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ON MY MIND CHARLES MITCHELL

Speech codes make universities intolerant

Thursday, January 05, 2006

Have you ever known a legislator who didn't think his job was terribly important?

Imagine the campaign slogan: "Elect me, because who really cares?" Or the direct-mail letters: "It'd be nice if you sent me a donation -- but it doesn't really matter." The very concept is ridiculous.

But apparently someone forgot to tell that to state Rep. Dan Surra, D-Elk. Surra has been quoted in the news media as calling a committee on which he himself serves a "colossal waste of time."

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This "colossal waste" is the bipartisan Select Committee on Student Academic Freedom, established last year via House Resolution 177. For Surra, the committee is unnecessary because "I have never in my 15 years had anyone call me to say their academic freedom has been abused."

Let's leave aside for a moment the obvious untruth and striking arrogance of this statement. What is even more remarkable is that he made it after hearing hours of testimony regarding actual violations of students' constitutional rights at Pennsylvania's public universities, including his alma mater, Penn State.

On Sept. 19, attorney David French, president of the nonpartisan, Philadelphia-based Foundation for Individual Rights in Education, or FIRE, gave the lead testimony in Harrisburg. He told the committee that in 2000, Penn State accused a student group of "discrimination" because in its constitution it claimed certain rights to be "God-given."

And to this day, Penn State has an incredibly Orwellian policy banning "acts of intolerance"-- one of which Surra himself would have committed had he made his "waste of time" comment on campus. The good representative's alma mater defines such acts (which, it says, "will not be tolerated") as "an attitude, feeling or belief in furtherance of which an individual acts to intimidate, threaten or show contempt for other individuals or groups based on characteristics such as political belief."

Calling a committee a "colossal waste of time" surely shows "contempt" for the "political belief" of the folks who voted to create it, does it not? And one might argue a federal judge showed similar "contempt" by -- as French told the committee -- striking down a nearly identical policy at Shippensburg University in 2003.

That's not allegory and hyperbole -- those are two actual, concrete examples of Pennsylvania's flagship university's trampling the Constitution. And there are more.

Take Lincoln University, a state institution located in bucolic Chester County. FIRE recently dubbed an appallingly unconstitutional Lincoln policy its "Speech Code of the Month." Lincoln has the nerve to define "verbal, visual or physical conduct or communication with sexual overtones that the victim deems offensive" as "sexual harassment." THE KEY PHRASE there is "that the victim deems offensive." Courts in Pennsylvania's own U.S. Third Circuit repeatedly have held that speech cannot be banned simply because the listener doesn't like it. Lincoln's warped policy is much broader and could be used to outlaw all sorts of speech that universities have no business restricting. Apart from that, it's clearly unconstitutional.

So is Indiana University of Pennsylvania's "Sign and Poster Policy," which outlaws "material that is insensitive to affirmative action issues." Got that? IUP has a specific viewpoint on affirmative action, and its students had better not criticize it. So much for universities being dedicated to the search for truth -- IUP already has figured out that the truth is found in agreeing with its political viewpoint.

Policies like Penn State's, Lincoln's and IUP's are widespread at Pennsylvania's public universities. That makes one wonder why Surra thinks a committee investigating violations of academic freedom is such a waste of his time. Or why St. Joseph's University professor Robert Moore told The Pittsburgh Post-Gazette that he "would like to see more data."



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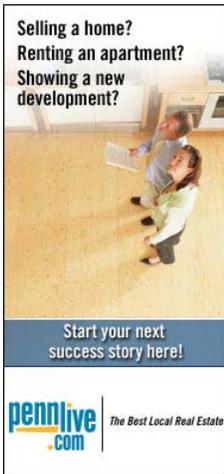
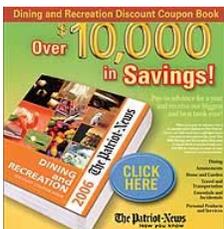
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How much more data does one need? Arms of the state, including Surra's own alma mater, are enacting and enforcing clearly unconstitutional policies. In plain English, they're breaking the law, at taxpayer expense. FIRE has documented these abuses in French's testimony, in a report to the Legislature, and in incredible detail in its Web-based database, "Spotlight: The Campus Freedom Resource." INVESTIGATING SUCH things is not a "colossal waste of time" -- it's one of the central reasons legislative oversight even exists. And it's also not "McCarthyism," as some particularly shrill critics have alleged. There is nothing liberal, conservative or otherwise about making sure that Pennsylvania's public universities stop sticking the First Amendment in the nearest paper shredder.

The sooner the academic establishment and its allies in the Legislature realize that, the sooner we can have some real reform. Anything less ought to be considered a scandal in the state where the Constitution was written and the Liberty Bell still resides.

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