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From Georgetown to Yale, free speech controversies roil top law schools

Karen Sloan

February 2, 2022

Feb 1 - When Georgetown University Law Center placed new faculty member Ilya Shapiro on leave Monday over his comments regarding the race of President Biden's future Supreme Court nominee, it joined a growing list of law schools embroiled lately in free speech disputes.

The University of Pennsylvania Carey Law School, Yale Law School and Stanford Law School have each faced free speech controversies over the past year, highlighting tensions between race, inclusivity and open discourse.

"I think it's a reflection of the time we live in—a time in which we are very politically polarized, and social media and the Internet make it so easy for these things to get national attention," said free speech expert Erwin Chemerinsky, dean of the University of California, Berkeley, School of Law.

Just two weeks ago, UPenn's law dean said he was seeking sanctions against longtime professor Amy Wax, whose comments about race and immigration have spurred periodic campus outrage since at least 2017. Wax recently wrote that as long as Asians support Democratic politicians, the country would be "better off with fewer Asians and less Asian immigration."

At Yale Law School, critics alleged the school trampled on free speech rights this fall when it sought an apology from a student who sent out an invitation to a "Trap House" party. The phrase, originally slang for a place where drugs are sold, was seen by some classmates as offensive and racially charged. Dean Heather Gerken later apologized for the school's handling of the situation.

Stanford Law School caught flack in June for investigating a third-year student who circulated a satirical flyer that poked fun at the campus chapter of the Federalist Society. The student was later found not to have violated school conduct rules.

This week divisions over race and free speech are coming to a head at Georgetown. Shapiro, formerly of the Cato Institute, was due to join the law school Tuesday to head its Center for the Constitution. In one of a series of messages he posted on Twitter last week, Shapiro said Biden's pledge to select a Black woman for the Supreme Court would result in a "lesser" nominee than

his preferred candidate. He has since apologized for his “inartful” language but said he did not violate school policy.

Less than a year ago, two Georgetown Law adjunct professors resigned after they were recorded discussing what they deemed to be the historically poor performance of Black students in their class.

“Time and time again, Black law students at Georgetown are left defending their legitimacy at this institution and place in the law,” Georgetown’s Black Law Students Association said in a petition calling for Shapiro’s firing.

Shapiro's case has also energized free speech advocates, however. Firing him would be “contrary to basic academic freedom principles,” said 139 academics, including nearly 30 law professors, in a Jan. 31 open letter to Georgetown Law Dean William Treanor.

“Debate about the President's nomination, and about whether race and sex play a proper role in such nominations more generally, would be impoverished—at Georgetown and elsewhere—if this view could not be safely expressed in universities,” the letter said.