

The Students of Faith, a coalition of over 80 University of Oregon Students who have grouped together and filed a grievance against the Insurgent, a student organization, over offensive materials published in their March edition, is appealing the decision of May 15, 2006 by David Goward, ASUO Programs Administrator.

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

All three are violations of the University of Oregon Student Code of Conduct. Student Code of Conduct 571-21-035 :

Living organizations and registered or recognized groups are responsible for compliance with this Code and with University policies on discrimination:

(1) Upon satisfactory proof that a member of a group, with the knowledge and consent of group officers or in concert with at least four other members of the group, has violated the Code or University policies on discrimination, the group or individual members of the group may be subject to the following sanctions:

- (a) Denial of the use of University facilities;
- (b) Restitution for damaged, stolen, or misappropriated property, or stolen or misappropriated money;
- (c) Temporary or permanent suspension of the group's charter, recognition, or registration; or
- (d) Other appropriate sanctions authorized by this Code.

We ask that the University of Oregon and the ASUO, under guidelines laid out in section D above, require the Insurgent to publicly apologize and retract their discriminatory statements and offensive graphics in a manner acceptable to the Students of Faith. The ASUO must take measures, such as a revised mission statement for the Insurgent and other campus publications to include protection of religious beliefs from hate speech and offensive attacks so that the Insurgent and other University of Oregon student organizations may not violate the Civil Liberties of University of Oregon students based on their right to practice religion. Should the Insurgent fail to comply with the above request, if found in violation on any of the three challenges, then appropriate measures should be taken by the ASUO and the University in the other areas mentioned to press resolution of this matter.

1. Discrimination and Harassment of students based on their religious beliefs

The 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. ASUO Exec. R. 94.3 ASUO Recognition Status. "The ASUO Executive will only grant status of Recognition to programs that add to the "cultural or physical development of the University community. That status is a privilege and may be revoked if the program does not conduct itself in a manner consistent with ASUO rules, UO [University of Oregon] rules and State Law." (from the ASUO Green Tape Notebook)

Based on this status including official recognition as a University of Oregon student organization, the Insurgent agrees to abide by the standards of the University as listed in the Student Code of Conduct 571-21-015 (2):

Student organization is defined as any group of University of Oregon students applying for and meeting the criteria for group registration or recognition established by the ASUO or its designee.

Of note is that student organizations do not receive any special designation based on their purpose and no statutes exist in the Student Code of Conduct that exempt student publications from compliance with all standards of the University. No student or student organizations are granted “special” or “independent” status.

The previous ruling discusses discrimination based on the following :

“Using arbitrary or capricious grounds to make available or to deny educational or professional opportunity to other members of the University community is unprofessional conduct and may constitute prohibited discrimination under the University's and the Oregon State Board of Higher Education's rules.” OAR 571-003-0025

However, this statement is not a definition of discrimination, but rather a statement that the denial of opportunity *might* be definable as discrimination. The definition of discriminatory harassment given in the guidelines for discrimination grievance procedures with the Office of Affirmative Action & Equal Opportunity is the following:

Conduct that unreasonably discriminates among individuals on the basis of race, color, gender, national origin, age, religion, marital status, disability, veteran status, sexual orientation, gender identity, or gender expression, and that is sufficiently severe or pervasive that it interferes with work or academic performance because it has created an intimidating, hostile, or degrading environment and would have such an effect on a reasonable person of the alleged victim's status. (OAR 571-003-0025(1)(d); *University of Oregon Policy Statement on Affirmative Action & Equal Opportunity*.)

The materials produced by the Insurgent were deliberately printed with the purpose of angering and offending a specific group of people based on their religious beliefs, i.e. Christians. These materials have contributed to a negative environment of religious intolerance that interferes with a Christian student’s ability to pursue a higher education and promotes hate speech towards Christians.

The University of Oregon and ASUO, under guidelines set in place by the Supreme Court decision *University of Wisconsin Board of Regent v. Southworth*, are permitted to use student fees to promote dialogue and positive discussion on a variety of subjects in order to facilitate a dynamic academic setting. The offensive materials in the Insurgent were not produced with the intent to stimulate positive dialogue but were produced in order to be as offensive as possible to

a select group of students and to anger them. This intent was clearly stated in the articles. In addition, the Insurgent produced materials that defiled the most sacred symbol of the Christian Faith, the Crucifixion, and this demeaning attack clearly has no value in a positive debate on religion.

The Insurgent Collective has claimed that criticism of the institution of Christianity is distinct from criticizing individual Christians. However, by attacking Christianity, the Insurgent attacks the adherents, that is all Christians. No distinction can be made between Christianity as an organization and those who practice the faith. To offend or attack one is to offend or attack both. If a true desire for dialogue existed, a serious and respectful critique of traditions and theology would be presented and welcomed. Instead, by selecting a specific group of students to offend, the Insurgent discriminated against those students. Far from promoting dialogue, the Insurgent's March issue creates an environment where Christians may be less comfortable discussing and practicing their faith for fear that they may be oppressed, harassed, or segregated for their beliefs.

The publication in question also meets the criteria of harassment based upon the Student Code Section 571-21-030 (19):

Harassment on University property or at University-sponsored or supervised activities, because of another person's race, color, gender, national origin, age, religion, marital status, disability, veteran status, or sexual orientation, or for other reasons accomplished by:

(b) Specifically insulting another person in his or her immediate presence with abusive words or gestures when a reasonable person would expect that such act would cause emotional distress or provoke a violent response.

The pervasive availability of student publications throughout campus puts them in the immediate presence of every person on campus. The Student Insurgent specifically states that that they expect reasonable people to be provoked. As stated by Jessica Brown, "If it pisses people off... good that's the point!!!"

By refusing to act upon this matter, the University of Oregon and the ASUO condones publication of materials by students and student organizations that is intended to offend, demean and harass specific groups of students that may include false statements. The definition of discrimination from www.lawdictionary.com discusses the responsibility of the protection of persons against unequal treatment:

The rights to protest discrimination or enforce one's rights to equal treatment are provided in various federal and state laws, which allow for private lawsuits with the right to damages. There are also federal and state commissions to investigate and enforce equal rights.

In this case, the University of Oregon and the ASUO are the state institutions that enforce equal rights through the Student Conduct Code and by oversight of all officially recognized University of Oregon student groups. According to the Student Code of Conduct, discrimination and

harassment of students are not permissible by University of Oregon students or student organizations under any circumstances. The University of Oregon and the ASUO are compelled to act in order to protect the student body from such offensive attacks against specific groups of students by preventing them from occurring in the future.

2. Dishonesty and Libel

Under the Student Code of Conduct section 571-21-030:

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.

The Student Code Section 571-21-030 (1) that covers dishonesty and is mentioned above does not designate that the section is only applicable or intended solely to cover academic materials submitted for a grade. The section clearly states “Dishonesty, *including* academic cheating, academic plagiarism.” The Dishonest clause is applicable to academic material submitted for a grade but in no way is restricted to be applied only for dishonesty in academic work.

The Insurgent included articles with flagrant historical inaccuracies and flawed statements that were stated as factual. The article called A Brief History of the Catholic Church that appears on pg. 13 of the March edition of the Insurgent, claims that Constantine the Great, or Constantine I, is said to have become emperor of Rome in 310 A.D. All accepted modern sources have the date of Constantine’s rule beginning in 306 or 307 A.D and he did not assume control of the entire Western Roman Empire until 313 A.D. (from pg. 27 of *The Catholic Church Through the Ages* by John Vidmar, O.P., Associate Professor of Theology at Providence College). This fact is easily checked using a simple internet search with the search words of “Roman Emperors” or “Constantine the Great” The same article begins with “The Catholic Church began about 350 years after the purported birth of Christ.” Again, a simple Google internet search using the search words “founding catholic church” provides the information that the Catholic Church was founded immediately after the crucifixion and was led by the first Pope, St. Peter. The commonly accepted historic date for the crucifixion is between 30 and 33 A.D. and the Catholic Church as an institution would have been founded on or about that year.(from pg11 of *The Catholic Church Through the Ages* by John Vidmer, O.P., Associate Professor of Theology at Providence College) In the next sentence, the Insurgent claims that “under Constantine, emperor from 310, the church became the official organ of the Roman empire.” On November 8th, 392 A.D, the Roman Emperor Theodosius I made Christianity the official religion of the Roman state.(from pg. 18 of *The Christian World of the Middle Ages* by Bernard Hamilton, Professor Emeritus of Crusading History at the University of Nottingham). This is 80 years later and under a completely different emperor than the false statement from the Insurgent. Constantine is famous for ending the persecution of Roman citizens based on their religious beliefs but never made Christianity or the Catholic Church the official religion of the Roman

Empire. These are three fabrications of historic facts found in the first two lines of the article called A Brief History of the Catholic Church that appeared in the Insurgent. The article is filled with similar fabrications of facts and false statements. It is clearly the responsibility of all legitimate publications to check the accuracy of facts before printing and to take responsibility for any errors that are printed. University Publications must provide fair and accurate materials in their print and may not fabricate materials or purposely produce flawed information. Therefore, the Insurgent, as a student organization that is not granted “special” or “independent” status by any University or ASUO policy, is in violation of the dishonesty section of the student code.

According to www.lawdictionary.com, Libel is defined as:

To publish in print (including pictures), writing or broadcast through radio, television or film, an untruth about another which will do harm to that person or his/her reputation, by tending to bring the target into ridicule, hatred, scorn or contempt of others.

Should the University of Oregon determine that hostile dishonesty is acceptable in student publications, it remains illegal under higher civil jurisdictions. In civil cases of libel and slander, offending parties are usually required to print a retraction when dishonest or flawed material is printed. Our request for an apology and that measures be taken to keep deliberately offensive and flawed anti-Christian materials from being produced by ASUO is in line with this precedent.

3. Misuse of University Facilities and Funds

The University and the ASUO claim that their ability to act on this issue is limited by *University of Wisconsin Board of Regents v. Southworth*. We appeal that claim on the grounds that the decision in *Wisconsin v. Southworth* “permits a public university to charge its students an activity fee used to fund a program to facilitate extracurricular student speech if the program is viewpoint neutral.” 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. University of Oregon student groups cannot use incidental fees to promote the campaigns of political officials or allow only one politician in a political race access to the University, but may allow access to several politicians in the same race. All must be granted equal access. In a similar way, publicly funded university groups are severely limited in their ability to present religious concepts or ideas as in the example of the Supreme Court case *Virginia v. Rosenberg*. Likewise, in order to maintain the standards of viewpoint neutrality, publicly funded student groups should not be allowed to attack specific religions or groups and their adherents, which is the mirror opposite of promoting religion. The subject of religion on a public university campus does contribute to a dynamic environment of academic discussion, but to purposely attack and offend a specific religion in the manner that the Insurgent did in their March issue violates the standards of

viewpoint neutrality. “When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.” (from *Wisconsin v. Southworth*)

As the facilitators of the publicly funded student programs, the University of Oregon and the ASUO are ultimately responsible for the groups and organizations that they fund and are not limited in their responses to violations of the law but are instead compelled to act when egregious abuses have occurred. “The whole theory of viewpoint neutrality is that minority views are treated with the same respect as are majority views.”(from *Wisconsin v. Southworth*)

By producing obviously offensive materials and attacking religious beliefs and religious systems, the Insurgent abused their status as a publicly funded student organization and misused University of Oregon facilities in order to promote anti-religious ideology. The materials were produced with intent to cause emotional harm and not to promote a responsible debate on the issue of religion.

In response we do not ask for censorship or restrictions on free speech. Nor do we request that funding be cut to the Insurgent. We do ask that the Insurgent be required to take responsibility for its discrimination and harassment of Christian students, its dishonesty and failure to check the facts in its articles, and for misusing University funds paid by all students in violating the requirement of viewpoint neutrality.

We are American students who have the right to practice our Christian faith without having our student fees used in public ridicule and purposeful violation of our sacred symbols aimed at causing strong emotional distress and inciting anger. The University of Oregon and the ASUO are required to abide by all laws of this nation. Free Speech under the 1st Amendment need not be defended at the expense the Civil Liberties of students as protected by the 14th Amendment.

Please send all correspondence on this issue to the studentsofffaith@hotmail.com