**Office of University Counsel Guidance on First Amendment Issues – Fall 2020**

The information below is intended as a reminder regarding certain important First Amendment issues on campus. In light of the upcoming election season and recent protests and demonstrations, freedom of speech and expression is a topic likely to generate a significant amount of attention and discussion this fall.  The intricacies of the First Amendment at a public university are complicated and can turn on narrow definitions and understandings.  The University’s Office of University Counsel (univcounsel@iastate.edu) is always available to help respond to questions about specific situations and circumstances.

**STUDENT EXPRESSION IN THE CLASSROOM (Clothing, Patches, Face Coverings)**

With respect to student expression in the classroom, the University does not take disciplinary action against students based on the content or viewpoints expressed in their speech alone.

You may encounter protected speech or symbolic speech in your classroom on clothing, hats, patches, or during the pandemic, on face coverings that students wear to class. ***Normally, this speech and expression will be protected by the First Amendment***. Only in rare instances will such speech fall outside the First Amendment’s protections (e.g., true threats, unlawful harassment, imminent incitement of lawlessness).   Students may wear clothing, including face coverings, that support political candidates, promote political issues, or are even “offensive” to a majority of our campus community. Only in the most rare and unique circumstances would this speech fall outside of the protections of the First Amendment.

In contrast, classroom **conduct** that is disruptive should be responded to. The classroom is a special forum with a specific purpose, i.e., facilitating effective teaching and learning.  Accordingly, the University may fairly and consistently apply reasonable content and viewpoint neutral restrictions on student conduct in the classroom.  For example, student conduct, such as in class protests or demonstrations, that materially and substantially disrupts class work is not protected by the First Amendment.  Faculty are in charge of their classrooms and can expect students to comport themselves in a manner that is consistent with an effective learning environment.  If a student continues after fair warning to engage in disruptive classroom conduct, it may be necessary to invoke the [classroom disruption procedures](https://www.studentassistance.dso.iastate.edu/faculty-and-staff-resources/disruption) or contact the [Office of Student Conduct](https://www.studentconduct.dso.iastate.edu/) for additional assistance.  But care must be taken because we cannot prohibit student speech because of “a mere desire to avoid the discomfort and unpleasantness” that accompanies an unpopular viewpoint.  If there is a question about whether certain speech or expression inside the classroom is protected or unprotected, contact the Office of University Counsel.

**POLITICAL DISCUSSIONS IN THE CLASSROOM**

Classroom discussions, including those that are political in nature, must be germane (i.e., relevant to the scholarly subject matter of the course) and be presented by appropriate means.  Teaching methods that target individual students in an unfair way so as to prevent them from full participation in a course are not regarded as appropriate. Instructors should be careful not to introduce or discuss subjects, including political subjects, which have no relation to the class.  Instructors should seek to provoke genuine debate and learning that is germane to the subject matter of a course – and avoid simple ruminations on current events or political opinions.

Similarly, if a topic raised by a student is not relevant or germane to the class, the instructor may ask that discussion on the topic cease. Further, if a student addresses a class in an unduly disruptive manner, such as by yelling or continually interrupting others, the instructor may ask the student to cease this conduct, and if the conduct does not cease the instructor may use the techniques available to address [disruptive students](https://www.studentassistance.dso.iastate.edu/faculty-and-staff-resources/disruption).  Again, it is critical that classroom rules be viewpoint neutral and applied in a consistent and fair manner.