

United States Senate

March 14, 2023

Office of the President
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Stanford University
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Dean's Office, Stanford Law School
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President Tessier-Lavigne and Dean Martinez,

I write to you today to express my deep concern regarding the recent protests that took place at Stanford Law School this past week. It was deeply disturbing to watch the viral video that captured Stanford Law students harassing and insulting Judge Kyle Duncan, a sitting federal circuit judge, who had been invited by the school's Federalist Society chapter to speak at a school-sanctioned event.

The facts of the protest are nothing short of appalling. Dozens of protestors occupied the classroom where Judge Duncan was set to deliver remarks, jeered and insulted him, called him a racist, waved signs, and engaged in juvenile sexual slurs. Given the constant shouting and interruption by these students—who attended the event for the apparent sole purpose of disputing it—Judge Duncan was unable to deliver his prepared remarks. Some reports detailed how Judge Duncan had to be escorted to his vehicle by United States Marshals after the event. This disgraceful behavior is antithetical to the principles of free speech and open discourse that are essential to the mission of any credible academic institution, let alone a top-tier law school. Such behavior also clearly violates Stanford Law School's Campus Disruption Policy, which prohibits the “prevent[ion] or disrupt[ion] of the effective carrying out of a University function or approved activity, such as lectures [and] meetings. . . .” As such, Stanford Law School is well within its rights to discipline these students for their behavior, and indeed, I strongly urge the

school to do so. Indeed, failing to identify and discipline the students responsible for this reprehensible conduct will only encourage such behavior in the future.

Equally audacious were the actions of Tirien Steinbach, Associate Dean for Diversity, Equity, and Inclusion, who thrust herself into the limelight during the allotted time of the event, stole the microphone for over six minutes, and proceeded to chastise and condescend to Judge Duncan with the aid of her own pre-prepared remarks, telling the judge, “I hope you have something to share with us that we can learn from,” and “I hope you can learn [from this experience] too.” While paying lip service to Stanford’s free speech policy, Steinbach repeatedly questioned whether the policy was sound and should be reconsidered, urging Judge Duncan to listen through his “partisan” and “hyper political lens” despite the “discomfort” his presence caused her. Associate Dean Steinbach also repeatedly asked the judge whether his prepared remarks were worth delivering in light of the “pain” and “division” his comments would cause. Far from conducting herself in a manner that students should emulate, Assistant Dean Steinbach’s behavior validated the protestors’ disruptive conduct, concluding her statement with “I’m glad this is going on here.” Given her demonstrated contempt for the federal bench, guests of the school, and your own institution’s policies, I recommend that she is promptly dismissed from her position.

To be sure, there is an important place for protest in America. The spirited exchange of views and ideas is essential to the learning experience, and the freedom to make one’s voice heard is a fundamental right of all Americans. However, the heckler’s veto should never be a guiding principle in American political or legal discourse. Just last year, several federal judges, including Judge James Ho of the Fifth Circuit Court of Appeals and Judge Lisa Branch of the Eleventh Circuit Court of Appeals, along with several district court judges, announced their intent to no longer accept clerkship applications from Yale law graduates after several students engaged in behavior similar to the behavior seen at your law school last week. I applauded Judges Ho and Branch at the time, believing then, as I believe now, that the demonstrated inability to tolerate speech one might disagree with, reflected poorly on one’s ability to fairly engage in the adversarial process and to faithfully represent unpopular clients. I believe that many judges will similarly be watching how Stanford Law responds to last week’s embarrassing display. I can only imagine that some judges might be reluctant to offer Stanford Law graduates clerkships in light of the way one of their fellow judges was treated, particularly if the school impliedly blesses such conduct by refusing to discipline the student protestors involved.

The student protestors only engaged in the behavior they did because they predicted that their actions would be consequence-free. If they are indeed correct, then such appalling behavior can be expected again in the future. The eyes of the American legal community are now upon Stanford Law to see whether the school will, in fact, defend the principles of free speech and free inquiry. I can only hope it will.

I ask that you respond to the following questions by March 28, 2023.

1. Have you identified the students responsible for harassing Judge Duncan and the disruption of his approved lecture?
 - a. Have these students been disciplined? Will they be disciplined?
2. Do you consider it appropriate conduct for lawyers to shout down, harass, or insult, a judicial officer?
 - a. If not, do you have plans to report the behavior of these students to the appropriate state bar so that the bar can accurately assess that student's character and fitness to practice law?
3. What disciplinary action will the school take against Associate Dean Steinbach?

Sincerely,



Ted Cruz
Ranking Member, Subcommittee on the Constitution
U.S. Senate Committee on the Judiciary