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FIRE QUARTERLY

FALL 2023



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DISCOVERING WHAT WORKS



Higher education remains a vitally important part of FIRE's mission. With about a third of 18-24-year-olds enrolled in some form of higher education, much of the country's future depends on what happens behind ivied walls and in ivory towers. These students will graduate and go on to become our politicians, judges, CEOs, and inventors.

But how do we ensure that students are being educated to become leaders of a liberal representative democracy and not indoctrinated into being its censors? First and foremost, we have to measure what's happening. And our measuring stick is the College Free Speech Rankings, now in its fourth year.

Each year, we improve our methodology. This year, our rankings combine:

- The nation's largest survey of college student attitudes about free speech, which includes the perspectives of more than 55,000 students.
- Our Spotlight ratings of school policies, adding points for schools with policies that protect speech rights and subtracting points for schools with ambiguous or speech-threatening policies.
- Institutional reactions to attempts to sanction scholars for their research or teaching, or students for their speech.
- Institutional reactions to disinvitation and deplatforming campaigns.

The 2024 College Free Speech Rankings are an essential resource for students and families choosing colleges. And like all of our research, access to it is completely free. Check it out at rankings.thefire.org.

And that's not all we're working on. Among our other projects are:

- A report and survey on social media moderation policies, calling on platforms to make their moderation policies viewpoint-neutral, offer a meaningful appeal of any decisions, and be transparent about any government involvement.
- Our Free Inquiry Grant program, drawing from a pool of \$200,000 to fund research into free speech and academic freedom.
- Surveys into the public's understanding of Title IX, student experiences with discipline, and how Stanford students feel about the shutdown of Fifth Circuit Judge Kyle Duncan.
- The early stages of a survey of law faculty.

Confident, self-assured students become confident, self-assured participants in our society. Any plan to improve free speech culture will succeed or fail on its ability to improve campus culture. And with the help of FIRE's Research department, we will be able to do what no organization has done before: Discover what actually works.

We cannot do that without your help. Your gifts are helping to create a future in which colleges compete for elite students on the basis of their commitment to the ideals underpinning a free society.

Thank you, and I look forward to sharing more of our work soon!

Yours,
Adam Goldstein
Vice President of Research

WEST COAST, EAST COAST, ON CAMPUS, OFF CAMPUS: FIRE HAS YOUR BACK



California community college takes down unconstitutional flyer policy

In August, the U.S. Court of Appeals for the Ninth Circuit affirmed that Clovis Community College must abandon an unconstitutional flyer policy that it used to silence members of the Clovis chapter of Young Americans for Freedom, a conservative student group.

The policy banning posters “with inappropriate or offense [sic] language or themes,” and an informal rule invented after the fact by Clovis’ president, was used by administrators in November 2021 to take down the group’s flyers, which advocated for freedom and listed the death tolls of communist regimes.

Later, administrators also stopped the students from hanging a set of five pro-life flyers on the bulletin boards inside heavily trafficked campus buildings, relegating them to a rotting “free speech kiosk” in a desolate part

of campus. Of course, this didn’t fly with the students — or with FIRE.

In August 2022, we filed a lawsuit on behalf of the student group to hold the college president and three other administrators responsible for their actions. Two months later, we secured a preliminary injunction halting enforcement of the flyer policy.

Still, Clovis attempted to keep its poorly worded policy on the books, asking the Ninth Circuit to overturn the decision. The court, however, met this request with a resounding “no,” meaning Clovis must abandon the policy while the lawsuit proceeds.

“Clovis tried again to justify its censorship, but the court saw through its flawed arguments,” said FIRE attorney Daniel Ortner.

As the lawsuit proceeds, we’ll be keeping a close eye on Clovis, ensuring it becomes a poster child for student speech rights, not student censorship.

Georgia city rescinds law requiring mayor’s permission to protest

Readers of the FIRE Quarterly will remember army veteran Jeff Gray from the cover of our spring 2023 issue. Now, we’re pleased to report that his First Amendment rights have been vindicated in the City of Blackshear, Georgia.

Following FIRE’s January lawsuit on behalf of Gray, the city agreed to revoke the unconstitutional law that police cited in stopping Gray from holding a “God Bless the Homeless Vets” sign outside of city hall. The city also paid the National Coalition for Homeless Veterans \$1,791 — symbolizing the year the First Amendment was ratified — and will train its police officers on citizens’ First Amendment rights. It’s a win-win-win.

“We held the town of Blackshear, Georgia, accountable for violating my civil liberties, and we did so in a classy, meaningful and effective manner,” said Gray.



LATEST COLLEGE FREE SPEECH RANKINGS REVEAL RAMPANT SELF-CENSORSHIP, INCREASING STUDENT ACCEPTANCE OF VIOLENCE

College students can expect their higher ed experience to include new friendships, all-night study sessions, dining hall food — and a culture of conformity and censorship. A new survey of more than 55,000 students across the country shows that most attend colleges that don't value free expression.

FIRE's fourth annual College Free Speech Rankings, conducted with College Pulse, is the largest survey of its kind ever conducted. It ranks the free speech cultures of 248 of America's largest and most prestigious campuses in order from best to worst, factoring in student perceptions of their campus environment, a school's speech codes, a school's response to deplatforming attempts, and more.

As you'll see, some schools made A's — while others couldn't even spell their own names.

The best colleges for free speech:

1. Michigan Technological University
2. Auburn University
3. University of New Hampshire
4. Oregon State University
5. Florida State University

The worst colleges for free speech:

244. Fordham University
245. Georgetown University
246. University of South Carolina
247. University of Pennsylvania
248. Harvard University



HARVARD'S FREE SPEECH SCORE PLUNGED

FOX & FRIENDS WEEKEND
FIRE President and CEO Greg Lukianoff discusses the rankings on "Fox & Friends." The rankings also received coverage from The New York Post, Hannity, Yahoo News, and TV segments in 30 states — as well as a tweet from Elon Musk.

Key findings:

- More than a quarter of students (26%) said they censor themselves at least a few times a week in conversations with friends, and 25% said they are more likely to self-censor now than they were when starting college.
- Deplatforming attempts that occurred at schools ranked in the bottom five had an alarming 81% success rate.
- Up to 72% of students opposed allowing a conservative speaker on campus, depending on the topic, while up to 43% of students opposed allowing a liberal speaker on campus.
- Only 73% of students said that using violence to stop a campus speech is never acceptable, down from 80% last year.
- The most difficult topics to discuss on campus are abortion, gun control, racial inequality, and transgender rights.
- Of the 248 schools, 73 have a "Below Average," "Poor," "Very Poor," or "Abysmal" speech climate. Just 47 have at least a "Slightly Above Average" speech climate.

The silver lining? FIRE is on the case. Over the years, we have helped countless schools revise restrictive speech codes, bringing them in line with First Amendment standards. And the rankings provide us with a heightened awareness of the factors that inform the state of free speech culture on campus, empowering us with the knowledge to help turn it around.

"Each year, the climate on many college campuses grows more inhospitable to free speech. Some of the most prestigious universities in our country have the most repressive administrations. Students should know that a college degree at certain schools may come at the expense of their free speech rights."

— Sean Stevens, FIRE director of polling and analytics



ON FREE SPEECH, HARVARD FAILS WITH FLYING COLORS

How one of America's top academic institutions completely missed the mark in FIRE's rankings

Harvard is consistently named one of the best undergraduate universities in the United States, but FIRE frequently finds itself giving this all-star academic school failing grades.

Harvard finished below 75% of the schools surveyed in FIRE's College Free Speech Rankings in each of the past four years. And this year, it truly outdid itself, receiving the worst score ever: 0.00 out of a possible 100. This landed it dead last in the rankings — 248 out of 248 schools — with an “Abysmal” speech climate rating.

So why did Harvard do so poorly?

First of all, Harvard has a dismal record of responding to deplatforming attempts on its campus. From 2019 to this year, Harvard penalized four professors for their speech or research, three of whom it terminated or whose contracts it did not renew. It also revoked a student's admission for his years-old social media statements, disinvited a scholar from campus over her viewpoints, and was the site of a substantial event disruption involving protestors who occupied the stage and refused to leave.

Harvard also performed poorly on a number of the survey-based components of the rankings.

- Just over a quarter of Harvard students reported that they are comfortable publicly disagreeing with their professor on a controversial political topic.
- Only roughly a third think that it is “very” or “extremely” clear that the administration protects free speech on campus.
- An alarming 30% think that using violence to stop a campus speech is at least “rarely” acceptable, up from 26% last year.

What's more, the percentage of Harvard students who said they self-censor on campus “fairly often” or “very often” is on the rise, increasing from 16% two years ago to 22% last year and to 24% this year.

Last but not least, Harvard earns FIRE's “yellow light” rating for its speech policies, because it maintains policies that restrict — or could too easily be used to restrict — protected expression.

Harvard prides itself on attracting the brightest students and professors to

seek “Veritas,” or truth, its institutional motto. But truth-seeking depends on the free exchange of ideas. Without a major course-correction, Harvard's educational mission is sure to suffer along with its speech climate.

That's why FIRE is calling on Harvard to turn the ship around. Our Engagement and Mobilization team is leading the way with a take-action campaign through which concerned people can tell Harvard's president to reform ambiguous speech codes and publicly profess support for free expression.



FIRE's Mary Griffin led the way to help DePauw improve in the rankings.

Bringing Harvard from zero to hero may seem like a tall order, but we know it's possible. With help from FIRE's Policy Reform team, 2021's last-place school DePauw University went from a “red light” to a “green light” school and landed at a solid 41 in this year's rankings.

If Harvard follows suit, it may yet make honor roll in the coming years — or at least stay out of detention.

CALIFORNIA COMMUNITY COLLEGE SYSTEM FORCES PROFESSORS TO ESPOUSE POLITICIZED DEI VIEWS

FIRE is here to stop it.



Madera Community College professor Linda de Morales and Reedley College professor Bill Blanken

In August, FIRE filed a lawsuit on behalf of six California community college professors to halt systemwide regulations forcing them to espouse and teach politicized conceptions of “diversity, equity, and inclusion.”

Each of the professors teach at one of three Fresno-area community colleges within the State Center Community College District. Under the new regulations, they, along with 54,000 other professors, must incorporate contested ideological viewpoints into classroom teaching. If they do not, they may be penalized in performance and tenure evaluations.

California’s regulations explicitly require professors to “acknowledge” that “cultural and social identities are diverse, fluid, and intersectional,” and to develop “knowledge of the intersectionality of social identities and the multiple axes of oppression that people from different racial, ethnic, and other minoritized groups face.”

The state also mandates “anti-racist” views, and it defines “anti-racism” in a highly ideological manner. It states that “persons that say they are ‘not a racist’ are in denial” and declares that “color-blindness” — the belief that “the best

way to end prejudice and discrimination is by treating individuals as equally as possible, without regard to race, culture, or ethnicity” — is a problem because it “perpetuates existing racial inequities and denies systematic racism.”

“These regulations are a totalitarian triple-whammy,” said FIRE attorney Daniel Ortner. “The government is forcing professors to teach and preach a politicized viewpoint they do not share, imposing incomprehensible guidelines, and threatening to punish professors when they cross an arbitrary, indiscernible line.”

Unfortunately, it gets even worse. The sole mention of academic freedom in California’s model framework frames it an inconvenience, warning professors not to “‘weaponize’ academic freedom” to “inflict curricular trauma on our students.”

But in issuing this warning, the community college district is “weaponizing” its regulations against anyone who might object to them on the basis of valid academic freedom concerns. Our clients, for example, have already been forced to change

their syllabi and teaching materials, lest they face repercussions.

“Hearing uncomfortable ideas is not ‘curricular trauma,’ and teaching all sides of an issue is not ‘weaponizing’ academic freedom,” said Loren Palsgaard, an English professor and plaintiff in the lawsuit. “That’s just called ‘education.’”

We couldn’t have said it better ourselves.

FIRE places a particular focus on higher education because we recognize that these institutions, dedicated to teaching the next generation, set the tone for society and culture. With this case, we hope to restore a vision of college as a place of open exploration and debate, where no one is left out of the conversation.

“Whether it’s states forcing professors to teach DEI concepts or states forcing them not to teach concepts that lawmakers deem ‘woke,’ the government can’t tell university professors what views they are or aren’t allowed to debate in the classroom.”

– Jessie Appleby, FIRE attorney





LEAVE A LEGACY OF LIBERTY

Why choose legacy giving?

A legacy gift to FIRE is the perfect way to secure the future of free speech — and to ensure that your children, grandchildren, and generations to come are free to speak their minds.

FIRE's Eternal Flame Society is composed of donors who have honored FIRE with a legacy gift and receive select membership benefits. Eternal Flames ensure FIRE can empower Americans to speak their minds free from censorship, coordinate litigation against those who commit rights violations, and organize legislative and advocacy efforts to secure policy reforms.

No matter the size of your estate, there are options that will fit your financial planning needs while enabling you to make a lasting impact on the state of free speech in our country. Will or estate gifts cost you nothing during your lifetime and even offer attractive tax advantages.

There are many ways to incorporate FIRE in your legacy

INCLUDE FIRE IN YOUR WILL

To include FIRE as a beneficiary in your will, simply personalize the following sentence and send it to your attorney or financial planner:

I bequeath ___% of my estate or \$___ to the Foundation for Individual Rights and Expression, in Philadelphia, PA. FIRE's Tax ID No: 04-3467254.

NAME FIRE AS A BENEFICIARY

You can name FIRE as a beneficiary of accounts. Some of the easiest and most frequently designated assets are:

- Life insurance policy, both employer sponsored and private.
- Retirement plans such as 401(k), 403(b), and Individual Retirement Accounts (IRAs).
- Non-cash assets such as real or personal property, stock options, or savings bonds.

Get connected

If you have any questions, or just want to speak with someone about legacy or IRA gift options, please do not hesitate to contact us. Also, please let us know if you make a legacy gift to FIRE! We would love to honor you as an Eternal Flame and extend member benefits to you. Contact Ashley Adams at **215-717-3473** or **ashley@thefire.org**.

“I searched for an organization to support that would do the necessary and important work of defending free speech. That effective, nonpartisan advocate is FIRE.”

– John Vineyard, Eternal Flame

Donate through your IRA

Individuals who are 70 1/2 or older can make a qualified charitable deduction (QCD) of up to \$100,000 to FIRE from their IRA annually.

To make a donation using your IRA, contact your plan administrator and let them know you would like to make a QCD to FIRE.

If your donation is intended to cover a Required Minimum Distribution (RMD), please make sure the gift arrives before December 31.

Learn more at thefire.org/legacy



FIRE Lead Counsel Robert Corn-Revere and FIRE Fellow Nadine Strossen

FREE SPEECH PRINCIPLES KNOW NO PARTY

Weighing in on recent Supreme Court cases

When it comes to the First Amendment, FIRE knows a thing or two. So when two Supreme Court cases implicating free speech caught national attention, FIRE Lead Counsel Robert Corn-Revere and FIRE Fellow Nadine Strossen expertly separated signal from noise. The through-line in each of their op-eds? Free speech is not a partisan issue. When we make it one, we risk eroding the standards that protect us all.

Robert Corn-Revere on *Missouri v. Biden*

Originally published in Reason magazine

On July 4, a federal court ordered Joe Biden's White House and a bevy of federal agencies and officials not to pressure social media platforms to delete or suppress broad categories of information, including posts on the pandemic, the 2020 election, and Hunter Biden's laptop.

Initial reporting on Judge Terry A. Doughty's 155-page opinion in *Missouri v. Biden* reflected our polarized times. The Washington Post labeled the decision a "win for the political right" while The New York Times called it "a victory for Republicans." The

headline for the Post story placed quotation marks around the word censorship.

But shouldn't this just be considered a win for the First Amendment and not a partisan matter? After all, most of us should be able to agree it's a bad idea for government officials to huddle in back rooms with corporate honchos to decide which social media posts are "truthful" or "good" while insisting, Wizard of Oz-style, "pay no attention to that man behind the curtain."

The constitutional principle involved is straightforward. As Judge Richard Posner explained in *Backpage.com, LLC v. Dart*, a government official who "threatens to employ coercive state power to stifle protected speech violates a plaintiff's First Amendment rights, regardless of whether the threatened punishment comes in the form of the use (or, misuse) of the defendant's direct regulatory or decisionmaking authority...or in some less-direct form."

The problem with *Missouri v. Biden* is that the political noise surrounding the case is distracting attention from the important First Amendment principles at stake.

Nadine Strossen on *303 Creative v. Elenis*

Originally published in Bloomberg Law

In *303 Creative v. Elenis*, the US Supreme Court prohibited Colorado from forcing Lorie Smith to create a message that contradicted her beliefs. Some progressives have criticized the decision—not because of the legal principles it enforced, but because of Smith's specific beliefs at issue.

The court ruled the government may not compel Smith to endorse same-sex marriage. But it did so because of fundamental free speech tenets that benefit all of us, regardless of our views on same-sex marriage or any other issue.

Our First Amendment operates under a Golden Rule: "Do unto speech you oppose as to speech you support." If we don't protect the speech we loathe, we can't protect the speech we love. The *303 Creative* decision reaffirms this bedrock principle. And, following a long line of cases, it rejects government efforts to compel speech or coerce ideological conformity.

Read Bob's piece and Nadine's piece in full on FIRE's Newsdesk.

HIGH SCHOOL PRINCIPAL SUSPENDS STUDENT FOR SHARING MEMES IN PERSONAL TIME

LAWSUIT



One of the memes the student shared, depicting his principal as an anime cat wearing a dress

Can high school students share internet memes without facing suspension? When the images cause no disruption at school and are posted away from campus and outside school hours, the answer should be a definitive “yes.”

But that didn’t stop administrators at a Tennessee high school from suspending a student who shared three memes on Instagram lampooning his principal, Jason Quick, in August 2022.

Fortunately, just weeks after the student sued the school district, it removed the suspension from his record for the duration of the lawsuit. It also removed two speech-restrictive student

handbook policies that the lawsuit challenges, one of which banned images that “embarrass,” “discredit,” or “humiliate” another student or school staff member.

“The First Amendment protects the right of America’s students to express themselves on social media and even criticize or satirize school officials,” said FIRE attorney Conor Fitzpatrick. **“As long as the student’s expression does not substantially disrupt the school day, school administrators have no business acting as a board of censors over students’ private speech.”**

HOSPITAL SYSTEM TRIES TO SILENCE 15-YEAR-OLD PATIENT SAFETY ADVOCATE

LAWSUIT

A healthcare corporation is trying to shut up a 15-year-old by baselessly threatening a lawsuit against his mother. But if FIRE has anything to say about it, he won’t be silenced so easily.

In July 2021, Northern Light Health’s Eastern Maine Medical Center fired Dr. Anne Yered without cause after she raised concerns about patient safety.

Afterward, Dr. Yered’s son, then-14-year-old college student Samson Cournane, researched patient safety standards at the healthcare system. He discovered news articles that showed a troubling pattern of safety issues at his local hospital.

With that, the gifted teenager crafted a Change.org petition addressed to his congressman in which he decried the hospital’s low patient-safety ratings and asked for an investigation. The following month, Samson linked to the petition in a letter in the University of Maine campus newspaper.

Indefensibly, the healthcare system threatened to sue Dr. Yered for defamation, falsely claiming that she wrote her son’s petition and letter.

The healthcare conglomerate’s threat to file a meritless lawsuit is a classic example of a “SLAPP,” or strategic lawsuit against public participation. **“It’s nothing more than censorship by lawsuit,”** explained FIRE senior attorney Jay Diaz. That’s why FIRE is demanding that Northern Light Health retract it.

This case shows that censorship attempts aren’t limited to government actors. Private entities and individuals, too, have ways of disingenuously weaponizing the government, through courts, against individuals who raise concerns about them to public officials.

Censorship is wrong, regardless of where it originates. Until the lawsuit threat is retracted, we will advocate for Samson’s right to speak freely.

“Young people have free speech rights just like everyone else. I have the right to stand up and speak my mind without being bullied into silence.”

– Samson Cournane, 15-year old University of Maine student



GREG LUKIANOFF ON NEW BOOK: 'THE CANCELING OF THE AMERICAN MIND'



What's the difference between cancel culture and a free speech culture? FIRE President and CEO Greg Lukianoff's new book, co-authored by FIRE Fellow and journalist Rikki Schlott, sheds light on this timely question.

Hitting shelves on Oct. 17, "The Canceling of the American Mind" examines the alarming phenomenon of cancel culture and paves a path toward more productive public conversations. Whether you're already concerned about cancel culture or have some questions about free speech, you're sure to learn something new from this data-driven deep-dive into some of the most insidious threats facing discourse today.

In anticipation of the book's release, we asked Greg to answer some questions about its background and core themes:

What inspired you and Rikki to write "The Canceling of the American Mind"?

Originally, Rikki and I had been planning to write a follow-up to "The Coddling of the American Mind." After all, "Coddling" was a book about a phenomenon disproportionately

Purchase your copy of "Canceling" on Amazon, Barnes and Noble, or other places books are sold.



Greg and Rikki sit down to discuss “Canceling.”

affecting Gen Z women written by two male Gen Xers, so I thought having the perspective of an actual Gen Z woman would make for a great follow up. However, as we were discussing writing a book together, I could hardly believe that there were still people out there claiming that Cancel Culture doesn't even exist. We decided we needed to put that argument to rest once and for all. I also wanted an opportunity to call out the frustrating way we argue, particularly on social media but also on campus. Students have been trained to use trick after trap after dodge to avoid addressing the actual arguments their opponents are making. None of this gets us any closer to the truth or toward useful solutions.

How does “Canceling” relate to your previous book, “The Coddling of the American Mind”?

“Canceling” incorporates a lot of the major themes of “Coddling,” including the idea that we are teaching younger people the mental habits of anxious and depressed people, so we should not be surprised that they are anxious and depressed. It also adds a “Fourth Great Untruth” to our previous three: “Bad people only have bad opinions.” The idea being that so much of the

cheap tactical ways we argue both on social media and on campus are designed to paint our opponents as bad, immoral, or somehow illegitimate. We include the Great Untruth of Ad Hominem, as we call it, to make the point that there's nothing about being a good person that means one is always right or about being a bad person that means one is always wrong. That is generally irrelevant to the accuracy of one's opinions, and the Fourth Great Untruth should remind people to get back to the actual substance of their opponent's argument.

What does “Canceling” tell us about the state of free speech today?

To be frank, I left writing “The Canceling of the American Mind” quite worried about the state of freedom of speech in the United States. I have devoted my life to defending freedom of speech, and I have never seen it in as bad a state as it's been in since 2020. Yes, there are signs that some things are improving, but I fear that some of that apparent improvement is coming from large numbers of people having internalized that the lesson of Cancel Culture is to not poke the “sacred cows” on campus.

What impact do you hope “Canceling” will have on culture? Is there a particular message or insight you hope to impart on readers?

I hope that it will signal that the few remaining people who try to claim that Cancel Culture isn't real, isn't a big deal, or is just some kind of hoax should not be taken seriously. This was the conclusion that they drew before knowing anything about the topic, but their lack of knowledge didn't stop the Cancel Culture deniers from saying it with arrogance and supreme confidence. Nothing will convince them, and they are not worth wasting your time with.

On a deeper level, I hope it will encourage people to think a bit more about how we argue toward truth and solutions, as opposed to simply scoring cheap partisan points against each other. We spend so much time talking to each other today on social media, on and off campus, and in the news media in a way that never gets us anywhere productive. My hope is that “The Canceling of the American Mind” will remind us what a tolerant society truly looks like and help us inch ever closer to truth by chipping away at falsity.



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FIRE is going places!

Save the date! FIRE has an exciting season planned. We're bringing thought-provoking programming to cities nationwide for our members. Join us and mingle with fellow free speechers!

October 20 - Alexandria, VA

FIRE's Faculty Network Conference will feature a keynote speech from Harvard psychologist Steven Pinker.

October 26 - Austin, TX

"The Canceling of the American Mind" co-authors Greg Lukianoff and Rikki Schlott will discuss their book.

November 2 - San Francisco, CA

Member event & Ember Club Exclusive event

Greg and Rikki will discuss their book with Stanford economist John H. Cochrane at the Commonwealth Club.

November 9 - Miami, FL

Greg and Rikki will discuss their book.

November 28 - Charleston, SC

Greg and FIRE Senior Fellow Nadine Strossen will discuss their newest books at the Charleston Library Society.

December 7 - New York, NY

Ember Club Exclusive event

Greg and Rikki will speak with guests at an exclusive book party.

Prior to each event, all FIRE members in the area will receive emails with more details and a registration link.

Please email events@thefire.org with any questions.

