



## CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

### Now Is The Time To Reevaluate Campus Protest Safety Protocols

BY AIVI NGUYEN • OCTOBER 2, 2017

The tragic events flowing from the Charlottesville march have provided a stark reminder that while institutions of higher learning should be nurturers of free thought and open dialogue, they must be vigilant in balancing free speech with campus safety.

In the days following the violence in Charlottesville, University of Virginia (UVA) undertook an honest and critical review of what transpired before, during, and after the march in order to identify and address areas for improvement. One of the issues UVA identified as impacting its preparations and response to the march was an assumption, based on past experience with many non-violent protests, that the march was constitutionally protected and should be accommodated with a minimum of intrusion by law enforcement.

The lessons of the UVA march teach that institutional planning and response with respect to rallies, protests and other public gatherings must be based on an assessment of the current situation, and not on assumptions based on prior history. It is not only reasonable, but expected, that a university will have protocols and procedures in place to address permitting for such activities and for the assessment, planning and response to potentially violent gatherings in order to protect lives and property.

UVA's experience with the march also teaches that officials and staff with responsibility for public safety planning and response must be trained to understand the difference between free speech and speech meant to incite immediate violence, which is not protected, as well as to know and to enforce applicable laws and institutional policies with respect to public assemblies such as restrictions on carrying torches and other materials that may be used as weapons. All of which ultimately contributed to the violence at UVA.

While it is understandable that institutions want to avoid over-regulating speech for fear of chilling free thought, failing to develop, review and enforce policies, procedures and standards for permitting, planning, training and response with respect to assemblies reduces an institution's ability to effectively prevent and respond to violence.

*Client Tip: Schools should follow UVA's lead and conduct a critical review of current policies, procedures and protocols concerning public assemblies including permitting and public safety training, planning and response.*