



INCRIMINATED BY FACEBOOK

BY MARLEY BLONSKY

The other day in my women and law class a study group was forming. In the short time we had, we couldn't quite figure out when and where we could meet to study for the final. I suggested that I would just Facebook everybody and let them know the final decision. One of my classmates, however, looked up incredibly confused and said "What?" This brought up an interesting quandary. How do I explain to my classmate, who granted must have been living under a rock for the past three years, what Facebook is? On the walk out of the classroom, another girl and I tried to explain it: "It's like Myspace, but for college students...except not really," or "It's a stalking site where you can find your crush from kindergarten." And finally we left her with the website and told her to sign up and explore it for herself.

Facebook, with its inception in 2004, has rapidly grown from being open to only a few Ivy League schools to having over 13 million registered users. For me personally, Facebook has been an amazing tool for both my personal and professional life, but has also forced me to reevaluate some decisions I have made.

According to its website, "Facebook is a social utility that enables people to understand the world around them." As the Programming Director for the University of Washington's Residence Hall Student Association (RHSA) last year, I constantly used Facebook as a free advertising and networking tool. Every event we planned was advertised on Facebook which could track who was planning on coming and could provide a quick update to our attendees if any details had changed. In this regard, Facebook was a God-send; quick, free, easy information dissemination to a campus of over 40,000—sign me up!!

I quickly learned, however, that Facebook also has its downfalls. Facebook is built on open-source software which basically means it is constantly changing and "improving." One of these updates came in late 2005 with the integration of photo-sharing abilities. Never before had there been such easy access to so many photos—many of which admittedly featured an array of illegal activity. Soon thereafter, universities and colleges around the nation were faced with this new issue: could students be disciplined for photos online? Policies around the country vary but I can tell you from personal ex-

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SPECIAL POINTS OF INTEREST

- NACURH.org now publishes all of our newsletters online. Check out NBD publications for more information!
- Play a diversity word-association activity on the NACURH forums

Next Issue: February 2007

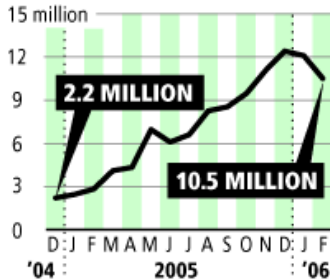
INCRIMINATED BY FACEBOOK (CONTINUED)

perience—it's best to assume that anything put on Facebook is essentially like posting the picture on your Residence Hall Director's Door.

FACEBOOK GROWTH

The number of college students logging onto Facebook.com has increased dramatically since a Harvard undergrad launched the site in 2004.

UNIQUE VISITORS



SITE USERS

Total registered users: 7 million

University of Washington users: 27,500

UW autumn enrollment: 42,974


Sources: Facebook.com
and University of Washington

SEATTLE P-I

It was January 2006, the Seahawks were in the Superbowl and life was good. I received an invitation, via Facebook of course, to attend a Superbowl party in one of the on-campus apartments. Going against my better judgment, I attended. The party was fun; granted there was alcohol and noise, but largely without incident and with no documentation by any RAs. We figured we were in the clear and without thinking, many party attendees put pictures online of the party—showing a keg, underage drinking, and basically clear evidence of a number of policies being broken. About a month later everybody at the party received a subpoena to the resident director's office to discuss our actions at the party. To make a long story short, the pictures that were posted on Facebook had directly incriminated all of us and we were thus responsible for our actions. Sanctions ranged from three RAs losing their jobs, to probation for knowingly present violations, to alcohol education classes.

This incident caused unprecedented uproar not only on our campus but also around the nation as the story was featured on Good Morning America and The Today Show. Students hired lawyers to fight for the right to privacy and argued that essentially, because the site at the time was limited to students, that the administrators who created fake accounts to access the pictures had broken the law. In the end the students lost, but the whole experience proved to be a learning experience for all. The University of Washington Residence Halls have now incorporated internet content into the contract and many students are much more aware of the consequences putting pictures on Facebook can have.

Policies vary around the country as to content on Facebook. Some schools have gone to so far as to ban any staff or faculty from having Facebook accounts, even if they existed from previous institutions. At other schools, if the pictures are from an incident off campus, they won't do anything about it.

Regardless of your school's policy it is important to take note of a few basic Facebook safety precautions. Remember that Facebook is no longer limited to just schools; companies, regions, future employers, even your parents can join! Think about who you want seeing your pictures and content and make use of the privacy options. Facebook has multiple privacy settings—take advantage of them and just remember finally that whatever you put up there is essentially public. 

FREE SPEECH ON YOUR CAMPUS

BY TONY FANGEL

Everyone knows the gist of the First Amendment: free speech. Well, the First Amendment does talk in part about freedom of speech, but it explicitly says, "Congress shall make no law...abridging the freedom of speech." The law in practice does actually go beyond that, but its basis is in the First Amendment. Supreme Court cases such as *Cohen v. California* (1971) extend the freedom of "speech" to any type of communication or expression – whether it be clothing, writing, demonstrating, or even silently resisting.

So why does it matter to you? Freedom of speech is a pressing concern on many college campuses across the country. In the late 1990s many colleges created speech codes that limit the type of acceptable speech on campus. Some cite the commonly known "fighting words" ruling in the *Chaplinsky v. New Hampshire* (1942) case. "Fighting words" are not protected by the First Amendment, but this category only includes face-to-face communication that would provoke an immediate and violent reaction—one that would violate the law. This type of communication must be directed at an individual. The University of Wisconsin created a speech code in the late 1980s that banned racial slurs on campus. In *UWN Post v. Board of Regents of the University of Wisconsin* (1991) the Supreme Court struck down the speech code because banning racial slurs is a partial ban on racism. Some unprotected speech was banned by UW's code, but some protected speech was as well; racism as freedom of expression is protected under law. If any speech code is overbroad and prohibits at least *some* protected speech (even if it intends to prohibit unprotected speech), it will not hold up in a court of law.

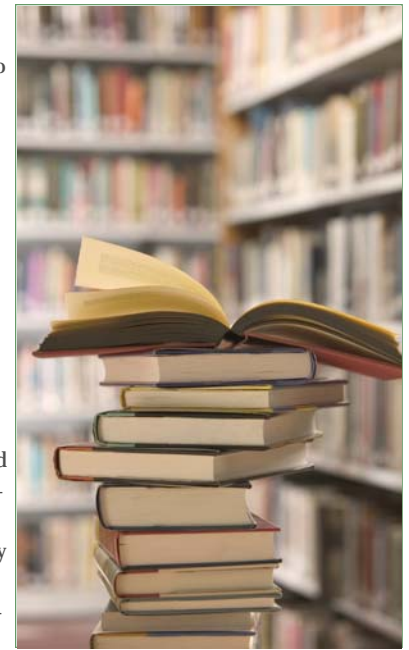
In addition to the narrow category of "fighting words," incitement and obscenity are not protected by the law. If you are directing immediate and illegal actions of a crowd or individual who is likely to take action then your speech is unprotected. In addition, *Miller v. California* (1973) established that obscene materials and speech are not protected by the First Amendment. The so-called Miller Test of Obscenity uses a three-pronged test to determine obscenity. Perhaps the most important prong is whether or not the expression has any literary, artistic, political, or scientific value. If it does not, then it is obscene and unprotected. Indecent speech, on the other hand, is protected on campuses. In *Papish v. University of Missouri* (1973), a student newspaper distributed indecent but non-obscene material (including a political cartoon of a cop raping the Statue of Liberty) which the Court protected. The Court established that "The mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of 'conventions of decency.'"

In a number of cases, including the University of Virginia and again the University of Wisconsin, viewpoint discrimination was deemed illegal by the Court. Schools cannot refuse to fund certain student organizations based on their viewpoint if they fund all other student organizations. Also, any fees imposed upon students cannot be incurred unless it is done so on a viewpoint-neutral basis. Any school that discriminates based on viewpoint is not upholding the law. If your school allows religious student groups but does not

allow antireligious student groups (or vice versa) you can demand that your legal rights be heard. A university can discriminate based on content, limiting speech during a particular lecture or discussion only to economic topics, however. A school can also limit speech based on certain time, place, and manner restrictions. A public school can prohibit certain kinds of speech during commencement ceremonies because it is an improper place for such speech. They are not discriminating here because of viewpoint but because of place, and this is acceptable under law.

Many schools also implement harassment codes, some of which violate the law. Harassment law as it applies to students includes only “speech or conduct based on race or gender that is so repeated, or pervasive, or terribly severe that it actually prevents another person from obtaining an education.” Merely offensive speech including racial epithets does not qualify as harassment. Teasing and name calling, even if based on gender, also do not usually qualify as harassment. If one’s speech is so severe, whether the speech is sending messages of hate *or* love, that it drives a student off campus, it is not protected by law. Quid pro quo harassment, or demanding sexual favors in return for special treatment, is also not protected by law. A number of harassment policies, including those at Central Michigan, Stanford, Northern Kentucky, and Shippensburg University have all been struck down because they prohibited offensive speech rather than solely discriminatory harassment. Racist speech, hate speech, and homophobic speech are all protected under the First Amendment on public campuses.

All of these legal issues with the First Amendment can be confusing, but it gets even more sticky when discussing private universities. Since the First Amendment only restricts the government from abridging the freedom of speech, it does not generally prohibit private organizations such as some universities from doing so. Private universities are able to define their own missions and some do so by restricting freedom of speech. They are perfectly within the law to do so. However, most of America’s best private institutions have chosen to allow greater freedom of speech rather than less. Shouldn’t universities be bastions of free thought and *the* place for the exchange of challenging and difficult ideas? Certainly so.



“Racist speech, hate speech, and homophobic speech are all protected under the First Amendment on public campuses.”

There is a legal *and* moral fiber within the First Amendment, that even private universities should uphold. If your private school chooses to restrict certain kinds of normally protected speech, you may still be able to take issue. Each state has different laws regulating its universities. Many of these laws also regulate private universities. There may be statutes within your state that provide students with some level of freedom of speech. If this is not upheld by a private university there is a legal problem with the state. In addition, most states consider any university brochures and handbooks to be contractual agreements between the university and the student. If your private university advertises diversity, academic freedom, tolerance, or freedom of expression as parts of the campus but do not act this way once you arrive on campus, it may be in legal jeopardy. If they do not honor their promises it is treated the same way as a car salesman saying your car has Anti-Lock Brakes when it in fact does not.

If you think your university might be prohibiting freedom of speech, there are a number of steps you can take.

1. Know your stuff

First and foremost, find out exactly what kind of code you are dealing with. The Foundation for Individual Rights in Education (FIRE) maintains a website (www.thefire.org) that contains a slew of extremely helpful information regarding student freedoms. You can search for your school and see if FIRE gave it a right light for having grave restrictions of student freedoms, a yellow light for having possible infringements, or a green light for having no known restrictions. Many schools also have recent cases and issues that can be explored under the Issues tab. FIRE also supplies FREE Guides, which take you through student freedoms on college campuses. Almost all of the information in this article was taken from the guide on freedom of speech.

2. Talk to a school official

Once you learn more about the freedoms which your school may be restricting, talk to a school official that can provide more insight. You might talk to legal counsel, a vice president, or even the president. Work with the university as best you can to create a policy that is both effective and legal.

3. Tell them your action plan

If you are not getting any help from the university and you want to take further action, it does not hurt to tell the university where you are going. Sometimes the threat of a public stir over restricting student freedoms is enough for them to budge.

4. Form a campus coalition

Work with other students to bring the issue to light. If you are suffering from a policy, I guarantee someone else is. Demonstrate, contact your newspaper, make buttons, do whatever it takes to tell your fellow students what is going on.


5. Contact FIRE

FIRE’s goal is to assist you in fighting back against issues of censorship and restriction. They will help you send letters to your school and may even publicize your hardships.

FREE SPEECH ON YOUR CAMPUS (CONTINUED)

6. Utilize other legal domains

Contact your local legislators and state officials. Whether you are at a public or private school, you still have certain undeniable rights as a student.

Many students fail to realize the importance of school policies. I encourage you to question them and demand your legal rights as students. It is important to remember that offensive speech is not prohibited by law. It is also important to remember that not all cases of "censorship" are illegal. If your newspaper refuses to publish your anti-Semitic editorial because they disagree with you, that is not illegal unless they publish every other editorial they receive. For further questions, explore thefire.org and I encourage you to speak out! May the speech be with you. 

FILE SHARING IN HIGHER EDUCATION: A PROBLEM LIVING AMONG US

BY DARYL LAWRENCE

File sharing at colleges and universities must necessarily deal with many students living in the residence halls. Residence hall students use school networks most often, whether it is for surfing the web, for fun, or for conducting academic research. At times, students may abuse the privilege of having a high-speed connection in their residence hall room and decide to download some music, movies, or other copyrighted materials from a P2P (peer-to-peer) network such as KaZaA, eDonkey, or any such service. There are legitimate uses of P2P file sharing, but the abuses of the system are what draw attention to the issue.

This issue is not new. Rather, this issue splashed into the American consciousness when Napster was shut down for copyright infringement a half decade ago. Since that time, officials in higher education, the government, and the recording and motion picture industries have taken a hard look at how to curb the excessive abuse of P2P networks for illegal activities.

One of the major misconceptions that college students have is that they think that no one is monitoring their downloading activities. The result is that when consequences do follow their activities, students are taken by surprise that anyone was even paying attention to what they were doing.

By now, it is clear that file sharing via a P2P network, and by extension downloading music and movies on the internet when it hasn't been paid for, is illegal. There is no way around this statement. It is against federal law to download copyrighted works without the permission of the copyright holder. College students are smart enough to know this, and if not, many schools pour a lot of money into education on the issue.

Many universities and colleges have either policies against illegal file sharing, or at least address the issue in their acceptable use policies. In addition to having these policies available online, a majority of these schools go out of their way to educate their students on the consequences of illegal downloading. This includes poster campaigns, public seminars, and staff training (including resident assistants). Although colleges and universities do not claim liability in copyright infringement cases, they go out of their way to educate their students to prevent them from committing an illegal act.

"Less than three-fourths of the institutions had online-accessible institutional policies that included more than a cursory treatment of copyrighted works; just over one-fourth had policies that treated copyright in some depth, including such issues as exclusive rights and limitations and exceptions to those rights such as fair use. Over 80% of the institutions had online-accessible statements on P2P file sharing, with slightly more than a half of these statements addressing file sharing in some detail in the context of the institution's stance on P2P. However, less than 20% of detailed online institutional statements on P2P were incorporated into an institutional computer use or copyright policy."¹

Nevertheless, these proactive actions are often fruitless. If a casual poll were taken on almost any campus, every student would respond that he or she has downloaded music online illegally, or knows of someone who has done so. This is a huge problem on campuses nationwide. When the preventative approaches of schools fail, then they must turn to creating reprimands for deviant students.

Schools have the ability to monitor bandwidth usage on their campuses. With this ability, they can pinpoint who is using a lot of bandwidth, which is usually an indication that the person is downloading large files, such as music or movies. If, upon further investigation, the student is found to be illegally downloading copyrighted material, there are a number of ways this student can be punished. The consequences below are school based, as the federal penalties for copyright infringement are a different issue.

The strictest policy found was at the University of Florida.


"The University of Florida's ICARUS program is a network management tool that also blocks P2P file sharing. It detects any P2P use (even legal use, although adjustments to permit certain authorized uses may be made) and immediately disconnects the user from the network. First-time offenders are shut out for 30 minutes, second offenders for five days, and third offenders are shut out indefinitely and subjected to the school's judicial process.

Florida reports over a 90% drop in P2P use. Florida includes a notable education component in its ICARUS program: first-time offenders are required to engage in an online tutorial designed to educate the user about copyright law and the potential penalties that can result from unauthorized P2P file sharing. However, some observers have expressed serious concerns about restricting resource use too strictly - the program bars legal P2P use and such legal activities as LAN gaming (i.e. playing computer games over a Local Area Network, or LAN)."²

This policy, while being extremely strict, is also extremely effective. By cutting off access to the university's network, it deters students from downloading again. As stated in the above quote, however, this system may be too restrictive. Legal downloads are con-

sidered illegal downloads, and LAN gaming is not possible. Of course, this technology may be amended over time and accommodations may be made.

From that extreme, many other policies do not seem as strict. The most common punishment is being cut off from the school's network, but there is room for legal downloads to take place. There are not severe punishments for first-time offenders at any school, as the first offense is a perfect opportunity for a warning to be issued. Second time offenders often face expulsion from the school's network. A second time offender at Harvard is kicked off the school network for a full year.

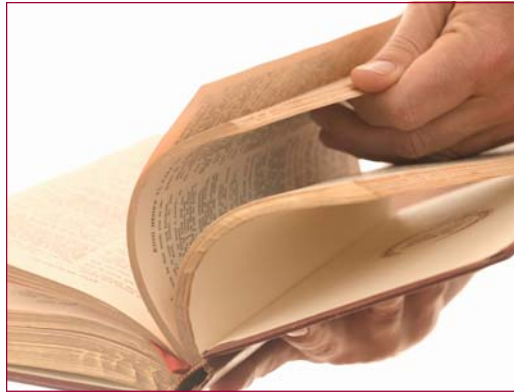
The only viable conclusion that students must reach is that file sharing isn't worth it. Schools are looking out for violations and do not hesitate to punish students who commit illegal acts. Colleges and universities are developing ways to restrict file sharing and bandwidth theft on their campuses, and in the not-too-distant future file sharing will be impossible in residence halls. The smartest and best plan of action for students is to purchase music and movies legally. Breaking federal law and school policy isn't worth the latest song by Fergie. 

Note: I utilized an exceptional paper that is cited in my footnotes. I encourage anyone interested in this issue to read it, as I have only given a brief overview of what is included in that document. The actual content of the article is only about six pages long, so it is a very short read. The article also includes links to some schools' resources relating to P2P file sharing. You can find this article and download it (legally) at the following address:

<http://www.educause.edu/JointCommitteeoftheHigherEducationandEntertainmentCommunitiesTechnologyTaskForce/1204>

¹ Education Task Force of the Joint Committee of the Higher Education and Entertainment Communities. "University Policies and Practices Addressing Improper Peer-to-Peer File Sharing." American Council on Education. <http://acenet.edu>. March 19, 2004. Accessed December 17, 2006.

² Ibid.



ISOLATED AND APATHETIC

BY MARYLOU BAGUS

Is there an increasing sense of apathy on your college campus? You're not alone. Students maybe more involved than ever in on-campus organizations and clubs but fewer have become involved in politics. In the United States there is an increasing problem of college students not participating in the democratic process.

Young adults are criticized for not participating in elections and easily have the lowest turn out rate among the population. But what is usually not considered is the fact that many students reside on campus. These students may feel that voting in the local election, where their school is, is unacceptable because that is not what they consider "home." Additionally, students who want to vote in their home state or county feel that absentee ballots come late, if at all.

Most students that try to encourage their classmates to register to vote get responses like "Later" and "I don't have time right now." Some didn't even know if they were registered at all.

"The campus Republicans and Democrats should talk about issues that pertain to us [students], like education, budget cuts and tax issues," said Pepperdine student Monique Maravilla in a CNN interview.

College students, especially residential ones, are more isolated and often don't realize there is an election. They are so busy and involved in the millions of other things (internships, jobs, and papers) they are doing on their own campuses that they forget to take the time to learn about the issues, or go out of their way to vote on them, much less do anything else about it.

Carl Fillichipo, vice president of [Campaign for Young Voters](#), remarks that candidates are beginning to get it. Many political candidates are beginning to engage the internet/technology savvy millennial generation by having webpages and updated blogs. For the midterm elections in 2006, Facebook introduced candidate profiles and election issues. Many students participated, adding candidates to their support list and joining groups related to issues they cared about. The largest election 2006 group was one supporting lowering the drinking age to 18. Many students posted on election candidates walls, and the election pulse told viewers which candidates had the most support in each district. Some candidates posted pictures from the campaign trail, im-

SOCIAL LINKS

Nothing could be more social:

<http://www.nacurh.org/forum>

Survey the issues on your campus:

<http://www.surveymonkey.com>

Make your RHA known:

<http://www.imprintitems.com/>

See what kind of social issues residents are addressing:

<http://otms.nrhh.org>

Listen to an RA rap:

<http://www.myspace.com/theraonduty>

NACURH Task Force on Social and Diversity Issues

E-mail the Task Force Chair:
sageleader@gmail.com

If you have any suggestions, comments, or criticisms feel free to contact us. If you would like to get involved, please e-mail the Task Force Chair.


Published using Microsoft Publisher and a template provided by Microsoft Office.

Next Issue: February 2007



ISOLATED AND APATHETIC (CONTINUED)

ported blogs about their frustrations, and some even filled out profile data such as interests and activities.

Hope in on the horizon: compared to the 2000 census 47% of 18-24 year-olds voted in the 2004 presidential election. Even though this constitutes less than half of the eligible population, it has been the largest voter turnout for youths since 1972, with an 11 point increase since 2000. The goal is that more students are drawn out to the polls in the 2008 election. You can make that happen! 

NATIONAL CASE STUDY

Each month one of the four National Task Forces will publish and judge a national case study. Last month the Alcohol and Substance Abuse Task Force created a case study. January is our month!

A case study is a scenario that is particularly complex and thorny, though potentially could happen on any college campus. It is your goal to respond to the situation and present a solution. Submissions will be judged by our six-member task force as well as NACURH National Chair Mike Marshall. The top three solutions will be published in a special edition newsletter.

The winner will receive a certificate/plaque and recognition at NACURH 2007.

Guidelines:

All submissions are due **January 28, 2007** to sageleader@gmail.com
Responses must be in essay form and range from 500-750 words.

The Scenario:

"You are the RHA President. Yesterday your school newspaper published an article announcing the fact that one of your RHA e-board members is in a Facebook group called 'white=right'. Your school's administration has asked that you address this issue before it gets out of hand. You approached the e-board member today and she claims freedom of speech. What do you do?"

THE TASK FORCE IS:

We'd like to extend a warm welcome to Marylou Bagus who joined our task force this month! Her first article is on page 5!

Tony Fangel—Chair, IRHC Advisor & Grad Student, New York University, NEACURH

Daryl Lawrence, RCC Minnesota, Minnesota State University - Mankato, MACURH

Val Erwin, NCC, Michigan State University, GLACURH

Jessica Knox, NRHH Representative, University of Wisconsin-Green Bay, GLACURH

Marley Blonsky, NCC, University of Washington, PACURH

Marylou Bagus, NCC, University of the Pacific, PACURH