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Free Speech at Berkeley--So Long as It's 'Civil'; At an institution with an illustrious history, the priority is discourse that makes you feel 'safe and respected.'

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Abstract: A similar incident occurred at the University of Hawaii at Hilo, where students were told that they couldn't approach fellow students to hand out copies of the Constitution, and that they had to limit their protests of National Security Agency spying to a small, muddy patch of land designated as a free-speech zone.

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Full text: This fall the University of California at Berkeley is marking the 50th anniversary of the Free Speech Movement that famously roiled the campus during the 1964-65 school year. What a difference a half-century makes. On Friday Chancellor Nicholas Dirks sent a message to Berkeley faculty, staff and students titled "Civility and Free Speech" that was at best a lukewarm defense of the First Amendment rights that those long-ago students passionately sought with protests and sit-ins because political speech was restricted on campus. Mr. Dirks noted that the "free expression of ideas" is a "signature issue for our campus," but he cautioned that free speech can cause "division and divisiveness that undermine a community's foundation" and may threaten the "delicate balance between communal interests." That may be true, but that's the point. Freedom of expression can shake things up and disrupt dogmas--and that's a prized feature of open discourse, not a bug. Mr. Dirks writes that "we can only exercise our right to free speech insofar as we feel safe and respected in doing so." But a right to freedom of speech that ends whenever someone on campus claims not to feel "safe and respected" is a right to little more than polite chitchat. Speech that's free-with-some-qualifications means that students and faculty are left unable to take on the big debates and questions in a way that should be expected in an academic setting.

And while students should certainly feel "safe," it is important to recognize that these days the word has wandered far from its literal meaning. Feeling "safe" on college campuses means something closer to being completely comfortable, physically and intellectually. Boundary-pushing comedian Lenny Bruce, a hero to the Free Speech Movement, wouldn't have lasted a minute in front of today's college kids.

Mr. Dirks may have thought his call for civility would be uncontroversial, but even this seemingly benign message should not be greeted uncritically. As John Stuart Mill noted in "On Liberty" in 1859, calls for civility are often a tool to enforce conformity. A fierce and angry defense of the values of the dominant class might be hailed as righteous rage, but even a milder, dissenting opinion is easily labeled uncivil.

In my 13 years defending student and faculty speech, I have learned that campus administrators are most likely to deem as "uncivil" speech that criticizes them or the university's sacred cows. Meanwhile, students who agree with the administration are likely to be complimented for speaking truth to power.

The chancellor of California's flagship public university should know better. After all, in 2007 a federal judge struck down the California State University system's civility code after it was used at San Francisco State University to investigate students who stepped on Hezbollah and Hamas flags during an "anti-terrorism" rally. The court's decision recognized that while civility sounds nice enough, such a broad and vague concept can easily be employed to silence protected speech.

Chancellor Dirks's heart may be in the right place. But his disinclination to offer a rousing endorsement of free speech--or even to explain its basic importance--is another example of the ambivalence and even outright hostility toward free expression found too often on today's campuses.

My organization, the Foundation for Individual Rights in Education (FIRE), recently found that 58% of public

colleges and universities maintain speech codes that violate the First Amendment. In July we announced that FIRE is turning up the heat by filing a half-dozen lawsuits across the country.

At Modesto Junior College in California, FIRE coordinated a suit on behalf of a student--a military veteran--who was told that he couldn't hand out copies of the U.S. Constitution to honor Constitution Day. A similar incident occurred at the University of Hawaii at Hilo, where students were told that they couldn't approach fellow students to hand out copies of the Constitution, and that they had to limit their protests of National Security Agency spying to a small, muddy patch of land designated as a free-speech zone. Citrus College in Glendora, Calif., told a student that he couldn't protest the NSA outside of a very small free-speech zone--even though Citrus had abandoned that zone in an out-of-court settlement after being sued by another student a decade earlier.

Such examples of colleges abusing basic rights--and failing even to exercise common sense--are not rare. After decades of campus censorship, students have been taught not to appreciate freedom of speech, but rather to expect freedom from speech. This unnerving development can be seen in the rash of episodes last spring when students and even faculty pushed to bar commencement speakers and other public figures with whom they disagree. It can also be seen in the push toward applying "trigger warnings" to literary works, including "The Great Gatsby," if they might cause emotional distress to certain readers.

In this environment, it would have been inspiring and powerful for the chancellor at Berkeley--the symbol of a bold conception of the power of free and open discourse and inquiry in a pluralistic society--to come out with a strong explanation of why robust free speech is as badly needed now as it was 50 years ago.

Mr. Lukianoff is president of Foundation for Individual Rights in Education and author of the new book "Freedom From Speech" (Encounter).

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