

10 Things to Know About: The First Amendment

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#1

The rights protected by the First Amendment are viewed as sacred--the foundation of a vibrant democracy.

#2

Freedom of expression for students is protected by:
A. First Amendment
B. Massachusetts Declaration of Rights
C. Federal and state statutes/regulations
D. University policy

#10

This is hard work

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Freedom of expression for students is protected by:
A. First Amendment [66%]
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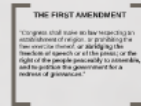
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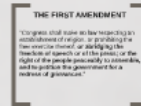
THE FIRST AMENDMENT

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; **or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.**"

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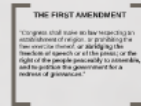
Picketing Code

1. All students, undergraduate and graduate, have a right to demonstrate on university premises provided, however, that no such demonstration shall be permissible which for any reason of time, place, or type of behavior materially disrupts class work or other university business, or involves substantial disorder or invasion of the rights of others.
2. Campus buildings are for university business. Any form of demonstration that interferes with university business in office or classroom spaces is a violation of this Code.
3. Students are prohibited from blocking free entry to or free exit from buildings, interfering with free movement, or presenting obstacles to regular university activities. "Interfering with free movement" is defined as any physical denial or restriction of a person's ability to freely reach or leave a given geographical area, or harassment as defined in the Code of Student Conduct. "Obstacles" are defined as physical devices, bodies, or signs which cause interference with free movement, or sounds which prevent normal aural communication.
4. There shall be no interference with demonstrations on the grounds of content of speech, except for any speech or demonstration which incites immediate, violent action and represents a clear and present danger to the campus community, which shall be a violation of this Code.
5. No student shall intentionally and substantially interfere with the freedom of expression of another person on university premises or at university sponsored activities.

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#3

The freedom of speech protects more than just words. It also protects "symbolic acts" and nonverbal conduct.

Even if speech is merely informative and does not actually convey a position on a subject matter, First Amendment principles apply.

#4

We, as employees and agents of a state university, cannot (unreasonably) abridge the freedom of speech of students.

#5

The right to free speech is not absolute.

- ***Grayned v. City of Rockford*** (SCOTUS, 1972): No member of the public, including “students, teachers, or anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes.”

Whether or not speakers are entitled to exercise their First Amendment rights depends on the:

1. **Nature of the Speech** - form and substance
2. **Place of the Speech** - “forum analysis”
3. **Form of the Regulation** - reasonable in light of the forum

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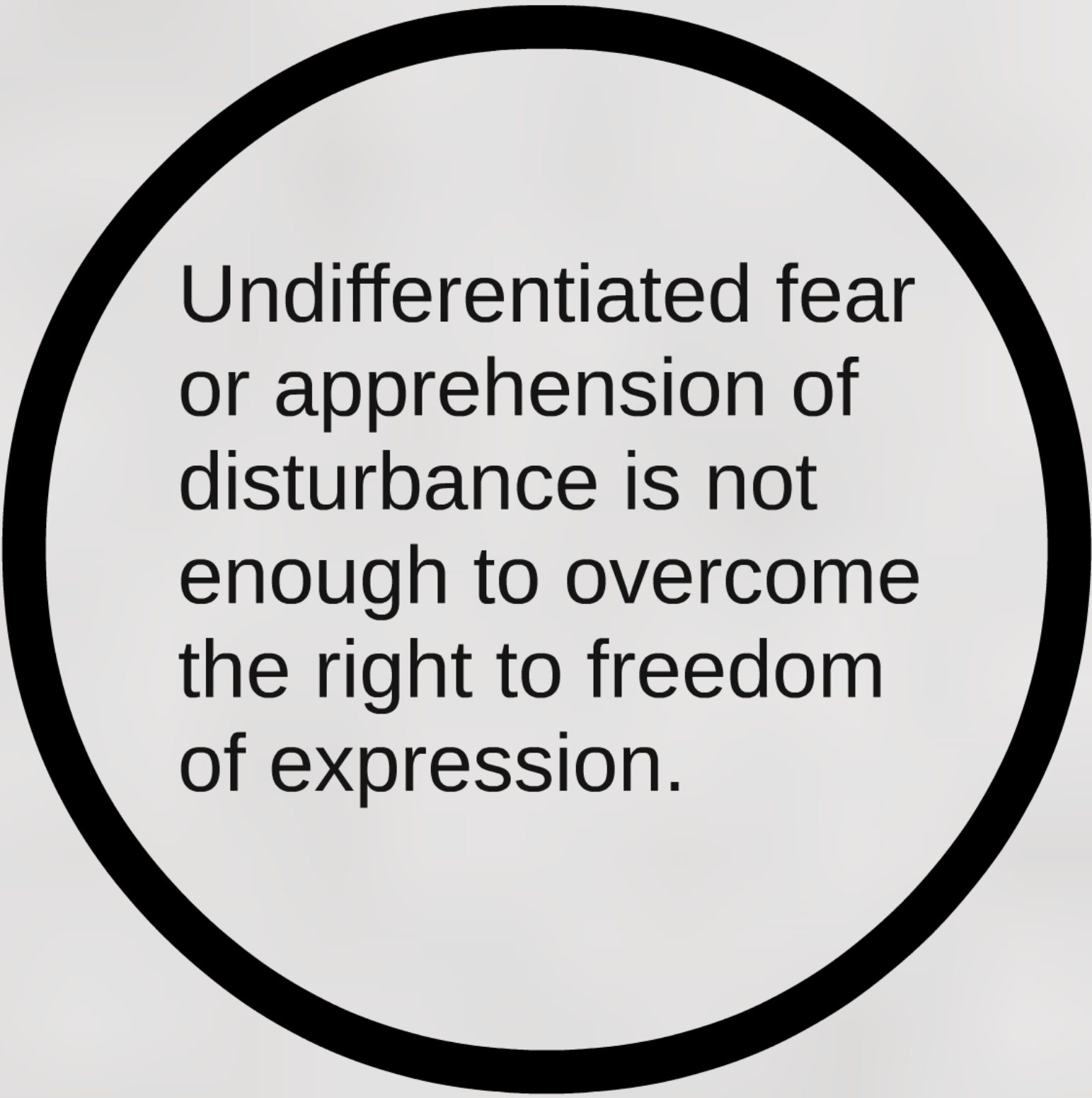
The University may impose reasonable **time, place, and manner** restrictions on speech compatible with its educational mission upon the use of its campus and facilities.

#7

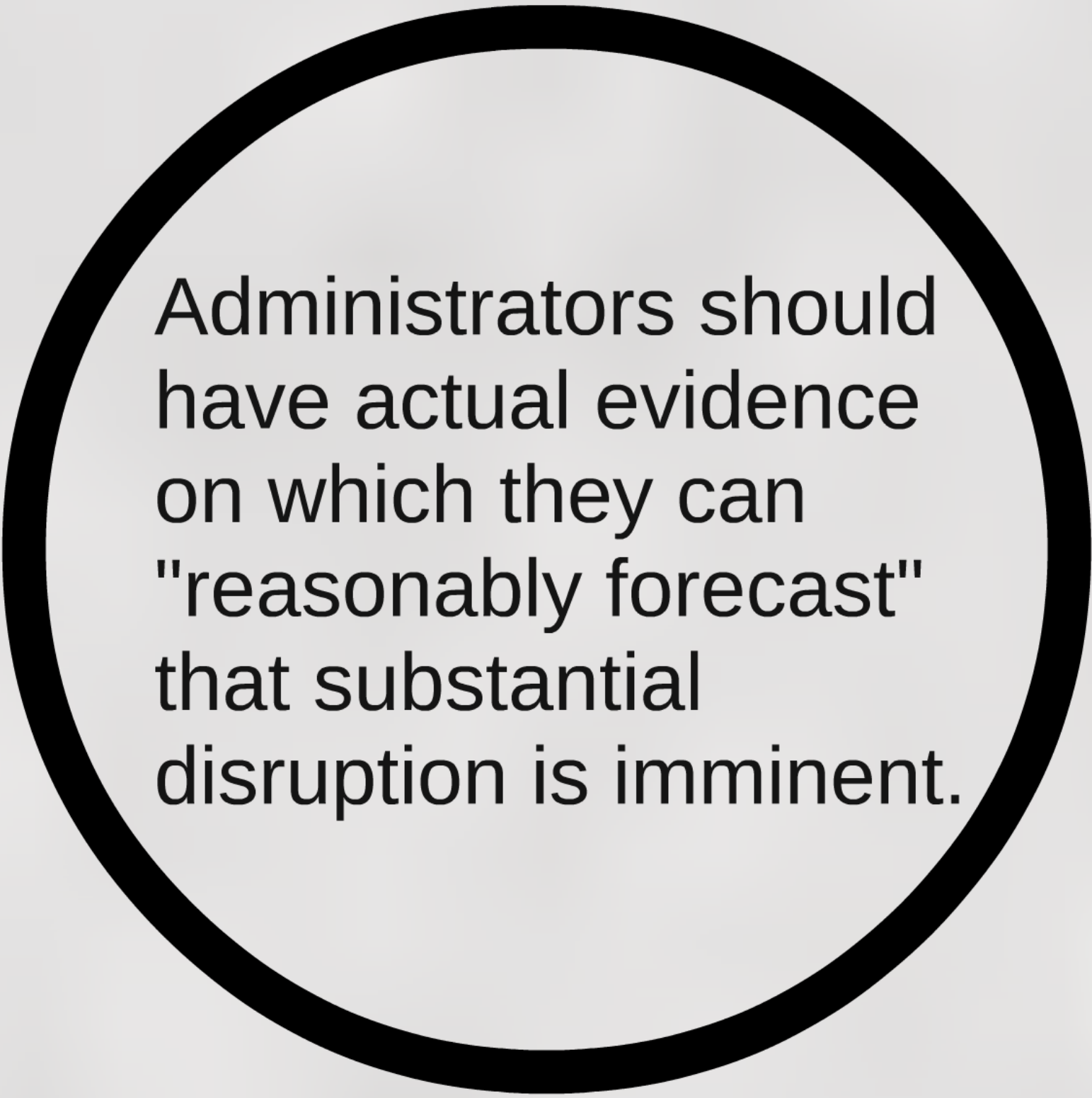
The university may also make and enforce rules (i.e., policy) that prohibit disruptive group or individual protests that **materially and substantially** interfere with the university's interest in maintaining order and discipline in its athletic programs.

BUT

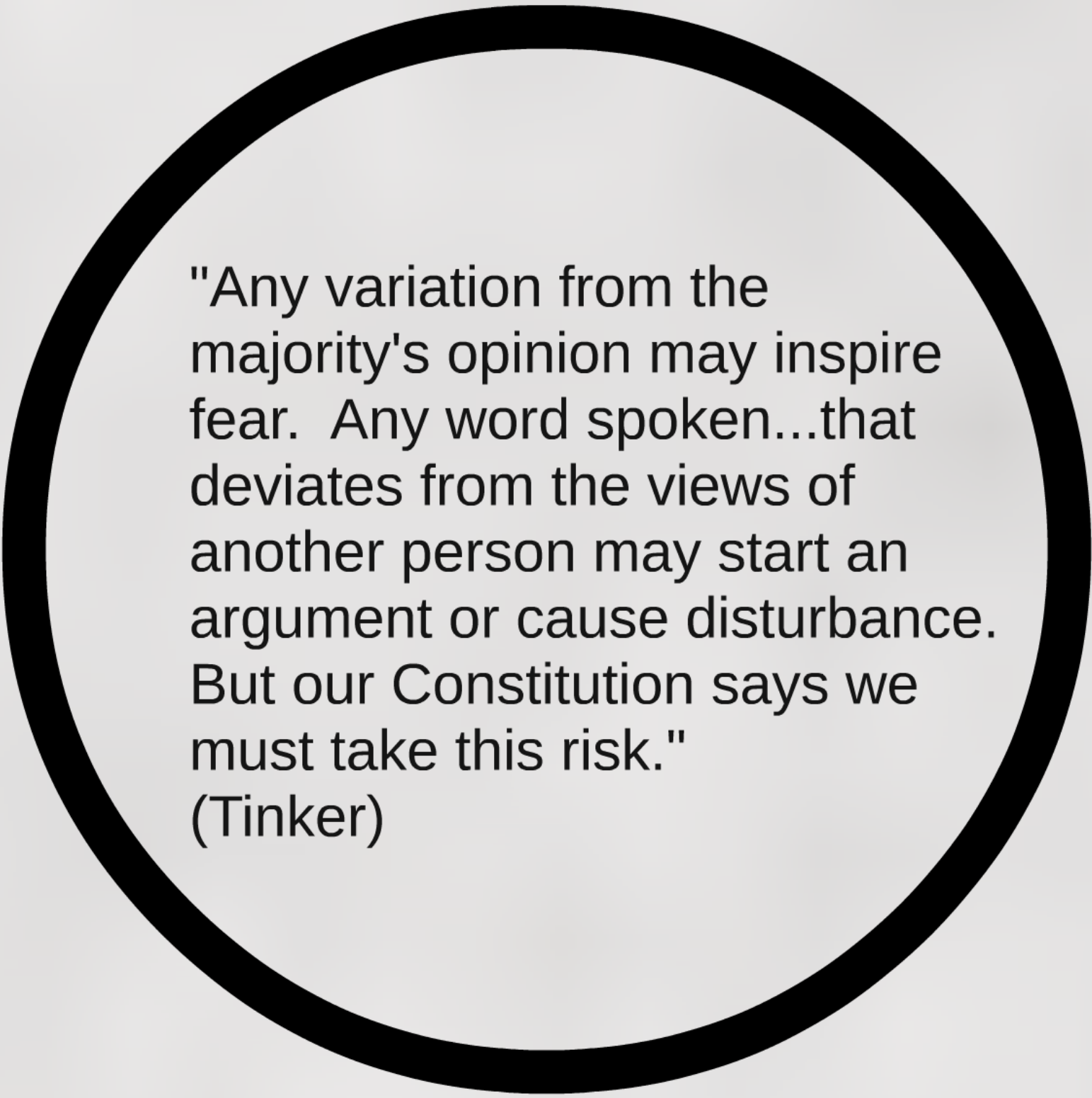
- 1. University may not discriminate on basis of race, sex, or ethnicity in its athletic programs.
- 2. University may not discriminate on basis of race, sex, or ethnicity in its recruitment efforts.
- 3. University may not discriminate on basis of race, sex, or ethnicity in its admissions process.



Undifferentiated fear
or apprehension of
disturbance is not
enough to overcome
the right to freedom
of expression.



Administrators should have actual evidence on which they can "reasonably forecast" that substantial disruption is imminent.



"Any variation from the majority's opinion may inspire fear. Any word spoken...that deviates from the views of another person may start an argument or cause disturbance. But our Constitution says we must take this risk."
(Tinker)

#8

Acting to **preemptively prevent** students from exercising their right to freely express themselves constitutes a "prior restraint" of speech, and is presumptively unconstitutional.

#9

Whether speech **can** be restricted and whether speech **should** be restricted often involves a different analysis.



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