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Friday, September 26, 2003

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## Student Sues Cal Poly Campus, Saying It Violated His Free-Speech Rights

By [ALICE GOMSTYN](#)

A student at California Polytechnic State University at San Luis Obispo sued university officials on Thursday for what he and his lawyers called a violation of his First Amendment right to free speech.

Steven Hinkle, a senior, said that university officials had threatened him with penalties as severe as expulsion after he tried to post a flier at Cal Poly's Multicultural Center last November over the objections of black students who were holding a Bible-study meeting at the center.

Cal Poly officials, who said Mr. Hinkle's actions violated a provision of the campus's code of conduct -- "disrupting" a student event -- ultimately decided that his punishment would consist solely of writing letters of apology to the offended students, but Mr. Hinkle, who is white, refused to do that. The university denies that it infringed Mr. Hinkle's free-speech rights and that he faced expulsion at any point.

The flier promoted an on-campus lecture by C. Mason Weaver, a conservative black author, and included the title of his recent book, *It's OK to Leave the Plantation: The New Underground Railroad*, in which Mr. Weaver argues that a dependence on government assistance by many African-Americans is comparable to slavery.

According to a transcript of a judiciary hearing in February, students at the Bible-study meeting called the campus police after Mr. Hinkle asked to "sit down and talk" about why they had found the flier offensive. Mr. Hinkle left, without posting the flier, before the police

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arrived.

"He was doing something that was clearly constitutionally protected," said Greg Lukianoff, director of legal and public advocacy at the Foundation for Individual Rights in Education, the group that coordinated the lawsuit. The foundation, as part of its "speech-codes litigation" project, has organized lawsuits on free speech against three other American colleges in the past year. Mr. Lukianoff said that, in the Cal Poly case, the "disruption" charge lodged against Mr. Hinkle had been used to squelch his free-speech rights.

But in two letters in July, university administrators challenged such claims, asserting that only Mr. Hinkle's conduct was at issue. "While all of us enjoy the right to freedom of speech, it does not include permission to disrupt scheduled meetings or classes while doing so -- in other words, to infringe on the rights of others," Paul J. Zingg, Cal Poly's provost and vice president for academic affairs, wrote in one of the letters. A second letter, written by Cornel N. Morton, vice president for student affairs, contained similar statements.

Mr. Hinkle's lawyers say the case smacks of both censorship and a racial double standard. "I think we all know that the conduct code would not have been applied in the same way had it been black students posting a controversial flier and white students objecting," said Curt A. Levey, director of legal and public affairs for the Center for Individual Rights, a Washington-based nonprofit organization best known for representing plaintiffs in the University of Michigan affirmative-action cases that the U.S. Supreme Court ruled on in June.

The center joined Carol Sobel, a former American Civil Liberties Union lawyer, in filing the suit on Mr. Hinkle's behalf in U.S. District Court in Los Angeles. The suit seeks to have Mr. Hinkle's record expunged of the conduct violation and to bar the university from enforcing its conduct code in a way that prohibits speech.

Citing the pending litigation, none of the university

officials named in the suit, including Mr. Zingg, Mr. Morton, and the university's president, Warren J. Baker, would comment on the case on Thursday.

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Background articles from *The Chronicle*:

- [War of Words](#) (5/23/2003)
- [Behind the Fight Over Race-Conscious Admissions](#) (4/4/2003)
- [Free-Speech Group Publishes Guides to Student Rights](#) (3/21/2003)

Opinion:

- [Speech Codes: Alive and Well at Colleges ...](#) (8/1/2003)
- [... but Litigation Is the Wrong Response](#) (8/1/2003)



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