

Culture

FIRE Hopes to Incinerate University Speech Codes

By Nathan C. Masters

CNSNews.com Correspondent

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(CNSNews.com) - The Foundation for Individual Rights in Education (FIRE) is cheering its preliminary victory in a lawsuit aimed at overturning provisions of a speech conduct code imposed on students at a state-run university in Pennsylvania.

Judge John E. Jones III of the U.S. District Court for the Middle District of Pennsylvania [ruled last week](#) that Shippensburg University, part of the University of Pennsylvania system, could not enforce the speech code provisions until the lawsuit was resolved at trial.

FIRE is representing two Shippensburg students in the case and warns that it will file a series of other legal actions around the country to enforce the constitutional right of students to exercise free speech on campus.

Greg Lukianoff, director of legal and public advocacy for FIRE, told **CNSNews.com** that many universities have flouted constitutional prohibitions on restricting students' free speech.

"Even as it became more clear that it was completely unconstitutional for them to pass these highly restrictive speech codes, they continued to pass codes that banned offensive or hurtful speech of any kind, relying more or less on the fact that nobody has ever called them on it," said Lukianoff. "And FIRE is calling them on it," he added.

In addition to temporarily overturning several provisions of the Shippensburg Code of Conduct, which Jones referred to as a "speech code," the judge also rejected the university's motion for dismissal, allowing the case to proceed to trial.

One provision that Jones struck down decreed: "Shippensburg University's commitment to racial tolerance, cultural diversity and social justice will require every member of this community to ensure that the principles of these ideals be mirrored in their attitudes and behaviors." Another one stated: "Acts of intolerance directed toward other community members will not be condoned."

Lukianoff said the university voluntarily eliminated several other provisions from the code of conduct after FIRE filed its lawsuit. One of those provisions, according to Lukianoff, prohibited "demeaning" speech.

"It's hard to imagine a meaningful intellectual climate where you can't demean anyone else's idea in any way," Lukianoff argued. "That's the death of debate and candor."

The university and its president, Anthony F. Ceddia, argued the speech code has not been enforced during Ceddia's tenure. But Jones rejected that argument, noting: "In the hands of another administration, these provisions could certainly be used to truncate debate and free expression by students."

In responding to Jones' preliminary injunction, Ceddia announced that Shippensburg would respect the rule of law and comply with the ruling.

"We will remain fully engaged in this ongoing legal review with the understanding that in the end, we will have policies and procedures involving student behavior consistent with constitutional requirements and committed to the core values of Shippensburg University that are reflected in the education, leadership, citizenship and community involvement of our students," Ceddia said in a statement.

He also emphasized the spirit with which the speech code was written.

"[We will] maintain...the university's core values - community, character and citizenship - which are critical for the success and development of our students," Ceddia stated. "These core values are important not only for individuals as students, but as members of and leaders in society. Today, society's values have sometimes become situational, based only on the moment and the circumstances. We believe that the basic core values we strive to model are values for a lifetime."

Ceddia said the university planned to continue its efforts "to balance the right of free speech with the university's legal and moral obligation to provide students with an atmosphere conducive to their ability to reach their academic and personal goals."

Lukianoff said speech codes came into vogue in the 1980s and early 1990s, probably to keep "peace under the dean's or president's watch" and also to encourage politeness.

But while university administrators might have instituted the codes with good intentions, Lukianoff said, the codes contradict the goals of a university.

"The university can't function without free speech," Lukianoff explained. "Free speech is a necessary pre-condition for intellectual innovation. You need to have debate, you need to have candor, you need to have people willing to take unpopular positions and argue them all the way through. You don't really understand your own arguments until you're presented with the arguments that you most fervently oppose."

"Universities should not be in the business of restricting speech, Lukianoff concluded, "and it's a shame that anyone has to remind them of that."

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