

What You Need to Know about Free Speech at Marywood

By: Bill Ziegelbauer

Should Marywood University extend the protections of the First Amendment of the US Constitution to students and faculty members in their on-campus speech and their off-campus pursuits? I think so. But no such protection currently exists.

As a private Catholic institution, Marywood is not legally obligated to respect any particular type of speech. Affiliation with Marywood is strictly voluntary. If you are a student or faculty member who wishes to speak out on a controversial topic, know that Marywood can terminate its affiliation with you based on what you say. At the drastic end of the judgment spectrum, this means that faculty members can be fired and students can lose their scholarships or be kicked out of school for publicly advocating positions contrary to Marywood's values. Now, this does not necessarily mean that Marywood forecloses debate on all contentious topics and punishes those who disagree with Catholic dogma; to the credit of Marywood's current administration, they generally do not. But it means they can, and that threat hangs over everyone on campus.

Let's consider some specifics. Pertaining to students' rights, Marywood's administration claims to follow the Joint Statement on Rights and Freedoms of Students as written by the American Association of University Professors; however, the current allusions to that statement seem insufficient in the face of Marywood's robust religious mission and the complexities of the contentious issues of the day. First of all, Marywood has not clearly codified this statement in its entirety in the student handbook or elsewhere, and the parts of the preamble cited in the handbook are so hedged with qualifications that they shed no light on what positive rights students actually have. Secondly, though the statement's section on Freedom of Inquiry and Expression is dead on, it is too diluted by the broad terms, caveats, and qualifiers peppered throughout the rest of the statement to provide guidance in difficult cases.

For example, even if the statement were clearly codified, its Standard of Conduct Expected of Students section seems to call upon a university with a distinct religious mission to establish a clear standard for how free speech will be judged in the context of the university's values, anyway. "What the right hand giveth, the left hand taketh away." In the end, I think the Joint Statement on Rights and Freedoms of Students can be seen as a strong foundation for students' rights, but Marywood needs to build its own house. (For more information on the Joint Statement, please visit www.aaup.org).

As far as faculty speech rights go, the current situation is even more complicated. While tenured faculty members are afforded great leeway with what they say in the classroom, the speech of all faculty members outside of that purely pedantic role is not clearly protected. Furthermore, when conflicts over such speech arise, the current faculty grievance system proves a woefully inadequate mechanism for their adjudication. This inevitably leads to unnecessary and regrettable conflicts. As a result, legitimate speech can be – and has been – suppressed.

One example of this system at work occurred when a tenured faculty member, who for years has posted pertinent news topics on his office door, was directly asked, both verbally and in writing, by the chairperson of his department to remove a copy of one of the Danish Mohammed cartoons he had put up. The faculty member, respecting these explicit requests, did as he was asked and then immediately sought clarification. Why was this particular cartoon, which may well have been one of the most consequential political cartoons of all time, not a legitimate news topic for posting? The response he received was troubling.

The faculty member was ultimately told by Marywood's President, Sr. Mary Reap, that the cartoon was rightly removed due to the, "rights of others on our campus not to be subjected to hate speech." This essentially means that Marywood's administrators have claimed the right to censor any speech they deem "hate speech" – thus granting themselves a broad power fundamentally opposed to the clear free speech and expression rules they pay lip service to in the Joint Statement on Rights and Freedoms. Further complicating the troubles created by such a broad power, the faculty grievance system provides little comfort for those who believe their legitimate speech was censored. Faculty members can only grieve against a lack of due process in the University's procedures, not the University's actual judgments. So, if a department chair or senior administrator chooses to censor them, they really cannot appeal that judgment, since the procedure for such censorship (read: finding a viewpoint offensive) has apparently been found to be sound.

Though this instance of censorship directly pertained to a faculty member, it has disturbing implications for both students and faculty members alike. If something can be called "hate speech" when said or posted by a faculty member, I don't think it's a jump to assume it would be labeled as such if posted or said by a student. Now, consider for a moment student and faculty self-publication via the internet. Many schools have already begun policing student and faculty blogs and personal websites, sanctioning politically incorrect speech and dragging students and faculty members through judicial processes. Should an administrator at Marywood be able to discipline a student or faculty member for posting an insensitive joke to a friend over myspace.com or for disparaging Catholicism (or any other religion, for that matter) on their blog? So long as they find the content of a posting to be "hate speech," it seems that they can and will.

Moreover, the potential for arbitrary censorship brought about by vague invocations of "hate speech" can even affect those viewpoints that students and faculty members now view as necessary and germane for an honest discussion of contemporary issues. Why can a faculty member or student post an ALLY door tag and not a caricature of Mohammed? The Koran is as explicit about its disapproval of homosexuals as it is about its disapproval of depictions of Mohammed. Defining "hate speech" by what the most easily offended think (or claim to think!) is a slippery slope, indeed.

Let's take another example: Should faculty members or students be allowed to post political cartoons that mock the Bush administration or its supporters? Many certainly do post such cartoons. But what about the Republicans they offend? Is there something

intrinsic in religion that makes protecting Muslim sensibilities more important than protecting Republican sensibilities? And who gets to make that call? If one tries to follow the hate speech argument out to its logical conclusion, it doesn't take too long before everyone is so entwined in the contradictory knot of subjective "sensitivity" and "respect" that all speech on controversial topics is essentially tied down.

Here now we arrive at the larger debate over what "hate speech" is and how a university ought to promote its values while maintaining the freedoms of conscience, speech, and expression for the members of its community. Some believe that a malleable, case-by-case approach to speech and expression is a necessary part of life at a Catholic university. I've even heard many argue in good faith that there is an inevitable conflict between free speech and Marywood's religious mission. President Reap says so. I disagree.

In fact, I believe that the history of religious freedom indicates the opposite. Religious tenets are at their most persuasive when they openly address the wider culture, not when they merely disparage that culture from afar – a point the Pope has touched upon in several of his recent addresses. With clear free speech protections on campus Marywood's administration would still be free to actively promote its values as an institution; they would just have to do so in an arena of ideas where dissenting views can be voiced openly and addressed with honesty.

So, how then should Marywood discern speech that could be construed as "hate speech" from acceptable speech? Returning to my initial question, I believe we ought to err on the side of openness and adopt a clear standard for free speech based on the First Amendment of the US Constitution. To that end, I have recently started a group called Marywood Students for Free Speech (we are student run, but we welcome faculty support). Through our affiliation with the nation's leading nonpartisan campus free speech advocacy group, FIRE [The Foundation for Individual Rights in Education] (www.thefire.org), we hope to help awaken Marywood's community to the necessity of implementing a simple codified free speech policy on campus for both students and faculty members. Our goal is to have the Board of Trustees consider and pass our proposal during their Spring 2007 meeting. This is an ambitious goal and it won't be easy to reach, but if all students or faculty members who believe in free speech take a stand with us, it can be done.

Our full proposal is as follows:

"Marywood University shall not make or enforce any rule subjecting any student or faculty member to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside the Marywood campus, is protected from governmental restriction by the U.S. Constitution."

If you believe in this cause, and have a marywood.edu email address, you can join our facebook.com group, Marywood Students for Free Speech. This group is already the largest student group in Marywood's history. You can also get more information via our

website (www.marywoodfreespeech.com), where you will also find other ways to support the cause. With FIRE behind us, unprecedented student support, and a sensible proposal, we have the rare opportunity to be heard and bring a positive change to Marywood's campus and I dare say even set a model for other universities and colleges. I don't intend to squander this opportunity to make a big difference and neither should you.