

Iowa State 'tweetstorm' shows how Free Speech is stretched on college campuses seeking to allow diverse opinions

College Republicans at Iowa State University tweeted after the November presidential election that students should "arm up" and later encouraged students to show up to "Stop the Steal rallies" in Des Moines and Washington, DC.

The university has refused to comment on the tweets encouraging students to participate in the Jan. 6 insurrection in DC that left five people dead and the student group [claimed](#) some of its members were in DC "fighting for America."

A group of faculty and students protested the November tweet, and the university threatened punishment before backing off after the libertarian FIRE group told the university it was violating the First Amendment and could be sued.

Some journalism faculty members at ISU argued the group's tweets were not protected by the First Amendment because they constituted a clear and direct threat. FIRE and the university argued that the tweets were protected because the threat was neither clear nor imminent, sparking a free speech debate that has now [embroiled](#) the campus for over two months.

This month Iowa Republican legislators [introduced legislation](#) to combat what they see as anti-conservative bias at the state's biggest college campuses.

The controversy shows the dilemma many colleges and universities face in the aftermath of Donald Trump's election loss to President Joseph Biden. The hate that has gripped the rest of the country has not bypassed higher education

institutions. In the case at Iowa State, it was conservative students pushing claims of Free Speech in order to whip up support for Trump. But in other cases, progressive students have tried to block conservatives speakers from coming to campus.

Gene Policinski, senior fellow for the First Amendment Freedom Forum, said remarks like the ones the student Republican group made do contribute to a climate that is antagonistic to marginalized communities. But he said there isn't a legal basis to consider these comments unprotected speech.



The U.S. Capitol building is surrounded by newly erected fencing two days after the deadly insurrection on Jan. 6. (Photo by Victoria Pickering via Flickr)

“I think legally the test for incitement of violence requires an imminence and a direct intent and effect and outcome that I don't find present here although the words clearly are meant to be inflammatory and I can see where people would fear those

remarks in the very generic sense,” Policinski said.

The controversy at Iowa State started when the Republican student group posted its “arm up” Tweet on Nov. 7. That led to condemnation from the Iowa Federation of College Republicans. Two professors on the journalism faculty – Novotny Lawrence and Kelly Winfrey, one journalism graduate student, Julian Neely and Lindsey Moeller, from the Human Resources Department- wrote an open letter to the university’s administration calling for the organization to be disciplined.

Lawrence and Winfrey declined to comment. Moeller did not respond to an email, call or message.

This [letter](#) was signed by nearly 32 pages of faculty, staff, students, parents and alums of the university. It called for the university to remove its recognition of the College Republicans as an official group until the last member graduated, to amend the student code of conduct to better respond to speech by students and student organizations that “promote hate, directly or indirectly threaten the physical safety and free movement of members of the campus community, potentially incite violence, or violates the Principles of Community,” and it demands the administration reviews the university’s approved courses to ensure they are centered on diversity issues.

“Privileging the free speech of those causing harm over the safety of the historically marginalized members of our community furthers the damage and sends the message that the Iowa State University community does not value their presence, despite numerous condemnations in recent months of this exact kind of behavior,” the letter reads. “It is clear that the administration’s statements during a summer that served as a referendum on racism in this country, were merely symbolic and they now serve as further evidence of its history of denouncing some harmful behaviors, only to abdicate themselves

of responsibility when given the opportunity to show their commitment through action.”

Following backlash from the tweet, the university released a statement on Nov. 7 saying:

“Iowa State University is aware of a social media post by one of its student organizations, encouraging others to ‘arm up.’ Any suggestion of armed activity by an Iowa State student organization is prohibited by university policy. Any conduct that violates university policy will be addressed in an appropriate manner.”

The Foundation for Individual Rights in Education then wrote a letter to the university’s administration, telling officials they had no right to punish the students and asking them to confirm that they would not. The university backed down.

The [university responded to the letter written by the concerned ISU community](#) and said they would not punish the group, would not change the student conduct code and said a working group was already focusing on diversity within the curriculum and would be giving a report to the university in December.

“As an educational institution, it is our charge and responsibility to foster and encourage the understanding of new ideas, the development of expression and thought, and the skill of interacting in a positive way with our community and our world. This responsibility is not accomplished through suppressing speech or dictating thought,” the response letter by university administration read. “Rather, it is accomplished through education, example, discussion, debate, demonstration and building relationships. We pledge to do more in the coming year to educate the campus community on the history and benefits of the First Amendment, as well as how to exercise its freedoms responsibly, and in ways that are consistent with the Principles of Community.”

Adam Steinbaugh, director of FIRE's Individual Rights Defense Program, said the college Republican's statement is protected by the First Amendment because it didn't qualify as incitement.

"It is talking about doing something in the future, but it's not clear about when, so saying 'you must arm up' could be, or is likely to be perceived as saying you should buy weapons or you should acquire firearms," Steinbaugh said. "It's not necessarily saying you should buy firearms and use them, it's not saying you should buy firearms and parade around with them. It's talking about purchasing firearms sometime in the future. So even if it is encouraging illegal action and it's not clear that it is, it's not encouraging illegal action right now."

Steinbaugh said because it is not likely this tweet would result in illegal action, it has an added layer of protection and still doesn't qualify as incitement.

"I don't think that anyone is going to read a tweet from a student organization and say 'yes now is the moment when I am going to rise up and buy weapons and rebel against the government' that's pretty unlikely," Steinbaugh said.

The co-authors of the letter from concerned ISU community members to the administration, wrote an [apology](#) to the community blaming the university for "not standing up" to the Tweet that had made students "feel unsafe and unwelcome."

"To clarify, our letter asked the administration to explain why the Tweets made by the College Republicans constituted protected speech. The administration's response states that speech is protected unless it creates "severe and pervasive harassment that substantially interferes with students' education." The administration did not explain why the College Republicans' series of Tweets disparaging members of underrepresented groups and issuing a call to "arm up" does

not meet this standard, even though they made students feel unsafe on campus,” they wrote.

Later in the evening on Nov. 7, after the College Republicans posted the “arm up” tweet and the “Stop the Steal” video, they posted a photo of their account calling themselves the “most oppressed group on campus” following backlash from the ISU community.

The *Picture of the most oppressed group on campus*
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– College Republicans at Iowa State (@IStateCRs) [November 8, 2020](#)

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“Our thought in writing the tweet was to support everyone in their right to bear arms. People have sickly twisted it. Violence is not our intent.’

Hurley said in an interview with the Register that the group received multiple death threats before and after the tweet.

“We have to walk home all of our members in groups to ensure protection,” Hurley said in the interview. “We always alert people to the rights granted to them by U.S. Constitution. This tweet is nothing to get worked up about.”

From the official email account for the Iowa State College Republicans, an unidentified person who had access to the account declined repeated requests for comment by telephone, email or video conferencing. “Heading over to your twitter, some of the stuff posted seems to indicate you are firmly a left winger, this brings about concern as we’ve had other left wingers interview us and take our words out of context,” the person told the GJR reporter in an email. “If you would like to come to Iowa State University for an in person interview, that would be more agreeable.”

ISU’s [“Principles of Community”](#) call for respect, purpose,

cooperation, richness in diversity, freedom from discrimination and the honest and respectful expression of ideas.

The College Republicans have a history of tweeting blatantly transphobic, homophobic and racist rhetoric, such as a tweet that parents should be charged with child abuse if their child identifies as genderqueer. These tweets directly violate its own [constitution](#) and rules against discriminating on the basis of race, gender identity, ethnicity, national origin, religion or sexual orientation.

More recently the group voiced its support of Kyle Rittenhouse, calling his killings “pure self defense,” and retweeted a post from Rep. Marjorie Greene, R-Ga., where she claimed Rep. Ilhan Omar “married her brother.”

On Jan. 5 the group retweeted another College Republican organization with instructions on how to drive to DC and photos of a map with the caption “Just checked and it’s true. Maps app won’t give directions to DC, but will give them to Baltimore, despite the routes being practically identical. They don’t want you in DC tomorrow!”

The ISU College Republicans then posted a thread saying: “Rally in Des Moines TOMORROW @ the State Capitol 12pm. If you can’t make it to DC, show up in Des Moines!!!” followed by a link to all “Stop the Steal” events.

This was followed by a retweet from the “Real Iowa Republicans” account saying: “ALL PATRIOTS MUST SHOW UP!!!”

Jan. 6 the group posted at 10:34 a.m.: “The brave people fighting on the front lines in DC (many are members of our club) are brave Patriots!”

At 11:09 a.m. they tweeted “America First!” with a photo from DC at Trump’s rally.

At 12:31 they tweeted "Destroy the RINOS" in response to a retweet by Henry Rodgers, a congressional correspondent, that read: "ANOTHER Hill source weighs in: "House GOP leadership is fully engaged in a knock-down-drag-out effort to keep Trump's fighters away from the mics. They are literally aiding Dems in opposing objections."

At 12:47 p.m. they posted: "WE ARE IN DC AND DES MOINES FIGHTING FOR AMERICA" with two photos of what appears to be a group inside of the Iowa State Capitol. The group later claimed this was a prayer circle.

Later in the day at 6:33 p.m. they retweeted a post that read: "This is not your country anymore, American patriots. This regime has nothing but hatred for you." In response to a tweet by Darren J. Beattie that read: "As curfew passes, police go in hard on trump supporters. Of course we never saw this sort of reaction when BLM set the city on fire and looted hundreds of businesses." The tweet also included a video of protesters clashing with police.

Policinski, of the Freedom Institute, said the tweets did not rise to the level of incitement.

"There are three elements that have to be there for direct incitement," Policinski said. "First is the intent of the speaker, can it be demonstrated the speaker intended to cause violent impact. And then was the act, did it actually occur as a result of that intent? And the third thing was it imminent? Is it a direct causation from those first two actions? That I intended to do it, did it come about and was it directly connected."

While the university wouldn't have the right to punish the College Republicans, nothing is stopping them from condemning their rhetoric, Steinbaugh said.

"The First Amendment doesn't mean that a university has to sit on its hands and it doesn't shield someone from criticism for

their speech, that's a form of more speech," Steinbaugh said. "That is what the First Amendment prefers instead of censorship. So the fact that speech is protected really only means that it's protected against government action. It doesn't save you from criticism by others and it doesn't mean that what you say is good or wise or right, it just means that the government can't punish you for it and a university is part of the government. Or a public university is part of the government."

Steinbaugh said free speech is a neutral principle.

"The rules that we apply to speech that we hate winds up being the rules that we apply to the speech that we love," Steinbaugh said.

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