



Wednesday, Nov. 16, 2005

search



DP



Google

[Advanced Search](#)

Front Page

News

Sports

Opinion

Perspective

Page Two

Classifieds

Archives

Campus Links ▶

City Links ▶

Dining Guide

Movie Times

Contact Us

Letters

About Us

Subscription

Advertising

DP Alumni

Help

Finding cash is
a lot easier when
it finds you.



> Get yours



Issues of free speech confronted at colleges

By SPENCER WILLIG

April 17, 2003

The Water Buffalo incident may be 10 years in the past, but the future of free speech remains hazy at colleges and universities from coast to coast.

Penn's own speech code was called into question in the spring of 1993, when then-College freshman Eden Jacobowitz was charged with racial harassment for shouting, "Shut up, you water buffalo," at 15 black sorority sisters dancing under his high rise window in the wee hours of the morning.

The right not to be offended and the right to freedom of expression apparently continue to do battle in almost every state in the union.

"Do you have a map of the United States?" Thor Halvorssen asked. "It's the entire thing."

The CEO of the Foundation for Individual Rights in Education, Halvorssen noted that speech codes can sometimes be hard to identify at first glance.

"At Harvard, it's called the Statement of Community Values," he said. "At some [universities], it's called the Tolerance Statement.

"It's a perversion of meaning to call it such a thing."

FIRE, founded by Alan Kors and Harvey Silverglate, was itself born of the Water Buffalo incident. After the publication of their book *The Shadow University*, the response -- and, according to Kors, the calls for help -- was so overwhelming that an organization expressly devoted to the protection of individual rights in education seemed necessary.

Whether consciously or unconsciously ironic in their policy statements, some universities have taken unconventional steps to counter hate speech.

Unable to constitutionally control the content of speech unopposed, administrators have taken to regulating "time, place and manner," Halvorssen said.

With two "designated free speech areas" located well off its campus, West Virginia University represents a curious manifestation of this strategy: the free speech zone.

Citing "limitations of space on the downtown campus," WVU's student handbook designated two "areas for free speech and assembly" in April 2002. Classifying "speech activity" into five categories, including picketing and distributing literature, the areas allowing demonstrations and expression comprised less than 5 percent of the campus and none of the traditional areas

EAST.com

TRICKS AREN'T
FOR KIDS



Work for dp.com

campusevents

Next event:

Today at 5:00 p.m.

Roska Direct Talk on Direct Marketing Agency executives speak about direct marketing for some top-notch clients such as HP, J&J, P&G, and Merck!

[More events](#) | [Add your event](#)



diningguide

[Search 600+ Philadelphia restaurants, read reviews or add your own](#)

mostemailed

The most e-mailed stories of the last 24 hours:

1. [Rosenhaus new gig: Alito](#)
2. [Four violent weekend robberies may be linked](#)
3. [Police to target criminal hot spots](#)

othereditions

[Print Edition \(PDF\)](#)

[RSS Feed](#)

Front Page:



Sports Front:



Sign up for our mailing lists

- Daily Headlines
 Breaking News

Enter e-mail address:

Sign Up

[More Info](#)
[Privacy Policy](#)



for student dissent.

"They were isolated areas that had nothing to do with where people would want to protest -- they were by parking lots and those kinds of things," said John Whitehead, founder of the Virginia-based Rutherford Institute, which brought suit against WVU, ultimately convincing the university to discontinue the policy.

Whitehead, whose institute has taken on dozens of such cases since its founding in 1982, believes the cause of these "brush fires" runs deep.

"What we're finding is that the idea of free speech, First Amendment, constitutional rights is being lost in our culture," he said.

The campus dynamic has improved since the institute's intervention, apparently.

"We have quite a bare bones policy here on campus," WVU's Student Body President Charlie Battleson said. "After all the revisions, it works well for the students."

And so Whitehead, along with his counterparts at FIRE, continues to fight. Unlike FIRE, however, which does not directly litigate cases, the Rutherford Institute can fire live legal ammunition as well as warning shots.

"There's two ways you can deal with any person: force or reason," Whitehead explained. "In the West Virginia case, we sued them -- that's force."

While public colleges and universities are bound by the U.S. Constitution as government entities, litigation in cases against private institutions of higher education are often founded on allegations of breach of contract.

"Colleges advertising an open liberal arts environment" almost never broadcast their speech codes, Halvorsen said.

"When you have a place... like Yale, whose motto is 'Light and Truth,' it's a little hard to get there without debate and discussion," he continued.

But Penn seems to have learned its lesson.

"I don't think we try to articulate a systematic distinction" between allowable and restricted speech, University President Judith Rodin said. "When you try to do that, you get back into the problem of a speech code."

"There are times when views are so heinous... we as a people do condemn them -- but we as a university don't silence or punish them," she added. "We have found that hateful ideas crumble against the weight of public scrutiny."

"Penn has been very responsive," Halvorsen agreed.

Allowing that "Penn currently does have sexual harassment policies that could be misused," Halvorsen concluded that "the administration of Judith Rodin has truly taken a very visible line that this is not the administration of Sheldon Hackney."

About This Series

Ten years ago, the media descended upon Penn. Prompted by the University's handling of the theft of a Daily Pennsylvanian press run and a freshman's shout of "water buffalo," the national press accused the

administration of political correctness run amuck. Now that the controversy has died down, the DP decided to take a look back at the incident, its key players and the issues it raised ? such as free speech, campus judicial processes and the role of the media.

 [Printer-Friendly version](#)

[Send this article to a friend](#)

readers' forum

*Readers' forum comments are not reviewed
or edited by The Daily Pennsylvanian.*

Post your comments on this topic here

No comments have been posted yet. Please post
yours!

(The readers' forum requires a Javascript-compatible browser)

Questions and comments about this site should be directed to webmaster@dailypennsylvanian.com.

All material © 1994-2005. Read our [web use and privacy policies](#).

Advertise on [this site](#) or on [multiple sites](#) in the New Digital Group College Newspaper Network

paid advertising

[Consumer Credit Counseling](#)
[Nanny](#)
[Groomsmen - Bridesmaid Gifts](#)
[Coupons + Promotional Codes](#)
[Engagement Rings](#)
[Washington Boat Donation](#)

[Carpet Cleaners](#)
[Health Insurance Quote](#)
[Real Estate and Home Buying](#)
[Watch Winders](#)
[Scrapbooking Supplies](#)

[Silver and Gold Coins](#)
[Hot Tubs](#)
[Student Credit Card](#)
[Credit Card Consolidation](#)
[Pet Supplies](#)