



FIRE is a nonprofit educational foundation devoted to free speech, individual liberty, religious freedom, the rights of conscience, legal equality, due process, and academic freedom on our nation's campuses.

# Foundation for Individual Rights in Education

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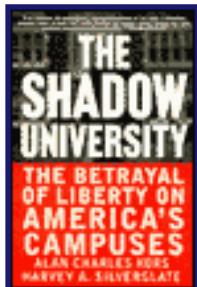
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Read excerpts from  
*The Shadow University*  
by Alan Charles Kors &  
Harvey A. Silvergate.

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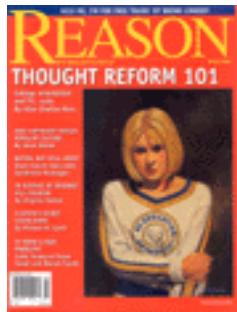
### FIRE Challenges Campus Judicial System: Political Correctness Organization Seeks to Rectify Perceived Injustices

When students appear at disciplinary hearings, judicial affairs professionals may be playing with FIRE. Since the **Foundation for Individual Rights in Education, Inc.** opened its doors last year, it has challenged the way campuses govern their students. "At most universities, judicial systems are unaccountable kangaroo courts," says **Alan Charles Kors**, director and co-founder of FIRE and a history professor at **University of Pennsylvania**.

FIRE has already been involved in more than 100 cases of alleged campus violations of freedom of speech, legal equality, due process, and religious liberty at nearly 80 institutions. Kors believes campuses should be safe for all students, but he sees imposed sensitivity training as "an intrusion into private self and conscience."

FIRE advises individuals of their rights and helps them get legal representation. Kors' outspoken comments may leave you surprised or even offended, but be forewarned: It's must reading.

In 1998, **Alan Charles Kors**, a **University of Pennsylvania** history professor, and Harvey A. Silvergate, a partner in the Boston law firm of **Silvergate & Good**, co-authored *The Shadow University: The Betrayal of Liberty on America's Campuses*. In response, they received hundreds of communications from individuals who claimed that universities and colleges had violated



Read *Thought Reform 101* by Alan Charles Kors.



Read *Memo to Free Speech Advocates University of Wisconsin-Madison* by Harvey A. Silverglate.

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their rights. Kors and Silverglate then founded the **Foundation for Individual Rights in Education, Inc.** to research the accuracy of such individuals' claims before linking them to the media and, when necessary, to legal help.

Kors recently spoke with Dean & Provost:

### **Why do you feel FIRE is necessary?**

**Kors:** Someone needs to protect individuals otherwise helpless before the winds of political correctness, and to expose academic abuses of power to public scrutiny.

The re-emergence of the university in loco parentis, in a politicized context, and with universities in the grip of an ideological mission to cleanse their students of false consciousness, has left free speech, self-definition, voluntary association, legal equality, fundamental fairness, and the rights of privacy and conscience in tatters.

### **What is the most important activity FIRE engages in and why?**

**Kors:** For me, it is securing justice for individuals, case-by-case (most of which are resolved quietly). For others at FIRE, it is systematic research into the state of liberty and dignity on America's campuses, and the articulation of remedies to the betrayal of those essential ways of being.

### **Should campus judicial hearings mirror the legal court system as far as due process requirements, open proceedings, and record keeping?**

**Kors:** If campus judicial systems are going to charge people with rape, violence, and other grave offenses, they must provide fairness, and they should not fear openness and record keeping. At most universities, judicial systems are unaccountable kangaroo courts.

Civilized societies have evolved safeguards of fundamental fairness and rules of evidence to prevent abuse of power and protect the innocent. Universities want it both ways: we can ruin people's lives, but we say this isn't really an adversarial system. to ruin a person with malice and with reckless disregard for truth is tortuous.

## **What should students be given in the way of due process in campus judicial proceedings?**

**Kors:** The issue is providing fundamental fairness. I recommend to readers the model judicial code appended to the 1999 Columbia Law Review article by Vivian and (the late) Curtis J. Berger. One simple test of a campus judicial system: Would you want someone you loved tried under it? Would you want your own career, reputation and life's possibilities adjudicated by such a system?

At a minimum, decency demands the presumption of innocence; timely notice; the right to a public trial, except by agreement of both the plaintiff and the defendant; an appropriate statute of limitations; the ability to prepare a defense with legal counsel against specific charges, including the right to summon relevant witnesses; an impartial panel; the right to confront and cross-examine accusers and all witnesses; rules of evidence excluding hearsay and speculation; a recording; the right to appeal to an impartial officer; and a system independent of Offices of General Counsel whose fiduciary obligation is not to substantive justice, but to the legal and financial interest of the corporation.

Further, there should be a single standard of justice: Demonstration of selective enforcement of campus regulations should result in a dismissal of charges. If one is not going to provide those safeguards, don't go through the charade of a "judicial" system. Without them, one may as well throw defendants into a lake and see who rises or sinks.

## **What advice would you give to administrators?**

**Kors:** Treat your students as legally equal young adults. Reread the words to Phil Ochs' I'm Gonna Say It Now, the anthem of the "Free Speech Movement," and then look yourself in the mirror.

Reread **John Stuart Mill's On Liberty**. Don't do in private what you are not prepared to defend honestly in public. Truth in advertising applies to universities. If you continue the current regimes, have the decency to advertise it openly in your catalogs: "This university believes that your sons and daughters are the racist, sexist, homophobic, Eurocentric progeny or victims of an oppressive society from which most of them receive unjust

privilege. In return for tuition and massive taxpayer subsidy, we shall assign rights on a compensatory basis and undertake by coercion their moral and political enlightenment." Trust freedom.

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## FIRE Actively Involved in Numerous Campus Proceedings

The **Foundation for Individual Rights in Education, Inc.** is currently involved in numerous campus disputes. Below are three of the cases, along with comments by Alan Kors, co-director and founder: Tufts University

The judicial board placed a Christian student group on probation because it refused to be open to one member's view of scripture and sexuality. The member was a lesbian.

**Kors:** If a gay student group refused to promise an Evangelical Christian that it would not take into account his or her views of sexuality, would it be placed on probation? If you believe that, I have a bridge in Brooklyn I could sell you.

### **Brandeis University**

A college disciplinary board found **David A. Schaer** guilty of engaging in unwanted sexual activity and suspended him for four months, plus kept him on disciplinary probation for his remaining time in college. Schaer claimed he was not asked to give a statement, offer evidence or provide witnesses at the hearing, and that the hearing record was insufficient.

**Kors:** The Schaer case should haunt the conscience of academic administrators. He is a victim of Star Chamber abuses and of sexual McCarthyism. Brandeis knows that, which is why it only suspended someone it convicted of date rape, which is what the case essentially was about, for a summer. What does honor or decency matter? FIRE has several discussions of this travesty of justice, including its amicus brief, on its Web site.

### **St. Cloud State University**

After the campus newsletter printed a student's analogy - that not

allowing credit card vendors would be like not allowing blacks on campus - the president e-mailed the campus condemning the statement. Later, the president said the student would have to undergo sensitivity training.

**Kors:** A politically correct student uses race in an analogy, and a very stupid college president condemns him for racism, commands sensitivity training, and proclaims that the university will do "anything necessary" to prevent such statements in the future. Who can distinguish any longer between parody and the real thing on our campuses? St. Cloud has a new president: I hope that he has read the First Amendment and knows what an analogy is.

There was a time when universities believed themselves to be models of free speech and fairness. It's very sad.

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## **Founder Says Mandated Sensitivity Training is a 'Scandal'**

Dean & Provost asked **Alan Charles Kors**, co-director of **The Foundation for Individual Rights in Education, Inc.**, to explain what is wrong with sensitivity training on campus. He said:

"Provided things are voluntarily chosen and attended, there is nothing wrong with spiritual training, First Amendment training, patriotic training, or 'sensitivity' training. But as required programs, they are an intrusion into private self and conscience, and the setting of the moral agendas of free and diverse individuals by quacks, zealots, and Orwellian thought-reformers.

Imposed sensitivity training is a scandal, intellectually and morally. It is the opposite of critical education and debate. It is political mandatory chapel. The last refuge of self is one's inner being conscience and private thoughts. Decent people do not pursue other human beings there. Many of your readers do. When 'the peat-bog soldiers' were marched out to work unto death by the Nazis, those 'soldiers' sang 'Die Gedanken Sind Frei.' Thoughts are free. What indecency to deny that innermost freedom.

On the FIRE Web site, there's an article I wrote, Thought Reform 101, about the sensitivity training racket. I received nearly 400 e-

mails that moved me to tears, from individuals who had lived with the rage and shame of having to undergo this. I will fight this until my last breath."

### **Kors does not believe in special protections for campus minorities**

**Alan Charles Kors**, founder of the **Foundation for Individual Rights in Education, Inc.**, was quite frank when he expressed his opinions about protecting certain groups of minorities on campus.

**Q: Aren't chief academic officers damned if they do and damned if they don't as far as political correctness? How can they in all good conscience not protect minorities, women and gays and lesbians on campus?**

Kors: What an absurd question. Chief academic officers should work to protect everyone on campus from crime, violence, and violation of their rights. What you term "minorities" (we are each a minority of one), and women and gays and lesbians should have equal protection from crime, violence, and violation of their rights. Rights belong to individuals; rights are not a zero-sum game.

**Q: How do minority professors and students feel about FIRE protesting against political correctness? Don't they expect to have a safe campus environment?**

Kors: I don't distinguish students and professors by blood as you just have done, and I don't assume that there is a "minority" perspective that follows from blood. No one who tells people that they are too weak to live with freedom, legal equality, the Bill of Rights, or academic freedom is their friend. Everyone expects a safe environment on campus. Anyone who initiates violence should be punished.

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