

# THE EROSION OF FREE SPEECH ON CALIFORNIA'S CAMPUSES:

How It's Happening and What We Can Do  
About It



# EXECUTIVE SUMMARY

As the cornerstone of American liberty, the First Amendment stands as a shield for our most essential freedoms—safeguarding the rights to free speech, peaceful assembly, and the power to petition the government. However, historical social movements and more recent pro-Palestine protests indicate that First Amendment protections can be under direct threat depending on the content of the speech. In the early months of 2024, students on university and college campuses across California established encampments in solidarity with Palestine. From the University of California (UC), San Diego to UC Berkeley, students advocated for the disclosure of college and university investments and for divestment from Israel. In response, administrators deployed aggressive law enforcement tactics to silence these protests.

Since then, California’s university and college students continue to see their First Amendment rights deteriorate as government officials increase time, place, and manner (TPM) restrictions to crack down on protected speech.

Policymakers and university and college administrators must rise to the moment. This report offers the following recommendations for policymakers and university and college administrators:

- Roll back and draw boundaries around TPM restrictions;
- Challenge biased enforcement of TPM policies;
- Separate critique of Israel from legally protected definitions of antisemitic discrimination;
- Foster cross-community learning and build bridges across student groups; and
- Engage with students in good faith.

# INTRODUCTION

*“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” (U.S. Const. amend. I)*

Despite touting the First Amendment as an essential freedom in the U.S., elected officials and university administrators have been scaling back these rights on college and university campuses for decades. Following the pro-Palestinian student protests that swept across the country during the last academic year, California’s government and university leaders have accelerated this process.

During the pro-Palestinian student encampments, government officials, law enforcement, and university administrators cracked down, often violently, on student protests. In preparation for the upcoming 2024-2025 academic year, California’s university administrators and state legislators passed policies that restrict free speech and assembly on campus, including implementing and strengthening bans on speech and symbolic speech engaged in by pro-Palestinian students and punishing students who advocate in support of Palestine.

This report starts with an overview of historical student movements in the U.S. and how they shaped the First Amendment environment around students’ right to free speech and assembly on college and university campuses in California. It then turns to the recent pro-Palestinian protests, including the reasons that students began protesting, and reactions from government officials, law enforcement, and university administrators. Finally, the report closes with recommendations about how all stakeholders can preserve the fundamental right to free speech and assembly.



# AN AMERICAN TRADITION: STUDENT MOVEMENTS IN THE U.S.

College and university campuses in the U.S. have long been a bastion for social movements. As youth explore ideas in the world, college and university, students often push the ideological envelope. As early as the 19th century, U.S. students protested on college campuses, often due to their living conditions and harsh rules. The focus on college conditions as an object of protest shifted in the early 20th century as students became more involved in political issues, which has remained true ever since (President's Commission on Campus Unrest, 1970).

Although students have long protested a variety of issues in the U.S., four relatively recent movements involving students shaped the current context around pro-Palestine protests on campus: the Civil Rights Movement, the Free Speech Movement, the Vietnam War protests, and anti-Apartheid protests. Protests on college and university campuses have continued since then, though they have been more decentralized.



*Photo Courtesy of UC Berkeley, Bancroft Library*

# Civil Rights Movement

The Civil Rights Movement was a social movement during the 1950s and 1960s that focused on ending racial discrimination and segregation and supported equality for Black Americans in the U.S. The movement leveraged methods of radical nonviolent resistance and civil disobedience such as sit-ins, marches, boycotts, and legal challenges that were novel in the U.S. Movement leaders pursued court cases that struck down school segregation and bans against interracial marriage. Movement organizers also achieved policy wins, including the federal Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing Act of 1968.

Although the Civil Rights Movement was deeply rooted in the Black church and its elders and community members, college and university students were an integral part of the movement, engaging in direct action and political advocacy that was repeatedly met with police violence. The Student Nonviolent Coordinating Committee (SNCC), founded by Ella Baker, served as the primary conduit for student engagement and resistance against institutionalized racism. Through SNCC, students organized sit-ins and the Freedom Rides, as well as voter registration drives in southern states (National Archives, n.d.).

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*A Freedom Ride was a bus trip taken by a group of Black and white volunteers in 1961 to challenge segregation in interstate travel.*

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Despite SNCC's commitment to nonviolence and civil disobedience, student activists regularly faced violent targeting from community members and law enforcement. White supremacists killed three SNCC employees, beat countless others, and bombed SNCC members' homes, yet law enforcement arrested hundreds of protesting students. The Democratic National Convention (DNC) also rejected members of SNCC in 1964, as students sought seats for delegates from the Mississippi Freedom Democrats. During the convention, President Lyndon B. Johnson tried to divert attention away from the internal party division and offered two seats to the Mississippi Freedom Party. That was too few, and the Mississippi Freedom Democrats rejected the seats in protest (SNCC Digital Gateway, n.d.).

Student members of SNCC continued their work with voter registration and advocacy through the 1960s with leaders in SNCC eventually transitioning their advocacy to other arms of the Civil Rights Movement, including through elections for candidates who supported their causes, organizing farmworkers in the South, organizing the Black Panther Party, and advocating for equal educational opportunity (National Archives, n.d.).

The legacy of the Civil Rights Movement and the role of SNCC lives beyond the veterans who worked in the organization. Although most of the direct action employed by SNCC took place off college and

university campuses, SNCC represented an opportunity for a multiracial student coalition to build their skills and knowledge around nonviolence, civil disobedience, and civic engagement. Despite the progress made, the Civil Rights Movement also saw the beginning of government surveillance and law enforcement programs targeting movement leaders who organized protests in opposition to the status quo (Hoban, 2021).

## Free Speech Movement

The Free Speech Movement at UC Berkeley saw students who had previously engaged in direct actions related to the Civil Rights Movement apply their activism to their own campus. This activism emerged in the context of the broader Civil Rights Movement, which sought to dismantle racial segregation and discrimination, and the growing opposition to the Vietnam War, which galvanized students and activists to challenge institutional repression and advocate for their rights.

Students were particularly concerned about restrictive campus policies regarding free speech and academic freedom. At the beginning of the 1964-65 academic year, UC Berkeley administrators enforced a ban on "advocacy of political causes or candidates, outside speakers, political recruitment of members, and fundraising by student organizations" (Global Nonviolent Action Database, n.d.). Further, fac-

ulty were required to take a loyalty oath that disavowed radical beliefs. Faculty who refused to sign the oath were fired.

The student activists, many of whom had participated in the Freedom Rides and voter registration projects with SNCC in the South, sought to overturn the ban on campus political activities and secure formal recognition of free speech rights. They employed tactics such as setting up educational tables and engaging in civil disobedience to advance their cause. Despite their efforts to negotiate with university officials, they faced significant obstacles. (National Archives, n.d.)

On Dec. 2, 1964, more than 1,000 students occupied a university hall to force the university to reopen negotiations. Within 36 hours, police officers arrested hundreds of students. The university brought charges against the arrested students, resulting in even more protests. By mid-December, UC Berkeley appointed a new chancellor who slowly started to meet student demands, establishing initial rules for political activity on campus. By early January, the Free Speech Movement was able to host its first lawful assembly on campus (Global Nonviolent Action Database, n.d.).

The Free Speech Movement at UC Berkeley thus became a pioneering example of how civil disobedience tactics from the Civil Rights Movement could be adapted for university settings, influencing student protests at other institutions, such as

Columbia University in 1968 (Heineman, n.d.). The movement also faced backlash, contributing to the election of conservative Governor Ronald Reagan and the surveillance of participants through COINTELPRO (Counterintelligence Program). This FBI program targeted U.S. political organizations in the 1950s, '60s, and '70s through tactics such as wiretapping, infiltration, disinformation campaigns, and harassment aimed at undermining movement leaders (Hoban, 2021).

## Vietnam War

Free speech and anti-war protests continued on campuses throughout the Vietnam War, as pro-peace activists objected to U.S. military interventions in countries abroad and a mandatory draft (PBS, n.d.). In April 1970, President Nixon's announcement of the expansion of the war into Cambodia sparked widespread walkouts and strikes by students nationwide (Miller, n.d.).

At Kent State University in Ohio, students held a demonstration during which unknown individuals burned down the campus ROTC building (Kent State History: Digital Archive, n.d.). Two days later, the Ohio National Guardsmen opened fire on student protesters, killing four students (Associated Press, 2024). A few days later, police shot and killed two students at Jackson State University in Mississippi (Ncurrie, 2020). In the following days, student strikes protesting state violence against students shut down hundreds of campuses across the country (Jimenez, 2024). Protests, both peaceful and violent, continued on college and university cam-

puses and in cities across the U.S.

As a result of these protests, President Nixon established the President's Commission on Campus Unrest to study the rancor across college and university campuses. In its recommendations, the commission noted the unjustified overreaction of the police officers in student killings at universities, and it stated that the best way to address campus unrest was to end the war in Vietnam. It also suggested clearer guidelines for managing protests and defining acceptable conduct for students (President's Commission on Campus Unrest, 1970).

## Anti-Apartheid Movement

Efforts to protest the deplorable treatment of Africans in colonized nations began during the U.S. Civil Rights Movement when several organizations formed to support the liberation of Africans (SNCC Digital Gateway, n.d.). The Sharpeville Massacre in 1960, when South African police opened fire on unarmed protesters, shifted U.S. public opinion and saw more support for anti-apartheid efforts (McRae, 2023). More well-known civil rights organizations, such as the National Association of Colored People (NAACP), began to pressure businesses to divest from South Africa, and churches and civil rights groups organized protests, boycotts, and legal campaigns to oppose apartheid (Counts, 2013).

In the 1970s and 1980s, as student protests

in South Africa gained steam, protesters for African liberation from colonization began to organize themselves more formally in the U.S., focusing their liberation efforts on support for South Africa (SNCC Digital Gateway, n.d.). The Congressional Black Caucus helped to organize the TransAfrica organization, which organized protests at the South African embassy and worked to introduce legislation imposing economic sanctions in South Africa (Congressional Black Caucus Foundation, n.d.).

The Anti-Apartheid Movement then moved to college and university campuses where students and faculty members protested to pressure their boards of trustees to divest from South African investments. At UC Berkeley, students organized to withdraw their accounts from banks that loaned funds to South Africa, leading local and state governments to pass policies that required divestment from South Africa. Additionally, students organized encampments called shantytowns to demonstrate the deplorable living conditions of those in South Africa (Smith, 2014).

After several attempts at legislation in the U.S., Congress passed the Comprehensive Anti-Apartheid Act of 1986. The act called for sanctions on trade, divestment, and travel between the U.S. and South Africa, and defined preconditions for the lift of these sanctions (99th Congress, 1986). Although President Ronald Reagan vetoed the bill, Congress overrode the veto with a two-thirds majority vote (Redden, 1988).

The Anti-Apartheid Movement was a coalition movement with strong influence from the Civil Rights Movement. In addition, community leaders including those from the arts and sports world took prominent stances against apartheid in South Africa. Although students did not lead the Anti-Apartheid Movement, they actively participated, and the movement represented one of the strongest examples of using financial means—boycott and divestment—to drive changes in U.S. foreign policy, establishing a model for the demands of the pro-Palestinian movement of today.

## Recent Movements

More recently, student activism on college and university campuses has taken a more decentralized approach. Movements such as Occupy Wall Street sought to address income inequality while the Black Lives Matter protests objected to excessive use of police force in Black communities. Both movements have taken a more decentralized, network approach with local protesters driving their tactics and specific demands.



Protesters decry the killing of George Floyd by a police officer. / Photo: Rick James

# A LEGACY OF STUDENT MOVEMENTS

## Time, Place, and Manner Restrictions

U.S. residents have often viewed their right to free speech and assembly as absolute, providing carte blanche to say whatever, whenever. In fact, throughout the movements described above, the Supreme Court often issued rulings that increasingly limited the expression of free speech and assembly. These were followed by federal, state, and local policies that also defined the parameters of free speech and assembly.

For example, in 1965, *Cox vs. Louisiana* saw the emergence of TPM restrictions. In this case, Justice Goldberg delivered the majority opinion that stated, “The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place at any time” (*Cox vs. Louisiana*, 1965). According to the Supreme Court, TPM restrictions are permissible as long as they are content-neutral and narrowly tailored, serve a significant government interest, and leave open ample alternative channels for expression. TPM regulations include limiting noise levels, restricting signs on government property, or dictating protest times (*Ward et. al. vs. Rock Against Racism*, 1989). In *Cox v. New Hampshire*, the Supreme Court held that so long as the limitations remain content neutral and narrowly tailored, it would not be a violation of the First Amendment right to free speech (U.S. Courts, n.d.).

While many of these free speech and assembly rights applied to public spaces, private universities were not always bound by the First Amendment. In 1992, the California State Legislature passed the Leonard Law, which stated that students attending private institutions would not be barred from free speech protections nor disciplined for engaging in speech that is protected under the First Amendment. In 2006, the bill was amended to extend protection to student journalists (Education Code, n.d.).

Thus, U.S. and California laws around free speech have both constricted and expanded students’ rights to free speech, creating the context for pro-Palestinian student activism.



*Palestine solidarity encampment at UCLA. / Photo: Julia Zhou, Daily Bruin*

## UPHOLDING TRADITION:

### Students Protest U.S. Funding for Genocide

Social student movements throughout U.S. history created a dynamic backdrop for the evolution of free speech and assembly on college and university campuses. **Oftentimes, these students were vilified and seen as “agitators” only to be celebrated years later as principled advocates standing on the right side of history.** Students have been a driving force for change in the U.S., from activism off campus to advocacy in university halls. Now, they’ve shifted their attention to ending the decades-long Israeli occupation of Palestine and the current genocide of Palestinian people.

## Background

For decades, student advocates have been pushing for U.S. divestment from companies involved in the Israeli occupation of Palestine (Webb, 2024). Organizations such as Jewish Voice for Peace, the Palestinian Youth Movement, and Students and Faculty for Justice in Palestine emerged from and organized this advocacy (Hollingsworth and Crary, 2023).

These organizations have maintained a steady drumbeat of advocacy for decades, objecting to the Nakba in 1947 and protesting the Israeli occupation of Palestinian land. As part of this occupation, the Israeli government created an apartheid system within Israel, subjecting non-Jewish citizens to discriminatory systems (Amnesty International, 2022). In the Gaza Strip and West Bank, Israeli settlers continued to violently displace Palestinians (Frankel, 2023). The Israeli government established a blockade along the borders of Gaza, prohibiting the delivery of food and medical aid to millions of Palestinians and regularly launched airstrikes into Gaza. In 2023, Israelis killed over 200 Palestinians in the West Bank (Al Jazeera, 2023).

These conditions provided the backdrop for Oct. 7, 2024, when Hamas launched an attack against Israel, killing over 1,000 Israelis. After the Oct. 7 attacks, Israel began the systematic genocide of the Palestinian people by redoubling their efforts to block access to food and healthcare in Gaza (Amnesty International, 2024). In addition to the blockade, the Israeli government

destroyed medical facilities, targeted aid workers, and bombed refugee camps. The Israeli government's regular, violent attacks through gunfire and bombs have killed tens of thousands of Palestinian civilians with hundreds of thousands more missing. As of January 2024, Israel has destroyed more than 60% of the buildings in Gaza, and displaced virtually the entire population (NY Times, 2024).

Since Oct. 7, a growing body of evidence has documented Israel's grave crimes in Gaza and beyond, including targeting civilians, indiscriminate attacks, collective punishment, forced displacement and starvation, attacks on civilian infrastructure, the use of white phosphorus, sexual violence, and denial of humanitarian access. In the months since Oct. 7, Israel's crimes and its government's chilling statements of intent have led human rights activists, scholars, governments, and the International Court of Justice to conclude that Israel's actions amount to a plausible genocide (International Court of Justice, 2024). Despite this, the U.S. government continues to send taxpayer-funded military aid to Israel, and universities and colleges continue to invest billions of dollars into companies and manufacturers supporting Israel's violence. By continuing to fund aid to Israel, the U.S. is violating international law and is complicit in Israel's genocide in Gaza. Palestinians have documented Israel's war crimes and atrocities through social media, allowing students in the U.S. to

witness the genocide in real time.

For several months following Oct. 7, pro-Palestinian student advocates began their negotiations with college and university administrators for divestment from Israel through institutional means, including public letters, online petitions, letters to administrators, and attendance at board of trustee meetings (Wolfe et. al., 2024). These efforts were largely ignored by the media, and college and university administrators turned a blind eye to student demands for divestment. Furthermore, university administrators started to target pro-Palestinian students for speaking out in support of Palestine. At the University of Southern California, administrators canceled the 2024 valedictorian's address due to pressure from anti-Palestinian activists after she posted a link with information about what was happening in Palestine on her social media account (ACLU, 2024).

As university administrators demonstrated that they would not negotiate about disclosure and divestment in good faith, student advocates escalated their protests to encampments, following in the footsteps of past student activists who helped bring an end to the Vietnam War in the 1970s and South African Apartheid in the 1980s (Cadwell and Scott, 2024).

## Student Encampments

In April 2024, mass student protests erupted on college campuses across the U.S. A diverse coalition of students set up encampments to demand that their universities disclose all financial dealings and several from companies linked to the Israeli occupation of Palestine, including financial institutions and weapons manufacturers.

The protests began with Columbia University's Gaza Solidarity Encampment and rapidly expanded to over 80 universities across nearly every state, including California (Yerushalmy, Livingstone, and Salam, 2024). At virtually every encampment, students worked collaboratively to organize educational talks and workshops about Palestinian liberation and international solidarity, facilitate inclusive prayer spaces, offer cultural activities such as art installations and musical performances, hold prayer vigils, organize marches and rallies, and negotiate their demands with their college and university leadership.

**Despite the student encampments being overwhelmingly peaceful, university administrators, law enforcement, and the media's biased treatment of student protesters minimized their demands and sensationalized disruption.**

*(Brown, 2024; Ho and Doyle, 2024)*

Most incidents of violence at encampments resulted from law enforcement intervention (Ho and Doyle, 2024) or from pro-Israel agitators such as at the University of California, Los Angeles (UCLA) encampments (Chappell, 2024; Ho and Doyle, 2024). In fact, a study by Princeton University found that 95% of pro-Palestinian demonstrations were not violent or destructive and there were no reports of encampment protesters engaging in physical violence or destructive activity (Bridging Divides Initiative, 2024).

At a few colleges and universities, dialogue between university administrators and student protesters led to progress towards student demands for disclosure and divestment. At Chapman University, university administrators agreed to a vote on divestment, amnesty for students who participated in Chapman's protest encampment, and a new position in the university's Diversity, Equity, and Inclusion (DEI) Office focused on Middle East and North African (MENA) students (SJP Chapman, 2024). At San Francisco State University, university administrators agreed to establish a working group to produce a draft policy to revise the school's investments, including the launch of an investment disclosure website (Dominguez, 2024).

More often, however, violent police crackdowns and heavy-handed administrative responses to student encampments were the norm. Law enforcement officers in full riot gear violently disbanded encampments across college and university campuses, resulting in the injury and arrests of thousands of students (Arkin et. al.,

2024). Additionally, university and college administrators suspended and expelled students who peacefully exercised their First Amendment rights, jeopardizing their academic and professional careers. Biased coverage in the media also mischaracterized encampments as overwhelmingly antisemitic and disruptive, despite counternarratives from protesters and some media outlets that stated the contrary.

### **Case Study: University of California Los Angeles**

On April 26, 2024, UCLA students launched the university's Gaza Solidarity Encampment (Winward and Hamilton, 2024). From its inception, the encampment was met with violent counter-protesters and little support from the administration (City News Service, 2024). Events at the encampment escalated on April 30, when legal observers, civil rights organizations, and various media outlets reported that a mob of Zionists and white supremacists violently attacked students who were peacefully protesting in solidarity with Gaza, assaulting them with metal rods, fireworks, tear gas, pepper spray, and verbal assaults filled with Islamophobic, antisemitic, anti-Black, and anti-Palestinian slurs. Law enforcement stood by for hours, allowing these attacks to continue (Bedi et. al., 2024). The next morning, university administrators, the Los Angeles Police Department (LAPD), the UCLA Police Department (UCLA PD), and the California Highway Patrol (CHP) used the violence from counter-protesters as a pretext to forcibly dismantle the en-

campment and detain 132 demonstrators (Ormseth et. al., 2024).

Students, community members, and elected officials heavily criticized law enforcement and the university's response to the encampment (Steinman, 2024). As a result, UCLA launched an investigation, recommending the restructuring of UCLA PD's leadership.

The response from law enforcement and university administrators to the pro-Palestinian encampment represents a double standard in the protection of free speech and assembly. Law enforcement officials seemed to protect counter-protesters, even as they harassed and violently attacked peacefully protesting students, despite the fact that harassment and violence are not protected under the First Amendment. Officials also used the violence to infringe upon the First Amendment rights of the students peacefully exercising their rights to free speech and assembly.

### **Case Study: University of California, Irvine (UCI)**

On April 29, 2024, students at UCI launched their peaceful Gaza Solidarity Encampment with support from the local community. Throughout the weeks of the encampment, the student protest leaders attempted to negotiate their demands for disclosure and divestment with university administrators but were met with resistance. Campus police also issued citations to protesters (Petrow-Cohen et. al., 2024).

On May 15, 2024, the UCI chancellor deployed law enforcement to dismantle

the camp, falsely claiming that a violent group of students had occupied a school building. Despite calls from the Irvine Mayor to maintain calm, county and university officials called in over 200 officers from several of police jurisdictions in Orange County. The officers descended upon campus with helmets and batons, detaining 49 students, faculty, and community members (Fry et. al., 2024).

UCI administration suspended students who participated in the protest, including three members of the encampment's negotiation team, thus denying students their housing in dorms and food in cafeterias. The UCI Divest Coalition staged a walkout to protest the suspensions and demanded that they be dropped (Kang and Bahsen, 2024). However, the university would not disclose any information regarding the suspensions.

### **Case Study: San Jose State University (SJSU)**

In May 2024, SJSU for Gaza established the university's Gaza Solidarity Encampment following two day-long sit-ins on May 9 and 10. The sit-ins ran from 10 a.m. to 8 p.m. and featured speakers in support of the student protests.

The students' demands included the university's public acknowledgment of the genocide in Gaza, full transparency of financial investments related to apartheid Israel, divestment from companies benefiting from the genocide, and ending the repression of Palestinian students and their allies (Ta, 2024). They also called for the clearing of a Palestinian student's



academic record following their alleged wrongful suspension.

University officials continuously warned student protesters that they were in violation of SJSU's TPM restrictions and could be subject to disciplinary action. However, faculty supporting the students claimed biased enforcement of the TPM restrictions (Ta, 2024). The encampment was disbanded on May 22 (Delacruz, 2024).

### **Case Study: University of California, Santa Cruz (UCSC)**

The UCSC Gaza Solidarity Encampment began on May 1, 2024. Organized by Students for Justice in Palestine (SJP) at UCSC, between 150 and 200 protesters participated to raise awareness about Israel's genocide in Gaza and demand the University of California divest from companies involved in the weapons trade and those profiting from Israel's occupation of Palestine (Flores, 2024; Spencer, 2024).

The encampment featured educational sessions, rallies, and various other forms of protest focusing on issues such as divestment from weapons manufacturers and support for marginalized communities. SJP stated that they would be willing to disband the encampment after UCSC committed to boycotting and divesting from Israel.

Instead, the university increased surveillance of the student encampment (Spencer, 2024). Students escalated protest tactics to block a main entrance to the university in response to school administra-

tors ignoring their demands. On May 30, 2024, law enforcement dismantled the encampment with assistance from other university police departments and arrested approximately 80 individuals. Students reported being subjected to aggressive physical force by law enforcement, including the use of bulldozers to dismantle tents, violent arrests and assaults, and the denial of basic needs to detainees. Reports also indicated that journalists and legal observers were obstructed by the police (Salanda and Oetting, 2024).



*Palestine solidarity encampment at UC Santa Cruz. / Photo: (Aric Sleeper/Santa Cruz Sentinel)*

# **ATTACKS ON FREE SPEECH: DEATH BY A THOUSAND PAPER CUTS**

## **Biased Characterization of Protests**

Despite overwhelming evidence that most pro-Palestinian student encampments were peaceful, many in the media and in leadership repeatedly portrayed students as violent and antisemitic (Ho and Doyle, 2024). Historically, the biased characterization of protesters has been used as pretext for cracking down on their First Amendment rights. Employing dehumanizing language against protesters implies that they do not deserve to have their First Amendment rights protected and obscures their actual demands (Brown and The Conversation U.S., 2024).

Research shows that the media often employs the “protest paradigm” when reporting on protests, portraying those that challenge the status quo in a negative light (Brown and Harlow, 2019). This occurred during the Black Lives Matter protests, where rather than focusing on law enforcement's targeting of the Black community, the media focused on a dramatized portrayal, characterizing protests as violent riots and undermining the purpose of demonstrations. These media narratives around protests often emphasized the drama and disruption of protests, rather than protest demands (Brown, 2020).

This bias has played out across protest movements, including the pro-Palestinian student protests. While pro-Palestinian advocacy was prominent before and after Oct. 7, the coverage of the campus protests spiked when students escalated their protest tactics to student encampments and university administrators began to respond. Students have been demanding for disclosure of university investments and divestment from Israel through traditional channels for years before the student encampments, yet media failed to cover these demands. As protesters' tactics escalated, rather than focus on students' demands, the media painted the protests as a clash between police and students (Brown and The Conversation U.S., 2024).

The biased characterization of student protests as unsafe and antisemitic distorts the pro-peace message that flowed through each demonstration. In addition to impacting public opinion, biased language used by the media also provides a pretext for disproportionate responses from university administrators and law enforcement.

## Targeted Enforcement of Existing Policies

Biased coverage by the media contributes to the unequal enforcement of existing regulations related to free speech and assembly for students. TPM restrictions on free speech and assembly are often selectively enforced, and the degree of university or law enforcement intervention varied depending on the identity of the protesters.

At several universities across California, TPM restrictions were unequally enforced during student protests. As one SJSU faculty member noted, “How many times have you been on campus personally as a student here, and heard lots of noise from sporting games? ... Those people never get Time Place Manner violations even though their decibel levels are violating that policy” (Ta, 2024).

Additionally, UCLA police officers stood by while violent counter-protesters attacked students who were peacefully protesting at the student encampment. The counter-protesters’ actions were in grave violation of TPM restrictions, yet the police did not intervene for several hours (Bedi et al., 2024). Instead, university administrators and law enforcement used counter-protesters’ violence as a pretext to dismantle the peaceful encampment (Ormseth et al., 2024).

Another demonstration of the unequal and disproportionate response to pro-Palestinian protests was in the degree of response by law enforcement. Although mutual aid is a concept used in community organizing circles to articulate the ways that neighboring organizations may help each other, in law enforcement, mutual aid refers to the process of using neighboring departments to respond to civil unrest or catastrophic events (CA.gov, n.d.).

**Mutual aid was invoked by university police departments repeatedly to dismantle student encampments, resulting in hundreds of officers at various encampments and millions of dollars spent to dispatch peacefully assembled students. At UCI, 16 law enforcement agencies were called to contain the student encampment.** (Gonzalez, 2024)



UCI student protester places roses in front of police officers. / Photo: The Orange County Register

## New Time, Place, and Manner Restrictions

The unequal enforcement of TPM restrictions and biased characterization of protesters becomes even more concerning as government and university officials escalate TPM policies that infringe on First Amendment rights.

Since officials forcibly disbanded student encampments and protests, government and university officials have now turned their attention to making it more difficult for students to protest the Palestinian genocide—and anything else in the future.

On Aug. 19, 2024, the UC President directed chancellors at all university campuses to “strictly enforce rules against encampments, protests that block pathways and masking that shields identities” (Watanabe and Kaleem, 2024). This was accompanied by a similar statement from the California State University (CSU) chancellors, who released a new systemwide interim TPM policy. The CSU policy bans include (The California State University, n.d.):

- The disruption or interference with the speech of others (or engaging in ‘heckler’s veto’);
- Camping, overnight demonstrations, or overnight loitering;
- Unauthorized temporary or permanent structures, walls, barriers, barricades, furniture, or other objects;
- Disguises or concealment of identity; and
- Unauthorized climbing, scaling, or rappelling university structures.

The policy also requires students to provide identification upon request, which, coupled with the ban on disguises or concealment of identity, places protesters at risk of doxing and professional and academic repercussions. Depending on the policy violation and the position of the university, sanctions can include loss of financial aid, suspension, and expulsion.

TPM restrictions are also spilling over to non-campus areas. On Aug. 5, Los Angeles elected officials introduced a motion to create hundred-foot “protest buffer zones” around religious, healthcare, educational, and community facilities. This motion was introduced in response to a protest against the real estate sale of unlawfully occupied Palestinian land and has the potential to expand to institutions and protests beyond pro-Palestinian issues (Los Angeles City Council, 2024).



Photo: Becky DiGiglio

## Conflating Anti-Zionism and Antisemitism

Since Oct. 7, pro-Israel advocacy groups and elected officials have intentionally conflated any critiques of the Zionist political movement or the Israeli government and military with antisemitism. Tying Jewish identity to the actions of a foreign government and military creates murky waters for what constitutes discrimination against Jewish people and antisemitism and glosses over the diversity of opinion in the Jewish community regarding Israel (Alper, 2024). This conflation has been done to quiet and chill speech criticizing the actions of a foreign government and military and their treatment of the Palestinian people.

The conflation of anti-Zionism and antisemitism resulted in many media outlets and elected officials describing pro-Palestinian protests as antisemitic, despite participation in the protests from a diverse group of students, including Jewish students. Prior to Oct. 7, many elected officials in the U.S. regularly ignored daily an-

tisemitism, including blatant instances such as those expressed in the Unite the Right Rally in Charlottesville, Virginia, in 2017 (Green, 2017). Rather than address antisemitism since Oct. 7, elected officials have worked to blur the lines between Zionism, Israel, and Judaism, which has particularly endangered many Jewish protesters who have actively condemned Israel's genocidal acts and clearly stated that Israel, as a political and military entity, does not represent their collective Jewish faith.

At a federal level, members of Congress have attempted to infringe on free speech by prohibiting the criticism of Israel (Antisemitism Awareness Act of 2023, 2023). In California, this has played out through bills such as California Senate Bill SB 1287, which in its initial version targeted Palestinian protesters by attacking protest slogans that criticize Israel and adds code of conduct violations for protesting students (SB 1287, 2024).



Pro-Israel counterprotester waves an Israeli flag during a pro-Palestinian march through the Stanford University campus on April 25, 2024. / Photo: Beth LaBerge/KQED

## PRESERVE TRADITION: Recommendations to Protect Free Speech

As elected officials and college university administrators curb protesting students' rights to free speech and assembly, policymakers, university staff, and students must push to stem the tide of attacks.

### For Policymakers

Legislators who support free speech have a responsibility to uphold First Amendment protections for peaceful protesters, regardless of whether or not they agree with the message. Policymakers should consider the following changes:

- 1. Collect information about the enforcement of TPM policies.** Biased enforcement of TPM policies leads to the vilification of protesters, the chilling of free speech, and academic and professional repercussions for peaceful student protesters, faculty, and staff. Policymakers must provide oversight of the California Department of Justice and the university and college systems' police departments, requesting regular reports about policing around student protests and assembly. These reports should include independent audits of law enforcement's actions during protests, the number of arrestees as well as their demographic information, and the budget deployed to address peaceful student protests.
- 2. Draw boundaries around TPM restrictions.** University administrators are creating increased obstacles for student protesters by dictating what

peacefully protesting students must wear and attempting to dictate what they are allowed to say. State legislation must direct the UC Board of Regents and the Trustees of the California State Universities to limit the overreach of existing TPM restrictions to ensure students' rights to free speech and assembly and encourage academic discourse.

- 3. Separate critique of Israel from protected definitions of antisemitism.** Currently, some federal policymakers are advocating to codify definitions of antisemitism that include criticism of Israel (International Holocaust Remembrance Alliance, n.d.). Individuals' critique of the U.S. is protected under the First Amendment, and their critique of foreign countries is, and must continue to be, protected as well. California legislators can support residents' right to free speech by ensuring that the California Civil Rights Department (CCRD) leads the way in ensuring that California's legal definition of antisemitism does not punish the legitimate critique of actions of foreign governments, including Israel.

#### 4. **Foster cross-community learning.**

Although hate speech is a major threat to free speech, it must not lead to overly broad or vague restrictions on First Amendment rights. Instead, policy-makers should pass policies and fund programs that foster cross-community learning. These programs can be implemented through agencies such as the California Department of Education, the California Department of Justice, the California Civil Rights Department, the university and college systems, and others. These programs must integrate learning about the Middle East and Palestine into California's ethnic studies curriculum, integrate Muslim holidays into school events, and include training on discrimination against people who are Muslim, Arab, or Palestinian. Additionally, Muslim, Arab, and Palestinian organizations must be consulted in crafting state legislation or local policies that impact their communities.

### **For University and College Administrators**

University and college administrators hold a special role in serving as a bridge between policymakers and students, as they are the individuals responsible for implementing policies. University and college administrators should consider the following changes:

#### 1. **Engage with students in good faith.**

College and university administrators must remember that education is the main goal of a postsecondary insti-

tution, and engaging with students in good faith is an essential tool of education. Administrators must be open to conversations with protesting students, faculty and staff, and others, and they must resist calling law enforcement on peacefully protesting students. Calling upon law enforcement significantly damages schools' trust with students, disenfranchises them, and endangers them physically.

#### 2. **Roll back TPM restrictions for student protests.**

Colleges and universities are creating extremely burdensome TPM policies to hinder peaceful student protests. These policies have been broadened and enhanced as an obvious response to the content of the protected speech of the pro-Palestinian protests of the last few months. The First Amendment prohibits "view-point discrimination" in government actions, including actions by public university officials, that burden or suppress speech based on viewpoint. Additionally, many of these policies are overly broad and vague. College and university administrators should only implement narrowly tailored restrictions in order to protect students and free speech.

#### 3. **Enforce TPM policies equitably, regardless of the topic of protest.**

College and university administrators must treat all protesting students equally. They must permit peacefully protesting students to assemble, and they must intervene when protests escalate to targeted harassment and vio-

lence. Enforcement must be unbiased, ensuring student rights and safety, regardless of whether they are advocating against the genocide in Palestine or in support of Israel. Campus police must receive training to address bias awareness and discriminatory treatment of Arab and Muslim students.

#### 4. **Build bridges across student groups.**

College and university administrators must foster a campus culture of open dialogue and academic discourse. This must include honest and unfettered conversation about Palestinian history, culture, and the ongoing genocide. Additionally, college and university DEI efforts must include Arab and Muslim representation, and these communities should be consulted in the development of policies that impact them.

### **For Students and Those Supporting Them**

Students who have been advocating against Israel's genocide in Palestine hold an important place in the movement for international justice and in the tradition of the exercise of free speech and assembly in U.S. history. Students, and the faculty, staff, and families who support them, should consider the following recommendations:

#### 1. **Support students with strength in numbers.**

Collaboration across students and community members led to outsized campus protests in support of Palestine, and in many instances delayed the disbanding of encamp-

ments. Students have been leading advocacy for pro-Palestinian policies, and community members should continue to follow their lead. Whether at an on-campus protest or in other calls to action, community members must show up to support protesting students.

#### 2. **Know your rights.**

To understand how to exercise the right to free speech and assembly, students and those who support them must remember that these rights are enshrined in the First Amendment and protect students against government interference, including at public universities and colleges. The First Amendment does not, however, govern the conduct of private actors. It is also important for students to understand that the government can lawfully place TPM restrictions on when, where, and how free speech is employed. Before engaging in any actions, protesters should understand the difference between protected free speech activities and civil disobedience, which may result in legal consequences and is not protected by the First Amendment. Organizations such as CAIR-CA can hold trainings for protesting students to help them understand their rights

#### 3. **Continue building awareness.**

Students and those who support them can broaden the base for their efforts through educational efforts about the occupation in Palestine and the history of student activism in the U.S. Teach-ins and educational panels position these efforts within a longer historical

context and can raise awareness and support.

- 4. Become civically engaged outside of campus.** Students, community members, staff, and families can advocate on behalf of students' First Amendment protections and other social justice issues by becoming more engaged in the off-campus civic community. Attend local City Council or County Board of Supervisor meetings, get involved in local elections, or write emails to state and local officials telling them to vote no on bills that limit free speech, silence pro-Palestinian activism, and fund the genocide of Palestinians. Change can take place through direct action such as protests, but indirect civic action matters, too.

College and university campuses have long been at the forefront of social justice movements through student advocacy, and the First Amendment has offered key protections. Throughout U.S. history, government and university officials have responded to student protests by curbing their rights to free speech and assembly. Recent pro-Palestinian student protests have accelerated restrictions of First Amendment rights on college campuses, but the continued erosion of these rights must stop. Otherwise, we risk the breakdown of one of the country's founding principles.





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## About CAIR-CA

**The Council on American-Islamic Relations (CAIR) is a nonprofit, grassroots civil rights and advocacy organization. CAIR is America’s largest Muslim civil liberties organization, with affiliate offices nationwide. Its national headquarters is located on Capitol Hill in Washington, D.C.**

**CAIR is a 501(c)(3) nonprofit organization. Donations to CAIR are tax deductible as allowable by law; our tax ID number is 77-0411194.**

### — Our Mission

CAIR’s mission is to enhance the understanding of Islam, protect civil rights, promote justice and empower American Muslims.

### — Our Vision

To be a leading advocate for justice and mutual understanding.

### — Our History

The Greater Los Angeles Area chapter is one of the oldest and largest CAIR chapters across the country. Back in 1996, a group of dedicated volunteers in Southern California saw a need for a unique kind of Muslim organization—an organization that would work to uphold civil rights of American Muslims, foster a better understanding of the Islamic faith and its followers, and help find avenues for Muslims to integrate more fully into the broader society.

Years later, the chapter has grown tremendously, deepening its base in the Southern California Muslim community. CAIR-Los Angeles has, moreover, become a household name among Southland Muslims, and a reliable resource and partner for media, public officials and policymakers, advocacy groups, and the interfaith and progressive communities.





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