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Government Urges Colleges to Heed First Amendment

Potentially Offensive Speech Must Be Allowed

By REGINA CHEN
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Responding to letters from across the nation about the state of free speech on college campuses, the U.S. Department of Education sent a strong reminder to universities that campus speech regulations should not infringe upon First Amendment rights.

College campuses all maintain different speech policies targeting protests and political literature, intended to protect all students' rights—from those who may be expressing offensive speech to those who may be harassed by such ideas.

The letter also clarified the definition of harassment.

"It must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive," wrote Gerald Reynolds, the assistant secretary of the Office of Civil Rights, a division of the Department of Education.

One conflict with campus speech policies that drew national attention took place at California Polytechnic State University at San Luis Obispo when the university asked that student Steve Hinkle apologize for posting fliers publicizing a conservative speaker in the campus' Multicultural Center.

The posters, advertising Mason Weaver, a UC Berkeley alumnus and author of the book, "It's OK to Leave the Plantation: The New Underground Railroad", offended a nearby Bible study group, some of whose members confronted Hinkle.

Afterward, however, the university ruled that Hinkle was posting in a public area and the student group was not registered with the university.

Just last week the campus published a message entitled "Cal Poly, the First Amendment and Free Speech," reminding students that the university remains an open forum for free speech.

The Foundation for Individual Rights in Education, or FIRE—a national advocacy group for free speech which advised Hinkle—said the university clearly violated Hinkle's First Amendment rights. Their concerns were reaffirmed by the Office of Civil Rights letter, said Greg Lukianoff, Director of Legal and Public Advocacy for FIRE.

"We consider it a massive victory for free speech," Lukianoff said. "I think the (Office of Civil Rights) letter is going to help eliminate some cases of censorship before they start."

In the UC system, a set of policies has guided each campus in rules and regulations since 1970, leaving each

campus relatively free to determine how speech can be exercised as long as it does not interfere with university functions such as instruction.

Berkeley College Republicans has not been prevented from holding counter-protests on campus in the past one and a half years, said president Andrea Irvin.

Still, Irvin said the university has sometimes been too lenient, allowing some student groups to be disruptive.

"They need to have better enforcement of rules which currently exist," Irvin said.

UC Berkeley's own set of regulations state that free speech can be practiced as long as it does not interfere with "the rights of all to teach, study, and freely exchange ideas."

"The basic philosophy is that unless it's breaking the law, we don't regulate the content of the material," said Wayne Creager, case administrator of Student Judicial Affairs, which handles student conduct. "We hope that everyone has a forum in which they can speak undisturbed."

Few of the cases that Student Judicial Affairs deals with have to do with offensive fliers. The minor ongoing problem with fliers is where they are posted rather than their content, and that applies to all functions, from ice cream socials to protests, Creager explained.