

ACADEMIC FREEDOM AND CIVIL LIBERTIES OF STUDENTS AT HOFSTRA UNIVERSITY

Since students rightly seek a voice in the determination of University policy, it is appropriate for the faculty to state its views regarding the proper freedom and responsibilities of university and college students.¹

In the pursuit of knowledge, critical thinking, and understanding, the student must be viewed as an individual who is most likely to attain maturity if left free to make responsible personal decisions and to exercise the rights, as well as shoulder the responsibilities that this freedom entails, especially within the University community.

I. THE UNIVERSITY, THE COMMUNITY AND THE EDUCATIONAL PROCESS

Like all complex human enterprises, the American University is made up of many groups - students, faculty, several levels of administration, and boards of trustees - which will, at times, disagree on means as well as goals. The University also exists in a network of human relations with many other organizations and constituencies, including alumni, parents, legislatures and various governmental agencies, which may desire to influence its policies.

The University which wishes to set an example of open-minded inquiry in its classrooms will defeat its purpose if it denies the same right of inquiry to its students outside the classroom. The University should protect the student from, and resist itself, any pressures from within or without that would prevent or thwart freedom of inquiry. Open-minded inquiry, however, entails equally the burden of responsibility in and out of the classroom.

II. BASIC PRINCIPLES

A. Freedom of Expression

The student government, student organizations, and individual students should be free to discuss, pass resolutions upon, distribute leaflets, circulate petitions, and take other lawful action respecting any matter which directly or indirectly concerns or affects them.

Students should take responsibility for helping to maintain a free academic community. They should respect and defend not only their fellow students' freedoms, but also the rights of their teachers and invited speakers to the free expression of views based on their own pursuit of the truth and their right to function as responsible citizens. In the exercise of these rights, they should bear in mind the obligations that accrue to them by virtue of

¹ As used in this pamphlet the word "college" refers to all institutions of higher education including the university

their membership in the academic community.² Indeed, all members and constituencies within an academic community are obliged to protect these rights to free expression.³ To recapitulate, in the words of the National Council of A.A.U.P.; we reaffirm "that free inquiry and free expressions are indispensable to the attainment of the goals of academic institutions; emphasize that the responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the academic community... and note that students should be free to support causes by any orderly means which do not disrupt the regular and essential operation of the institution."

B. Freedom from Discrimination

Just as the University should not discriminate on grounds of race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic or status protected by state or federal laws in its educational programs and activities, so should it not permit unlawful discrimination in any area of student life, such as University-managed housing, athletics, clubs, organizations, and other campus activities. Cases of discrimination by students against other students should be dealt with in accordance with the official Judicial Code. Cases of discrimination involving academic affairs should be reported to the appropriate academic dean or to the Equal Rights and Opportunities Officer. Cases involving claims of sexual harassment should be handled according to the appropriate University policy.

No student shall be expelled or refused admission to Hofstra University because he or she is unable to participate in any examination, study or work requirement because of his or her religious obligations and practices. However, all students are expected to complete all assignments and examinations. It is understood that no adverse or prejudicial effects shall result to any student who avails himself or herself of religious observances. The University, faculty, and student shall work together to achieve a reasonable accommodation concerning any conflicts between educational and religious obligations.

C. Government by Law

Students should live under a government of law, created, where appropriate, by joint action of students, faculty, and administration. The United States National Student Association has properly said: "The functioning of the educational community requires an awareness of mutual responsibility, understanding, trust, and respect in order that all its members actively contribute to the development of policies and programs; this purpose can best be achieved only through the continuous cooperation within the educational community... These policies and procedures should in no case be subject to

² Cf. AAUP, 1940 Statement of Principles on Academic Freedom and Tenure, "Academic Freedom", (c); 1964 Committee A Statement on Extramural Utterances. See also Letter No. 11, "Extramural Utterances", in *Academic Freedom and Tenure*, edited by Louis Joughlin (Madison, Wisc.: The University of Wisc. Press, 1967), 132-134.

³ "Joint Statement on Rights and Freedoms of Students," *Bulletin of the AAUP*, LIII, No.4 (Winter, 1967), V.A. p. 367

change without notice under the pressure of a particular situation, and the groups affected should participate at all times in their application."⁴

III. STUDENTS AS CAMPUS CITIZENS

A. Student Participation in Institutional Government

As constituents of the academic community, students should be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body should have clearly defined means of participating in the formulation and application of institutional policy affecting academic as well as student affairs. The role of the student government and both its general and specific responsibilities should be made explicit, and the actions of the student government within the areas of its jurisdiction should be reviewed only through orderly and prescribed procedures.⁵ The obstacles to such participation are large and should not be minimized. Nevertheless, ways should be found to permit significant student participation within the limits of attainable effectiveness.⁶

B. Student Government

1. The University should recognize and respect the Student Government Constitution.
2. One purpose of student government is to provide students with the means to regulate student-sponsored activities, organizations, publications and any other matters properly subject to their jurisdiction. The electorate of such a government should consist of the undergraduate student body. Designation of delegates, officers, committees and boards should be by student vote only, should be non-discriminatory and should not be subject to administration or faculty approval. The Student Government may set up a uniform and reasonable system of eligibility requirements for major student offices.
3. The Student Government has the responsibility to establish a procedure for official recognition and registration of student organizations. The organization applying for recognition must submit a constitution and provide information about its purpose, affiliations, and activities. Such information should be available to all within the University community and should be subject to publication on the campus.

C. Student Clubs and Organizations

1. Freedom of Student Association: Students have the right to organize and join lawfully organized associations for educational, political, religious, social, or cultural purposes. The fact of affiliation with any co-curricular association or national

⁴ Codification of Policy, United States National Student Association, 1960-1961, p. 25

⁵ "Joint Statement on Rights and Freedoms of Students", IV. B. 2

⁶ Ibid., IV C. See also Statement on Government of Colleges and Universities V: "On Student Status"; L. Joughlin, op. cit., 100-101.

organization or political party, so long as it is an open affiliation, may not bar a group from recognition. Any campus group which plans political discussion or action has the right to organize. The administration may not discriminate against a student because of membership in any such organization.

2. Disclosures: If the Dean of Students, or student government has reason to believe that any organization has concealed, misrepresented, or otherwise failed to disclose its purposes or affiliations, it may proceed in accordance with the Judicial Code.
3. Membership List: Organizations should not be required to file a public list of members. However, confidential membership lists are required to be submitted to ensure that student activity fees are being allocated appropriately, and to verify the authenticity of student members' registration and undergraduate status. The names of officers and members should not, without the consent of the individuals involved, be disclosed to any non-University persons or to any University persons having no direct and legitimate interest therein, except as provided by law.
4. Use of the Campus:
 - a. Campus Facilities:

Meeting rooms and other campus facilities should be made available, as far as their primary use for educational purposes permits, on a non-discriminatory basis, to registered student organizations.
 - b. Pamphlets, Petitions, and Demonstrations:

Student organizations and individual students should be allowed to distribute pamphlets in accordance with University procedures, or collect names for petitions concerning either campus or off-campus issues. Such procedures shall not include regulation of content. Orderly demonstrations on campus should not be prohibited. Any such demonstrations must be registered with the Office of Student Activities, Residential Life, and the Department of Public Safety.
 - c. Bulletin Boards:

Bulletin boards should be provided for the use of student organizations; school-wide circulation of all notices and leaflets which meet uniform and nondiscriminatory standards, and which are in compliance with posting policies established by the Office of Student Activities, Residential Life and the Department of Public Safety, should be permitted.
 - d. Other Forms of Publication:

Information related to student events or student issues may be disseminated through telephone, voice mail, e-mail, websites, and other technologies. Such disseminations must comply with University regulations.
5. Advisers for Organizations:

A student organization has the right to choose its own faculty adviser from among the full-time faculty or administration or someone else approved by the Dean of Students.

A student organization may not operate without selecting an advisor and having that advisor confirm that he/she has agreed to serve as such with the Office of the Dean of Students.

An adviser's responsibility to the organization consists solely in consulting with and advising the organization. The adviser may not regulate or control the organization's activities nor should the adviser be held responsible if the group rejects his or her advice. For the record and for his/her protection, however such rejection should be reported to the Office of the Dean of Students.

D. Student-Sponsored Forums

Students have the right to assemble, to select speakers and to discuss issues of their choice. When a student organization wishes to invite an outside speaker, it must give sufficient notice to the University administration as specified in the appropriate procedures.

The latter may properly inform the group's leaders of its views in the matter, but should leave the final decision to them. This student right remains even if the speaker is a controversial figure.

The University should encourage students to hear all sides of controversial issues and to draw their own conclusions in a responsible manner. If off-campus opposition is feared, it should be made clear to the public that an invitation to a speaker does not necessarily imply approval of his or her views by either the student group or the University administration. At the same time, faculty members and University administrators may, if they wish, acquaint students with the nature of organizations and causes that seek to enlist student interest.

E. Student Publications

All students - including those involved in University newspapers, literary and humor magazines, academic periodicals and yearbooks - have the right to freedom of the press. University publications in general are dependent on the administration's favor in that they use campus facilities and are subsidized either directly by the University or indirectly by the collection of student activity fees. This dependence should not be used as a means of limiting freedom of expression within the bounds of the law. The editors-in-chief should be left free to exercise their own best judgment in the selection of materials to be published. The faculty adviser should meet with the editorial staff to develop a Code of Professional Responsibility based upon codes adopted by mainstream newspapers and to establish a consistent, ongoing dialogue concerning their mutually agreed upon relationship and roles. In addition, the adviser may counsel the editors in the ethics and responsibilities of journalism (through, for instance, weekly "postmortem" sessions following each issue or through other mutually agreed upon methods), but neither a faculty member nor an administrator should exercise veto power over what may be printed.

In summary, the University administration which takes no steps to control the content of student publications, and refrains, in a controversial situation, from suspending or discontinuing publications or penalizing one or more student editors testifies to its belief in the principles of academic freedom and freedom of the press, as well as its trust in the students' ability to act responsibly.

F. Radio and Television.

Hofstra University's radio and television stations are responsible to the University, which provides their facilities and management.

1. Radio.

WRHU-FM functions as both a Hofstra University extracurricular activity and a broadcast facility owned by and licensed to Hofstra University by the Federal Communications Commission. While these two functions usually work in tandem to facilitate an educational mission, they occasionally come into conflict. As a member of the Hofstra community and a cornerstone of the School of Communication, WRHU-FM supports the constitutional freedoms and academic principles that form the foundation of any University media organization. However, as an FCC-licensed, non-commercial educational radio station, WRHU-FM must adhere to FCC and University regulations that pertain to on-air content and technical operation. Thus, WRHU-FM nurtures the broad freedoms enjoyed by other University media within legal constraints and University policy.

2. Television.

Hofstra Television (HTV) is a closed-circuit operation producing curricular-based programming in the School of Communication, and therefore is not legally subject to FCC Regulations. Notwithstanding, the School of Communication adheres to FCC Regulations in its operation of HTV as a matter of effective pedagogy. The School also supports and nurtures the same broad constitutional freedoms enjoyed by all media in the United States. As a member of the Hofstra community and an integral part of the School of Communication, HTV supports the constitutional freedoms and academic principles and responsibilities which are the cornerstone of any University media organization. HTV-produced television programs provide educational experiences for the students in the School, and as such, are produced in consultation with faculty advisors from the School. In order to ensure the responsible exercise of First Amendment freedoms among students, the faculty recognizes its own responsibilities in establishing a dialogue with students about their responsibilities as broadcasters.

IV. STUDENT DISCIPLINE

Responsibility for regulations on academic matters normally rests with the faculty and administration. Regulations governing the conduct of students should be established by the Dean of Students with the advice and counsel of members of the University community and with periodic review by legal counsel and the University Senate.

Regulations governing the behavior of students should be fully and clearly formulated, published, and made available to the whole academic community. Academic matters, including cases of academic dishonesty, are handled through the Provost's Office, while disciplinary issues related to student conduct are handled through the Dean of Students' office. In no case shall students be denied their rights under the Judicial Code.

The Division of Campus Life shall publish and distribute the Judicial Code to all undergraduate students.

V. STUDENTS AS OFF-CAMPUS CITIZENS

A. Off-Campus Conduct of Individual Students

In their off-campus life, students are generally not under University control, nor should the University be held responsible for the off-campus activities or personal conduct of individual students. Nevertheless, the University expects a level of maturity appropriate for University students. When off-campus conduct or behavior of an individual is believed to warrant corrective action by the University, the rights of the individual shall be safeguarded in accordance with the procedures described in the Judicial Code.

- B. No disciplinary action shall be taken by the University against a student for engaging in off-campus political activities provided the student does not claim without authorization to speak or act in the name of the University or one of its student organizations. For their part, students should observe the same kind of self-discipline that their teachers accept when they speak as citizens and not as representatives of their educational institution.⁷

When students choose to participate in political activities that result in police action, it is an infringement of their liberty for the University to punish such activity. Students who violate a local ordinance or any law which they consider to be morally wrong, risk the legal penalties prescribed by civil authorities. In this connection it is incumbent on the University to refrain from administrative decisions which would violate the student's academic freedom. The same principle should apply to the admission of a student who has been expelled from another college.

C. Student Records

As per the Family Educational Right to Privacy Act of 1974, the University should have a carefully considered policy as to the information which should be part of a student's permanent educational record and as to the conditions of its disclosure. To minimize the risk of improper disclosure, academic and disciplinary records should be separate, and the conditions of access to each should be set forth in an explicit policy statement. Transcripts of academic records should contain only information about academic status. Information from disciplinary or counseling files should not be available to unauthorized persons on campus, or to any person off campus without the express consent of the

⁷ Cf. AAUP, 1940 Statement of Principles on Academic Freedom and Tenure, "Academic Freedom," (c).

student involved except under legal compulsion or in cases where the safety of persons or property is involved. No records should be kept which reflect the political activities or beliefs of students. Provisions should also be made for periodic routine destruction of noncurrent disciplinary records. Administrative staff and faculty members should respect confidential information about students which they acquire in the course of their work.⁸

D. Teacher Disclosure

Teachers who are asked to supply information to employers or prospective employers, governmental or private, about students or former students, should be aware of Federal and State Privacy Laws as well as the dangers to academic freedom inherent in this practice. Since the best education calls for probing, sharing and hypothesizing, and for uninhibited expression and thinking out loud by the student, disclosure by the teacher to a source outside the University community of a student's expressed opinion without the student's expressed written consent, or the making of a statement based on such an opinion, becomes a threat to the educational process.

A faculty member should not answer questions about a former student without the student's expressed consent or unless asked by the student to act as a reference.

E. Housing

On-campus housing as well as other facilities and services should be available to all enrolled students without unlawful discrimination.⁹

The University retains the right to inspect premises occupied by the students, and students are advised of the University's policies in their license agreement. (See the Policies for Residence Halls at Hofstra University.)

SUMMARY

The principles set forth here are consistent with those expressed by Dean Erwin N. Griswold of the Harvard Law School who wrote in 1961: "A University is the place where students learn not merely from the past but also through developing the capacity for and habit of independent thought. If they are well taught, they learn to do their own thinking. There is no 'party line' in any American university worthy of the name. Great ideas can rarely be developed in an atmosphere of constraint and oppression. The university has a unique function not merely in systematizing the orthodox, but also in providing the soil in which may be nourished the speculative, the unfashionable, and the unorthodox....."

⁸ "Joint Statement on Rights and Freedoms of Students," III.

⁹ Ibid., I.