

Student says Cal Poly Pomona is trying to silence his vegan campaign

By CARLA RIVERA



Nicolas Tomas, a Cal Poly Pomona nutrition major, was told by school administrators that he'd have to hand out leaflets on the vegan diet in a free speech zone. (Glenn Koenig / Los Angeles Times)

Cal Poly Pomona student **Nicolas Tomas** never thought handing out leaflets promoting a vegan diet would become so controversial.

But when college administrators moved to restrict his activities, Tomas sued the university. His case became a flashpoint in the debate over how far

universities should go to promote tolerance and civility on their increasingly diverse campuses — and whether some of those policies unfairly restrict constitutionally protected free speech.

Although virtually all academics say they support freedom of speech, many also argue that campuses have good cause to be sensitive to activities that could provoke vulnerable young adults. Colleges are charged with protecting the personal safety of students and must juggle the interplay of sexual, racial and ethnic dynamics that could lead to charges of harassment or bullying and potential lawsuits.

I think if nowhere else, college free speech should be prized. It's striking when I see colleges enacting speech codes: all of America is a free speech **ZONE**.- Gene Policinski, senior vice president of the First Amendment Center at the Newseum Institute

Many colleges have adopted policies — such as restricting protests and other activism to certain campus locations and enforcing broadly defined speech codes — that civil libertarians say violate the 1st Amendment rights of students.

The Founding Fathers' intent was to provide the highest protection for discussion of public matters, even opinions that might be repellent, to ensure the broadest democratic debate, said **Gene Policinski**, senior vice president of the First Amendment Center at the **Newseum Institute**, which promotes education on free speech issues. Controversy over whether depictions and cartoons of the prophet Muhammad are insensitive to Muslims, for example, illustrates the divide, but the response should be education, not censorship, he said.

A recent report by an advocacy group, however, found that more than 55% of the nation's top public and private universities maintained policies that prohibit protected speech. The report was released by the **Foundation for Individual Rights in Education**, a Philadelphia nonprofit that supports free speech. Last year, the group launched the **Stand Up For Speech**

Litigation Project, a targeted national effort to contest unconstitutional campus speech codes. The project has sued nine universities to date.

Five of those lawsuits were settled successfully on behalf of the plaintiffs and four are pending, including Tomas' case against Cal Poly Pomona.

The 24-year-old nutrition major and animal rights activist said he began handing out leaflets soon after transferring to the campus in 2013. He chose a spot near the parking structure, where there's lots of foot traffic, but he said he ran into trouble when administrators repeatedly demanded that he leave the area and required him to obtain permits and badges from the Office of Student Life.

Tomas used his phone to take video of one encounter in which officials, including campus police officers, said he must restrict his activities to the free speech zone, a grassy area near the university library and student center, where students have traditionally set up tables and conducted demonstrations and protests.

It was all "very vague and felt unconstitutional," said Tomas, who contacted the Foundation for Individual Rights in Education after finding the organization online. A group of Washington attorneys filed suit in March.

Last week, Cal Poly Pomona announced that, as it negotiates a settlement, it would cease enforcement of some of its policies — such as limiting activities to a designated free speech zone, limiting activities to certain hours and days and requiring advance permission, badges and photocopying of ID's.

"This takes the pressure off of what we think were clearly unconstitutional policies and makes sure that Nick's rights and other students' rights are protected in the meantime," said **Robert Corn-Revere, an attorney with Davis Wright Tremaine**, which filed the lawsuit.

Pomona administrators declined to discuss the case while the litigation was pending. Campus spokeswoman **Esther Tanaka** said the school never designated a particular area for free speech activities, but she said that some people in charge may not have completely understood the school's policies and guidelines as they relate to students' rights.

"It's a learning opportunity and an opportunity to communicate with everyone on campus about free speech and the value of free speech and that education is our No. 1 priority," Tanaka said. "It's a balancing act sometimes to ensure people's free speech but also make sure that everyone's education takes place without disruption."

Private colleges generally are not bound by 1st Amendment guarantees. But public colleges are government entities, susceptible to public sentiment and political pressures. And their policies can draw ire from all sides, said **Barmak Nassirian**, director of federal relations and policy analysis for the American Assn. of State Colleges and Universities.

"Administrators have multiple concerns, they aren't just randomly seeking to restrict rights, but they are attempting to manage conflicting rights and demands and requirements and routinely err on both sides, as often as not criticized by politicians, faith groups and others saying how dare you have this professor on campus who wrote this or that," Nassirian said.

Two other California colleges have been sued by the Foundation for Individual Rights in Education. Modesto Junior College last year agreed to pay \$50,000 after preventing a student from handing out copies of the Constitution on Constitution Day. And in December, Citrus College in Glendora settled a lawsuit for \$110,000 after threatening to eject a student from campus who solicited signatures outside the designated free speech zone for a petition against domestic spying by the government. The college had previously settled a suit contesting its free speech zone in 2003.

In many instances, college censorship stems from a basic risk-management calculation, said **William Creeley**, vice president of legal and public advocacy with the Foundation for Individual Rights in Education.

"Some administrators decide they won't stand for any controversy on their watch and seem to conclude that it's easier to stop students from speaking their minds than it is to allow students to debate the issues of the day and perhaps learn something," Creeley said.

Tomas said he hasn't yet taken up leafleting again but is hopeful his case will empower other students.

"What I've learned is to keep going and stand up for what I believe in," he said. "Students are the voice for change on campus, and I wish more would get involved and tell administrators how they feel."

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