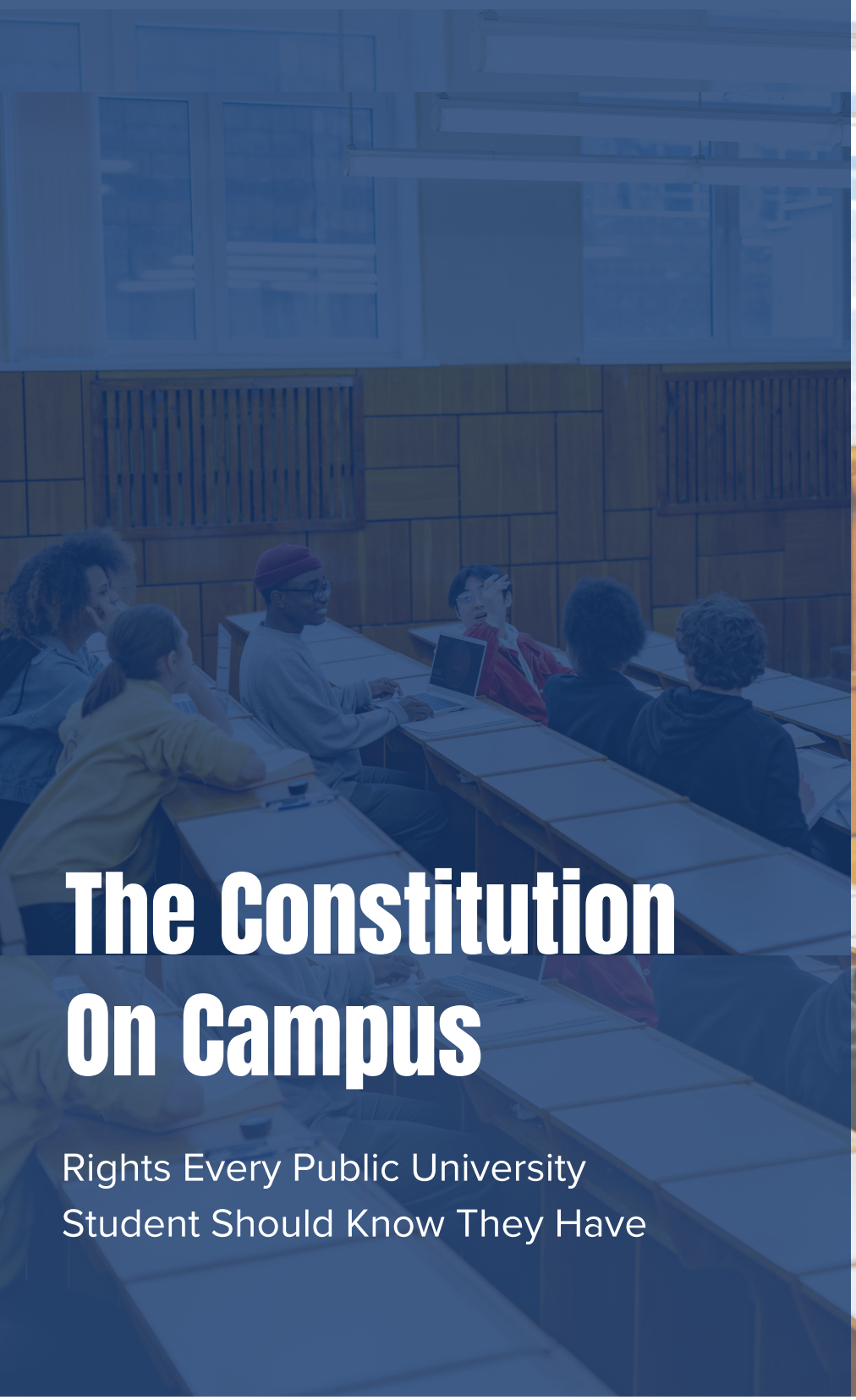


The Constitution On Campus

Rights Every Public University Student Should Know They Have

PACIFIC JUSTICE INSTITUTE

FREE SPEECH IS UNDER ATTACK

Historically, colleges and universities have served as the quintessential “marketplace of ideas” where debate should flourish and students have opportunities to compare and choose differing views. Today, **faith and free speech are under attack** on many campuses, and it’s important for every student to know their basic constitutional rights. This resource applies to students who attend a public college or reside on a university campus.

In the early 1980s, the U.S. Supreme Court ruled that it was **unconstitutional** for a state university in Missouri to exclude a registered religious student group from meeting on campus. “Separation of church and state” is not a valid basis for treating religious groups worse than other groups. Although public universities can determine where and when events can take place on campus, the **administration and the campus community have no authority to hinder or punish religious clubs for their viewpoints**.

The Right for Student Religious Groups to Meet on Campus

"Public universities are expected **to accommodate those clubs and the religious speakers that the clubs may invite to the campus."**

The Right for Student Publications to Receive Equal Treatment

The University of Virginia was the setting for another important religious speech case at the Supreme Court in 1995. This case established that a state university **cannot withhold funding** from religious student publications when funding is provided for similar student publications on secular topics.

The Constitutional Right to Distribute the Constitution

A student at Modesto Junior College was escorted to the Student Development Office by a campus police officer. **What was his violation?** Distributing the United States Constitution. On Constitution Day. He handed out copies of the Constitution to passing students on campus for only ten minutes before he was informed that he was distributing material without permission. College officials stated the student could only act within their free speech zone and might have to wait several weeks to use the space after he has registered his event with officials. The student argued the college's policies restricted his free speech and **filed a lawsuit in October 2013,** which ended in a favorable settlement. The College rewrote their policies and compensated the student for violating his First Amendment rights.

In Axson-Flynn v. Johnson, the Tenth Circuit Court of Appeals **ruled in favor** of a Utah University student, a member of the Mormon church, who was pressured by her Actor Training Program professors to **perform a scene against her will.** Christina Axson-Flynn laid out her religious objections to nudity and profanity before she was accepted to the University's acting program.

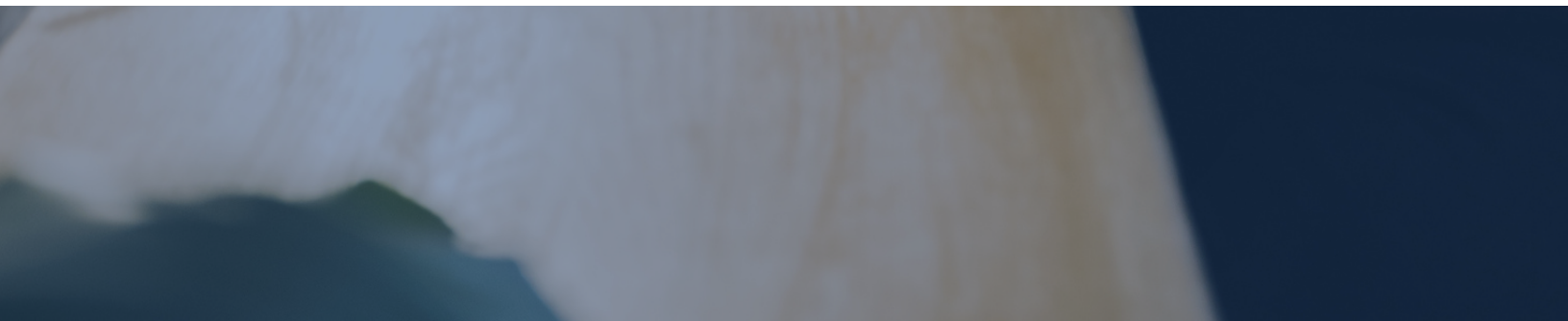
However, when she later requested to change obscenities in her class assignment, the professors told Axson-Flynn that her request for accommodation was **"unacceptable"** and that she would need to either moderate her views or find another place to study acting.

She left the University and **filed a lawsuit** stating that her First Amendment rights were violated and she was forced to say words she found offensive to her faith. **The Court of Appeals sided with the student and vindicated her rights.** This precedent should be followed by every state university seeking to stay on the right side of the Constitution!

The Right to Not Participate in Offensive Assignments

THE FREEDOM TO PRAY

In December 2007 an instructor at the College of Alameda, in the San Francisco Bay Area, complained about overhearing a **private prayer** shared by a student on behalf of a sick teacher. College administration responded by issuing a formal notice of intent to **suspend the student** and her friend who was merely a bystander. Pacific Justice Institute took the case to federal court, and after defeating the college's Motion to Dismiss, and obtaining a settlement on behalf of our clients. **No student has to put up with this type of infringement of the basic right to pray on campus!**



The Right to Use Facilities for Pro-Life Messages

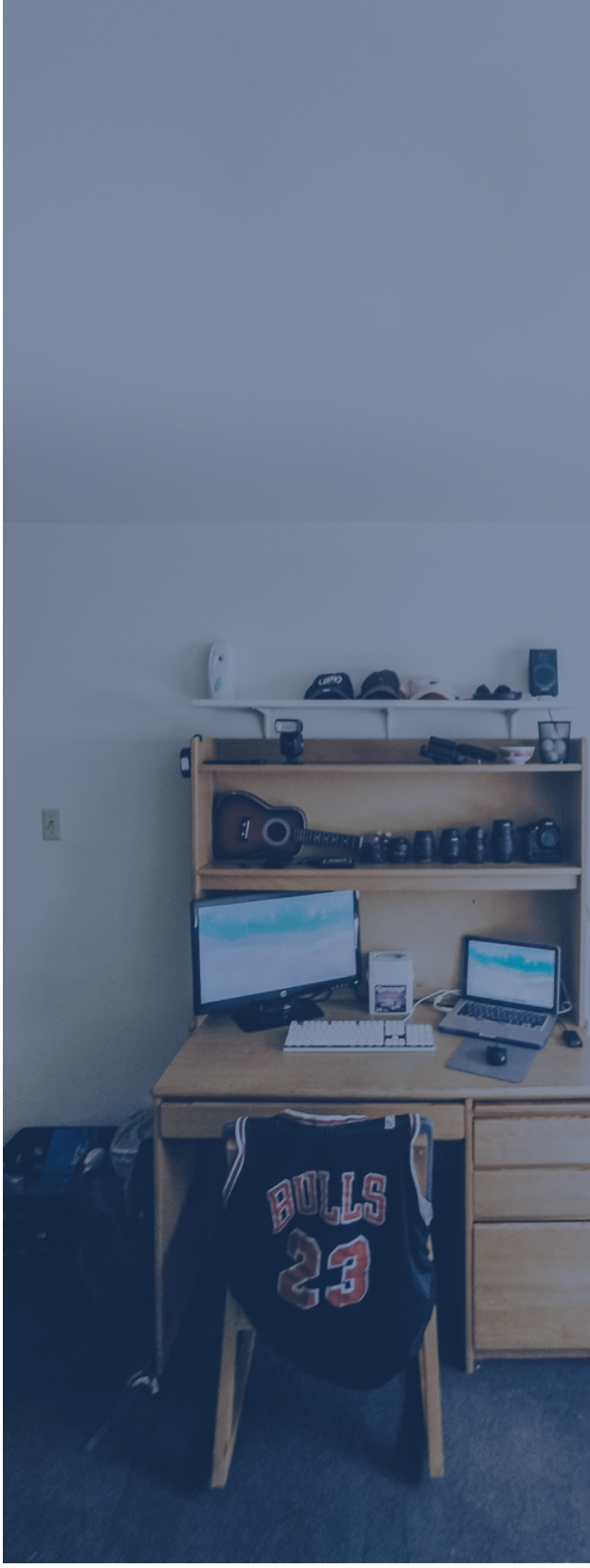
In 2001 a pro-life student group sought permission from the Dean at the University of Houston to display their “Justice For All Exhibit,” **promoting the right to life for the unborn** and all vulnerable people, on a part of campus often designated for student expressive activities. The University subjected the pro-life student group to the “Disruption of University Operations and Events” Policy, a free speech policy that applied additional requirements on any student-sponsored event that the University deemed “potentially disruptive.”

The “potentially disruptive” organizations are obligated to meet with the Dean and follow time, location, and content restraints, **while other student expressive groups not considered disruptive** by the University have none of those restrictions. The Dean rejected access to the space the pro-life group needed for their exhibit, space previously accessible to the National Organization of Women and Planned Parenthood. The District Court for the Southern District of Texas sided with the students in a ruling that labeled the University’s selectively applied Disruption Policy invalid and unconstitutional and ordered that the University stop applying their Policy. **The court victory for those brave students left a message to all public universities that restrict pro-life speech.**

When dorm room conflicts arise, students need to know they **don't have to subject themselves to living with someone of a different gender or sexual orientation.**

The Ninth Circuit Court of Appeals made the profound observation that an individual seeking a roommate **has the right to choose who they want to share their intimate spaces with.** In 2008 the Fair Housing Councils of San Fernando Valley and San Diego brought a lawsuit against Roommate.com, claiming the online business had violated anti-discrimination housing laws by asking detailed questions regarding the user's preferences in roommate characteristics such as their sex, sexual orientation, and familial status.

The Fair Housing Councils claimed that the Roommate.com system of sorting and matching was discriminatory roommate advertising, but the Ninth Circuit ultimately decided that existing housing laws **significantly deprive an individual of their privacy and safety**, stating, "Roommates . . . hear songs we sing in the shower [and] see us in various stages of undress . . . As roommates often share bathrooms and common areas, a girl may not want to walk around in her towel in front of a boy."

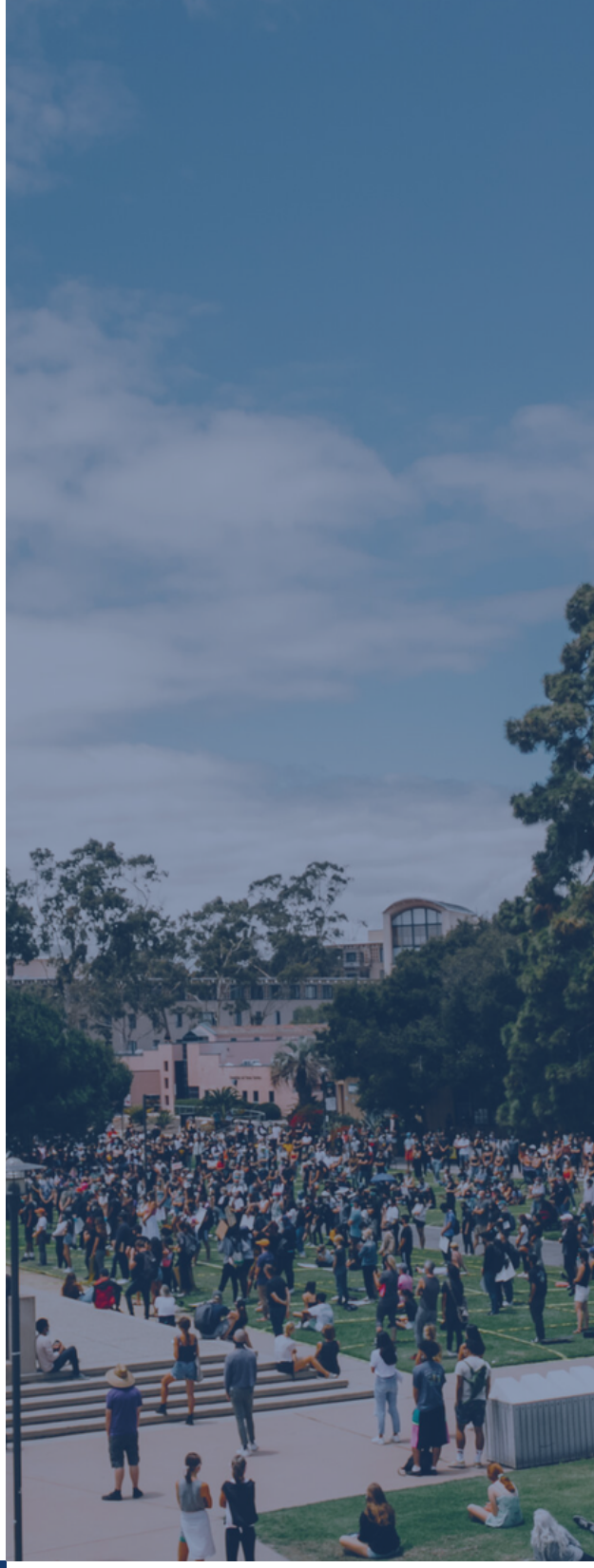


The Right to Choose a Roommate

A group of 13 pro-life demonstrators, consisting mostly of students from UC Santa Barbara, met on the UCSB campus to speak with passing students about abortion and hand out educational literature regarding abortions. A professor from the UCSB Department of Feminist Studies passed by the pro-life group and stated that she was negatively “triggered” by their signs.

The professor gathered pro-abortion students and **confronted the demonstrators**, chanting “tear down the sign.” The professor proceeded to **steal a pro-life sign from the hands of a 16-year-old girl** in the group and scratched her arm in a struggle to run away.

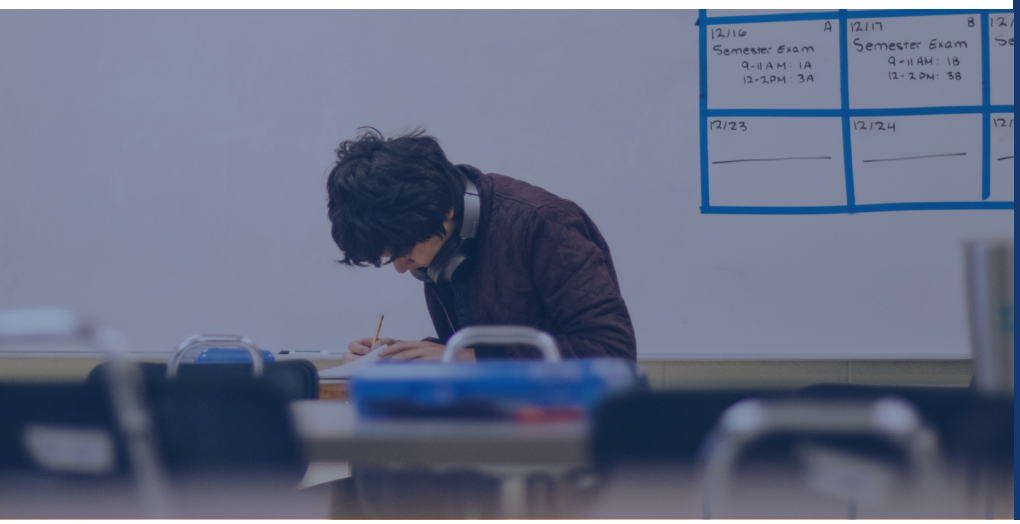
Students recorded footage of the professor screaming, “I may be a thief but you’re a terrorist.” The professor closed herself in her office and **destroyed the sign with scissors**, later stating she had the “personal right to go to work and not be in harm.” Although the University refused to acknowledge a problem with the professor’s crimes on campus, a settlement was made outside of court that students believe is an effective warning to prevent pro-abortion groups from attempting to interfere with the system of free speech on campuses across the country.



The Right Not to Be Assaulted

"The professor **gathered** pro-abortion students and **confronted the demonstrators**, chanting “tear down the sign.”

The Right Not to Blaspheme in Class



Ryan Rotela, a Mormon student attending Florida Atlantic University, faced the offensive assignment of **writing the name of Jesus on a piece of paper and stomping on it.** The Intercultural Communications professor **required** his students to perform this ludicrous assignment in class together but was unsuccessful in pressuring Rotela to participate.

University authorities ordered Rotela not to return to the class and charged him with a **violation of the student code of conduct**. Public exposure, not court action, prompted the University to later drop the charges against Rotela. Under no condition should students be compelled to engage in an act of publicly rejecting their genuine beliefs.

In this case, the University **misapplied their speech code** to a student who was guilty of simply complaining that a class assignment insulted his faith.

The Right to Be Controversial on Campus

A Public Health Professor at Fresno State University **scrubbed away pro-life messages** that students wrote with chalk on the campus sidewalk, remarking that controversial messages need to remain within the parameters of the University's free speech area.

However, Fresno State has no free speech zone, and the University stated that **they promote freedom of expression anywhere on their campus.** The pro-life students, who were part of the campus group Students for Life USA, sued the professor who later agreed to pay $17,000 and attend First Amendment training sessions.

No University policy should block pro-life speech on the basis of being "controversial."

A federal law, known by its acronym FERPA, applies to any state or local university that receives federal funds. FERPA provides for students the **right to inspect and review** their education records, request corrections, stop the release of personally identifiable information, and obtain a copy of their institution's policy concerning access to educational records.

FERPA further **protects student rights** by prohibiting an educational institution from disclosing the student's educational records without the written consent of the student.

A student can review their educational records **without paying a fee** to the university, as well as request that educational records be amended if they contain information that is inaccurate or violates their privacy.

The Right to Privacy of Student Records

The Right to Due Process

When a university **seeks to deprive a student** of their right to education through long-term suspension or expulsion, the student is entitled to an impartial hearing. The student **has the right to know what specific rules were violated,** bring evidence and witnesses on their behalf, bring legal counsel, and have the hearing be closed to the public to protect their privacy.

If a school official deprives the student of their right to due process, **the student can argue that as a basis to reverse a suspension or expulsion decision.**

For any other questions or concerns, please contact

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