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Pa. college sued for speech code

By Sara Levine
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The Philadelphia-based Foundation for Individual Rights in Education -- founded by History Professor Alan Kors -- took the first step in a national campaign to protect free speech on college campuses, filing a lawsuit Tuesday against speech codes at Shippensburg University in central Pennsylvania.

Under Shippensburg's Code of Conduct, students risk punishment as severe as expulsion for engaging in what FIRE is defending as constitutionally protected expression. The code states that the university defends free speech unless it is "inflammatory, demeaning or harmful towards others," or qualifies as speech that "provokes" or "demeans."

"This is a code that is worded in order to limit free speech, essentially masquerading as a harassment code," said Thor Halvorssen, FIRE's chief executive officer. "We absolutely believe that there should be limits on behavioral harassment, restricting unlawful behavior. We want to eliminate codes that prohibit free speech."

Peter Gigliotti, executive director for communications and marketing at Shippensburg, issued a formal response to the lawsuit on Wednesday. Gigliotti stated that the university "strongly and vigorously defends the right of free speech," but "is also committed to the principle that this discussion be conducted appropriately."

"Their response reveals their contempt for the principles of freedom of speech," Halvorssen said. "You never have an obligation to be civil. Most forms of protest are deemed uncivil. You can't coerce people to be civil and don't have a right to expect others not to offend you."

Kors established FIRE as a way to fight against violations of free speech at institutions of higher education following an incident that occurred at Penn a decade ago.

Controversy erupted over Penn's speech code in 1993, when then-College freshman Eden Jacobowitz faced prosecution by the University's judicial system after he yelled at a group of black sorority women who were making noise below his high rise window, calling them "water buffalo."

Kors defended Jacobowitz throughout the affair, and the case was eventually dismissed and Penn's speech code dropped.

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According to Gigliotti, Shippensburg's legal counsel has not yet received any official documentation of the lawsuit.

"All we have is the material supplied to us by the media. We are not going to respond to something that at this point is just a public announcement by the organization."

Although there have been no incidents of free speech violations on Shippensburg's campus, officials at FIRE believe that student discussions and points of view are imperiled by the restrictive speech codes.

"Shippensburg is representative of how atrocious the speech codes on college campuses truly are," Halvorssen said.

In mid-May, FIRE plans to launch a Web site posting the speech codes of colleges and universities across the country. This project has been in the works for three years and will eventually include every college and university in the country.

"Two-thirds of colleges and universities have speech codes that can be used to restrict speech in an unconstitutional manner," Halvorssen said.

"We are willing and welcome to advise universities on a confidential basis to ensure that they are respecting the rights of students," he added. He also noted that FIRE anticipates it will file a significant number of lawsuits.

"Speech codes form a barrier to the environment in which an education can flourish... It is a scandal that they exist in a free society. We intend to bring each one of these codes down."

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