



TUFTS UNIVERSITY
OUTCOME OF THE COMMITTEE ON STUDENT LIFE'S
HEARING OF COMPLAINTS BROUGHT BY DAVID DENNIS
AND THE MUSLIM STUDENT ASSOCIATION
AGAINST *THE PRIMARY SOURCE*
APRIL 30, 2007
Sophia Gordon Hall, 6:30pm-midnight

Background

On Monday, April 30, 2007, the Committee on Student Life met to hear two complaints against *The Primary Source*. The first, filed by David A. Dennis, charged *The Primary Source* with harassment and creating a hostile environment on campus through the publication of "O Come All Ye Black Folk," a carol featured in its December 6, 2006 edition. The second, filed by the Muslim Student Association ("MSA"), represented by Shirwac Mohamed and Nayema Khan, charged *The Primary Source* with harassment and creating a hostile environment on campus through the publication of "Islam-Arabic Translation: Submission," a commentary published in its April 11, 2007 edition that imitated the format of the MSA's advertisement for events during Islamic Awareness Week. The hearing joined the two complaints by agreement of all the parties.

The panel, which consisted of seven voting and three non-voting *ex officio* members, listened attentively to the five and a half hours of testimony and argument from the parties: complainant David A. Dennis and his four witnesses; complainant Shirwac Mohamed and his three witnesses; respondents Douglas Kingman and Jordan Greene, representing *The Primary Source*, their one witness, and their advocate. The CSL also heard the testimony of Matthew Gardner-Schuster, the current Editor-in-Chief of *The Primary Source*.

Decision

This is a complicated case that, at its core, requires us to resolve a conflict between two important policies at Tufts University: freedom of expression on the one hand, and non-discrimination on the other.

The Committee recognizes that freedom of expression is one of the founding principles of this great nation, one of the precepts that distinguish us as a democracy, a core value of academic endeavor, and a philosophical tenet that benefits our campus community.

Similarly the Committee acknowledges that tolerance and respect for diversity are core values at Tufts, as exemplified by the university's non-discrimination policy. These two principles were in direct conflict in the cases before the Committee.

Non-discrimination/harassment policy

Tufts University's harassment policy can be found on page 124 of the 2006-2007 version of the student handbook, *The Pachyderm*:

Members of the Tufts community should be able to live, study, and participate in university life as equals. Any behavior that undermines this spirit of community interferes with an individual's growth and well-being while at Tufts. Harassment or discrimination against individuals on the basis of race, religion, gender identity/expression, ethnic or national origin, gender, sexual orientation, disability, age, or genetics, or retaliation for filing a complaint, whether subtle or explicit, is unacceptable at Tufts. It will be addressed with prompt and decisive action whenever it occurs.

"Harassment" is further defined on the same page, as follows:

Harassment involves attitudes or opinions that are expressed verbally or in writing, or through behavior that constitutes a threat, intimidation, psychological attack, or physical assault. Harassment is prohibited at Tufts and may result in disciplinary consequences. Characterizing behavior as a prank or practical joke does not change its harassing nature if the subject of the joke is not a willing or active participant. Unwelcomed communications such as phone calls, misuse of message boards, e-mail messages, and other behaviors calculated to annoy, embarrass, or distress are harassing behavior and are prohibited....

Furthermore, Tufts' Code of Conduct, which is printed on page 164 of *The Pachyderm*, contends that "[t]he policies of the university are designed to ensure a reasonable environment in which community members can reasonably pursue an education and a social life." It further states that students must avoid "behavior that harms, endangers, or intimidates others."

Based on the evidence presented to the Committee, including the testimony of the witnesses, the written submissions of all parties, and the arguments presented at the hearing, we find that *The Primary Source* violated the university's harassment policy in both cases.

In the case of David A. Dennis v. *The Primary Source*, we find, by a vote of 6 to 1, that Mr. Dennis proved, by a preponderance of the evidence, that he and other students at Tufts were harassed by the carol "O Come All Ye Black Folk." By a vote of 7 to 0, we

find that Mr. Dennis proved, by a preponderance of the evidence, that the carol created a hostile environment on campus for himself and other black students. The Committee found that Mr. Dennis and his witnesses established that the carol in question targeted them on the basis of their race, subjected them to ridicule and embarrassment, intimidated them, and had a deleterious impact on their growth and well-being on campus.

In the case of the Muslim Student Association (“MSA”) v. *The Primary Source*, by a vote of 7 to 0, we find that the MSA proved, by a preponderance of the evidence, that *The Primary Source* harassed Muslim students at Tufts, and created a hostile environment for them by publishing “Islam-Arabic Translation: Submission.” The Committee found that the MSA established that the commentary at issue targeted members of the Tufts Muslim community for harassment and embarrassment, and that Muslim students felt psychologically intimidated by the piece.

These decisions are grounded in our conclusion that although Tufts students should feel free to engage in speech that others might find offensive and even hurtful, Tufts University’s non-discrimination policy embodies important community standards of behavior that Tufts, as a private institution, has an obligation to uphold. Our campus should be a place where students feel safe, respected, and valued. Freedom of speech should not be an unfettered license to violate the rights of other members of the community, without recourse.

We find that the above-mentioned carol and commentary, rather than promoting political or social discourse, as claimed by the members of *The Primary Source*, instead were designed to harass and intimidate members of the Tufts community because of their race (black) and religion (Islam).

Consequence and Recommendation

In issuing the following, the Committee has attempted to strike a balance between protecting the rights of students to exist on campus without being subjected to unreasonable attacks based on their race or religion and protecting the rights of students to publish controversial writings.

Consequence

From now on, all material published in *The Primary Source* (whether characterized as satirical or otherwise) must be attributed to named author(s) or contributor(s).

Recommendation

We ask that student governance consider the behavior of student groups in future decisions concerning recognition and funding.

Conclusion

The Committee believes that it is important for Tufts University to foster an intellectual climate in which students feel free to express their thoughts, however controversial. Nevertheless, based on the evidence and arguments presented at the hearing on April 30, 2007, the Committee on Student Life holds that *The Primary Source* violated Tufts University's non-discrimination policy in publishing the carol "O Come All Ye Black Folk" and the commentary "Islam-Arabic Translation: Submission."

The Committee on Student Life