Permission to Speak Freely?

Managing Government Employee Speech in a Democracy

April 5, 2024
# Welcome

Welcome to the event.

# Introduction

Introducing the event's purpose and objectives.

# Program at a Glance

- Panel 1: Duty and Dissent: Public Employee Speech Rights and Their Limits
- Panel 2: Students, Teachers, and the Politics of Speech in Schools
- Panel 3: Academic Freedom and the First Amendment
- Panel 4: Protecting—and Punishing—Whistleblowers

# Program

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# Participants

List of participants and their roles.

# About the Knight First Amendment Institute

Overview of the Knight First Amendment Institute and its mission.
On behalf of the Knight First Amendment Institute at Columbia University, welcome to this symposium, “Permission to Speak Freely? Managing Government Employee Speech in a Democracy.”

The Knight Institute was founded by Columbia University and the John S. and James L. Knight Foundation in 2016 to protect the freedoms of speech and the press in the digital age through strategic litigation, research, and public education. Today, the Institute is a vibrant community of litigators, scholars, technologists, journalists, and many others—including interns and externs from Columbia and beyond.

The public’s right of access to information has been one of the Institute’s central concerns from the outset. We have challenged the unconstitutional closure of judicial proceedings, defended the rights of national security whistleblowers, and advocated for the abolition of “secret law.” We’ve called for reform of the “prepublication review” system, which imposes a system of prior restraints on millions of former employees of the intelligence agencies. And three years ago, through a major research initiative, we considered the informational needs of the democratic public in the age of “big data.”

This symposium is both an extension of that work and a complication of it, raising questions about the appropriate balance between the individual speech rights of government employees and the government’s legitimate interest in ensuring that the wheels of the regulatory state can keep turning. We look forward to exploring these questions with the remarkable group of scholars, litigators, and advocates gathered here today.
We are enormously grateful to Sam Lebovic for his leadership of this project, which builds on his many years of brilliant scholarship focusing on democratic life, state secrecy, and dissenting voices. We also thank Columbia Law School for its co-sponsorship and support of this event, the Knight Institute’s funders (listed at the end of the program), and the Knight Institute’s staff for all the work they’ve done to make today a success. And thank you, finally, to all of you for being here with us today.

Jameel Jaffer and Katy Glenn Bass
INTRODUCTION

In our polarized politics, the speech of public employees is more important than ever. The war over the regulatory and administrative state directly implicates the rights and political activity of the civil service, particularly in those branches committed to the neutral production of knowledge or the appearance of objectivity. Amid conspiratorial fears of a deep state, government whistleblowers find their efforts to inform the public both lionized and demonized. Public sector unions, a bulwark of the labor movement, are under assault on the grounds that union dues implicate the speech rights of nonmember employees. And the culture wars, particularly those playing out over discussions of race and gender in the classroom, directly implicate the speech acts of educators—by far the largest class of public employees in the nation.

Each of these domains has been subject to controversy in many fields of academic inquiry. But they have not been treated as instances of a broader problem: how a modern, bureaucratized democracy should manage the speech of its government employees. The issues are complex, requiring the balancing of competing democratic values: transparency vs. autonomy; delegation vs. supervision; objectivity vs. diversity; tolerance of debate and disagreement vs. the need to reach some form of functional consensus for collective governance to continue. They require parsing the intersection of First Amendment law, administrative law, labor law, democratic theory, and the brute science of American political contestation.

The stakes are significant. There are some 22 million public employees in the U.S. Grappling with their speech rights promises to generate new insight into two deep problems in democratic life: the legitimacy crisis of the administrative state—ongoing, despite decades of efforts to elaborate procedures of expertise, neutrality, and objectivity—and the threat that a weaponized, laissez-faire vision of the First Amendment has recently posed to the regulatory state. Thus, rethinking the political speech of public sector employees may help us maximally protect civil liberties without destabilizing collective governance.
This symposium brings together a diverse group of legal and academic experts to engage in a wide-ranging discussion about the problem of public employee speech. Seven of these experts are producing new, original papers for the event; all have deep and varied experiences grappling with these difficult subjects. We are deeply grateful to all of them for their participation, and are looking forward to what promises to be a stimulating, clarifying set of conversations.

Sam Lebovic
**PROGRAM AT A GLANCE**

**April 5, 2024**
Alfred Lerner Hall, Columbia University
Lerner 555

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<td>9:45 am – 11:00 am</td>
<td>Panel 1: Duty and Dissent: Public Employee Speech Rights and Their Limits</td>
<td>Kate Andrias, Frank LoMonte, Teague Paterson, Daniel E. Walters</td>
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<td>11:15 am – 12:30 pm</td>
<td>Panel 2: Students, Teachers, and the Politics of Speech in Schools</td>
<td>Derek Black, Heidi Kitrosser, Caroline Mala Corbin, Emerson Sykes</td>
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<td>12:30 pm – 1:30 pm</td>
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<td>Panel 3: Academic Freedom and the First Amendment</td>
<td>Charlotte Garden, David Rabban, Ellen Schrecker, Jeremy C. Young</td>
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2:45 pm – 3:00 pm  Break

3:00 pm – 4:15 pm  Panel 4: Protecting—and Punishing—Whistleblowers

Panelists
Kathleen Clark
Carrie DeCell
Ronald Krotoszynski
Sarah Milov

Moderator
Sam Lebovic

4:15 pm – 4:30 pm  Closing Remarks

Katy Glenn Bass
Sam Lebovic
Duty and Dissent: Public Employee Speech Rights and Their Limits

9:45 am - 11:00 am

How should we manage political conflict within the public sector? If an individual employee dissents from a policy decision, what rights to free expression do they have, and what rights should they have? Are there sectors of the government where the appearance of objectivity or unanimity is more important than the individual right to dissent? And what of collective protest, and of the rights of public employees to unionize?

Panelists
Kate Andrias, Columbia Law School and Columbia Labor Lab
Frank LoMonte, CNN and University of Georgia School of Law
Teague Paterson, American Federation of State, County and Municipal Employees, AFL-CIO
Daniel E. Walters, Texas A&M University School of Law

Moderator
Ramya Krishnan, Knight First Amendment Institute at Columbia University
**PAPER ABSTRACTS**

**Democracy at Work: The First Amendment, the Public Sector, and the Right to Strike**
Kate Andrias

Encountering increased activity of public employee unions, particularly in education, cities and states have sought injunctions against strikes and some have enacted new laws limiting picketing on public property, reducing union resources, and restricting the scope of bargaining. Analyzing these legal battles, and drawing on comparative experience and social science research about the role unions play in promoting democracy, this paper argues that public sector bargaining and strikes deserve First Amendment protection. Though there is virtually no possibility this Court will adopt such a reading, worker movements and political actors can and should engage in First Amendment lawmaking.

**Forced Unanimity and the First Amendment**
Frank LoMonte

This paper argues that school board, city council, and other government board members should be able to publicly express dissent from the consensus of the board. Increasingly, policymaking boards across the country are enforcing “One Board” or “One Voice” rules that constrain the speech of elected or appointed members. In response, this paper asserts that the public’s right to receive information overrides any attempt to purport an impression of unanimity—as that carries no particular weight in First Amendment analysis.
Students, Teachers, and the Politics of Speech in Schools
11:15 am - 12:30 pm

What limits can a democratically elected government legitimately place on conduct and content in the classroom? When do those limits become illegitimate interferences with First Amendment rights and values? And whose rights should be prioritized when classroom rules become contentious—the teacher, the student, or the community?

Panelists
Derek Black, University of South Carolina School of Law
Heidi Kitrosser, Northwestern Pritzker School of Law
Caroline Mala Corbin, University of Miami School of Law
Emerson Sykes, ACLU

Moderator
Nadine Farid Johnson, Knight First Amendment Institute at Columbia University
Distorting Public Education
Heidi Kitrosser

This paper uses the current wave of new and proposed restrictions on the teaching of race and gender in public schools to explore the “anti-distortion” principle in free speech doctrine. Under this principle, the government may not condition funding on requirements that distort the nature of the funded expression. This paper outlines challenges to this principle and argues that by understanding how courts can methodically apply the anti-distortion principle, we can further understand the Court’s view on the true “nature” of public education.

Public School Teachers as Public Employees
Caroline Mala Corbin

This paper argues that the Garcetti rule, which prevents public school teachers from challenging government control of classroom speech, is premised on the mistaken assumption that the First Amendment only protects the speaker. It does not. Instead, the First Amendment protects the free flow of speech for both speakers and audiences. As a result, this paper asserts that the Garcetti rule should be retracted, especially in an era where speech in public schools—as seen through curriculum bans on topics like sexual and gender identity—is under fire.
Academic Freedom and the First Amendment
1:30 pm - 2:45 pm

What is the substance, and what are the limits, of the right to academic freedom in public universities? Can democratically elected governments, or legitimately appointed university administrators, place limits on the rights of professors to express themselves—in their classrooms, their research, the workplace, or in the polity more broadly? Do students have rights not to hear certain types of speech from their professors? Is academic freedom a unique case, and if so on what grounds?

Panelists
Charlotte Garden, University of Minnesota Law School
David Rabban, University of Texas School of Law
Ellen Schrecker, Yeshiva University
Jeremy C. Young, PEN America

Moderator
Katy Glenn Bass, Knight First Amendment Institute at Columbia University
Our Public Servants and Public Concerns
Charlotte Garden

This paper explores when and how the First Amendment should protect the speech of public educators. While most public employees receive no First Amendment protections in their duties, many circuit courts have concluded that the First Amendment does protect aspects of faculty teaching and scholarship. While the courts have often defaulted to the Pickering-Connick test to determine what speech is permissible, this paper argues that the Pickering-Connick test is ill-suited to resolve First Amendment disputes involving faculty speech. Instead, it considers alternative approaches, such as the delegation of certain workplace decisions and due process concerns to faculty or university administrators.
Protecting—and Punishing—Whistleblowers
3:00 pm - 4:15 pm

What role do whistleblowers play in democracy, and what role should they play? Do we want to incentivize whistleblowing, or merely tolerate it? What protections currently exist for public employees who seek to blow the whistle on abuse, corruption, or illegality in their workplaces, and what are their limitations? Should we seek to distinguish between whistleblowers who reveal objective problems, and those who merely object to a government policy?

Panelists
Kathleen Clark, Washington University in St. Louis School of Law
Carrie DeCell, Knight First Amendment Institute at Columbia University
Ronald Krotoszynski, University of Alabama School of Law
Sarah Milov, University of Virginia

Moderator
Sam Lebovic, George Mason University and the Knight First Amendment Institute at Columbia University
PAPER ABSTRACTS

Whistleblowing Speech, the Managerial Domain, and Democratic Self-Government: Finding and Holding a Better Constitutional Balance
Ronald Krotoszynski

This paper analyzes the failure of the courts to constitutionally protect government employee speech, and takes into account the critical role that whistleblowing has in fair elections and self-governance. Whistleblowing speech often provides the public with information essential to holding governments accountable—yet, the judicial failure to protect this speech is a global one. This paper outlines that this issue is not unique to the United States, pointing to cases in Canada and Australia, and concludes that the courts must protect public employees’ ability to blow the whistle on misconduct.

Gags and Grievances: The Labor Origins and Whistleblowing in Early 20th Century Civil Service Reform
Sarah Milov

The 1912 Lloyd-La Follette Act was a major civil service reform that protected the speech of federal employees and continues to provide critical labor protections today. This paper locates the origins of this forgotten piece of civil service legislation in battles over the right of postal workers to organize and to share information with Congress. Whistleblower protections in the 1978 Civil Service Reform Act—the most substantial overhaul of the structure of the federal workforce—are indebted to late 19th and early 20th century struggles over the right of public employees to form unions and to share information with Congress.
Kate Andrias teaches and writes in the fields of constitutional law, labor law, and administrative law. Her scholarship probes the failures of U.S. law to protect workers’ rights, examines the efforts of historical and contemporary worker movements to transform legal structures, and analyzes how labor law and constitutional governance might be reformed to enable greater political and economic democracy. Drawing from constitutional law, administrative law, and legal history perspectives, she also has explored the relationship between law and the perpetuation of economic inequality. She frequently provides advice on policy initiatives to legislators and workers’ rights organizations and works on related litigation. She joined the faculty of Columbia Law School in 2021 and is a co-director of the Columbia Labor Lab and the Columbia Law School Center for Constitutional Governance. Andrias served as a commissioner and the rapporteur for the Presidential Commission on the Supreme Court, is a member of the American Law Institute, and sits on the Board of Academic Advisors of the American Constitution Society.

Derek Black is a professor of law and the Ernest F. Hollings Chair in Constitutional Law at the University of South Carolina School of Law. He also directs the law school’s Constitutional Law Center. His areas of expertise include education law and policy, constitutional law, and civil rights. The focus of his current scholarship is the intersection of constitutional law and public education, particularly as it pertains to educational equality and fairness for disadvantaged students. His research has been published in dozens of legal journals, and his work has been cited by federal courts and various briefs before the U.S. Supreme Court. Based on that research, he offers expert witness testimony in school funding, voucher, and federal education policy litigation. He is the author of a leading education law casebook, *Education Law: Equality, Fairness, and Reform*, and two other books aimed at wider audiences, *Schoolhouse Burning: Public Education and the Assault on American Democracy* and *Ending Zero Tolerance: The Crisis of Absolute School Discipline*. 
Kathleen Clark is a professor of law at Washington University in St. Louis School of Law. She works in the areas of legal ethics, government ethics, the law of whistleblowing, and national security law. When she served as an ethics lawyer for the District of Columbia government, she wrote an ethics manual for the district’s 32,000 employees. She is a board member of the Association of Professional Responsibility Lawyers and is an associate reporter for the American Law Institute’s Principles of Government Ethics. Clark was named the John S. Lehman Research Professor and Israel Treiman Faculty Fellow at Washington University, and has taught at the University of Michigan, Cornell University, Utrecht University, and the University of Economics and Law in Vietnam. She has led anti-corruption and ethics workshops in Australia, Bosnia-Herzegovina, Canada, Indonesia, Japan, Kosovo, Nigeria, Poland, Russia, and Venezuela, and has conducted in-person and web-based ethics training for federal, state, and local government agencies.

Carrie DeCell is a senior staff attorney at the Knight First Amendment Institute and a lecturer in law at Columbia Law School. Her litigation focuses on freedom of speech on social media, government surveillance of speech at the border, and digital-age threats to freedom of the press. DeCell leads the Knight Institute’s litigation in Dada v. NSO Group, a lawsuit on behalf of journalists and other members of the news organization El Faro, who were the victims of spyware attacks using NSO Group’s Pegasus spyware. DeCell also leads the Institute’s litigation in Doc Society v. Blinken, challenging the government’s mass collection and indefinite retention of visa applicants’ social media identifiers. She was a core member of the team litigating Knight Institute v. Trump, establishing that public officials’ social media accounts—including the president’s Twitter account—are subject to the First Amendment. She has also been at the forefront of the Institute’s advocacy efforts against the prosecution of whistleblowers and publishers under the Espionage Act. And from the fall of 2018 through the spring of 2023, she ran the Institute’s externship program with Columbia Law School. Prior to joining the Institute, DeCell was a senior associate at Jenner & Block LLP. DeCell graduated from the University of Pennsylvania and Harvard Law School. Following law school, she clerked for the Hon. Judith W. Rogers on the U.S. Court of Appeals for the D.C. Circuit.
PARTICIPANTS

**Nadine Farid Johnson** is the inaugural policy director of the Knight First Amendment Institute. She is responsible for the Institute’s policy and advocacy efforts, leading engagement with U.S. government and other officials to advance the Institute’s policy objectives. Prior to joining the Institute, Farid Johnson served as the managing director of PEN America’s Washington office and Free Expression Programs, focusing on foreign policy, tech policy, privacy, press freedom, and educational censorship. At the State Department, Farid Johnson’s work spanned the Middle East, Africa, Europe, and multilateral affairs. She served as the executive director of the ACLU of Kansas, and was previously a professor of constitutional, international, and intellectual property law at Gonzaga University and a Climenko Fellow and Lecturer on Law at Harvard Law School. In the private sector, Farid Johnson worked as a patent litigator and later oversaw operations and community engagement programming at Google in Los Angeles. She is a graduate of DePauw University and Tulane Law School and studied at the U.S. Naval War College.

**Charlotte Garden** joined the University of Minnesota Law School in fall 2022. She specializes in labor law, employment law, and constitutional law. Her interests include the intersection of workers’ rights and the Constitution, and how law supports (or undermines) worker voice and power. Garden is active in national policy efforts to strengthen workers’ rights, including the Economic Policy Institute’s Unequal Power Project, a multiyear interdisciplinary initiative to reexamine the foundational assumptions about the balance of power in labor market relationships, and the Clean Slate for Worker Power, a project of Harvard Law School’s Labor and Worklife Program. In 2019, she testified before Congress (House Committee on Education and Labor) as it considered the Protecting the Right to Organize Act (PRO Act), the most ambitious effort to reform American labor law since the New Deal.
Katy Glenn Bass is the research director of the Knight First Amendment Institute. She is responsible for conceptualizing and executing all of the Institute’s research initiatives, including the production of scholarship and research materials, the organization of conferences and symposia, and the Institute’s Visiting Research Scholars program. Glenn Bass has organized five major symposia in partnership with the Institute’s visiting scholars. These include “Optimizing for What? Algorithmic Amplification and Society,” “Lies, Free Speech, and the Law,” and “Data and Democracy.” Prior to joining the Institute, Glenn Bass worked at PEN America, where she supervised the production of reports analyzing free expression issues, including the lack of protections for national security whistleblowers, attacks on journalists covering the 2014 protests in Ferguson, Missouri, the impact of mass surveillance on online speech, and other topics. She has also taught at NYU Law’s Center for Constitutional Transitions and at the Walter Leitner International Human Rights Clinic at Fordham Law School.

Jameel Jaffer is the executive director of the Knight First Amendment Institute. Under his leadership, the Institute has filed precedent-setting litigation, undertaken major interdisciplinary research initiatives, and become an influential voice in debates about the freedoms of speech and the press in the digital age. He is an executive editor of Just Security, a national security blog, and his most recent book, The Drone Memos, was one of The Guardian’s “Best Books of 2016.” Until August 2016, Jaffer served as deputy legal director at the ACLU, where he oversaw the organization’s work on free speech, privacy, technology, national security, and international human rights. He litigated many significant post-9/11 cases involving human rights and national security, including cases relating to surveillance, secrecy, censorship, interrogation, detention, and extrajudicial killing. He was a distinguished fellow at the University of Toronto’s Munk School from 2016 to 2021 and a fellow at the Open Society Foundations in 2013.
PARTICIPANTS

Heidi Kitrosser is a William W. Gurley Professor of Law at Northwestern University. Kitrosser is an expert on the constitutional law of federal government secrecy and on separation of powers and free speech law more broadly. Her book, Reclaiming Accountability: Transparency, Executive Power, was awarded the 2014 IIT Chicago-Kent College of Law / Roy C. Palmer Civil Liberties Prize. Kitrosser is on the steering committee of a new initiative—the Free Expression Legal Network (FELN)—spearheaded by Yale’s Media Freedom and Information Access Clinic and the Reporter’s Committee for Freedom of the Press. FELN is a network of law school clinics, academics, and practitioners (including nonprofits) across the country that seeks to promote and protect free speech, free press, and the flow of information. Following law school, she clerked for Judge William Rea on the District Court for the Central District of California and for Judge Judith Rogers on the U.S. Court of Appeals for the District of Columbia Circuit.

Ramya Krishnan is a senior staff attorney at the Knight First Amendment Institute and a lecturer in law at Columbia Law School. Her litigation focuses on issues related to government transparency, protest, privacy, and social media. Krishnan leads the Knight Institute’s litigation in National Association of Immigration Judges v. Neal, which challenges government policies that gag the nation’s immigration judges. She was a central member of the team challenging “prepublication review,” a far-reaching censorship system that prohibits millions of former public servants from speaking without first obtaining government approval. She has authored amicus briefs defending state privacy laws from First Amendment challenge, challenging retaliatory deportations against immigrant activists, and supporting the right of state contractors to engage in BDS boycotts. She has also led the Institute’s advocacy efforts calling on Congress to establish a legal safe harbor for platform research. Prior to joining the Institute, she worked at Australia’s Attorney-General’s Department, where she litigated constitutional and administrative law cases, including in the High Court of Australia.
Ronald Krotoszynski is the John S. Stone Chairholder of Law and director of faculty research at the University of Alabama School of Law. He earned his B.A. and M.A. from Emory University and J.D. and LL.M. from Duke University where he was articles editor for the Duke Law Journal and selected for Order of the Coif. He clerked for the Hon. Frank M. Johnson Jr. of the U.S. Court of Appeals for the Eleventh Circuit and was an associate with Covington & Burling, D.C. Krotoszynski has also served on the law faculty at Washington and Lee University and, prior to that, on the law faculty of the Indiana University School of Law-Indianapolis. He also has taught as a visiting professor at the Marshall-Wythe School of Law at the College of William and Mary, at the Florida State University College of Law, and at Brooklyn Law School.

Sam Lebovic is a historian of U.S. politics, culture, civil liberties, and foreign relations. He is a professor at George Mason University, where his teaching and research focuses on the ways that democratic life and the public sphere have been shaped by capitalism and imperialism in the 20th century. His first book, *Free Speech and Unfree News*, provided a new account of American press freedom in the 20th century. He is also the author of *A Righteous Smokescreen: Postwar America and the Politics of Cultural Globalization* (2022) and *State of Silence: The Espionage Act and the Rise of America's Secrecy Regime* (2023). Lebovic’s essays and articles on media, politics, and history have been published in a number of leading scholarly journals and edited collections, as well as such places as Dissent, The Boston Review, the Los Angeles Review of Books, The Boston Globe, Columbia Journalism Review, and Politico. For the 2023-2024 academic year, he is a senior visiting research scholar at the Knight Institute, where he is exploring the law and politics of public employee speech.

Frank LoMonte is an adjunct instructor at the University of Georgia School of Law and serves as legal counsel at the Cable News Network (CNN), where he advises and trains the global media company’s journalists on a variety of legal compliance issues, emerging legal risk areas, and best legal practices for their careers. LoMonte previously worked as a professor at the University of Florida where he directed the Brechner Center for Freedom of Information for approximately five years. From 2008 to 2017, he was the executive director of the Student Press Law Center in Washington, D.C, and worked with college and high school students and educators. After graduating from law school, he served as a judicial clerk for Judge C. Christopher Hagy of the U.S. District Court for the Northern District of Georgia and Judge R. Lanier Anderson III of the U.S. Court of Appeals for the Eleventh Circuit, and as an attorney at Sutherland Asbill & Brennan in Atlanta.
PARTICIPANTS

**Caroline Mala Corbin** is professor of law at the University of Miami School of Law. Her scholarship focuses on the First Amendment’s speech and religion clauses, particularly their intersection with equality issues. She teaches U.S. Constitutional Law I, U.S. Constitutional Law II, First Amendment, the Religion Clauses, the Free Speech Clause, Feminism and the First Amendment, and Advanced Topics in Reproductive Rights. Corbin joined the Miami law faculty in 2008 after completing a postdoctoral research fellowship at Columbia Law School. Before her fellowship, she litigated civil rights cases as a pro bono fellow at Sullivan & Cromwell LLP and as an attorney at the ACLU Reproductive Freedom Project. She also clerked for the Hon. M. Blane Michael of the U.S. Court of Appeals for the Fourth Circuit.

**Sarah Milov** is a historian of the 20th century United States. She is an associate professor at the University of Virginia’s Department of History. Her work focuses on how organized interest groups and everyday Americans influence government policy and the terms of political debate. Her current research focuses on the rise of whistleblowing as a form of regulation, a labor right, a mechanism for bureaucratic accountability, a way to save money, and a very contested expression of idealized citizenship. Her first book, *The Cigarette: A Political History*, is a history of tobacco in the 20th century that places farmers, government officials, and citizen-activists at the center of the story. Rather than focusing exclusively on “Big Tobacco,” she argues that domestic and global cigarette consumption rose through the efforts of organized tobacco farmers and U.S. government officials, and that it fell as a result of local government action spurred by the efforts of citizen-activists and activist lawyers.

**Teague Paterson** is general counsel of AFSCME—the American Federation of State, County and Municipal Employees, AFL-CIO—a national labor union of 1.4 million public service workers. Paterson joined AFSCME in 2017 as deputy general counsel, prior to which he was a partner in the California union-side law firm Beeson, Tayer & Bodine, where he represented labor unions and workers in the public, private, and agricultural sectors, as well as boards of trustees of “Taft-Hartley” retirement and health and welfare employee benefit plans. Paterson received his J.D. from the Law School of the University of Pennsylvania in 1999 and is a member of the bars of New York, California, and the District of Columbia.
David Rabban is Dahr Jamail, Randall Hage Jamail and Robert Lee Jamail Regents Chair in Law and University Distinguished Teaching Professor at the University of Texas School of Law. He served as counsel to the American Association of University Professors for several years before joining the Texas faculty in 1983. He has served as general counsel of the AAUP from 1998 to 2006 and chair of its Committee on Academic Freedom and Tenure from 2006 to 2012. His teaching and research focus on free speech, higher education and the law, and American legal history. He is the author of Free Speech in Its Forgotten Years, 1870-1920, which received the Forkosch Prize from the Journal of the History of Ideas for “the best book in intellectual history published in 1997.” He was a fellow of the John Simon Guggenheim Foundation in 2016 and of the Program in Law and Public Affairs at Princeton University in 2016-2017.

Ellen Schrecker is an American historian and author who has written extensively about McCarthyism and American higher education. Her latest book, The Lost Promise: American Universities in the 1960s, provides the first comprehensive analysis of American higher education’s most turbulent decade. Her previous books include No Ivory Tower: McCarthyism and the Universities (1986), The Age of McCarthyism: A Brief History with Documents (3d ed. 2017), Many Are the Crimes: McCarthyism in America (1998), and The Lost Soul of Higher Education: Corporatization, the Assault on Academic Freedom, and the End of the University (2010). She has also written for publications such as The Nation and The Chronicle of Higher Education and edited Academe, the American Association of University Professors’ magazine, as well as two collections of essays. She holds a Ph.D. from Harvard, taught there and at NYU and Princeton, before ending up at Yeshiva University from which she retired as a full professor.
Emerson Sykes is a senior staff attorney with the ACLU Speech, Privacy, and Technology Project where he focuses on First Amendment free speech protections. From 2019-2020, he was also host of “At Liberty,” the ACLU’s weekly podcast. Prior to joining the ACLU in 2018, he was a legal advisor for Africa at the International Center for Not-for-Profit Law. In that role, he provided technical legal assistance to civil society leaders, government officials, law students, and other stakeholders from across Africa to improve the legal framework protecting the freedom of association, assembly, and expression on the regional and national levels. From 2012-2013, he served as assistant general counsel to the New York City Council, where he worked to increase transparency for council members’ discretionary spending, and contributed to the council’s amicus brief against the NYPD’s “Stop and Frisk” program. In 2011, Sykes was a senior policy fellow in the office of a member of parliament in Ghana.

Daniel E. Walters is an associate professor of law at the Texas A&M University School of Law. Prior to joining the Texas A&M faculty, he was an assistant professor of law at Penn State Law, and before that a regulation fellow at the University of Pennsylvania Carey School of Law. He earned a J.D. from the University of Michigan Law School and a Ph.D. in political science from the University of Wisconsin-Madison. He clerked for the Hon. M. Margaret McKeown on the U.S. Court of Appeals for the Ninth Circuit. Walters writes about administrative and regulatory law, with a particular focus on the implications of democratic theory for the administrative state, on public participation in administrative processes, on deference doctrines, on empirical studies of administrative behavior, and on the court-agency relationship. He also writes about climate change and energy law, with an emphasis on electric transmission lines, grid governance, the food-climate nexus, and climate legislation. He is a co-editor of a forthcoming book, Regulation in a Turbulent Era.
Jeremy C. Young is the Freedom to Learn program director at PEN America. He leads PEN America’s efforts to fight government censorship in educational institutions, with a particular focus on the higher education sector. He directs PEN America’s work on educational gag orders, the Champions of Higher Education Initiative, and an expanding network of coalitions to mobilize support for professors and teachers. Before joining PEN America, Young served as the communications and marketing manager at the American Historical Association (AHA), the world’s largest professional association of historians, and directed the AHA’s Freedom to Learn Initiative combating legislative censorship in history classrooms. Previously, he was an assistant professor of history and director of the Institute of Politics and Public Affairs at Utah Tech University. Young holds a Ph.D. in U.S. history from Indiana University and is the author of The Age of Charisma: Leaders, Followers, and Emotions in American Society, 1870-1940 (2017).
The Knight First Amendment Institute at Columbia University defends the freedoms of speech and the press in the digital age through strategic litigation, research, policy, and public education. It promotes a system of free expression that is open and inclusive, that broadens and elevates public discourse, and that fosters creativity, accountability, and effective self-government.

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