

Executive Summary

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

—*West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943)

U.S. Supreme Court Justice Robert Jackson’s words were a ringing affirmation of the freedoms of conscience and expression that are central to American liberty. Unfortunately, however, the notion that the government may not dictate what people may express or believe about controversial subjects has remained hotly contested. Those in power inevitably find it convenient to restrict expression or even to dictate matters of conscience in order to ensure a more “just,” “fair,” or “orderly” society or organization.

Today, one of the most likely places to find rules and regulations that restrict expression or dictate matters of conscience is at one’s local college or university campus—including at the 16 schools that comprise the University of North Carolina System. As public institutions—agen-

cies of the State of North Carolina—the universities in the UNC System are legally bound to uphold the First Amendment rights of their students and faculty. They are failing miserably.

The Report on the State of the First Amendment in the University of North Carolina System serves to educate the public about the rampant abuse of First Amendment rights within the UNC System and to put North Carolina’s public colleges and universities on notice that it is unlikely—if not impossible—that most of the policies discussed in the Report could survive a constitutional challenge. The Report summarizes the constitutional rights due to students and faculty in the University of North Carolina System, and details the ways in which many of the System’s member institutions have run

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courts. It is our hope that, in the wake of the publicity generated by the Report, North Carolina's institutions of higher education will not remain content to maintain a low standard in the area of fundamental American rights. Neither our nation's courts nor its people look favorably upon restrictions on basic American freedoms.

roughshod over these rights in the name of tolerance and civility. Our research revealed that 13 out of the 16 schools in the UNC System have at least one policy that both clearly and substantially restricts freedom of speech. Two schools have at least one policy that *could* be used to ban or excessively regulate protected speech. Only one school—Elizabeth City State University—does not maintain policies restricting the free expression of its students and faculty.

The following are some examples of unconstitutional policies in force in the UNC System:

- Appalachian State University prohibits “insults” and “taunts” directed at another person.
- Fayetteville State University prohibits “vulgar language.”
- North Carolina Central University prohibits “statements of intolerance.”
- UNC Greensboro prohibits “disrespect for persons.”
- UNC Pembroke prohibits “offensive speech...of a biased or prejudiced nature related to one's personal characteristics, such as race, color, national origin, sex, religion, handicap, age, or sexual orientation.”

The Report concludes with several recommendations for remedying the constitutional violations so prevalent in the UNC System, either through the legislature or in the