

TESTIMONY of ISAAC SMITH

Before the

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

June 20, 2017 Hearing on

Free Speech 101: The Assault on the First Amendment on College Campuses

Chairman Grassley, ranking member Feinstein, and distinguished members of the Committee:

Thank you for the opportunity to share my story with you today. My name is Isaac Smith and I am a rising third-year law student at the University of Cincinnati. Prior to attending UC for law school, I studied Political Science and Spanish at Ohio University, where I was also involved with an organization called Students Defending Students. We assisted students on campus accused of violating OU's Student Code of Conduct, helping them through the disciplinary process.

Every year, to raise awareness about our work, we produced T-shirts with a funny slogan on the back. In 2012, our shirts said, "Who you gonna call?" with the O's made up by handcuffs. But our 2013 shirts, which displayed our founding slogan, "We get you off for free," proved to be unexpectedly controversial.

What flew in the 70s, when Students Defending Students was founded, did not fly in 2013. We wore our shirts at the Student Involvement Fair, a gathering of registered student organizations on the main campus green where freshmen can learn about campus activities. SDS was present to recruit new members. I posted a picture on our official Twitter account of one of our members handing out flyers while wearing the shirt.

A campus administrator saw the tweet and told us later that we were not to wear the shirts again. She told us that the shirts "objectified women" and, in a total head-scratcher, that they "promoted prostitution."

That was worrying to us, because as advisers about the student conduct process, we knew the Student Code of Conduct inside and out. Although our slogan was unquestionably protected by the First Amendment, our campus policies were so broad that we risked discipline — and I knew that OU has a history of punishing students for protected speech.

So I reached out to the Foundation for Individual Rights in Education, or FIRE, a nonpartisan, nonprofit organization that defends free speech on college campuses. With FIRE's help, I sued Ohio University to fix those sections of the Code of Conduct that would have allowed us to be punished — and even expelled — for wearing the shirts.

And after the lawsuit, change happened. After only a few months, OU settled the lawsuit favorably, changing the Code of Conduct so it protected free expression, and paying out \$32,000 in damages. We were also allowed to wear the shirts again. It's unfortunate that I had to take such serious action to get things fixed, but sometimes that's what needs to be done. Some administrators are not going to pay attention to what's legally right unless they are forced to do so.

My experience at OU was, unfortunately, not isolated. Examples of campus censorship are plentiful. In one case, a former student at Cal Poly Pomona needed a "free speech badge" to hand out literature promoting animal rights and a vegan diet in the school's "free speech zone." In another case, a former student at my current school, the University of Cincinnati, was threatened with arrest for gathering signatures outside of UC's "free speech zone." And there have been multiple cases across the country where students have been prevented from distributing copies of the United States Constitution in open outdoor areas of their campuses because they were doing so outside of their schools' misleadingly labeled "free speech zones." Taken together, we know that administrators nationwide are stifling free speech.

I thank you, again, for the opportunity to testify here today and tell my story and for putting the spotlight on this national problem.