

Free Speech on Campus Case Study: Fairmont State University

A Fairmont State University student tried to collect signatures in support of a libertarian student organization. A campus police officer claimed to have received complaints from other students who were “freaked out” by the canvassing. The officer asked the student if he had permission to gather signatures and the student replied that he did not. Upon speaking to a college administrator, the student was told that the college’s decision to require a permit would depend on “a judgment call.” Review the following statements from court rulings and write an analysis of whether or not this demand is reasonable and would hold up in court.

Widmar v. Vincent (1981) “With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.”

Healy v. James (1972) “The precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”

Buckley v. Am. Constitutional Law Foundation (1999) Expressive activities such as signature gathering, political canvassing, and literature distribution are “core” speech at the very heart of the First Amendment, where its protection is “at its zenith.”

New York Times v. United States (1971) Administrative procedures requiring a speaker to obtain a license or permit or to register before engaging in basic expressive activity are disfavored under the law and difficult to justify. “Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.” In striking down a municipal ordinance requiring door-to-door canvassers and pamphleteers to obtain a permit, the Supreme Court stated: “It is offensive—not only to the values protected by the First Amendment, but to the very notion of a free society—that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so.”

Watchtower Bible and Tract Society of NY, Inc. v. Village of Stratton (2002) “Freedom to distribute information to every citizen wherever he desires to receive it is so clearly vital to the preservation of a free society that, putting aside reasonable police and health regulations...it must be fully preserved.”