

University Speech Codes: Essential Or Unconstitutional'

April 24, 2017 Natasha Breaux

PRACTICES Media and Entertainment Litigation, Media Entertainment and Sports

Universities often restrict certain forms of speech and expression. Many university “speech codes” target verbal harassment based on traditionally protected classes, such as race, sex and religion.

For example, speech codes may ban ethnic slurs, verbal behavior that demeans or intimidates others because of personal characteristics, or the use of sexually derogatory or discriminatory terms. At some universities speech codes go even further, subjecting students to disciplinary action for any language deemed indecent, vulgar, profane or abusive.

Speech codes are viewed by some as indispensable to creating a safe and respectful culture on university campuses. However, speech codes at public universities have also come under fire in recent years as violating the free speech clause of the First Amendment to the United States Constitution.

A speech code may violate the First Amendment if it is overbroad, vague or imposes a content-based restriction that cannot survive strict scrutiny. This article will explore how students have used legal challenges to successfully attack university speech codes and will take a look at what types of codes have survived judicial scrutiny.

Excerpted from *Law360*. To read the full article, please [click here](#) (subscription required)