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### Cal Poly punishes student for 'disruption'

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WASHINGTON, July 1 (UPI) -- At a time when civil libertarians are increasingly concerned about campus restrictions on free expression, California Polytechnic State University has found a white student guilty of "disruption" for trying to post a flier in a public area where a group of black students were eating pizza. The flier advertised a talk by a black conservative.

On the evening of Nov. 12, undergraduate Steve Hinkle - a member of the Cal Poly College Republicans - walked into the Multicultural Center on the San Luis Obispo campus to post a flier advertising a speech by Mason Weaver. In his book "It's OK to Leave the Plantation," Weaver argues that dependence on government puts many African-Americans in circumstances similar to slavery.

The following account of events is extracted from the notes taken by Hinkle's faculty adviser, neuropsychologist Laura Freberg, at a formal disciplinary hearing held on Feb. 19. The transcript was obtained by FIRE - the Foundation for Individual Rights in Education - a Philadelphia-based campus watchdog group founded in 1999 by University of Pennsylvania historian Alan Charles Kors and Boston civil rights attorney Harvey A. Sliverglate. Hinkle also has an audiotape of the proceedings.

The case at Cal Poly is part of a larger pattern in which schools have held minority students' right not to be aggrieved, for whatever subjective reason, over the right of free expression. For example, in April FIRE sued Shippensburg University, in Pennsylvania, because of its speech code, which elevated a "primary right" to be free from "emotional abuse" over a "secondary right" to "express a personal belief system."

And in June FIRE helped a student sue Texas Tech University in Lubbock who risked punishment for violating a speech code that bans "communications (that) humiliate any person."

Authorities at Cal Poly say it was not the content of Hinkle's flier, but rather his very presence that was "disruptive."

A group of black students were in the area eating pizza before the start of a Bible study session when Hinkle approached the bulletin board. Some of those students recognized the flier and objected to its being posted. One told Hinkle not to put it up because it was "disrespectful."

Hinkle asked, "How do you know it's disrespectful to everyone?" He invited them to attend the talk.

One student told him to leave or she would call the police. He left without posting the flier. She called the police.

In a written statement, a copy of which was obtained by United Press International, California State University Police Officer Alan N. Darrow said he and Cpl. C. Montgomery were dispatched to the Multicultural Center "to investigate a report of a suspicious white male passing out literature of an offensive racial nature." Hinkle was identified later.

In a letter dated Jan. 29, University Judicial Affairs Director Ardith Tregenza notified Hinkle that a student disciplinary hearing was being initiated against him. He was charged with violating subsection (d) of Section 41301 of Title V of the California Code of Regulations, which prohibits "obstruction or disruption, on or off campus property, of the campus education process, administrative process, or other campus function."

The university scheduled a disciplinary hearing and informed Hinkle that he could not bring an attorney.

Tregenza wrote that Hinkle could waive his right to a hearing and accept two "recommended sanctions" without admitting that he engaged in the conduct charged. One recommended sanction was to write a letter of apology to the offended students, the contents of which would be subject to the approval of the Office of Judicial Affairs. "There is no parameter or guarantee regarding the confidentiality of the letter sent," Tregenza wrote.

The second recommended sanction was for Hinkle to meet twice with the university ombudsman "to discuss additional approaches to promote your initiatives and additional campus resources and strategies for accomplishing your goals."

Hinkle declined the recommended sanctions and allowed the

hearing to take its course.

Hinkle told UPI that at the Feb. 19 hearing, Vice President for Student Affairs Cornel Morton called attention to Hinkle's blond hair and blue eyes and the fact that Hinkle was a white male member of the Republican club. Morton said that to students of color, this could represent "a collision of experience." The chemistry of the situation has racial implications, Morton said, and Hinkle was naïve not to acknowledge this.

At the hearing Hinkle said the idea that individuals would react to the flier in a certain way because of their color is the very definition of racism. People should not be stereotyped as to their beliefs on the basis of their appearance, he said.

In a letter dated March 12, W. David Conn, vice provost for academic programs and undergraduate education, informed Hinkle that he had been found guilty as charged. His sanction was the letter of apology mandated under the same terms set forth by Ardith Tregenza in her letter of Jan. 29. Hinkle, who is one quarter away from graduation, has refused to write the letter. Hinkle said Conn warned him verbally that if he does not accept this punishment, he could face much stiffer penalties, up to expulsion.

UPI called the office of University President Warren J. Baker for comment and was referred to Cornel Morton's office, which referred the call to spokesperson Leah Kolt. She said the school could not comment on a student disciplinary matter because of the Family Education Rights and Privacy Act.

"This is on my educational records," Hinkle told UPI. "How is this going to be interpreted when I apply to a graduate school - that I was harassed because of my political beliefs or that I had a problem with students of color?"

Hinkle is dismayed by the notion that college students should be protected from ideas that offend them.

"I get offended all the time on campus when teachers bash conservatives. Since when do we have a right not to be offended?"

In an April 15 letter to University President Warren Baker, Greg Lukianoff - FIRE's director of legal and public advocacy - wrote: "It would be appropriate for some disciplinary action to have been initiated against students who prevent another student from posting a flier because they dislike ... its content. At the least, the censors should have been notified that the suppression of protected speech has no place at a university."

In a reply dated May 9, university legal counsel Carlos Cordova rejected the free speech issue. "Mr. Hinkle was charged with engaging in conduct which disrupted a student meeting," he wrote, "a content neutral rule applicable to all students."

Laura Freberg, Hinkle's faculty adviser, told UPI: "The university knows it could not take action against Steve because of the nature of the flier. The students originally reported to the police that they were offended by the flier. It was clearly a free-speech, 1st Amendment kind of issue, and the university knows it can't do anything with that." Therefore, the disruption charge was "trumped up," she said.

Freberg sees a political motive. "Our club is somewhat unique among college Republican clubs in terms of its effectiveness," she said. Its members are credited with tipping several local elections to the GOP. "They work their butts off. They do precinct walking. They host meet-the-candidate barbecues. They have been very, very active in registering students - which is hard to do. ...

"Steve is a great kid, and he was shaken by this. ... It's been a lot of pressure for him."

Freberg said normally a 20-year-old student would be intimidated. "He's going to look at the sanctions that this university can impose. It's kind of like the guy in front of the tank in Tiananmen Square. If you're looking at this big machine coming down on you, and you're 20 years old, you're going to say: 'I'm going to write the letter.'

"It's actually been a growth experience for Steve. ... I think it would take a lot more to intimidate him today than a year ago. We're very proud of how he's handled himself."

Notwithstanding the statement of Cornel Morton, the vice president of student affairs, that Hinkle should have known that the very presence of a white male Republican, in the larger context of the fliers, could be seen as "a collision of experience" - an element of the "disruption" charge - university counsel Cordova wrote to FIRE: "What political party an employee or student belongs to is of no consideration on any matters before the University, and the University most certainly does not keep information on political affiliation."

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