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Suit Challenges a University's Speech Code

By TAMAR LEWIN

In its opening salvo against what it calls restrictive campus speech codes, a nonprofit educational foundation has filed suit against Shippensburg University in Pennsylvania, charging that its code of conduct violates students' constitutional rights to free speech.

Shippensburg's Code of Conduct, which is typical of colleges nationwide, gives each student a "primary" right to be free from harassment, intimidation, physical harm or emotional abuse, and a "secondary" right to express a personal belief system in a manner that does not "provoke, harass, demean, intimidate or harm" another.

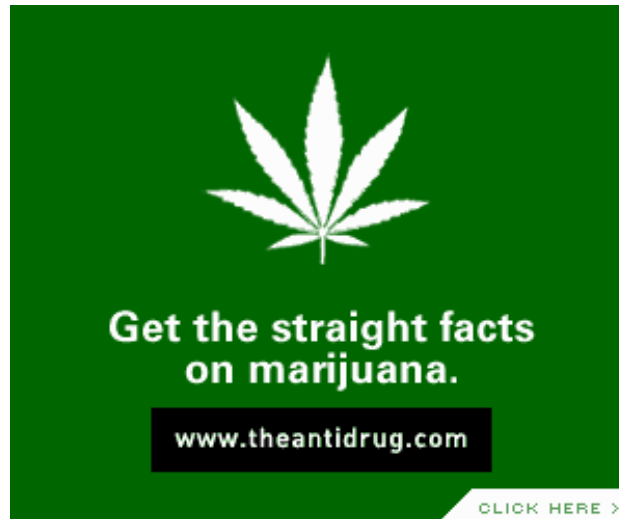
The university also prohibits conduct that "annoys, threatens, or alarms a person or group," like sexual harassment, innuendo, comments, insults, propositions, jokes about sex or gender-specific traits and even "suggestive or insulting sounds," leering, whistling, obscene gestures.

The president of the university, Anthony Ceddia, supplemented the code last month with a policy limiting demonstrations and rallies to two specific "speech zones" on campus. Mr. Ceddia was not available for comment yesterday, and a university spokesman said he had not yet seen the complaint, filed on Tuesday in Harrisburg.

The university, 35 miles from Harrisburg, issued a statement, saying:

"Shippensburg University strongly and vigorously defends the right of free speech. As an institution of higher education we encourage and promote free speech among and between individuals and organizations. Through the exercise of this important right our students are able to see various aspects of an idea, analyze those ideas and form their own opinions on those ideas. The university is also committed to the principle that this discussion be conducted appropriately. We do have expectations that our students will conduct themselves in a civil manner that allows them to express their opinions without interfering with the rights of others."

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Alan Charles Kors, president of the Foundation for Individual Rights in Education, or FIRE, which filed the suit, said: "Such codes are a moral, educational and legal scandal in American higher education. A nation that does not educate in liberty will not long preserve it and will not even know when it is lost."

FIRE, based in Philadelphia, is made up of professors, policy experts and public intellectuals from across the ideological spectrum, with a board that includes conservatives, liberals and libertarians.

Over the next year, the group plans to coordinate legal challenges to campus speech codes in each of the 12 federal appellate circuits. Thor Halvorssen, the chief executive of FIRE, said the group had compiled a database of campus speech codes that it would post online next month at speechcodes.org.

"Since the late 1980's, there have been several major legal decisions against unconstitutional speech codes in higher education," he said. "FIRE is moving from scattershot approaches to ending the scandal of speech codes to a concerted campaign to make it clear that codes like Shippensburg's are unconstitutional barriers to the free flow of ideas."

Mr. Halvorssen said Shippensburg's policy could lead to punishment or suspension of students for almost any passionate expression.

"Under this policy, a student who says Republicans are engaging in a racist war could be subject to punishment, as would a feminist student who goes to a rally with a sign that says 'Keep your rosaries off my ovaries,' or an evangelical student who uses expressions that offend a lesbian student," he said. "Prejudice, intolerance and bigotry do not disappear when you prohibit their expression. You know what happens when students offend each other? They have conversations, and an exchange of views."

The plaintiffs are referred to as John and Jane Doe and the complaint said they belong to student organizations that hold beliefs on issues of race, sex, religion and sexual orientation that may be objectionable to other students and sanctionable under the speech code.

"It's significant that they file as Jane and John Doe and the judge allowed it," Mr. Halvorssen said. "It tells you a lot about the climate on campus, when students are so fearful about saying what they think."

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