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Seebach: Students needn't submit meekly to colleges' whims

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Linda Seebach

The student-rights group FIRE (Foundation for Individual Rights in Education) is launching a series of guides informing students of their legal rights when campus bureaucrats or ideologues trample on them.

Three of the guides, on religious liberty, due process and student fees and funding, were introduced Tuesday at the National Press Club in Washington. The guides are free to students, or available for download at www.thefireguides.org on the Web. Two more, on free speech and first-year orientation, will be available in May.

To remind you of why students need help of this sort, there is the case of Rosalyn Kahn, adjunct professor of speech at Citrus College, a community college in Glendora, Calif.

She told her students in Speech 106 that they would receive extra credit on an assignment if they wrote to President Bush demanding that he not go to war in Iraq. She also told them that they would not receive credit if their letters supported the war.

Let me be perfectly clear that Kahn is fully entitled to hold any views she wishes on the topic of war in Iraq, and to express them outside the classroom. She is probably in the clear if she discusses her views in the classroom, though that is less obvious since the topic is not relevant to the course. But what she absolutely may not do is require her students to sign their names to her opinions, or even to publicly express their own. That is coerced speech and it violates the students' First Amendment rights.

How do people get to be college professors if they don't know any better than that?

In another assignment, Kahn required her students to protest California budget cuts that might cause adjunct faculty to lose their jobs, thus adding naked greed to her constitutional error.

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The college administration, to its credit, investigated promptly and thoroughly when students complained. It took steps to ensure students' grades were not affected, apologized to Bush and to the state senator who received the budget letters, and placed Kahn on administrative leave.

Students who run into this sort of thing need to know they don't have to put up with it, what to do and where to turn.

Religious groups often find themselves at a disadvantage at pervasively secular universities, either because administrators are actively hostile to certain religious beliefs or because they are overcautious about being accused of favoring religion.

Last year, for example, the University of North Carolina threatened the InterVarsity Christian Fellowship with loss of its student funding because its officers were required to accept the organization's religious beliefs.

The constitutional principle is clear: a university is not required to fund student groups, but if it does it cannot use a religious test - more accurately, a nonreligious test - to exclude them.

A university can allow students to opt out of funding groups whose message the students oppose. But if it makes funding of student groups mandatory, it must do so in a way which is viewpoint-neutral. The use of campus referendums to decide which groups get funded is not viewpoint-neutral, so it is not constitutionally permitted.

Most of the Supreme Court decisions that have supported students' rights apply specifically to public colleges and universities. Private institutions have a great deal more latitude - as they should - but students don't always realize that when they decide to attend.

"If a private university is going to extend fewer rights and protections to its students than a public institution constitutionally must extend, it certainly should make that fact clear to applicants, students and donors," says the guide on student fees and funding, written by Jordan Lorence.

Private universities are not required to promise fair procedures to their students, say Harvey Silverglate and Josh Gewolb, who wrote the guide on due process. But if they have made such promises in their student handbooks or elsewhere, the courts might treat a failure to follow their declared procedures as a breach of contract.

Also, if the failure is particularly egregious, a university might retreat rather than face the risk that their actions will become public in a trial.

"Universities sometimes treat their own students in ways that they would be ashamed to reveal to the general public," the authors say, "even if their behavior possibly broke no laws."

Harvard law professor Alan Dershowitz, who praises the due-process guide, suggests that even students who aren't currently in disciplinary trouble should read it. "And certainly," he says, "read it at the first sign of trouble."

Good advice.

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