

The following is a letter from members of the Council on Academic Freedom at Harvard responding to Dean Bobo's op-ed calling for punishment of some faculty speech critical of the university. The CAFH letter was published in the Harvard Crimson on Wednesday, June 19, 2024 with a partial list of signatories. The full list is below.

In an unprecedented repudiation of the principle of academic freedom, Dean of Social Science Lawrence D. Bobo argued [in a recent op-ed](#) that it is “outside the bounds of acceptable professional conduct” and sometimes even a “sanctionable violation” for a “faculty member to excoriate University leadership, faculty, staff, or students with the intent to arouse external intervention into University business.” He goes on to question whether a faculty member’s right to free speech does not protect behaviors that “invite external interference and encourage student misconduct.”

It is downright alarming that such a stunning argument would come from a dean who currently wields power over hundreds of professors — without indicating that he would refrain from implementing his views by punishing the faculty he oversees.

We strongly reject Dean Bobo’s arguments. He does not invoke generally agreed-upon exceptions to the right to free speech, such as inherently verbal crimes like libel, or justifiable restrictions on time, place, and manner. Instead, he references an analogy from former Supreme court Justice Oliver Wendell Holmes, Class of 1861, arguing that shouting fire in a crowded theater is sanctionable.

The analogy is inapplicable for many reasons. Holmes alluded to *falsely* crying “fire,” whereas the speech that Dean Bobo would sanction is reasoned opinion, not known falsehood. The analogy pertains to a reflexive and predictable mob reaction; faculty opinions may be evaluated and deliberated over time. And the actual legal decision Holmes justified, which convicted people who criticized the draft during World War I, was later effectively overturned in a judgment that limited suppression of speech to incitement of “imminent lawless action.”

Analogies aside, Dean Bobo’s assertion that faculty who criticized Harvard’s leadership should be sanctioned because of an “intent to arouse external intervention” is troubling. He has no

grounds for imputing such intent, nor for asserting that outside attention “impedes the University’s function.”

No institution is above criticism, and one might argue that the voice of external stakeholders should be heard as a counterweight to insularity and complacency. Agree or disagree, such questions underscore why academic freedom must be subject to only the narrowest of exceptions. Censors always say that the ideas they want to punish are harmful. But no one is infallible, and only when ideas are expressed and debated can we know their implications.

Finally, Dean Bobo is also prepared to sanction those who encourage students to engage in civil disobedience that violates University policies. This, too, is deeply concerning. If a professor or administrator says to student protesters that their actions are legitimate civil disobedience, then such advice — whatever one thinks of its merits — is fully protected by academic freedom. Even encouraging students to break rules must be given wide leeway. Criminal law sets a high bar for charging incitement, solicitation, or aiding and abetting, precisely because of concerns for freedom of speech.

We strongly reject Dean Bobo’s arguments as clear infringements on academic freedom, and call upon Dean Bobo and Dean Hopi E. Hoekstra to clarify that Dean Bobo’s prescriptions are not Division policy and that he is committed to not implementing them.

Sincerely,

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