



ALERTS

Colleges And Universities Must Promise To Uphold The First Amendment Or Risk Access To Federal Research Funds

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On [March 21, 2019](#), [President Trump](#) signed an [executive order](#) that he says will require colleges to uphold free speech or risk jeopardizing federal research funds.

The order itself is less direct. It requires federal agencies to “take appropriate steps” to ensure that colleges receiving federal research funds “promote free inquiry.” Public universities must promise to uphold the First Amendment — something well-established case law already requires — and private universities must promise to uphold their own “stated institutional policies regarding freedom of speech.”

Many university spokespersons have criticized the order as redundant and/or likely to interfere with academic freedom.

Others have recognized that conservative speakers have been driven from campus by irate students, and that many schools have failed to teach students that the First Amendment protects speech one does not like. These speakers are cautiously optimistic that the order will help to promote free speech.

The order does not designate or create a special agency to police speech on campus. It will therefore be up to existing agencies to enforce the order. How they will determine when free speech is being stymied — and what steps they will take to address perceived or reported violations — remains to be seen.

The order also directs the U.S. Department of Education to add

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D. William Moreau, Jr.
Of Counsel (Retired)

P 317-231-7349
bill.moreau@btlaw.com

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program-level outcomes data to the College Scorecard and produce a report examining “policy options” for the idea of risk-sharing on student loan debt.

We will issue future updates on any notable developments.

For more information, please contact the Barnes & Thornburg attorney with whom you work, or L. Rachel Lerman at 310-284-3871 or rlerman@btlaw.com, or Bill Moreau at 317-231-7349 or bill.moreau@btlaw.com.

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