

24.150 Liberalism, Toleration, and Freedom of Speech, Fall 2023

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+C0

The **Free Speech Flag** is a symbol of [personal liberty](#) used to promote [freedom of speech](#). Designed by artist John Marcotte, the flag and its colors correspond to a [cryptographic key](#) which enabled users to copy [HD DVDs](#) and [Blu-ray Discs](#). It was created on May 1, 2007, during the [AACs encryption key controversy](#).

Marcotte was motivated to create the flag after the [Motion Picture Association of America](#) (MPAA) and the [Advanced Access Content System Licensing Administrator](#) (AACs LA) began issuing [cease and desist](#) letters to websites publishing the key `09 F9 11 02 9D 74 E3 5B D8 41 56 C5 63 56 88 C0` (commonly referred to as 09-F9).

In response to attempts to remove the key from the Internet, [netizens](#) publicized the cryptographic key on the news aggregator website [Digg](#).



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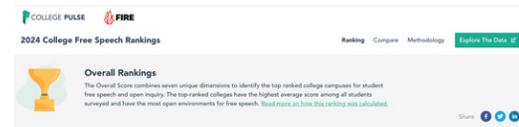
SVG version of a flag protesting the suppression of an HD-DVD encryption key, see [AACs encryption key controversy](#). Text description of the flag by author John Marcotte: [Free Speech Flag](#) -- Our government has become increasingly willing to sacrifice the rights of its citizens at the altar of corporate greed. As ridiculous as it sounds, even numbers have become "intellectual property" that corporations can claim ownership of. We here at Badmouth think that idea stinks. We want to start a movement, a movement to reclaim personal liberties and decorporatize the laws of our nation. To that end we have made a flag, a symbol to show support for personal freedoms. Spread it as far and wide as you can. We give this flag away freely, and also give away the rights for people to make similar, derivative works. the colors of the flag are (in hex code format): #09F911 #029D74 #E35BD8 #4156C5 #635688 The letters "C0" are added to signify that simply publishing a number is "Crime Zero". Spread the word.

From "File:Sample 09-F9 protest art, Free Speech Flag by John Marcotte.svg" on Wikipedia. © The Wikimedia Foundation, Inc. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

hot off the press (today)



Schlott, Rikki. From "Harvard is Named Worst School for Free Speech — Scoring Zero Out of Possible 100," *NY Post*, September 6, 2023. © NYP Holdings, Inc. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.



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#120 - Rutgers University	Public	47.11	Average
#122 - Bowdoin College	Private	46.84	Average
#131 - Hamilton College	Private	45.61	Average
#132 - University of Massachusetts	Public	45.57	Average
#136 - Massachusetts Institute of Technology	Private	45.13	Average
#138 - Brandeis University	Private	45.01	Average
#139 - Colby College	Private	44.98	Slightly Below Avg.
#141 - University of Maine	Public	44.10	Slightly Below Avg.
#145 - Williams College	Private	43.80	Slightly Below Avg.

Highlights

- 28% of students say shouting down a speaker to prevent them from speaking on campus is never acceptable.
- 58% of students say they have rarely or never self-censored on campus.
- 39% of students say they are not worried about damaging their reputation because someone misunderstands something they have said or done.
- For every one conservative student, there are roughly 4.3 liberal students.

Explore School Data

Compare Massachusetts Institute of Technology

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Subject requirements.

This class qualifies as a CI-M (communication intensive in the major) subject. Class meetings will be a mixture of lecture and discussion. Due dates for assignments are listed on the schedule, below.

Assignments and grading

Participation in class discussions:	10%
First essay, ~1500 words:	15%
Revision of first essay:	15%
In-class debate:	15%
Second essay, ~1500 words:	20%
Final essay, ~2000 words:	25%

Readings. All readings will be available on canvas. You do not need to buy any books.

Attendance. This is *required* (and does not count towards the participation grade).

In-class questions. We will post on canvas some questions about the reading a few days before each class. These will be used to start discussion. Students may be *called on randomly* to answer some of these questions, so come prepared!

"When my friends were freaking out about the Supreme Court's 'abortion ban,' and I was feeling very much the opposite way compared to them (in support of restricting abortion)"
 - Class of 2024

"In an art class, my peers were discussing being in a group with "conservatives" and how they were annoyed to have been the one that they felt was the only "voice of reason". I didn't feel comfortable saying I was a conservative, even though I don't think I am unreasonable."
 - Class of 2023

"I have very conservative views that are well-constructed and science based, not just faith based, yet these views are often seen as hateful. I fear getting shot down immediately without being able to explain myself and been seen as sexist, homophobic, etc., even though those things couldn't be further from reality"
 - Class of 2025

"I think my view on abortion for example doesn't fit the typical pro-life/pro-choice split. Most people would probably call it pro-life, but I wouldn't at all. People wouldn't wait to listen though (from experience of others w a similar opinion); I'd just be labeled as a bigot or something like that"
 - Class of 2026

"One student was arguing about the importance of acknowledging transgender women as women when it comes to women's-only spaces, and going on to imply that women who were uncomfortable with it were unjustified. I did not agree but did not say anything."
 - Class of 2024

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Quick overview of topics

1. The case for freedom of expression

against prior restraint;

the First Amendment: foundational decisions and dissents;

J. S. Mill's classic arguments;

non-governmental censorship and 'cancel culture.'

Quick overview of topics

2. The case for limiting expression

the harms of hate speech;

offensive speech;

the harms of pornography;

new dangers in the age of the internet and social media.

Quick overview of topics

3. Liberalism, Paternalism, Conservatism

Paternalism, pro and con;

Religious toleration, pro and con;

Conservatism against autonomy, immigration, and same-sex marriage.

Aims for the course, and civil discourse in the classroom

In this class, disagreement and vigorous debate are good things.

But equally valued are respect for each other, and engagement with ideas and arguments rather than getting personal.

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Jaiden is a 12-year-old boy who attends the Vanguard School in Colorado Springs, Colorado. He is the subject of [a video that went viral on social media](#): it shows the boy and his mother confronting a school administrator who asserts that the Gadsden flag patch on his backpack violates district policy.

"The reason that we do not want the flag displayed is due to its origins with slavery and the slave trade," says the administrator.



Soave, Robby. From "12-Year-Old Boy Removed From School Over 'Don't Tread on Me' Patch." *Reason*, August 29, 2023. © Reason Foundation. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

<https://reason.com/2023/08/29/jaiden-colorado-gadsden-flag-dont-tread-on-me-school/>

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recent examples of intolerance and censorship

Was the censoring/canceling (etc.) in the cases to follow justified?

Answering that is one goal for the class; it will not be settled today (and no answer is presupposed here).

Each case is different, so it's possible the answer differs from case to case.

These summaries are necessarily incomplete; there is more to each case than can fit on a few slides.

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LAWSUIT: FIRE sues Texas university president illegally blocking charity drag show

by FIRE March 24, 2023



- The president of West Texas A&M University canceled a student-organized drag show raising charitable funds for suicide prevention.
- President Walter Wendler unapologetically vowed to prevent the event from happening, "even when the law of the land appears to require it."

From "LAW SUIT: FIRE Sues Texas University President Illegally Blocking Charity Drag Show." FIRE, March 24, 2023. © Foundation for Individual Rights and Expression. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

Dear President Wendler:

FIRE¹ is seriously concerned by your statement that West Texas A&M University will cancel a charity drag show organized by Spectrum, a registered student organization, because you believe a "harmless drag show" is "not possible," citing your view that drag shows are "[d]emeaning" and your belief that "[b]eing created in God's image is the basis of Natural Law."²

As the president of a public university bound by the Constitution, your opinions on Natural Law are subordinate to your obligations under—as you dismissively put it—"the law of the land," that is, the First Amendment, which protects student expression regardless of whether you "condone" it.³ Additionally, Texas law explicitly protects the right to "listen to or observe the expressive activities of others."⁴

Drag shows, like other forms of theatrical performance, are expressive conduct shielded from government censorship. The freedom of expression enshrined in the First Amendment "does not end at the spoken or written word."⁵ Instead, conduct "intend[ed] to convey a particularized message" likely to "be understood by those who view[] it" is expression entitled to First Amendment protection.⁶ Conduct within a broader genre—such as art, theater, and dancing—is also protected even if it does not convey a "narrow, succinctly articulable message."⁷ The First Amendment's protection of expressive conduct is what protects the act of saluting or refusing to salute a flag,⁸ wearing black armbands to protest war,⁹ raising a "seditious" red flag,¹⁰ burning an American flag,¹¹ picketing or leafletting,¹² and participating in a sit-in.¹³ These are long-standing and basic First Amendment principles.

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Has Róisín Murphy been cancelled already? Two of Moloko frontwoman's gigs are axed in London as record label refuses to promote new album and hands proceeds to trans lobby amid row over her post about puberty blockers

• The Irish singer, 50, is set to release her new album, *Hit Parade*, on September 8

By MATTHEW LODGE
UPDATED: 07:57 EDT, 1 September 2023



Two Róisín Murphy gigs have been cancelled at short notice after a social media pile-on by trans activists following the Irish singer's comments about puberty blockers.

Lodge, Matthew. From "Has Róisín Murphy Been Cancelled Already? Two of Moloko Frontwoman's Gigs are Axed in London as Record Label Refuses to Promote New Album and Hands Proceeds to

Trans Lobby Amid Row over Her Post about Puberty Blockers." *Daily Mail*, September 1, 2023. © Associated Newspapers Ltd. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

Róisín Murphy	
Murphy in 2022	
Background information	
Birth name	Róisín Marie Murphy
Born	5 July 1973 (age 50) Arklow, County Wicklow, Ireland
Genres	Electropop ^{[1][R]} · dance-pop ^{[1][R]} · art pop ^{[1][R]} · experimental pop ^[1]
Occupation(s)	Singer · songwriter · record producer
Instruments	Vocals
Years active	1994–present
Labels	Echo · EMI · PIAS · Ninja Tune
Formerly of	Moloko

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OPINION

The Real Threat to Free Speech Is Coming From the Right | Opinion

JONATHAN FEINGOLD, ANGELA HARRIS & ATHENA MUTUA, ASSOCIATE PROFESSOR, BOSTON UNIVERSITY SCHOOL OF LAW; PROFESSOR EMERITA, UNIVERSITY CALIFORNIA, DAVIS SCHOOL OF LAW; PROFESSOR OF LAW, UNIVERSITY AT BUFFALO SCHOOL OF LAW



Last March, Stanford Law students protested when a Trump-appointed judge spoke on campus. An administrator intervened, defending her students' and the judge's right to speak. Her actions nonetheless triggered a [rightwing campaign](#) demanding her ouster, and last week, Stanford announced the administrator will not return.

To borrow from modern parlance, she was "cancelled."

The story is one of many examples, a reoccurring dynamic in which students speak, then administrators respond (or don't), followed by pundits decrying "cancel culture" and a "free speech crisis." These pundits are in fact right, though not in the way they think. Free speech *is* under attack. But the students aren't to blame.

Feingold, Jonathan, Angela Harris, and Athena Mutua. From "The Real Threat to Free Speech Is Coming From the Right." *Newsweek*, July 25, 2023. © Newsweek Publishing LLC. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

The Chicago Maroon

News

UChicago Professor's MIT Lecture Canceled After DEI Opinions Spark National Controversy

MIT administrators were pressured to rescind Abbot's invitation to speak at a lecture in light of an op-ed Abbot co-wrote in *Newsweek*.

By Basil Egli, Deputy News Editor
November 8, 2021

UChicago geophysical sciences professor Dorian Abbot was disinvited from the annual John Carlson Lecture at the Massachusetts Institute of Technology (MIT) in September following backlash from MIT's student body over Abbot's public opinions on affirmative action and diversity, equity, and inclusion initiatives in higher education.

Robert van der Hilst, the chair of MIT's Department of Earth, Atmospheric, and Planetary Sciences (EAPS)—which hosts the Carlson Lecture—cited a controversial op-ed Abbot coauthored in *Newsweek* titled "The Diversity Problem on Campus" when explaining the reason for the lecture's cancellation.



Meghan Hendrix

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selections from:

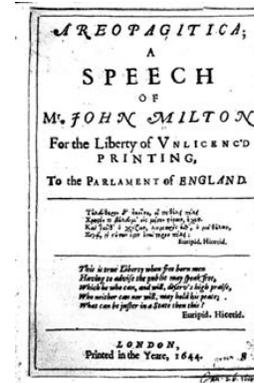
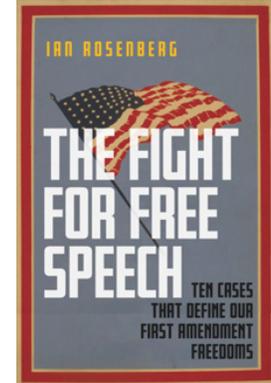


Image courtesy of the US Library of Congress Rare Book and Special Collections Division. This image is in the public domain. Source: [Wikimedia Commons](https://commons.wikimedia.org/wiki/File:Areopagitica_title_page.jpg).



Rosenberg, Ian. *The Fight for Free Speech: Ten Cases That Define Our First Amendment Freedoms*. NYU Press, 2021. © NYU Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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