

Illinois, Missouri universities fall short of protecting free expression

The First Amendment protects free expression. That, however, covers only governmental acts, "Congress shall make no law . . .," it says. That threat by officialdom is ever-present. But we are also facing a similar threat by private centers of power that may actually interfere more directly with our lives.

Greg Lakianoff, president of the Foundation for Individual Rights in Education (FIRE), warns in a New York Times op-ed piece that colleges have enacted speech codes intended to enforce civility, "but they often backfire, suppressing free expression instead of allowing for open debate of controversial issues."

Foundation officials found in a study of 392 campus speech codes 65 percent of the colleges had policies that, in their view, violated the constitutional guarantee of the right to free speech. (Private colleges, unlike public institutions, do not fall under the First Amendment protection.) Lakianoff reported that a 2010 study by the American Association of Colleges and Universities of 24,000 college students and 9,000 faculty and staff members found that 35.6 percent of the students and 18.5 percent of the faculty and staff strongly agreed that it was "safe to hold unpopular positions on campus."

The debacle at St Louis University is a perfect example of intimidation and threats to free expression.

Readers of this review by now know about the travails that faculty members faced if Father Lawrence Biondi, president of the university, found them annoying.

Avis Meyer is a distinguished professor of journalism and has instructed students for more than 35 years. He has been the faculty adviser for the university's school newspaper. The newspaper, in the best tradition of investigative journalism, has exposed many Biondi misdeeds. The president appears to blame Meyer for not censoring some of these exposés and banned Meyer from meeting with journalism students in the newspaper office. The students decided to meet with Meyer off campus.

When this publication covered Biondi's antics over many years, not one of the faculty members we knew was willing to offer even a "no comment." Suppression of free expression was the norm at the school.

FIRE (<http://thefire.org/>) evaluates free expression at public and private universities throughout the country. It reviewed school policies in detail and concluded whether they are or are not offensive to the First Amendment in the case of public universities, or the spirit of the First Amendment in the case of private universities.

Speech and behavior codes are an attempt to balance community stability and bans on hate speech and disturbances with free speech. These efforts frequently misfire.

In Missouri, FIRE found five of the six public universities may restrict the free exercise of speech under its established policies. Among the two private schools, it did not rate St. Louis University but Washington University's policies of its "Residential Life Policies & Procedures: Harassment 11-12" endangered free expression.

"Harassment is defined as any behavior or conduct that is injurious, or potentially injurious to a person's physical, emotional, or psychological well-being, as determined at the sole discretion of the University. Such behavior is subject to disciplinary action."

Who defines harassment? Who will determine the emotional

injury? All will be up to the sole discretion of the university.

In Illinois, FIRE found that some regulations in 10 public and four private colleges and universities may restrict the free exercise of speech—thus the group found all Illinois schools they studied as potentially limiting a free exchange of ideas.

In the case of Southern Illinois University, it gives a green light to most of its codes, except for a “Policy on Non-Discrimination and Non-Harassment” passed by its board of trustees:

“Discriminatory harassment includes, but is not limited to, conduct (oral, written, graphics or physical) directed against any person or group of persons because of race, color, national origin, religion, sex, sexual orientation, age, disability, or veteran's status that has the purpose of or reasonably foreseeable effect of creating an offensive, demeaning, intimidating or hostile environment for that person or group of persons. Such conduct includes but is not limited to objectionable epithets demeaning depictions or treatment and threatened or actual abuse or harm.”

No matter how well-intentioned, the blanket term “discriminatory harassment” and its condemnation of objectionable epithets invite the possibility of censorship by school officials of legitimate expressions.