



PennState

BACKGROUND FOR THE COMMUNITY

A public university: the rules of justice, the role of student conduct and the complexity within

Several individuals, noted as being part of the Penn State community, have been identified on social media for hate-filled rhetoric, posting Nazi symbols and using other repugnant language to denigrate others. Penn State immediately condemned these repulsive behaviors, which are antithetical to our [University values](#). Our University leaders have also spoken out ([President](#); [Vice Provost Educational Equity](#)).

In the aftermath, there have been many calls for expulsion of these students – these have been heard clearly. Our University shares in the anger and empathizes with those who experience fear or feel threatened because of the color of their skin, the religion they practice or other differences that inexplicably make them targets of hate.

The University has received many questions — the below will provide some background for the community.

- ***Why is the Student Code of Conduct not applicable if it prohibits harassment aimed at race or religion?***

Many have pointed to the University’s Student Code of Conduct as justification for expelling students. They understandably want to know the University has acted, since the Code prohibits harassment aimed at race or religion. It is important to understand, however, that every case is different. Some actions can be sanctioned, while other behaviors fall within protected speech, which also is part of the Code.

The facts matter, of course, in determining Code violations. It matters if it took place as part of a Penn State activity or educational program, or in a class, or was an off-campus incident. It matters if it occurred prior to admission to Penn State. It matters whether the behavior was “severe or pervasive,” and had the potential to disrupt education or carried a threat of imminent harm.

Penn State’s Office of Student Conduct does review and follow up on every report received as it relates to any alleged violation. If it is determined that a violation of our Student Code of Conduct occurred, we take action and, depending upon the type of violation and circumstances, this can include actions such as warnings, probation and, at times, expulsion.

- ***Why won’t the University share more about its actions?***

Sometimes, people demand to know that action has been taken in a specific case. Penn State may not disclose details of the student conduct process for any individual, including the outcome of an investigation, or any resulting sanction if a student is found to have violated the Code of Conduct in any respect. This too can be frustrating for matters of public and community concern. The Family Educational Rights and Privacy Act (FERPA) is a federal law which protects the privacy of students’

educational records and personal information. Our goal is to employ the conduct process, including accountability, toward a larger educational end.

- ***How do free speech protections apply?***

Penn State, consistent with all public universities across the nation, is legally required to uphold the First Amendment to the Constitution – regardless of how hurtful, revolting and offensive the speech may be.

Importantly, as a public institution of higher education, Penn State considers the right to free speech and expression essential to our mission of improving society. One of our responsibilities as an institution of higher education is to assist all of our students in developing not only the skills needed to be constructive citizens, but the ability to demonstrate cultural competence, express well-informed opinions and understand society on a global scale. And when our students struggle or fail, there is an opportunity to work through a multi-phased process to educate, encourage learning and growth and, in the end, ideally, they leave the institution as a more well-rounded individual and a more productive citizen.

Often, the antidote to hateful speech is more speech, and not enforced silence. Through the process of education falsehoods are exposed and constructive dialogue is spurred, which we hope will result in a change of hearts and minds. Our faculty and staff work closely with students to encourage social justice, to educate and enlighten, and to make sure the University's voice against hate is resolute.

- ***Other institutions have taken strong actions, why can't Penn State?***

There have been reports recently that have contributed to public confusion, as private universities have announced actions against students in similar circumstances, while other public universities have not. While hard to believe, private universities generally have no obligation under the First Amendment, which only applies to public, or governmental, entities. They, as well as private corporations, can sanction individuals whose words and deeds do not mesh with their ideals, mission or honor codes.

- ***What is Penn State's perspective on all of the hateful speech?***

Individuals who engage in hate speech should know that they have violated fundamental University principles and consider the harm they cause our community. Such hateful speech is not welcome at Penn State.

As a University, the promise remains to continue to speak out against hatred and racism whenever it is encountered, to use research, education and community engagement to create a more just society, and to do all that is in our power to educate our University community on the importance of diversity, inclusion and creating a welcoming climate.

President Eric Barron and University leaders will be bringing the community together to answer questions and focus on ways the University can help achieve lasting change. This is true for Penn State faculty and staff who are having discussions and bringing units and the community together.

Also resources, such as [Addressing Bias: Rights, Responsibilities and Responses](#), that have been created in partnership with students, will continue to be available and new content may be added, as the University looks to our students, faculty, and staff to use their voices thoughtfully and engage in critical dialogue.