



March 17, 2023

Chancellor Jeremy Haefner  
Dean Bruce Smith  
University of Denver, Sturm College of Law

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Dear Chancellor Haefner and Dean Smith:

The Colorado Hispanic Bar Association (CHBA) is appalled and saddened to learn about the University of Denver Sturm College of Law's irresponsible conduct related to the speaking event hosted by the Federalist Society for Ilya Shapiro on March 7, 2023. As a bar association dedicated to providing equal opportunity in and under the law, CHBA writes in solidarity with the Latinx Law Student Association, the Black Law Student Association, and other concerned persons and organizations who have protested the administration's handling of this event.

First, CHBA is an advocate for free speech and the robust exchange of ideas, even if unpopular. However, we are concerned about providing a respectable forum for elevating hate speech like Shapiro's, which denigrates people of color and other persons who have historically been underrepresented not only in the legal community generally, but also at Sturm College of Law specifically. Indeed, the title of Shapiro's talk, "Silencing Minorities," was itself a jab at underrepresented groups, when he proclaims himself to be among the "minority" that is being "silenced." As you know, Shapiro asserts that diversity, equity, and inclusion (DEI) initiatives "manufacture racism." When President Biden nominated Judge Ketanji Brown Jackson to the Supreme Court, Shapiro claimed the President nominated a "lesser Black woman" over "more qualified candidates." This is the same racist canard that opponents of equal opportunity have repeatedly asserted throughout the course of legitimate efforts to diversify law schools. They have asserted that diverse law school candidates with "lesser" qualifications have been chosen instead of more qualified white candidates—an allegation that constantly forces diverse students to justify their existence at the law school and refute the reckless assertion that they were not chosen on their merits.

Second, CHBA protests the administration's actions that, under the guise of protecting Shapiro's freedom to propagate hate speech, the students' right to express opposition to his pernicious ideas were severely curtailed. Students were not permitted to display protest signs in the classroom, and open dissent was limited to a "free speech" zone outside the building, far away from any effective place to register dissent. Ironically, Shapiro himself took to Twitter to criticize the administration's restraint on students' freedom of speech. *See* [twitter.com](https://twitter.com/ishapiro), @ishapiro, March 8, 2023 ("Shunting protesters to 'free speech zone' wasn't good." "Banning signs from the event space also questionable . . ."). Moreover, students were threatened with severe sanctions in respect to bar licensure if they disrupted his speech. The severity of the threatened action far outweighed the alleged harm of disrupting a speaker, and had the effect of targeting people of color in particular.

Third, the actions of the administration were contrary to DU's own policies respecting dissent and the opportunity of students to protest in a peaceable manner. DU has a policy protecting freedom of speech (*See* DU Statement of Policy and Principles on Freedom of Expression):

- The policy adopts “engagement and inclusiveness” as its key values and guarantees “free ranging inquiry on all matters and must ensure that **all community members** [which includes students] have the broadest ability to think speak, write, listen, and challenge . . .” (*Id.* at 1.)
- It also recognizes that freedom of speech is often in tension “in a society confronting social, racial, religious, and economic inequality, where historically some voices and some **communities have been marginalized, excluded, or silenced. . .**” (*Id.*) and that “the history of free speech in the United States is about **preventing powerful actors from excluding the voices of marginalized groups.**” (*Id.* at 3–4).

DU's curtailment of student protesters' speech violated its own policy's express protection of dissenting speech and criticism of differing views:

- “All members of the University community—faculty, staff, administrators, and students— shall be free to criticize and contest views expressed by other community members or by other speakers who are invited to express their views on our campus.” (*Id.* at 4.)
- DU's actions severely limited the students' right to engage in counter speech by: (1) its decision to hold the lecture in a small, closed off, and guarded lecture hall; (2) excluding and then shunting student protesters to designated “free speech zones”; (3) forbidding the use of any protest or counter speech related signs; and (4) threatening students trying to exercise counter speech with severe sanctions.

DU's threatened retaliation against the students violated its own policy against reprisals for expression of disagreement with Administration decisions impacting freedom of expression:

- “Students, faculty and staff shall have the right to express their views on all issues, including the right to disagree with the Faculty Senate or University Administration and to criticize decisions made by the University **without overt or covert reprisals.**” (*Id.* at 4–5, emphasis added.)
- DU administrators did the opposite, in violation of the above provision, when they overtly threatened student protesters with the reprisal of flagging them for OARC and threatening bar licensure consequences if they disagreed with the administration's decision to host Shapiro and disregard the free speech policies outlined above.


Finally, DU failed to live up to its expressed commitment to fight racism:

- “As your dean, I pledge to you this. As an institution, **we will denounce racism and injustice, actively and defiantly. We will work to foster understanding, tolerance, and community.**” (Community Message from Dean Bruce Smith, Sturm College of Law, June 4, 2020) (emphasis added).
- “We will not tolerate [] at the University of Denver . . . microaggressions or full-throated assaults; no instance of racism or prejudice has any place here.” (We Stand Together: A Statement by Senior Leadership at the University of Denver, Jeremy Hefner, June 2, 2020, available at <https://www.du.edu/news/we-stand-together-statement-senior-leadership-university-denver>) (signed on to by Dean Bruce Smith).
- Dean Smith personally introduced Shapiro’s talk, an act that is out of the ordinary for student organizations’ lunchtime events, and which symbolically endorsed the event. Dean Smith chose to attend, personally introduce Shapiro, and double-down on his threats to students, despite committing in his March 3, 2023 letter to the Sturm College of Law community that he would attend a counter-event where “Maria Empanada will be served.” He did not live up to his own commitment.

The administration should seize this opportunity for constructive dialogue and real change with its own students and student organizations who—already marginalized by American society historically—believe reasonably that the administration indefensibly curtailed their rights to protest pernicious speech and that the administration undervalues their contributions to the DU law school community.

The Colorado Hispanic Bar Association welcomes the opportunity to continue this important conversation with DU, and requests a meeting with administrators on this matter in the near future.

Sincerely,



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