



## 2011 Muzzle Awards: Campus Edition

By HARVEY SILVERGLATE | June 29, 2011

### **WIDENER UNIVERSITY SCHOOL OF LAW**

Law school is not known for being fun, so some professors spice instruction with far-fetched hypotheticals. To some students at Widener University School of Law in Wilmington, Delaware, one longtime criminal-law prof's hypos went too far.

Professor Lawrence Connell's ordeal began in December 2010, when he was accused of violating Widener's faculty discrimination and harassment code. Students apparently complained about classroom hypotheticals of violent crimes, in which Connell used law-school faculty and staff, including Dean Linda L. Ammons. It was further alleged that Connell used racist and sexist language, including the shockingly racist phrase "black folks."

Fortunately, a faculty panel saw through the flimsy case and, in March, recommended that the school drop dismissal proceedings. That's where it should have ended. Instead, three days later, Ammons bizarrely prompted two students to refile harassment charges, according to the professor's attorney. Connell's fate, wrested from the faculty, was thus transferred to an administrative panel.

One panel member, Vice-Dean Patrick Kelly, had interviewed Connell's students as part of the investigation. One student, according to her sworn affidavit, told Kelly that Connell's teaching style was "extremely useful" and that some of the allegations against him appeared to be "completely fabricated." But nowhere among the complaints and negative student evaluations was this sympathetic student's interview. It was, in the parlance of criminal procedure, suppressed. Were a prosecutor to withhold this kind of information, it would arguably be deemed obstruction of justice.

Connell, for his part, is not taking this quietly, filing in April a defamation suit against Ammons for labeling him a racist, sexist, and "a threat to the physical safety" of campus members. Whether "obstruction" charges are added remains to be seen.

For subjecting a professor to possible dismissal for harmless and common classroom hypotheticals, and for suppressing student interviews favorable to his cause, Widener School of Law is awarded the highly uncoveted Double Muzzle.

### **WESLEYAN UNIVERSITY**

The very first right guaranteed in Wesleyan University's student handbook, under the heading "Responsibility of the University to its Members," is freedom of assembly.

So students were understandably upset when, this past academic year, the Middletown, Connecticut, university announced a policy that would drastically reduce this first freedom. Or, for the less legalistic, a policy that potentially criminalized lunch.

In an attempt to control student life outside the campus confines, Wesleyan proposed a prohibition, to take effect in August, on certain activities in "private societies that are not recognized by the University," such as "taking meals" and "participating in social activities." Recognizing that the policy was strikingly broad, Wesleyan students protested; after all, even houses of worship are private societies. The university responded with a policy revision in May. Problem solved?

Not quite. Wesleyan simply replaced the words "private societies" with "Greek organizations," and left the rest of the language intact. Thus, a Wesleyan student can soon be punished for eating a meal or playing cards at a Greek organization unrecognized by the university. Ever hear of freedom of association, a close relative of freedom of speech?

For this, Wesleyan gets a Muzzle.

### **YALE UNIVERSITY**

Wesleyan was not alone in clamping down on fraternities. In a widely reported controversy, Yale effectively disbanded Delta Kappa Epsilon (DKE) for parodic sexist chants made by pledges during an initiation ritual.

Last October, pledges were marched up to the Yale Women's Center and instructed to shout such choice phrases as "No means yes. Yes means anal" and "My name is Jack, I'm a necrophiliac, I fuck dead women."

Appropriately, the campus responded to this puerile exercise. Students organized a Forum on Yale's Sexual Climate; the university president condemned DKE's actions; the fraternity president voluntarily suspended pledge activities, and in a public letter said that the chants

were "inappropriate, disrespectful . . . and in very poor taste." Provocative speech did what it often does; it led to more speech and constructive dialogue.

Fast forward seven months. In May, Yale announced a five-year ban on DKE's campus activities. Though Yale denies it, all indications point to political pressure resulting in censorship. The Department of Education, it turns out, had begun investigating Yale in late March, based on allegations that the campus was a sexually hostile environment. The frat-boy chants, the complaint alleged, typified this atmosphere. One cannot escape the strong suspicion that punishing DKE's speech was a means to appease DOE investigators. In any event, the sanctions violate Yale's official policy on free expression, which the university has long deemed its "primary obligation."

By carving out the DKE exception, Yale also sent a pernicious — and patently false — message to its community: that its female students are incapable of surviving and responding to upsetting speech, and that therefore free-speech promises in Yale's handbook must be sacrificed. For effectively destroying a fraternity chapter, overreacting to nonsense by censoring speech, and egregiously mollifying the federal government while patronizing Yale's female students, the university administration wins a (repeat!) Muzzle.

## **UMASS-AMHERST**

The Commonwealth of Massachusetts is arguably the freest political entity in the world. Yet its flagship campus is a perennial Muzzle favorite.

This year, however, UMass's Muzzle is not a done deal — yet. We're hoping it won't be awarded next year.

The trouble derives from proposed changes, currently under consideration, to the school's Code of Student Conduct. In April, UMass released a deeply troubling draft version.

One proposal mandates that students uphold "civility," "social justice," and "social responsibility." There's nothing inherently wrong with these values. But forcing students to embrace them is an assault on freedom of conscience. As the Supreme Court made clear in *West Virginia State Board of Education v. Barnette* (1943), "no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." UMass is no exception.

Other proposed changes are equally disturbing. A prohibition on "bullying" — defined as causing "emotional harm" through "written, verbal, or electronic expression" — threatens to

quell much innocuous expression. Lacking a "reasonable person" standard, the feelings of the most sensitive determine what speech is punishable.

Consider what such a prohibition could reach. In late February, a student columnist for the *Massachusetts Daily Collegian* penned a conservative diatribe that railed against Planned Parenthood and sexual promiscuity, blaming rape victims for drinking and flirting. The columnist, and the editor who signed off on the piece, were fired by the student-run newspaper. Were a "bullying" prohibition to be enacted, one shudders to think of what types of provocative opinions would be punished for inflicting "emotional harm."

To UMass's credit, Associate Chancellor Susan Pearson said that anti-censorship critiques were being given serious consideration. Apprehension remains until the final product emerges. Stay tuned.

*Harvey Silverglate is the co-author of [The Shadow University: The Betrayal of Liberty on America's Campuses](#), and is chairman of the Board of Directors of the [Foundation for Individual Rights in Education](#). Research assistants Daniel Schwartz, Andrew Bruss, and Kyle Smeallie contributed.*