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Review of *Restoring Free Speech and Liberty on Campus*

By Mark Kemper, Bridgewater State College

Free expression on college and university campuses has undergone remarkable change since the early 1960s. This period has witnessed substantial expansion in the freedom that individuals on campus have to express their views, so much so that the days of anti-communist loyalty oaths and the calling forth of the National Guard to quell campus protests seem like distant memories with little chance of being repeated at the commencement of the twenty-first century. But this period has also seen the development of new forms of regulations and procedures that have significantly constrained what individuals may articulate on college campuses. Unlike previous restrictions, which came from right-wing forces external to the institution, these new restrictions are predominantly imposed from within institutions of higher education by left-wing campus constituencies. In his recent book, *Restoring Free Speech and Liberty on Campus*, Donald Alexander Downs provides a detailed, critical, and ultimately condemning portrayal of this trend toward enacting speech-restrictive policies on American college campuses.

Downs explains that since the late 1980s, institutions of higher education have enacted campus speech codes designed to curb offensive expression—particularly that which offends on the basis of race, sex, sexual orientation, religion, or other ascriptive human traits. In addition, colleges and universities have adopted orientation programs that train students, faculty, and staff to exercise tolerance, respect, and civility toward others during their interactions. Finally, institutions have narrowed the procedural rights afforded during campus judicial hearings to individuals being disciplined for allegedly violating speech codes. Increasingly, disciplinary boards have begun to presume the guilt of those charged with violating speech codes, and have denied such fundamental procedural rights as the right to be represented by a lawyer and the right to hear and ask questions of witnesses providing testimony.

Downs explains that he was not immune to this trend. As a member of the University of Wisconsin's faculty senate, he voted in 1988 for a campus speech code. He was persuaded that the policy would promote civility, harmony, and mutual respect, and—by providing a safe environment for historically oppressed groups—stimulate intellectual diversity and broaden the variety of views being expressed in campus discourse. Indeed, Downs

provides a balanced and fair-minded presentation of the arguments—many of which are eminently reasonable—for enacting such codes. In doing so, he demonstrates how easily a rational person can conclude that speech codes serve compelling interests, and how one harboring doubts about the dangers posed by such codes may convince himself in good faith that these will be fairly and rationally enforced by campus administrators.

But Downs describes how he soon became disillusioned with Wisconsin's speech code, as well as with similar policies that were developed at other institutions of higher education. One recurrent problem Downs identifies is that speech codes are often ambiguous and unclear, thus imposing a serious chilling effect on campus discourse. Not sure what can be said without retribution, individuals begin to hold back on expressing their views on issues pertaining to race, religion, sex, gender, sexual orientation, and other controversial social and political topics. He also argues that speech codes are paternalistic attempts to shelter traditionally oppressed groups from offensive speech, and thus are demeaning to the individual integrity of members of those groups.

Downs fundamentally disagrees with those who argue that public discourse on these sensitive topics should be discouraged—that people ought to think carefully before they say something that might deeply offend their listeners. Instead, Downs strongly contends that colleges and universities should provide individuals with the liberty to express ideas and views about all topics. This is essential, he explains, if colleges and universities are to successfully promote their fundamental mission of promoting humanity's search for the truth. This pursuit will be jeopardized if individuals are cowed by speech codes into remaining silent or are induced to articulate their support for ideas in which they do not believe because such views are deemed safe. Indeed, Downs argues that this tendency toward the expression of false preferences is potentially worse than not speaking at all, because it will bolster the ideological status quo on university campuses, and thus further entrench the power of those who support speech-restrictive codes.

Donald A. Downs is Research Fellow at Independent Institute and author of *Restoring Free Speech and Liberty on Campus*.