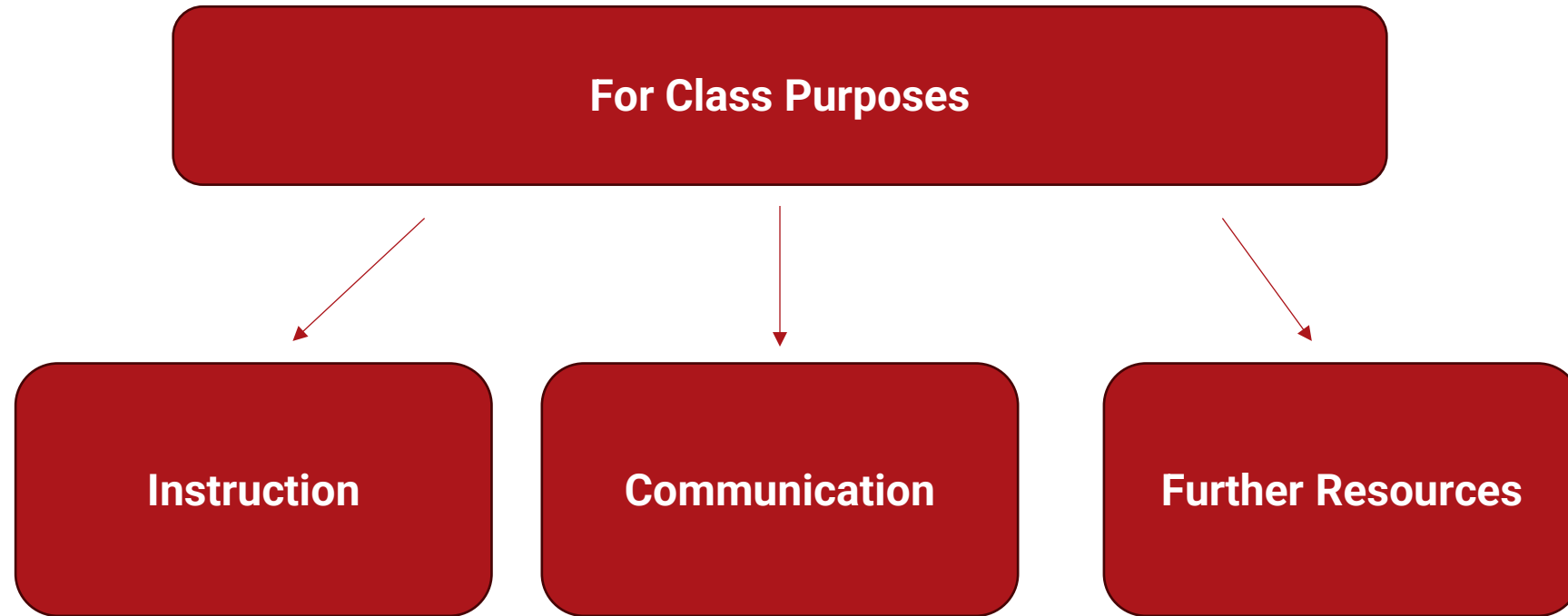
**Statements to the
Media**

**Protests
(Potentially
Alongside
Students)**

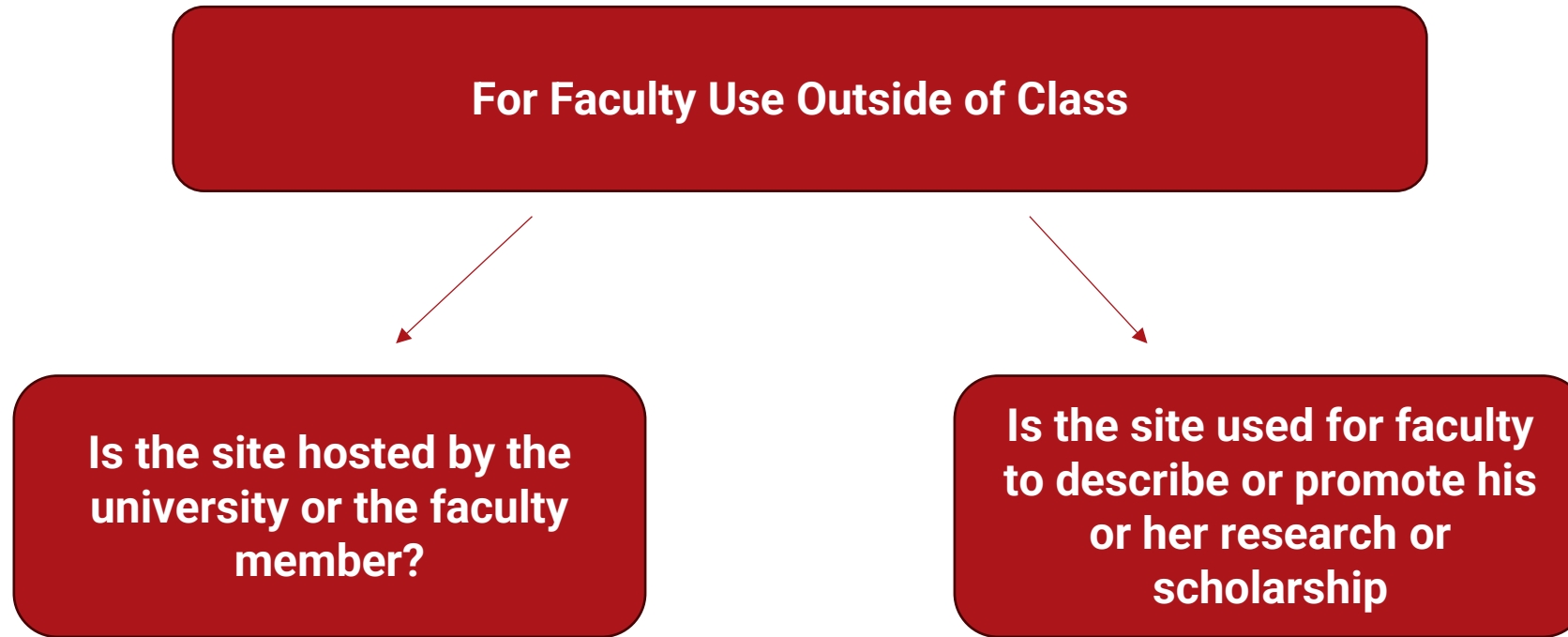
For All These Locations...

- Was the speech made pursuant to official university duties/as an employee? If not, speech should be labeled as such.
- In certain disciplines, there could be impacts on research.
- Also consider how it comports with faculty handbook, codes of conduct, etc. – could have a contract claim if there's a violation.
- Likely to elicit union support, as well as outside organization support (e.g., FIRE).

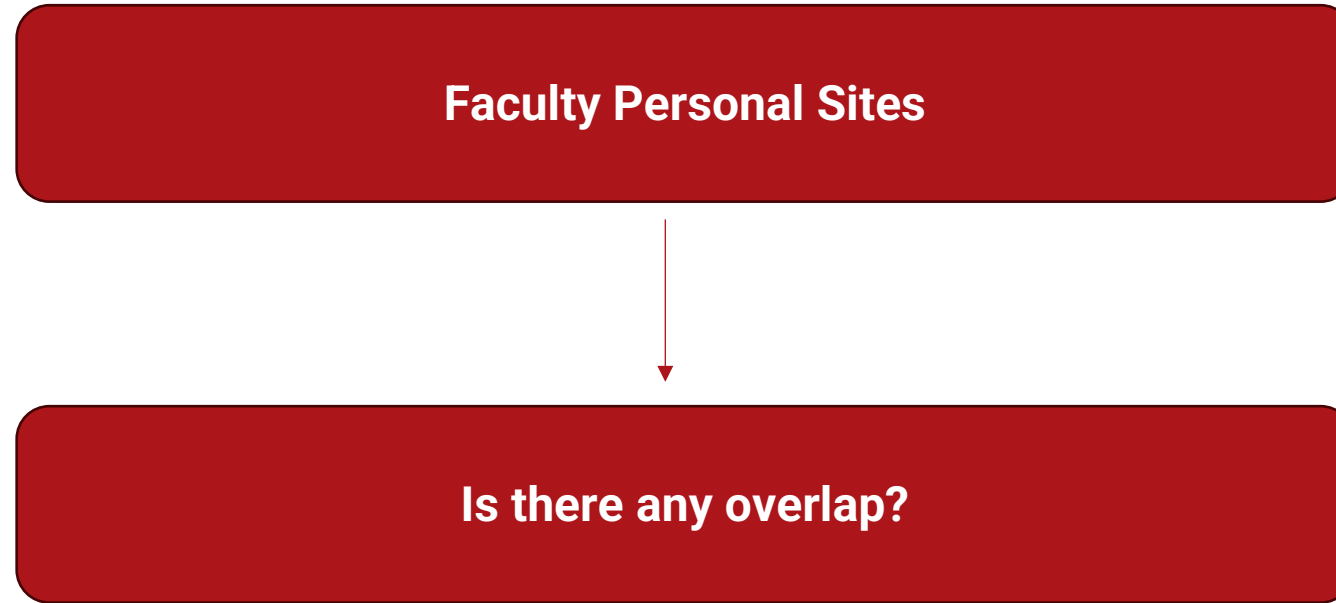
Social Media Use by Faculty



Social Media Use by Faculty Cont.



Social Media Use by Faculty Cont.



Who are the External Stakeholders?

Donors

**Alumni
Groups**

Unions

**Political or
Special
Interest
Organizations**

**For Publics –
State
Government
Offices**

What Impact Could External Stakeholders Have?

- Significant impact on funding
- Faculty speech has triggered the withdrawal of considerable bequests, especially as related to the ongoing conflict in Gaza
- Reputational harm, including impacts on recruiting, admissions, and athletics
- Potential labor charges

How Do You Balance These Concerns?



How Do You Balance These Concerns?

- Socialize changes
- Give external stakeholders the what you're doing, the why, and the how especially concerning legal restrictions
 - “No comment” is not an option
- Leverage senior administrators

Practical Suggestions for Managing These Issues on Campus

- Know the law – comply with it strictly
- Look for Department of Education guidance
- There's a lot at stake here – especially with executive orders and impending administrative enforcement activity
 - Be open with faculty, socialize challenges that you're facing
 - Make faculty feel you're on the same team
 - Litigation, investigations, etc. aren't good for anyone

Practical Suggestions for Managing These Issues on Campus

- Be reasonable about time, place, and manner restrictions
- But also balance harassment claims
- Restrict impact not content
- Take it day by day



Questions?

NACUA materials, PowerPoint slides and recordings available as part of this program are offered as educational materials for higher education lawyers and administrators. They are prepared by presenters and are not reviewed for legal content by NACUA. They express the legal opinions and interpretations of the authors.

Answers to legal questions often depend on specific facts, and state and local laws, as well as institutional policies and practices. The materials, PowerPoint slides and comments of the presenters should not be used as legal advice. Any hypothetical scenarios presented are based on fictional facts and persons. Legal questions should be directed to institutional legal counsel.

Those wishing to re-use the materials, PowerPoint slides or recordings should contact NACUA (nacua@nacua.org) prior to any re-use.