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Posted on Mon, Mar. 01, 2004

Editorial | Shippensburg University

Freedom of speech 101

Since the beginning, America has struggled with the concept of free speech. It's a great idea in the abstract. But when reality hits - when free speech alarms, threatens and offends - the temptation is to rein it in. But then it's not free speech anymore.

Universities have become prime places to witness this free speech dilemma. Virtually all institutions of higher learning today declare devotion to free speech and encourage students from diverse backgrounds to express themselves in equal measure.

At the same time - as if terrified all this free speaking might cross too many boundaries - universities also routinely have instituted codes of conduct reining in expression and actions that some groups might find offensive.

Shippensburg University in south-central Pennsylvania had a code that hammered free speech down to a nubbin: Students had a "right to express a personal belief system" but only if the expression did not "demean," "annoy" or "alarm" others. The university was for freedom, but only if it was not "inflammatory or harmful."

In other words, you can say what you want - so long as it doesn't bother a single other person.

Note that Shippensburg "had" these policies.

A feisty organization called the Foundation for Individual Rights in Education took Shippensburg to court. Lawyers for that Philadelphia-based group argued the university's policies violated students' rights to free speech, and U.S. District Court Judge John E. Jones III agreed. The judge said the

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university's policies could have a "chilling" effect on student expression.

The foundation has been around for five years. It's headed by University of Pennsylvania Professor Alan Charles Kors, who ruffled politically correct feathers in 1993 by defending a Penn student accused of violating the school's then-speech code because he called a group of black students "water buffalo."

Since starting the rights group, Kors and a devoted group of pro bono lawyers - from left, right and middle of the political spectrum - have gone after hundreds of universities too zealous about controlling campus behavior and thought. It has defended teachers disciplined for speaking against the war in Iraq and for speaking openly about their religion. It has frequently defended conservative students whose actions offend liberal campus sensibilities.

The foundation isn't about attacking political correctness, says Kors. "That's the normal moral exchange between people. What interests us is where things become coercive."

The Shippensburg ruling ought to serve as notice to other universities that are discouraging other voices simply because they might offend diverse groups.

Universities frequently find themselves under unfair attack from some lawmakers who try to ban events they consider offensive - think back to the controversy surrounding Pennsylvania State University's Sex Faire. But just as damaging to free speech and expression are university measures to squelch freedoms on their own campuses.

The only antidote for offensive speech is - more and better speech. Universities should know that best of all.

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