

License To Hate

BY MATT HELMS, *The State News*, MICHIGAN STATE U.

The Supreme Court once again has stood strong behind the First Amendment. What will it mean to campus speech codes?

Sometimes Doug Scheidemantel feels defenseless. He fights hatred mostly — the cold, uncaring voice that yells “faggot” through the phone lines in his Michigan State U. residence hall room, the derogatory scrawl in black marker across his door.

And he fights the fear that forces him to question the intolerance behind the so-called crimes that make him a victim of words and expressions.

“It’s like I should be beyond this fear,” Scheidemantel says. “But I’m not, and it’s striking.”

Scheidemantel calls himself a victim. Until this summer, so did the justice system.

But a June Supreme Court ruling dismantling a hate speech ordinance in nearby Minnesota is forcing colleges and universities nationwide to rethink their hate speech policies, a move that places these campuses at the forefront of the battle.

“In developing racial harassment provisions that target speech, the campuses have been at the cutting edge,” says Mark G. Yudof, dean of the law school at the U. of Texas, Austin. “All these campuses are faced with some choices — they can abolish [hate speech codes] or write more general ones. Unless you have a really general provision, it renders all of them on public campuses unconstitutional.”

But without hate speech codes, students like Scheidemantel now say they have even less ammunition to fight the hatred.

Scheidemantel remembers seeing that word — fag — across his doorway.

He remembers wondering why. And feeling angry. And feeling scared.

“I don’t think that a lot of times people realize the impact of what they’re saying,” he says.

But Philip Suggs, a graduate student at Howard U., says the ignorance behind hate speech does not justify curbing it.

“Most of these people who commit race-hate crimes are doing so out of frustration,” Suggs says. “It tells me they are not on top of their game. But the Constitution says people have a right to say that, even in ignorance.”

Justice Antonin Scalia, in writing the opinion for the court, says the government walks a fine line in preserving free speech.

In the St. Paul, Minn., case, an ordinance banning displays of racial bias, the government went too far, the court ruled.

Thus the ruling effectively destroyed the ordinance and cast doubt on the validity of state laws that punish perpetrators of crimes more severely if their acts appear racially motivated.

But perhaps more dramatically, hate speech codes at hundreds of campuses have been put on hold, as administrators wait anxiously to see if their policies must be revised.

“When it comes to college speech codes, it really is a death knell,” says Paul Denenfeld, legal director of Michigan’s American Civil Liberties Union.

In the wake of the decision, colleges and universities across the country are scrambling to redefine their hate speech codes on the high court’s terms.

The U. of Michigan is one of the first schools to reinterpret its codes. In June, Michigan abandoned its so-called hate speech policy, which banned speech “when a student intentionally uses racial, ethnocentric or sexual invectives, epithets, slurs or utterance directly to attack or injure another individual rather than express or discuss an idea, ideology or philosophy.”

Elsa Cole, U. of Michigan general counsel, says any action taken against students under the code has been suspended in light of the Supreme Court ruling. The university is in the process of creating a new code in line with the Supreme Court’s guidelines.

But Ede Fox, president of the U. of Michigan Student Assembly, says students will be unreceptive to any speech code the administration hands them.

“The nature of the administration has been quite repressive, so I think any kind of rules about non-academic conduct will not be received well,” she says. “We all fear the possibility that they would come after us for having different ideas.”

Fox says hate speech codes in general are useless to the extent that they curb speech.

“It’s really society that teaches people to attack others in speech,” says Fox, a senior in anthropology. “Having a code won’t get rid of it.”

Besides, college campuses can survive without speech codes, says John Calvo, a graduate student in public administration and law at New York U.

NYU does not have a conduct code with specific restrictive categories of hate speech. Calvo says the university has no need for one.

“I suppose we’ve had a really long history of tolerance on campus,” he says. “Other schools need to move in that direction. It’s going to be really hard at first, but most will be able to come up with policies.”

And many are trying.

At UT, Austin, administrators have sent their hate speech policy to general counsel for review. Sharon Justice, dean of students, says university-sponsored mediation between the victim and perpetrator successfully has halted 15 of about 16 reported cases of hate crimes.

But U. of Wisconsin officials say the university will not change its hate speech policy at this time.

Patricia Hodulik, senior legal counsel for the Wisconsin system, says the policy will remain in place for now, although the Wisconsin Board of Regents is scheduled to review it in September.

But that leaves the Wisconsin code in flux until then, and senior Mary Whitt says the delay is unsettling for students.

“If something were to happen, what would the administration do, how would they handle it?” she says. “They can’t really do much with the code

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