



## Student Fees: Freedom of Speech or Forced Subsidy?

by George C. Leef

### Summary

On top of tuition costs, many colleges and universities charge mandatory “student fees,” which are used to fund a variety of student groups, including some with controversial goals. Rather than forcing all students to fund groups and ideas with which they may disagree, schools should abolish mandatory fees and let all student organizations compete equally for support in the marketplace of ideas.

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***Are mandatory student fees about freedom of speech, or are they just another instance of the use of coercion to make large numbers of individuals subsidize the actions of a few?***

Working from premises connected more to organized labor’s agenda than to sound economics, a handful of student radicals pushed the University of Michigan administration to make demands of Nike Corporation that cost the school a contract worth millions of dollars last month. That made news, but what didn’t was the fact that the radicals—Students Organizing for Labor and Economic Equality—were recently allocated nearly \$2,000 from mandatory student fees.

Is it a victory for freedom of speech when universities are permitted to compel students to pay fees that are distributed to a variety of campus organizations? Or is it just another instance of the use of coercion to make large numbers of individuals subsidize the actions of a few? A March 22, 2000 U.S. Supreme Court decision raises that question.

Scott Southworth, a self-described conservative Christian, was a student at the University of Wisconsin. He objected to the university’s policy of using mandatory student fees to fund campus groups whose philosophies and goals he disagreed with. Relying on precedents in union cases, where the Court has held that union dissidents cannot be forced to help pay for union political activities they disapprove of, Southworth argued that UW’s policy violated his First Amendment rights not to have to subsidize speech that he found offensive.

Southworth was successful both in the district court and in the Seventh Circuit Court of Appeals. UW appealed to the Supreme Court, and in a 9-0 decision, the justices reversed the lower courts and upheld the constitutionality of the university’s policy. Justice Kennedy’s opinion draws a distinction between the union cases and student fees and for the most part gives colleges and universities the green light to continue programs whereby all students are required to subsidize campus organizations, including those that many students would refuse to support voluntarily.

The Court’s decision was applauded by *The Michigan Daily*, a politically left-leaning student newspaper on the UM campus. “The ruling is a triumph not only for potentially controversial student groups, but also for anyone who cares about the First Amendment,” the paper

editorialized. Actually, the ruling is only a “victory” for student groups that can’t or don’t want to raise the money they need voluntarily.

There was, however, a key qualification in the Court’s ruling that could prove troublesome for state universities. They must be “viewpoint neutral” with respect to the subsidies they dispense. Exactly what that requires the opinion does not make clear, but apparently the Court would look with disfavor on a university program that showered money on groups with “politically correct” orientations while excluding groups committed to limited government, individual liberty, and traditional values.

At the University of Michigan, according to an analysis done by an alternative student paper, *The Michigan Review*, funding from mandatory student fees for politically left-wing organizations was \$13,000 for the Fall 1999 semester, whereas only \$550 went to groups that could be characterized as conservative or libertarian. That familiar pattern seems to have continued in the semester just ended, with allocations made for a gaggle of leftist outfits, including such organizations as Academics for Affirmative Action and Social Justice, Queer Public Health Alliance Against Bigotry, and the Rainbow/Push Coalition. The allocations reek of political bias, and litigation over UM’s “viewpoint neutrality” may erupt in the wake of the Southworth decision.

The Supreme Court ruled that the use of mandatory student fees to subsidize activist student groups is not unconstitutional, but that does not mean that universities *have* to impose such fees. Aside from the desirability of avoiding litigation, there are strong reasons why state universities in Michigan, Wisconsin, and across the nation ought to eliminate student fee subsidies altogether.

First, as Thomas Jefferson wrote, “it is sinful and tyrannical to compel a man to furnish money for the propagation of ideas he disbelieves in.” It is morally wrong, even if not unconstitutional, to compel UM students to support RAIL, for example—a group that idolizes the communist butcher Mao Tse-tung. The amount of money is small, but the principle is large.

Second, universities would do the world a favor if they ended the mandatory fee policy that encourages students to adopt the political methods of taxation and lobbying to accomplish their objectives. Instead, universities should insist that students use the marketplace methods of exchange and peaceful cooperation.

Showing that those methods can work would be one of the most valuable lessons a university could teach.

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