

Schools have the right to limit free speech. But how much should they?

Ellen K. Boegel

[America \(Jesuit\) Magazine](#)

From [Halloween costumes](#) to prom dresses, Facebook posts to commencement addresses, school administrators are required to make difficult decisions regarding appropriate limits on free speech and expression. For the educational community, the summer is a good time to review, reflect on and possibly revamp current policies.

Dress codes

Headaddresses, tattoos and form-fitting clothing present increasingly complicated challenges for school administrators seeking to balance the values of fun, comfort and fashion with individual and community sensitivities, educational and social propriety, contractual and statutory provisions and, for public educational institutions, constitutional requirements.

[As evidenced by the 2015 Yale controversy](#) and [the 2016 creepy clown scare](#), Halloween costumes create problems at all educational levels. In addition to safety concerns regarding weapons and dangerous props or materials, codes of conduct at many schools prohibit “offensive” or “hostile” conduct.

Application of conduct restrictions to one-time occurrences, such as the wearing of an insensitive costume, is problematic. Public and private school students have due process and/or contractual rights (based on student registration and tuition payments) that require clearly articulated dress codes; vague and subjective terms are unenforceable. In addition, public school students enjoy [First Amendment rights](#) that protect

expressive clothing.

Restrictions on the speech of public college-level students must be “narrowly tailored to serve a significant government interest.” Public secondary and elementary school students are granted less extensive [free speech rights](#). Apparel that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others” may be prohibited. Clothing with lewd or sexually explicit messages and those that are viewed as encouraging illegal drug use also may be banned in secondary and elementary schools.

Nevertheless, school administrators should use their authority sparingly lest they become enmeshed in even more disruptive (and expensive) litigation. In Pennsylvania, for example, a middle school’s unconstitutional prohibition of “I ♥ Boobies” cancer awareness bracelets engendered a lawsuit that lasted four years and cost taxpayers close to \$400,000 in legal fees.

Gender-conforming clothing requirements at public schools are prohibited by the [Equal Protection clause](#), but reasonable restrictions may be placed on feminine and masculine attire. This means a female student should not be forced to wear a skirt or dress and a male student should not be prohibited from wearing a skirt or dress, but restrictions can be placed on skirt and dress lengths. Dress code restrictions are more common on feminine attire, which has led to [the #iammorethanadistracted movement](#).

Private schools that accept federal funds must abide by Title IX gender discrimination protections, but religious schools with religious objections are exempt. Thus, religious schools can impose gender-specific clothing restrictions but that does not shield them from [student discontent and publicized controversy](#), often involving prom attire.

Legal rights are not self-enforcing; many unlawful codes and enforcement practices persist. Students and parents who object

to overly restrictive policies must comply, negotiate or sue. [A recent CNN story](#) highlighted the ingenuity of one family who used a marker to disguise their son's non-complying decoratively shaved hair. School officials who want to avoid conflict and litigation should dispense with judgmental and gender-biased rules and then collaboratively create and uniformly apply standards designed solely to promote safe and effective learning environments.

Campus Speech

[Public college](#) and university students enjoy full free speech rights. Federal and state anti-harassment laws only may be used to limit public university speech when it is so objectively severe or pervasive that it reasonably can be determined to interfere with another student's ability to learn.

University officials also may place reasonable time, place and manner restrictions on student speech and may impose additional restrictions on spaces considered limited public fora, such as lecture halls reserved solely for curriculum-related events. Nevertheless, students and student groups with myriad controversial viewpoints must be given equal access to campus facilities. The [twice-cancelled appearance by Ann Coulter at the University of California, Berkeley](#), illustrates the difficulty of meeting these constitutional requirements while protecting the safety of the entire campus community.

The "special characteristics of the school environment" enable secondary and elementary public school administrators to regulate classroom speech and school-sponsored speech to a greater extent than permitted on public college campuses. Most states have anti-bullying laws that promote inclusiveness and prohibit harassment. As with dress codes, non-disciplinary discussions that lead to cooperative compliance are better than banning speech that does not pose a realistic threat or is objectively harmful or disruptive. One [public high school](#)

teacher learned this lesson the hard way when he lost a lawsuit brought by a student disciplined for stating, "[I don't accept gays because I'm Catholic.](#)"

[Private school](#) students are not protected by the First Amendment and are subject to all clearly articulated speech restrictions. Moreover, private schools may prohibit or invite any speaker to a school forum. As was evidenced by [student protests during Vice President Mike Pence's commencement address](#) at the University of Notre Dame, however, freedom from government involvement does not eliminate controversy. Private schools that accept federal funding are subject to civil rights laws and, except when based on religious considerations, may not permit harassment of students based on disability, race, gender, religion or national origin. State anti-bullying laws generally do not apply to private schools.

Social media posts

Out-of-school expression on social media is of growing concern to public and private school administrators. Although the forum is different, the same legal principles apply.

Public universities may impose disciplinary action when restrictions are narrowly tailored to serve a significant government interest. Protecting fellow students from discriminatory or harassing conduct is a significant government interest, but derogatory social media posts may be prohibited only when they amount to an actual threat or objectively impair the educational environment. Posting bomb threats on the internet may be prohibited, but lewd online behavior and off-campus criticism of teachers and principals should be tolerated. Private schools may adopt whatever restrictions are deemed appropriate and clearly communicated to students and parents.

Teachers understand the tremendous risks and benefits of free expression, and administrators understand there is no pleasing

some people (parents, students or teachers). The best-reasoned and most clearly written code of conduct will not prevent every controversy nor quell every protest, which, in a free society, should not be the goal. Education, rather than litigation, is the best tool we have to create respectful environments for the free exchange of ideas. Town hall meetings, student-designed codes of conduct, inclusive lesson plans and academic presentations may do more to achieve compliance with reasonable guidelines than threats of discipline.

Making student buy-in a priority does not guarantee unanimity, but it does increase understanding of school policies and defeat claims of ignorance, which is, after all, an important educational goal.

[Middle School student suspended for “liking photo of gun on Instagram](#)

[FOX19 Cincinnati](#)

An [Edgewood Middle School](#) student was handed a 10-day [suspension](#) for “liking” a picture of a gun on [Instagram](#) with the caption “ready.”

The parents of Zachary Bowlin posted a picture of the intended suspension notice which read, “The reason for the intended suspension is as follows: Liking a post on [social media](#) that indicated potential [school violence](#).”

“I was livid, I mean, I’m sitting here thinking ‘you just

suspended him for ten days for liking a picture of a gun on a social media site," father Marty Bowlin said. "He never shared, he never commented, he never made a threatening post.. anything on the site, just liked it."

The picture in question is of an [airsoft gun](#), and according to the [students](#)' parents, their child didn't comment on the post but simply liked the picture.

"I liked it, scrolling down Instagram at night about 7, 8 o'clock I liked it," Zacaahry said. "The next morning they called me down [to the office] patted me down and checked me for weapons."

Since receiving the notice, the family said the school has dropped the suspension and there will be no repercussions for the child's actions.

Friday morning an email went out to parents stating:

"Yesterday evening school officials were made aware to an alleged threat of a student bringing a gun to school. We act on any potential threat to student safety swiftly and with the utmost importance. This morning, the alleged threat was addressed and we can assure you that all students at Edgewood Middle School are safe and school will continue as normal. Thank you"

Below is the statement given to FOX19 NOW by Superintendent Russ Fussnecker:

"Concerning the recent social media posting of a gun with the caption "Ready", and the liking of this post by another student, the policy at Edgewood City Schools reads as follows:

The Board has a "zero tolerance" of violent, disruptive, harassing, intimidating, bullying, or any other inappropriate behavior by its students.

Furthermore, the policy states:

Students are also subject to discipline as outlined in the Student Code of Conduct that occurs off school property when the misbehavior adversely affects the educational process.

As the Superintendent of the Edgewood City Schools, I assure you that any social media threat will be taken serious including those who “like” the post when it potentially endangers the health and safety of students or adversely affects the educational process.”

[99% of students cuffed in NYC schools are black, Hispanic: report](#)

[Ben Chapman](#)

[The New York Daily News](#)

Black and [Hispanic](#) kids accounted for 99% of all [public school](#) students handcuffed by [NYPD](#) school safety agents in crisis incidents in 2016, [data](#) published Monday shows.

A “[child in crisis](#)” incident is one where a student displaying signs of emotional distress is removed from the classroom and taken to a hospital for a psychological evaluation.

In 2016, there were 262 child in crisis incidents where handcuffs were used, according to the [New York Civil Liberties Union](#), which first reported the data – and all but three of those incidents, or 259, involved black or Latino children.

NYCLU [Executive Director](#) Donna Lieberman said kids who are subject to [police action](#) in school suffer academically and emotionally.

“When a child is handcuffed, the child is humiliated,” Lieberman said.

“It’s incompatible with the safe and supportive learning environment a school is supposed to provide,” Lieberman added.

Police and city school statistics show overall police actions in schools are declining, but black and Hispanic students are still far more likely to land in trouble with the law compared to their peers.

The data reported Monday by the NYCLU is the first such release of school police data. The data set includes other information on police activity in city schools.

The statistics were published by the NYPD under amendments to the city’s Student Safety Act made in 2015 that require more transparency on police action in the public schools.

City Education Department officials and the NYPD did not immediately respond to requests for comment on the NYCLU report.^a

[Rollins College Suspends Student After He Challenged Radical Muslim Hate Speech](#)

Jacob Engels

[Central Florida Post](#)

Not even a year after Radical [Islamic terrorist Omar Mateen](#) killed 49 people at Orlando’s [Pulse nightclub](#), [Rollins College](#) officials are punishing a Christian Conservative student who

challenged a liberal [Muslim](#) professor and radicalized Muslim student during a conversation on the application of Sharia Law.

Marshall Polston confirmed to the Central Florida Post that Professor Areeje Zufari, who teaches a “Muslim Humanities” course at Rollins, has made outlandish claims against him and even filed a false police report.

Early on in the class, Polston said he realized the professor was harboring Anti-[Christian beliefs](#), demonstrated by the professor’s assertion that the crucifixion of Jesus was a hoax and that his disciples did not believe he was God.

“It was very off-putting and flat out odd. I’ve traveled the [Middle East](#), lectured at the Salahaddin University, and immersed myself in Muslim culture for many years. Honestly, it reminded me of some of the more radical groups I researched when abroad.”

Whether religious or not, I believe even those with limited knowledge of Christianity can agree that according to the text, [Jesus was crucified](#) and his followers did believe he was divine... that he was “God.” Regardless, to assert the contrary as academic fact is not supported by the evidence.

Polston says that he challenged her on this point during a class discussion and after that, Professor Zufari promptly failed him on a major essay and refused to provide input as to why she issued a 52% grade for the essay.

“I was upset, understandably. I’ve never gotten anything less than straight A’s, so I was really interested in figuring out how to possibly improve or at least understand the grade.”

This is when we step into the Twilight Zone. The teacher then reported Polston to the “Dean of Safety” at Rollins and cancelled class because she claimed he was making her feel “unsafe.”

When classes resumed, the professor decided to focus on a hot-button issue, the application of Sharia Law. During the discussion, according to Polston, another student made a shocking statement.

The student, a yet to be identified Muslim male, is said to have showcased a very strict adherence to the Quaran in previous group talks. But this time, he went too far for many students in the classroom.

“He stated that a good punishment for gays, adulterers, and thieves was the removal of a certain body part, as determined by [Sharia law](#). It took a few seconds for me to realize that he actually said that, especially after what this community has faced with the tragic loss of life at Pulse,” explained Polston.

The Muslim college professor jokingly responded to the student that he was “in time-out” or something to that effect, and should remain quiet for a few minutes. Several students, of both Islamic and Christian backgrounds, thought the teacher should have reported the incident, but the request fell on deaf ears.

One student, who asked to remain anonymous, even reported the incident to the F.B.I., figuring it was better to say something than just ignore it.

That’s when Polston was summoned to the Dean of Safety’s office to discuss his probable suspension and how he was making Rollins College “unsafe” because of his difference of opinion with Professor Zufari and the hard-line Muslim student who displayed [Islamic Fascist](#) sympathies.

“They made it clear that they had not gotten a report about what the student said, and were more concerned about the danger I was causing to the campus. What danger? A difference of opinion in a college classroom is nothing out of the ordinary and certainly not dangerous. It was surreal and

degrading. The bad grade was upsetting, but they were literally refusing to acknowledge the dangers posed by someone who advocated chopping off body parts on campus.”

The Central Florida Post reached out to the elite college’s media relations team several times earlier this week and never received anything back. We also texted the professor, who refused comment and seemed upset that she was being asked about the incident.

Now we have learned that Polston has been suspended from the school and ordered not to appear on campus or have any contact with Professor Zufari. That letter can be seen below.

[Letter of Suspension](#) by [Jacob Engels](#) on Scribd

Professor Zufari has also filed a police report with the Winter Park Police Department, claiming Polston violated the order and showed up to class on Thursday to harass her, according to documents obtained by the Central Florida Post.

This appears impossible however, as Polston confirms to us that he was with his elderly grandfather and traveling to Daytona Beach for the opening of Embry Riddle College’s MicaPlex during the hours the class was held.

He has even provided a receipt from a restaurant in Orlando’s Dr. Phillips area, and stills of video surveillance showing him purchasing food during the time of the class as well.

“I will be releasing witness statements shortly proving I could not have been where Professor Zufari said I was Thursday night. It’s shameful that she lied to the police.”

Given the evidence we have gathered, and the refusal of either the professor or Rollins College to address this matter, we believe that Rollins College should immediately suspend Professor Zufari and open an investigation into what actually happened.

Central Florida faith leader Peter Vivaldi agrees.

“Obviously Rollins College has an agenda when it comes to Religious Freedom. Apparently freedom of speech is not allowed on campus, unless it offends Christian beliefs.”

The Central Florida Post has tried numerous times to obtain comment from Rollins College, Professor Zufari, and the Winter Park Police Department to no avail.

We will update you as this story develops.

Jacob Engels is an Orlando based journalist whose work has been featured and republished in news outlets around the globe including Politico, InfoWars, MSNBC, Orlando Sentinel, New York Times, Daily Mail UK, Associated Press, People Magazine, ABC, and Fox News to name a few. Mr. Engels focuses on stories that other news outlets neglect or willingly hide to curry favor among the political and business special interests in the state of Florida.

[Untold Numbers of Canadians Are Streaming Live Online Without Their Knowledge](#)

Jordan Pearson

[Motherboard](#)

Daycares, churches, cops—it's all

streaming live.

If there's an internet-connected [security camera](#) in your home, office, or at your children's daycare—or hell, even if you're just at the mall—you may be streaming live over the internet and not even know it.

On Thursday, that students at an elementary school in [Cape Breton, Nova Scotia](#), were being broadcast on a site that streams cameras that haven't been properly secured. But it's not just one school. Unsecured cameras are an [old-as-time blight](#) on the internet, so much so that [art projects](#) have [been made](#) using them. And right now, churches, daycares, and places of business across [Canada](#) are live and online.

One notorious site is called [Insecam](#), which the CBC focused on, but there are others. A quick dive into the selection of Canadian cameras on these sites quickly turned unsettling.

In a few short hours on Thursday morning, I found two publicly viewable streams that appeared to be coming from daycares or kindergartens in Canada. In one, children were clearly visible eating and napping. (Many daycares offer a webcam service to parents who want to check in on their kids, usually available for a sign-up fee.)

Another stream showed a parish while mass was in progress, with people's faces clearly visible. Another featured employees at an autobody shop drinking coffee. Another was stamped "UQAT MOCAP STUDIO"—likely for the [Université du Québec en Abitibi-Témiscamingue](#)—and showed a motion-capture experiment in progress. A stream on another site allowed me to watch people amble around a [shopping mall](#). I'm not even going to talk about the many bedrooms, living rooms, and kitchens streaming live.



It is easy to track down most of these locations, based on the stream. I was able to locate the church based on an [IP address](#) search and some partly-visible signage. The mall was easy—a large banner in frame was emblazoned with its name. The university stream had its name stamped on it, so it was a no-brainer.

I couldn't confirm the exact body shop I peered into online today, but a car emblazoned with "[Brantford Landscaping](#)" gave me a clue. A police vehicle was in the shop, so I called the Brantford police, who confirmed that it was their vehicle.

"I appreciate you bringing this to our attention," Sargeant Keith Tollar of the Brantford police wrote me in an email. "I will speak to the [auto body shop](#)."

Neither UQAT nor the church responded to Motherboard's request for comment in time for publication. The mall confirmed they use a webcam to stream events, but weren't aware that it was live outside of their site.

It's long been known that security cameras (if they aren't password-protected, or if the operator doesn't change the factory password) can be spied on by almost anybody with a

little know-how and an [internet connection](#). But, as the [CBC's](#) article showed, most people still aren't aware of this. This poses privacy risks not just for the people who set up the camera, but in the case of businesses like the auto-body shop, for employees who may be aware that their boss is watching them, but not some schmoe like me.

All this is to say: Secure your damn cameras, you hosers.

[Bible reading not allowed before class, professor tells student](#)

[FOX News](#)

It's apparently okay to read history books at [Northern Arizona University](#), but not the Good Book.

[Mark Holden](#), a 22-year-old history major, tells me he was ordered to leave a lecture hall after his professor objected to him reading the [Bible](#) before the start of the class.

Holden alleges that Professor Heather Martel ordered him to put away the Good Book around six minutes before a scheduled history class. It's unclear why she objected to the reading of God's Word.

[According to her biography](#), Professor Martel is a noted scholar who is working on an essay titled, "The Gender Amazon: Indigenous Female Masculinity in Early Modern European Representations of Contact." She also teaches classes on Global Queer History and [Feminist Theory](#).

When Holden declined to stop reading his Bible, the professor summoned Derek Heng, the chairman of the department. Heng then proceeded to explain the situation.

Holden recorded the conversation and turned it over to [congressional candidate Kevin Cavanaugh](#). In turn, Cavanaugh provided me with a copy of the audio.

“So Professor Martel says that she doesn’t want you sitting in front of her because you put, you know, a Bible out, right?” Heng said.

“So she doesn’t want me in the front because I have my Bible out,” Holden replied.

“No, I think she, I mean, well why do you have your Bible out anyway,” Heng asked.

After a bit more back and forth regarding the dynamics in the classroom, the chairman of the department got to the heart of the issue.

“So, will you, will you, will you, put your Bible away,” Heng asked.

The incident occurred back in February, but just recently became public after [Campus Reform](#) reported on controversy.

Holden had previously drawn the ire of his professor during a classroom discussion on assimilation.

“All the students agreed with her that assimilation is oppressive and evil,” Holden said. “I suggested there are both positive and negative aspects to assimilation.”

As an example, he referenced a report about two Muslim men in California who reportedly said the [Koran](#) justified doing terrible things to women.

“She told me I was a racist and she would not tolerate that

kind of racism in the class,” Holden said. “I told her Islam was not a race and I was only talking about what the two Muslims men as individuals said – I was not making broad claims about Islam or my interpretation of the Koran.”

After a bit of back and forth, Holden said the professor told the class, “Welcome to Trump’s new America – where straight white males can say prejudicial things without being reprimanded for it.”

I reached out to Holden and university officials for their side of the story – but so far they have not returned my calls.

However, I did obtain an email Martel sent to Holden warning him about “disruptive behavior.”

“For the remainder of the class, I will ask you to move to one of the desks along the wall by the door,” she wrote. “The roll sheet will be passed to you. You will make sure that students who come in late sign in. I will also require that you respect me and the other students in the class by acting in a civil manner.”

In a separate email addressed to the entire class, Martel vowed to “re-instate civility” in the classroom.

“I want this to be clear: [hate speech](#) does not meet the definition of respectful discussion and will not be tolerated,” she wrote. “In law, hate speech is any speech, gesture or conduct, writing, or display which is forbidden because it may incite violence or prejudicial action against or by a protected individual or group, or because it disparages or intimidates a protected individual or group.”

Something tells me [Christians](#) and Conservatives are not considered to be a protected group at Northern Arizona University.

“If you are a Christian, you are being targeted,” Cavanaugh told me. “Christians are being silenced.”

Cavanaugh said he got involved in Holden’s case because stopping the radicalization of public universities is a part of his campaign platform.

“If free speech is not permitted on a public university campus, federal funding should be refused,” he told me. “If you want to limit free speech, don’t take federal money.”

“We have seen on this campus and across the nation that people are being punished for their Christian views,” Cavanaugh said.

That may or may not be the case here – but based on that audio recording – there’s not much wiggle room.

The cold hard reality is a student was yanked out of a classroom for reading the Bible. Woe be unto us, America.

[EFF study: ed-tech is spying on America’s kids and not telling them about it](#)

[Cory Doctorow](#)

[Boing Boing](#)

The [Electronic Frontier Foundation](#) surveyed hundreds of American kids, teachers and parents about [privacy](#) and the “ed-tech” sector, which is filling [America](#)’s classrooms with [Chromebooks](#) and cloud services and mobile devices that ingest kids’ data wholesale without any meaningful privacy or [data retention](#) policies.

The survey paints a disturbing picture: parents have to fight like crazy to opt their kids out, only to discover that they've been opted back in by their teachers, who are given no time to prepare extra instruction for kids who don't want to sacrifice their privacy and who are given no training on privacy and ed-tech.

[Ed tech](#)'s growth is also closely tied to newer market and policy forces. Valued at over \$8 billion,⁷ the educational technology sector in the U.S. has been described as "the world's most data-mineable industry by far."⁸ As companies race to produce and capture more student data, the [U.S. Department of Education](#) has encouraged schools to use "big data" analysis to improve assessment and educational innovation.⁹ [Common Core](#)'s computerized testing requirements and other developments in education policy have also increasingly driven ed tech adoption forward.¹⁰ In the midst of these changing requirements, underfunded schools' lack of resources can make them particularly susceptible to offers of free devices and educational software from large ed tech companies.¹¹

While governments, schools, and industry shape the ed tech space, sensitive student data is caught in the middle—and this is where EFF places its focus. As ed tech growth outpaces legal and ethical understanding of its privacy implications, we risk placing students under silent yet pervasive surveillance that chills their creative expression both in and outside the classroom, and tracks their online behavior before they are old enough to understand its consequences.

In the long term, protecting student privacy means protecting children from surveillance culture at school and at home. The constant surveillance in which ed tech results can warp children's privacy expectations, lead them to self-censor, and limit their creativity.¹² A surveillance environment built by trusted teachers and educators will socialize

children to ignore and even accept the routine collection, retention, and sale of their personal information.¹³ Ed tech unchecked threatens to normalize the next generation to a digital world in which users hand over data without question in return for free services—a world that is less private not just by default, but by design.