



Could Trump Cut Off Funding from UC Berkeley?

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The violent protests at UC Berkeley that ran Milo Yiannopoulos off campus were probably the best public relations gift the young administration has received to date. They also gave the President an opportunity to do what he does best: Exploit a political disconnect between elites and the median voter (i.e., on special snowflake ideology on college campuses) and then make an outrageous suggestion via a spontaneous tweet designed to send his opponents into fits of hysteria that would discredit them further. In this case, Trump raised hackles by suggesting that the federal government might cut off funding to California's flagship public university.

Trump's tweets rarely reflect well-considered policy proposals, but they often provide clues as to his underlying impulses—which, as we have seen in the past few days, he is often quite serious about carrying out. So while it's obviously not the case that Trump can unilaterally revoke hundreds of millions of dollars of research grants and financial aid from one institution because of a single violent protest, there are ways that he could follow up on his proposal to sanction public colleges that do “not allow free speech.”

In fact, during the last wave of debates over free expression on college campuses in the early 1990s, some legislators tried to do just that. In 1991, Representative Henry Hyde introduced the Collegiate Speech Protection Act, which would have barred federally subsidized colleges from punishing students for First Amendment protected speech (the bill initially won bipartisan support, including from the ACLU, but later floundered after colleges argued it would infringe on their autonomy).

To be clear, the events that took place at UC Berkeley yesterday would not have qualified the university for de-funding under the 1991 bill. However, it's possible to imagine different statutory language that would require colleges receiving federal funding to make a good-faith effort to protect student speech rights, so that patterns of violence shutting down speakers would raise eyebrows at the Department of Education.

And even without any new legislation, enterprising bureaucrats at the Department of Education have various tools at their disposal to put pressure on universities for political reasons. As Walter Olson points out: “The power that the Department of Education and allied agencies have gathered to themselves over university life has steadily mounted, often against feeble resistance from the universities themselves, as in the Title IX instance.” If a feminist speaker had

encountered violent protests that forced her to leave campus, it's possible to imagine a Title IX "hostile environment" investigation. What if right-wing Department of Education lawyers argued that the resistance to Yiannopoulos was due to his sexual orientation (he is openly gay) or even his gender?

Our own view is that any of such measures should be avoided. Universities should generally be held accountable by market pressures and in the court of public opinion. The wanton use of federal investigations to bring pressure to bear on universities carries an enormous risk of abuse and politicization—as indeed occurred during the Obama years. And in all likelihood, the Trump Administration's Department of Education will agree with this assessment.

That said, if the candidate wants to hassle the People's Republic of Berkeley, he has a much easier route for doing so: Announce that he will go to the campus to give a major address on political correctness. The Secret Service won't let fireworks-wielding anarchists shut him down.