Judicial Conversation: Complaints Against The Berea Torch

Introduction

On February 14, 2022, Ülvi Gitaliyev, the head of The Berea Torch, was sent an email by Gus J. Gerassimides, the A.V.P for Student Life. The email, titled "Concerns," stated, "In the past few days, I have received concerns and complaints regarding your involvement with an unrecognized campus organization called the Torch." Following were the complaints, as stated, verbatim:

1. "Soliciting on campus as an unofficial organization"

2. "Using campus resources to produce an unofficial publication"

3. "Creating a threatening environment for students"

The Berea Torch, a student-run publication, believes that these complaints do not correlate to any existing guidelines within The Student Handbook, Student Organization Handbook, or any other policies for Berea College students.

"Unofficial Organization" Label in Complaint One

According to the most recent Student Organization Handbook, set in the 2020-2021 year, in Berea College, there are seven classifications for Student Organizations. These classifications include Clubs, Honor Societies, Music & Dance, Organizations, Professional, Spiritual, and Student-Interest.[1] The Berea Torch does not align with any of these descriptions; therefore, we do not classify as a student organization by the definitions of Berea College by any means. The Berea Torch functions as an independent, student-run publication.

Complaint One: Soliciting on Campus

It is undeniable that The Berea Torch has been soliciting on campus for weeks now. Other publications have been soliciting, advertising, and posting in the College, and no action has been taken against their posters or materials, as far as we know. Such a subjective application of the first complaint leads The Berea Torch to believe other factors are involved.

Under "Solicitation" on the Student Handbook, it states, "No off-campus individual or organization may distribute literature; advertise; solicit customers; recruit volunteers, employees, or members; seek donations; or make sales on campus."[2] The Berea Torch is neither individual nor organization. The Berea Torch is an on-campus publication since all its staff are on-campus residents of the College. Therefore, The Berea Torch does not conflict with the Solicitation policy adopted by the College, as quoted above.

Furthermore, as stated under "Solicitation," "The intent of the campus solicitation policy is to ensure non-interference with the educational activities and business operations of the College."[3] The

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[1] "Student Organization Categories," Recognized Student Organization Handbook 2020-2021 (Berea College, 2020), https://4efrxppj37l1sgsbr1ye6idr-wpengine.netdna-ssl.com/student-life/wp-content/uploads/sites/50/2020/08/2020-2021-Student-Organization-Handbook.pdf.

[2] "Solicitation," Berea College Student Handbook , accessed February 21, 2022, https://berea.smartcatalogiq.com/Current/Student-Handbook/Student-Rights-and-Responsibilities/Solicitation.

[3] "Solicitation."

Berea Torch neither interferes with business operations of the College nor education activities. Arguably, The Berea Torch promotes education activities within the College. Two prime examples include Club Spotlights, allowing Berea College students to become more educated on clubs within the College environment or interviews with S.G.A. candidates, allowing Berea College students to become more educated on their candidates and their plans to represent the student body.

An additional fact to note is on February 2, 2022, Matthew Vetter, Associate Director of Student Involvement & Engagement, met with Ülvi Gitaliyev. During this scheduled meeting, Vetter made it apparent that The Berea Torch could not use "Berea College" anywhere, in any regard, which The Berea Torch has honored. Moreover, Vetter explicitly stated The Berea Torch could not place posters on any Berea College public bulletin board, which The Berea Torch has also honored. If any Berea Torch posters were placed on college bulletin boards, it was not by The Berea Torch but by supporters of The Torch, who have taken it upon themselves to distribute our promotional work. An interesting point to note, Vetter claimed that if he were to remove Berea Torch material from a public space on campus, then it would be a crime.

Complaint Two: Using Campus Resources

The Berea Torch agrees to have used campus resources to produce promotional material for the publication. The Berea Torch used Berea College Printing Services to print out stickers. The Berea Torch used the colored printer in Hutchins Library to print promotional posters.

None of the material that The Berea Torch used was under copyright and patent laws protection.

Outlined in the Student Handbook, under the section "Computer and Network Policy," it states, "Berea College is dedicated to a mission of learning, labor and service. In support of this mission, the College provides access to information resources… 'Information Technology Resources' means, without limitation, all computers, printers, scanners, networks, internet portals, telecommunications equipment and lines, together with all other hardware and software owned or utilized by the College." Farther down in the policy, under the "Objectives" subheading, it states, "This policy is intended to: Protect each individual's privacy and freedom of expression" and "the College wishes to: encourage exploration and learning."[4]

The Berea Torch utilizes the Information Technology Resources, as defined above, for the freedom of expression and exploration and learning within the student body. Our editorials fall under the category of freedom of expression, as do our book reviews. Exploration and learning are further exercised in our editorials and book reviews and through learning about events, clubs, and staff at Berea College through our S.G.A. Debate Recap, Club Spotlights, interviews with professors, the Dean of the CCC, and more.

Complaint Three: Threatening Environment

The Berea Torch completely rejects the accusation of "creating a threatening environment." This complaint has not been explained in detail, so there is not much to argue against concerning *how* The Berea Torch is participating in this complaint.

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[4] "Computer and Network Policy," Berea College Student Handbook, accessed February 21, 2022, https://berea.smartcatalogiq.com/Current/Student-Handbook/Student-Rights-and-Responsibilities/Computer-and-Network-Policy.

Still, through discussions and reactions to The Berea Torch, we have hypothesized where the "threatening environment" narrative comes from.

Some students approached us via social media, email, and our publication to comment on our articles. "CCC Distributing Anti-Abortion Pamphlets," one of the first articles published in The Berea Torch, was particularly controversial. While some students did voice their disagreements with the article, no one has stated that they felt threatened by the newspaper publications. Furthermore, The Berea Torch has never and will never advocate, encourage, or publish anything violent, discriminatory, hateful against individuals or organizations. The Berea Torch is an open space for individuals, geared towards Berea College students, to express their feelings, even satire, but not to post hateful rhetoric.

Under the category "Student Conduct Regulations: A Way of Living," a subsection is titled "Unacceptable Actions: Rules of Conduct and Sanctions for Unacceptable Behaviors." Two rules that are applicable to "creating a threatening environment" include subheadings "(B) Offenses Against Persons" and "(E) Offenses Against the Community."

Addressing "(B) Offenses Against Persons" first, it states, "Any acts or course of actions aimed at specific persons in order to disgrace, threaten, intimidate, restrain, or injure them, whether the harassment be physical, verbal, or visual, whatever the medium used (such as electronic, telephonic, mail, etc.), and whatever the reason for the harassment (such as race, religion sexual orientation)."[5] In the Student Handbook, this is the only place where the word "threaten" is used, that we discovered. The Berea Torch does not mention the names of individuals in the College unless we have their expressed consent. Additionally, The Berea Torch encourages all people from Berea College and the city of Berea to submit any piece they would like if, as mentioned before, the content is not violent, discriminatory, hateful, etc. Therefore, The Berea Torch believes this rule does not apply to the third complaint.

Next, to address "(E) Offenses Against the Community," it states, "The following actions are unacceptable and thereby Berea College prohibits students to engage in such conduct on campus, or on College property, or while participating in any officially sanctioned or supported activity on behalf of the College: … 3. Disturbing the peace, being a nuisance, disorderly conduct, creating a safety hazard, or inordinately disruptive activities, whether committed individually or in assembly with others."[6] In the Student Handbook, this is the only place where students can be punished for disturbing a community that we discovered. The Berea Torch feels that none described above correlate due to the lack of an uproar for our publication. Currently, we have grown readers, showing an interest in our publications from the student body and faculty. Furthermore, we have a growing social media network. This is the creation of a community, not a disturbance of peace. The Berea Torch has worked with Berea College organizations and Berea College students and faculty, creating a community of communication, learning of each other, and more. We plan to expand to reach as many students, faculty, and organizations as possible with our features on Club Spotlights and interviews. The Berea Torch believes we have not violated this rule regarding the third complaint.

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[5] "Student Conduct Regulations: A Way of Living," Berea College Student Handbook, accessed February 21, 2022, https://berea.smartcatalogiq.com/Current/Student-Handbook/Student-Conduct-Regulations-A-Way-of-Living.

[6] "Student Conduct Regulations: A Way of Living."

The Berea Torch, otherwise, does not know how "creating a threatening environment" applies to us as a publication through what is mentioned in the Student Handbook.

Counter Arguments

The Berea Torch is beneficial to Berea College's student body, faculty, and members of the city of Berea.

The Berea Torch functions as a public forum for both the student and faculty body of the College. We give people a voice for both creative and academic expression and a chance to reach more voices in the College than they otherwise would have. The anonymity feature of the platform allows a safe space for threatened students. The Berea Torch is both sharing information and pursuing scholarly inquiry.

Under the "Freedom of Expression and Misconduct" section of the Student Handbook beneath the heading "Student Rights and Responsibilities," it states, "Freedom of Expression and an open environment in which to pursue scholarly inquiry and share information are encouraged, supported and protected at Berea College. Censorship is not compatible with the goals of the College."[7] Regarding The Berea Torch, as a publication, we are sharing information in many ways. Whether it be through editorials written by students or interviews sharing information about specific people and clubs, with their consent, information is shared to the student body and other readers. Furthermore, a scholarly inquiry is the integration of knowledge gained from coursework. At Berea College, GSTR classes are required of all students, and they teach us the fundamentals of writing. The Berea Torch and those who submit articles from the student body are participating in scholarly inquiry alone through the act of writing, using what they have learned from GSTR classes to write essays and articles. Moreover, freedom of expression is exercised within every piece The Berea Torch publishes.

Under the section "Intellectual Property Rights Statement" in the Student Handbook, it states, "Berea College is committed to providing an environment that supports the learning, teaching, scholarship, and creative activity of its faculty, students, and staff" and the policy is intended to "Encourage the notion that creative, pedagogical, and scholarly works produced at Berea College should advance the state of knowledge and contribute to the public good."[8] The Berea Torch believes we contribute to advanced knowledge and the public good. As mentioned before, Club Spotlights and interviews contribute to the advanced state of knowledge at Berea College as they allow the student body and other readers to learn something about specifics of the College that might not have been well known. Using Club Spotlights increases the likelihood of members learning and joining a club. Editorials by the student body allow other students to learn something

[7] "Student Rights and Responsibilities," Berea College Student Handbook, accessed February 21, 2022, https://berea.smartcatalogiq.com/Current/Student-Handbook/Student-Rights-and-Responsibilities.
[8] "Intellectual Property Rights Statement," Berea College Student Handbook, accessed February 21, 2022, https://berea.smartcatalogiq.com/Current/Student-Handbook/Student-Rights-and-Responsibilities/Intellectual-Property-Rights-Policy.

they also did not know from a peer. The most recent example is the article titled "Editorial on Digital Freedom: 'Free as in Freedom,'" a student submission by computer science major Orion Musselman. He explains the benefits of using open-source software.

Last but not least, in the Student Handbook, there is a section titled "Berea's Story, Motto, Great Commitments, and Common Learning Goals." Under this section, there are subsections "Common Learning Goals" and "The Great Commitments."

Stated beneath "Common Learning Goals," it says, "…a strategic plan entitled *Being and Becoming: Berea College in the 21st Century* was adopted by vote of the College Faculty, General Faculty, and the Board of Trustees. Being and Becoming articulates four pairs of learning goals that apply to Berea students, faculty, and staff members alike, and that are to be fostered not only in classrooms, but **in all of the other places where Bereans interact**… These goals are to: develop the critical intellectual ability to address complex problems from multiple perspectives and nurture moral growth with a commitment to service" and "educate students, faculty, and staff to be creative, independent thinkers and encourage collaboration and teamwork in learning and working."[9]

Stated beneath "The Great Commitments," it says, "The Berea experience nurtures intellectual, physical, aesthetic, emotional, and spiritual potentials and with those the power to make meaningful commitments and **translate them into action**."[10]

Considering these sets of direct quotes from the Student Handbook, The Berea Torch pleads the case that we are acting within two goals that *Being and Becoming: Berea College in the 21st Century* speaks of. Moreover, "in all of the other places where Bereans interact" and "translate them into action" are also applicable to The Berea Torch. As The Berea Torch, we are fostering the two goals from *Being and Becoming* within our publications. So far, hundreds of Bereans, including the student body and faculty, have interacted through reading, commenting, and sharing. Additionally, we argue that the Berea experience, as quoted above, has encouraged us to act in making a student-run publication.

Conclusion

As The Berea Torch staff, we believe that our publication benefits Berea College students and staff by acting as a public forum and space for free expression. Our staff believes that Berea College and its existing rules sanction our activities; we shall continue to diligently observe all the regulations of Berea College as they are presented in the Student Handbook and other related materials.

Despite its recent founding, The Berea Torch has become a staple of information about Berea College for dozens of students. Such high levels of engagement within the campus community can only benefit Berea College in the long run.

Given the evidence above, The Berea Torch requests Student Life and Public Safety to return all confiscated materials and repeal the ban on our promotional materials on campus.

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[9] "Berea's Story, Motto, Great Commitments, and Common Learning Goals," Berea College Student Handbook , accessed February 21, 2022, https://berea.smartcatalogiq.com/Current/Student-Handbook/Berea-s-Story-Motto-and-the-Great-Commitments.

[10] "Berea's Story, Motto, Great Commitments, and Common Learning Goals."