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Hackney, Sheldon: Humanities Chairman Nomination Hearing (1993): News Article 55

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Tuesday, May 4, 1993

The Philadelphia Inquirer

Penn not restrictive enough, black lawyers say

Items in the student paper targeted minorities and weren't protected speech, their organization contends.

By Howard Goodman
INQUIRER STAFF WRITER

The University of Pennsylvania, under fire from critics who say the school wimped out in its defense of free speech on campus, is under attack from a different direction as well.

A group of black lawyers, warning of possible legal action, says Penn should do more to restrict speech that contributes to racism.

Attorneys from the National Conference of Black Lawyers wrote to Penn president Sheldon Hackney that they were "gravely concerned about the university's failure to ensure a nondiscriminatory educational climate."

They also contended that the Daily Pennsylvanian, the student newspaper, had "systematically published items that were intended to inflict psychic injuries upon minority readers," and blamed administration officials for not doing something about it.

Although the letter hints at possible legal action, it urges Hackney to work with the lawyers "in an effort to resolve underlying problems" before matters come to that.

The letter was signed by lawyers Lorry Brown, Mark P. Fancher and Linda Ware Johnson. They could not be reached for comment yesterday.

Hackney said in an interview that he might meet with them, but only

on the advice of Penn's general counsel.

"We do not have a hostile environment for members of minority groups," Hackney said, "and we do not discriminate, and we work very hard to create an environment in which every student can prosper, and in which every faculty member can teach and do scholarship to the full extent of their abilities.

"And there is no legal basis against us on these grounds."

The Daily Pennsylvanian, which is independent of the school administration, has angered black students and newspaper staff this year, particularly for publishing columns by a student they consider racist.

That anger rose to the level of protest last month when a group of black students confiscated nearly all 14,200 copies of the April 15 edition

in an early-morning raid on newspaper drop boxes. The newspaper staff and many of its defenders called that action a grave violation of freedom of speech.

The National Conference of Black Lawyers says otherwise. The letter asserts that "in the context in which they were published, the DP's messages are not protected speech."

Penn has said that the Daily Pennsylvanian and its columns are protected by the university's Guidelines on Open Expression, which state that free expression is the "paramount value" at the university.

The conference says it wants that protection revoked.

"We believe the Guidelines on Open Expression should never be used to defend racial harassment," the letter says.

Penn has a racial-harassment code

that has been criticized in recent weeks by the American Civil Liberties Union, as well as by pundits disdainful of the movement for political correctness, as an assault on the First Amendment.

In a widely publicized instance, a white student has been charged with racial harassment for yelling at black sorority women, who were allegedly making noise, and calling them "water buffalo."

The student, Eden Jacobowitz, said the term had no racial connotation.

Hackney said yesterday that a hearing for Jacobowitz would be held May 14 in an effort to dispose of the matter before the school year ends.

Last week, a judicial official had announced that the hearing would be delayed until the fall.

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