

— Original message —

From: Stephen Kershner

To: [REDACTED]@listserv.fredonia.edu Cc: Stephen Kershner Sent: Saturday, April 02, 2005 11:00

AM Subject: Student Code of Conduct

Dear Colleagues:

In a recent memorandum on the revised Student Code of Conduct, President Dennis Hefner made a number of assertions. I would like to respond to some of them.

- (1) President Hefner asserted that the Good Samaritan Policy only applies to major violations rather than all violations.

There are several reasons to think that this is incorrect. First, the language doesn't contain this restriction. Here is what the rule says.

Students that allow the existence of behaviors that violate SUNY Fredonia policy, procedures, or Rights and Responsibilities have demonstrated an implied consent for the violation(s) and thus may be equally charged for the violation(s). In addition, students will be considered in violation if they fail to remove themselves from the situations and/or report the incident to proper authorities.

Nowhere in this paragraph is the word "major" used, nor does the paragraph contain a synonym of it. Second, in a College Senate meeting, I specifically asked the Coordinator of Judicial Affairs, Jeremy Corrente, whether the rule applied to students who witnessed a friend engaged in underage drinking or the using marijuana. He replied that it did, but that the administration was going exercise some discretion in enforcing the rule. It is important to distinguish what a rule says and when authorities plan to enforce it. Third, if there were an implicit restriction to major violations, one would expect a list that specifies the violations that are major. There is no such list.

- (2) President Hefner asserted that during the Senate Meeting, the two examples cited were of major violations.

As mentioned in my response to (1), I specifically asked about two types of minor violations and was told that these cases fell under the rule.

(3) President Hefner asserted that SUNY Fredonia has endured media misrepresentation. This assertion probably rests on assertions (1) and (2) and is likely aimed at Stephen Watson's Buffalo News article ("College Rules: Fredonia Policy Mandates Tattling"), which appeared on March 26, 2005. Since these assertions are incorrect, the media has not misrepresented the policy.

- (4) President Hefner asserted that the Student Code of Conduct is not a set of laws, but a description of expectations and a guide for appropriate behavior.

I am not sure how to interpret this assertion. Since the university administration is not a legislative body, it doesn't have the power to make law. However, students can and are punished for violating the Code. Here is one rule from the Student Rights and Responsibilities.

**ALLEGED VIOLATION OF ANY OF THE FOLLOWING WILL RESULT IN CHARGES BEING FILED AGAINST YOU.**

Specifically, prohibited by SUNY Fredonia are:

- (m) Allowing the existence of behaviors or items that violate SUNY Fredonia policy, procedures, or Student Rights and Responsibilities.

Thus, according to the rule, students can be punished for violating it or for allowing behaviors that violate it. This seems to function in a manner similar to a law in that it sets the criteria for punishment.

The Good Samaritan Policy has other problems as well. First, it does not address how a student learns about a rule violation. This means that students could be punished for failing to report violations that they do not observe but hear about through others' comments. Second, the rule isn't limited to others' activities. Thus, a student can be punished not only for violating a rule, but also for failing to report his own violation to the proper authorities. Third, the rule punishes a person who fails to report the violation to the proper authorities as harshly as if they themselves engaged in the violation. This is unduly harsh. Fourth, the "and/or" language is confusing. It is not clear whether this is a conjunctive or disjunctive condition.

One partial solution to these concerns is to modify the rule so that it requires students to report only major violations and then specify which violations are major. For example, the rule might be limited to directly observed instances of violence. A second solution, and the one I prefer, is to drop the rule altogether. The rule is likely to be applied in an arbitrary manner, has the potential to create an atmosphere of distrust, and probably won't accomplish much. We are better off without it.