

Date: June 2, 2006

Grievance: Students of Faith v. Student Insurgent

Incident in Question:

The appeal states: “The Insurgent violated University policy in three different areas: 1. Discrimination and Harassment of students based on their religious beliefs. 2. Dishonesty and Libel. 3. Misuse of University facilities and funds.”

The grievance states: “The Student Insurgent, a student fee-receiving group affiliated with the University of Oregon, published (march, 2006) images, articles and information about Jesus Christ, Christianity and the Roman Catholic Church that were discriminatory, knowingly false, slanderous and egregious.”

I. Makeup of the committee:

Pursuant to Executive Rule 92.1 “Grievance Procedure”, “When the appeal is filed with the ASUO President under the process outlined in Exec. R 80.1 or 81.1, the ASUO President or designee must convene a committee of three, including the ASUO President or designee, the President of the Student Senate and the ASUO Multicultural Advocate...”. This committee is comprised of Jared Axelrod, ASUO President, Lorena Landeros, ASUO Multicultural Advocate, and Erica Anderson ASUO Student Senator, Seat 1.

II.

Because no Senator has filled the position as President of the Student Senate, the ASUO President has requested that Senator Anderson fill in as the representative of the Student Senate, in the same manner as ASUO Student Senate Rules § 3.6(c)(E), which states “If none of the above listed officers are present it shall be the ASUO Student Senator in the lowest numbered seat who is present.” Senator Anderson is ASUO Student Senator, Seat 1.

III. Discussion of Ruling:

Students of Faith assert that by publishing the March 2006 issue of The Insurgent, violated the Student Conduct Code, and urge the ASUO to require the Insurgent to apologize publicly and to retract the material the Students of Faith find offensive and discriminatory. Generally, appeals must allege violations of the same rules or policies alleged in the original grievance. In the original grievance, Students of Faith grieved that the Student Insurgent violated the University’s mission and was contrary to University policy. Students of Faith ask in their appeal for the ASUO to take action against the Student Insurgent for University Conduct Code violations. Although it appears to be on a different basis, we will allow this to go forward.

#### IV.

Students of Faith open their appeal by stating, “The [Student] Insurgent is not an independent organization but is an ASUO student organization that receives student incidental fees and is allowed access to public facilities on the University of Oregon campus”. The ASUO does hold its recognition status to student groups in high regard, and will and can revoke this privilege if the program does not conduct itself in a manner consistent with ASUO rules, UO rules, and State law. This does not, however, designate the ASUO the judicial body over UO rules and State law, only ASUO rules. Specific delegation is granted to the Student Conduct Coordinator under the Student Conduct Code. Student Code of Conduct 571-029-0029:

- (1) The President of the University shall designate a Coordinator of Student Conduct who shall have primary responsibility for administering the Student Conduct Program and coordinating the activities of all University officials, hearings officers, referees, committees, or tribunals concerned with the Student Conduct Program.

The ASUO will not begin to delve into the realm of interpreting the Student Conduct Code, simply because it does not have the legal authority to do so. If need be, Students of Faith can bring up a complaint with Student Judicial Affairs if they feel the Student Insurgent acted in a way that violated the Student Conduct Code.

#### V.

The appeal cites a portion of the Student Conduct Code, in this case, § 571-021-0030:

Disciplinary action may be initiated by the University and sanctions imposed against any student or student organization found guilty of committing, attempting to commit, or intentionally assisting in the commission of any of the following prohibited forms of conduct:

- (1) Dishonesty, including academic cheating, academic plagiarism (submission of the work of others for academic credit without indicating the source), or knowingly furnishing false information to University faculty or staff.

Again, this committee will not begin to interpret the Student Conduct Code, a power that is reserved for the Student Conduct Coordinator as per Student Code of Conduct 571-029-0029.

#### VI.

The Students of Faith feel that the Student Insurgent misused university facilities and funds by using their office and incidental fee allocation to print their March 2006 issue of The Insurgent. The appeal states:

The University of Oregon and the ASUO are designated to facilitate the programs funded by student incidental fees on campus and are required to maintain a system to promote dynamic academic discussion. The limitation on this type of speech is viewpoint neutrality. Programs funded by the University of Oregon and

the ASUO may not promote certain ideologies or causes mainly contained in the fields of politics and religion.

Viewpoint neutrality does not pertain to student groups funded with incidental fees, only to the process by which they are funded through incidental fees. Board of Regents of University of Wisconsin System v. Southworth specifically cites this position:

If a university determines that its mission is well served if students have the means to engage in dynamic discussion on a broad range of issues, it may impose a mandatory fee to sustain such dialogue. It must provide some protection to its students' First Amendment interests, however. The proper measure, and the principal standard of protection for objecting students, is the requirement of viewpoint neutrality in the allocation of funding support.

There is no requirement for student groups to remain viewpoint neutral. In fact, they at times should not be, in order to create a dynamic discussion over issues surrounding our campus, our state, our country, and our world. If student groups had to remain viewpoint neutral, then most of the current groups would be under violation and one purpose of the incidental fee, to provide a wide variety of activities for students with varying interests and belief would not be fulfilled.

#### VII. Ruling:

After much discussion, this ASUO Committee finds that the Student Insurgent has not violated any portion of the ASUO rules that this committee is allowed to interpret. The Student Insurgent was allocated incidental fees in a viewpoint neutral manner during the 2004-2005 ASUO Programs Finance Committee budget process, and as such, is allowed to print whatever material they feel is appropriate, as protected by the First Amendment of the United States Constitution. As stated by the previous ruling, "there are no grounds for demanding an apology from the Student Insurgent". We recognize that members of the Students of Faith and the campus community have been deeply offended by the March 2006 issue of The Insurgent. However, there are no legal grounds to punish the Student Insurgent for its viewpoints as published in the issue in question. What the Student Insurgent published may have been blasphemous, derogatory, offensive, or distasteful, but not illegal. As such, the ASUO cannot punish the Student Insurgent or force them to apologize.

This committee upholds the previous May 8, 2006 ruling made by David Goward, ASUO Programs Administrator.

It is so ruled.

Jared Axelrod  
ASUO President

Erica Anderson  
ASUO Student Senator

Lorena Landeros  
ASUO Multicultural Advocate