

Name:	Ryan Belcher
Date:	4/16/15
Title of Proposal:	Developing a Conduct Policy on Hate Speech
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Campus Address:	7410 Columbia Avenue College Park, MD 20740
Unit/Department/College:	GVPT, BSOS
Constituency:	Undergraduate BSOS Students
Description of issue/concern/policy in question:	<p>Last month, an email surfaced that detailed statements of racism and misogyny. As a result, the campus community has responded in a variety of ways. The University Administration tried to determine whether the email violated campus policy; they ascertained the actions taken by the individual did not violate university policy. The student has taken a variety of voluntary measures in wake of the email. Those actions include: withdrawal from school for the semester, sensitivity training, and relevant education.</p> <p>On April 2nd, the Student Government Association hosted a town hall where students expressed displeasure with the lack of policy regulating hate speech. Concurrently, President Loh has expressed interest in drafting a policy that results in “restorative justice” in future cases.</p> <p>The Student Government Association President and Director of Shared Governance have been working with University Administration to recommend the University Senate develop a policy change to the Code of Student Conduct that allows for the University to take action against instances of hate speech.</p>

<p>Description of action/changes you would like to see implemented and why:</p>	<p>We request to see to following changes:</p> <p>Revisions to the Code of Student Conduct to give the University authority to formally respond to hate speech. Specifically, we wish to see an addition to Section 10 of the Code to include acts of hate speech as prohibited conduct. Draft restorative justice responses to acts of hate speech, such as:</p> <ul style="list-style-type: none"> A). education through the Office of Diversity and Inclusion B). sensitivity training, C). meeting with concerned groups D). crafting an apology E). working with any person or organization deemed relevant. <p>A draft pledge against hate speech for students to sign when starting their first semester at the University. The statement could be modeled off the Code of Academic Integrity: “I pledge on my honor that I have not given or received any unauthorized assistance on this examination.”</p>
<p>Suggestions for how your proposal could be put into practice:</p>	<p>We recommend consulting with Legal Counsel on the major changes to make sure we stay within a constitutional framework.</p> <p>It is important that the responses are not merely “check off the box” actions where the individual does not learn from their actions. Rather the measures should be meaningful and potentially transformative.</p>
<p>Additional Information:</p>	<p>See Addendum A. A proposal from the SGA Executive Cabinet and Executive Board on the document that served as the inspiration for this proposal.</p> <p>See Addendum B. SGA legislation endorsing changes to the Code of Student Conduct regarding hate speech.</p>

Addendum A

To: President Wallace Loh

CC: Linda Clement, Kumea Shorter-Gooden, Matt Supple, Catherine Carroll,

From: Executive Board & Cabinet of the Student Government Association

Introduction and Statement of Purpose:

A few weeks ago, our campus felt like it had regressed several decades. An email surfaced from a now former member of the Kappa Sigma Fraternity. The email contained explicit and derogatory language that marginalized a majority of our university peers including minority students and women. It represented an antiquated view, and our campus has expressed dissatisfaction and, frankly, righteous anger in the weeks that followed the email's surfacing. On Friday, March 27, students held a rally in the Stamp Student Union and led a march on Fraternity Row and, specifically, the Kappa Sigma house.

Now it is time to use this opportunity to work as a unified body to rid our campus community of racism and misogyny. The Student Government Association is hosting a town hall with MICA to begin the proper dialogues in order to eradicate views of a different time from our 21st century campus.

The Executive Board and Cabinet of the SGA has drafted the following document to express our thoughts on how the campus should move forward. From here, we will detail our definition of hate speech, fighting words and related concepts. We will discuss what actions should be taken in the event of future problems arising. Finally, and most importantly, we will make recommendations that will bring us closer together as a campus community.

Definitions:

Hate speech - Hate speech is a communication that carries no meaning other than the expression of hatred for some group, especially in circumstances in which the communication is likely to provoke violence. It is an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, national origin, gender, religion, sexual orientation, and the like. Hate speech can be any form of expression regarded as offensive to racial, ethnic and religious groups and other discrete minorities or to women.
<http://definitions.uslegal.com/h/hate-speech/>

Harassment and intimidation - Acts of prejudice, hate, violence or intimidation directed against individuals, groups, or institutions because of race, religion, ethnicity/national origin, sexual orientation or disabilities. These incidents are intended to cause harm and may result in psychological or physical injury or property damage.

Consent - a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable

permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

<http://www.president.umd.edu/policies/docs/VI-160.pdf>

RRESA - Race, Religion, Ethnicity/Nationality, Sexual Orientation, Disability/Ability; categories presented by the President's Office and the Department of Resident Life in which a person may feel targeted during a certain incident i.e. racial slurs, sexist comments, generally derogatory language. These cases have a specific category when a Resident Assistant is writing an Incident Report. The example that is given most often that falls within these confines is the drawing of a swastika on a whiteboard.

<http://www.president.umd.edu/PCEMI/home/rresbrochure.html>

Fighting Words - "are written or **spoken words**, generally expressed to incite **hatred** or **violence** from their target. ... It is also used in a general sense of words that when uttered tend to create (deliberately or not) a verbal or physical confrontation by their mere usage." Fighting words are different than hate speech because cases of fighting words are not protected under the First Amendment. It is our intention to create a University-defined concept similar to fighting words.

Presented Policy Changes:

When our campus has gone through an ordeal like this, it is obvious that the community needs to change our perspectives and views of the "other." In that light, the Executive Board and Cabinet of the SGA recommends the University Administration to consider several changes, outlined below. We understand the delicate legal and inherently constitutional nature of free speech. In order to be as thorough as possible, we likely have recommended more avenues than are available when the law and other restrictions are considered. We would appreciate full consideration of all presented changes if possible.

1). Develop an efficient, rational response system to future instances of racism, misogyny, and other damaging actions on and around campus. In some instances, the action will directly fall into prohibited actions under the Code of Student Conduct. For those, the recommended recourse in the already-defined policy suffice. Rather, this recommendation focuses on a system that encourages education of the perpetrator. To be clear, we understand the need for the University to conduct investigations holistically in order to ascertain accurate information and respond appropriately within a legal context. In a similar vein to other conduct infractions, we recommend the University establish a time frame that does not last more than 30 calendar days to determine if an "act of hate" has occurred. We stress the importance of weighing time efficiency and proper fact finding. If such a determination is made, we believe the student should:

- Be shown the harm they have caused through talks with affected groups, Office of Diversity and Inclusion, and anyone else that is determined relevant.
- Be told such ideas and actions are not welcome at the University of Maryland and that their enrollment here, at least for a time, should be reconsidered. Note: we understand it is hard to take

action when someone is utilizing their first amendment rights. This is addressed further in this document.

- Work with the administration to write a public apology to the targeted communities and the campus.

We also argue that any group affiliated with the person(s) to engage in sensitivity training and take classes that are germane to the issue. Multiple students received this email and did not take the responsibility to report it. This implies a culture of reinforcement by those affiliated. This should be addressed.

2). Work with schools, colleges, departments, and other institutions on campus and within our University System to more strongly respond to truly vulgar acts of hate. Currently, many of our campus' internal organizations, offices, programs, etc. do not have language that address what we have defined as hate speech in the definition section. A notable exception is the Department of Resident Life. Actions taken within the confines of RRESA are grounds for dismissal from an on-campus residence. We believe that this may serve as a good example and starting point for other programs and departments on campus. We recommend that the University offers suggested language and policies for departments, colleges, and other organizations on campus that work in a similar fashion to ResLife. In the event of actions of hate speech, fighting words and actions, the relevant organization would use the new standard to dismiss or suspend the student from the major or department if needed. We believe this is relevant because Resident Life uses the RRESA policy to maintain safe and involved living spaces. This concept should not be limited to living spaces and should be expanded to learning spaces.

3). Recommend the University critically analyzes the expectations requirements of Greek Life. To remain in good standing with the University, each chapter has several expectation requirements they have to complete. An example is the Ten Man and Ten Women Plans, which focus on conversations and understanding of sexual assault on campuses. One of the goals of these expectations requirements is to make Greek Life more open and inclusive. Unfortunately, many members of Greek organizations have expressed dissatisfaction with the events that should facilitate education. Rather than truly learning and maturing, chapters attend expectations events as part of a mathematical formula to remain in good standing. At the same time, members of Greek Life have expressed an overwhelming desire to want to improve these requirements. As such, we recommend the University take a holistic look at how each expectations requirement is developed and implemented. The University should work openly with Greek Life to make these events more meaningful. It is imperative that new expectations and requirements reflect increased integration of Greek Life and other groups.

4). Strongly encourage the University to work with IFC, NGC, NPHC, and PHA to ensure a new form of Greek Week happens in the 2015 year. Right now, members of multicultural fraternities are hesitant to participate in Greek Week. The need for the different councils to interact is hugely important. Each council should take efforts to eradicate prejudices internally, and the university should take steps to help restructure Greek Week so it focuses on making a positive impact for our community. Examples to better utilize the week are already being considered by the IFC [see addendum]. They are hoping to focus on community service and diversity programming in order to better integrate the currently divided Greek Community.

5). Consider developing a strong, concrete policy recommendation with the University Senate in order to eradicate hate speech and fighting words from our campus. Obviously, this is a hard undertaking. We find ourselves amidst what is morally right and what is legal when taking steps towards bettering campus.

With that being said, we strongly encourage University to consider any and all options to condemn hate speech and what could potentially fall under the fighting words definition set in *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942). Some potential avenues can include:

- Strongly and narrowly defining hate speech and fighting words and including them as a violation of the Code of Student Conduct, so they can be treated like other violations.
- Working with the Office of Legal Affairs to better understand legal precedent surrounding hate speech. We have offered some insight in our Addendum.
- Working with the Senate Executive Committee to task the Student Conduct Committee with determining whether or not such actions can be punishable and how strongly in coordination with the Office of Legal Affairs. We understand President Loh is meeting with the SEC soon; we are looking forward to what comes from that conversation.

Actions the SGA is Taking:

SGA understands the importance of leading the charge with this issue. With all of the above recommendations, we are looking forward to contributing further and participating in constructive conversations that result in action. The SGA is considering the following actions in order to facilitate inclusion at the University of Maryland.

- 1). Continuing talks with the Greek Councils about ways their organizations can grow from this email. As their ideas become crystallized, we will help them spread the word and potentially co-sponsor events.
- 2). Facilitating meetings lead by the Director of Student Groups, in conjunction with the Director of Diversity, over the course of the academic year that focus on groups collaborating together and coming up with programs that focus on diversity and inclusion.
- 3). Striving to increase diversity in our own organization to serve as an example for other student groups.
- 4). In concert with the legal office, we aim to start drafting campus wide language to fighting words. As our definition crystallizes, we aim to work with administration to incorporate the language with the broader university.

Conclusion:

Our campus can grow from this ordeal. Members of SGA are beyond pleased to see how our officials respond to this issue. We commend the actions Greek Councils have taken to fix this problem and look forward to working with them in the future. To the communities impacted by this email, we thank you for your strength and resolve. Your openness and frankness in the public dialogue has allowed the University to critically reflect levels of inclusion on campus. The SGA looks forward to working with campus organizations. We understand the intricacies of the issues surrounding speech and will maintain an open dialogue in order to make the University a truly inclusive university.

Addendum B

A Resolution Supporting the SGA Full Cabinet's Proposal Regarding Inclusion Policies

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1. WHEREAS, the Student Government Association (SGA) represents the student body at the University of Maryland; and,
2. WHEREAS, an email surfaced a few weeks ago that contained racist and sexist language; and,
3. WHEREAS, the University of Maryland has engaged in a campus wide conversation to discuss issues pertaining to diversity and inclusion; and,
4. WHEREAS, the SGA hosted a town hall to discuss the actions the University has taken to address the email and to hear insight on how to move forward as a University; and,
5. WHEREAS, in advance of the town hall, the Cabinet and Executive Board of the Student Government Association drafted a proposal for University administrators to consider regarding diversity policy at the University; and,
6. WHEREAS, the proposal is attached in the addendum to this bill; and,
7. WHEREAS, University Administration has supported changing campus policy to better respond to instances of hate speech; and,
8. WHEREAS, the Director of Shared Governance is drafting a Senate proposal to request the changing of the relevant campus policy.
9. THEREFORE, BE IT RESOLVED the SGA endorses the proposal attached in the Addendum; and,
10. BE IT FURTHER RESOLVED the SGA strongly encourages the University Senate to consider changes to the Code of Student Conduct to detail official responses to instances of hate speech.
11. BE IT FURTHER RESOLVED that the SGA consults with University Legal Counsel to ensure that this proposal is properly constitutional.

Sponsor: Keith Brassil Greek Residential Representative

Committee: Undergraduate Coalition (Primary) 7-0-0

Diversity (Secondary)

Vote:

In Favor: 17

Opposed _____

Abstentions _____

Therefore, the bill:

PASSES

FAILS

Speaker:

Aiden Galloway

President:

Patrick Ronk