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LA Times' Dust-Up Round Two! Me vs. Michael Shermer on the freedom from being offended

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Ding ding! It's round two of my digital debate with [Michael Shermer](#), of [Skeptic](#) magazine, over on the *Los Angeles Times'* "Dust-Up" feature. Today's topic? *"Do universities have a customer-service responsibility to their students to rein in expression that makes students uncomfortable?"* Anyone who has ever read a single thing I have ever written knows my answer to this: no!

Whether it is an editorial that says TASER THIS: FUCK BUSH, a satirical newspaper making unflattering but true statements about radical Islam, or students poking fun at a feminist flyer, my answer is that colleges are uniquely marketplaces of ideas and speech should be as free as possible. I then go on to list several awful cases of campus censorship going on from schools as different from [Brandeis University](#) and [IUPUI](#) (pronounced eww-wee-poo-eee, I am told. Someone may be pulling my leg with that).

To his credit, Shermer mostly agrees with me and that the cases I cite are problems, but with one caveat. He points out that he only gives my post "two cheers" because he "believe[s] in free enterprise and the rights of companies and organizations to set their own rules that the government has no business rewriting."

This is an argument I hear all the time, and Shermer might be surprised to discover I actually agree. Part of freedom of association is the right to form institutions and join groups where you willingly give up certain rights (though, thanks to the handy old 13th Amendment you can't give all of them up). So while public colleges are generally bound by the First Amendment, you are perfectly free to start a private school (like the ironically named Liberty University) where rights are openly restricted. Incoming students to Liberty U are told flatly that it is a strict, highly conservative, Christian environment that requires everything from mandatory chapel, to "modest" dress, to "respect for authority," and absolutely no hanky-panky outside of wedlock. Anyone going there--like someone joining the seminary or the military--knows their rights will be severely curtailed. It's Liberty's right to establish such an institution and it is a student's rights to attend.

What is not okay is when private colleges or universities present themselves to incoming students as institutions that adore and venerate free speech, due process, and basic rights and then deliver punishments for disfavored viewpoints, convene kangaroo courts, and enact onerous speech codes. This is a serious legal principle too. In *McConnell v. Le Moyne College*, a New York court ordered the reinstatement of a student who was expelled explicitly because of his personal beliefs. Why? Because the school promised to respect due process and free speech in their materials. Le Moyne, by the way, is a Catholic college.

What I am saying is that private colleges may, in fact, refuse to provide free speech, academic freedom, due process, and all the basic rights a that public college must provide as long as they are up front about that with incoming students, parents and alumni. The follow-up question I always get to this is "aren't you worried that private colleges will simply stop promising free speech and academic freedom"? Not really. Since honesty is the key here I put it to you: would you want to attend a school that said "we reserve the right in our sole discretion to punish students for any speech we deem offensive?" I wouldn't. Would a top-notch professor want to teach or research at a college that stated "we respect academic freedom only to the extent to which it does not contradict the university president's Ph.D. dissertation"? I doubt it.

For the most part, the only schools that can get away with open restrictions on speech and academic freedom and still attract students and professors are unabashedly ideological or religious schools where incoming students and faculty know what they are getting into. I don't think a lot of people would be shocked to discover when they start at Brigham Young University that they are going to a Mormon institution (and you'd have to wonder how anyone with that low a level of awareness got into college to begin with). But the overwhelming majority of private colleges promise and praise free speech to high heaven and raise millions if not billions of dollars presenting themselves as citadels of open expression and debate--and they should be held to those promises. If Harvard decided one day that it really didn't, you know, like free speech or academic freedom, and declared that to their alumni, students, and faculty members, it would be perfectly within its rights. Somehow, I do not see that happening any time soon.

So, Shermer and I kind of agree here. But don't worry, I think things will heat up tomorrow when we debate Ben Stein's new documentary *Expelled*, which takes on creationism and higher education. Stay Tuned!

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