



COOLIDGE WALL

A Legal Professional Association

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April 18, 2008

Members of Council
Village of Yellow Springs
100 Dayton Street
Yellow Springs, Ohio 45387

Re: Student Noise Issues

Dear Council Members:

As you know, a citizen has recently raised the issue of noise relating to students at the College. It is my understanding that the policy of the Police Department has been to issue warning tickets to students who have been found to make noise outside of campus buildings that create disturbances for neighbors. A question has been raised as to whether the Village may issue a citation to the College in the event of such noise issues. Please be advised that it is my opinion that it would improper, and likely illegal, for the Village to issue a citation to the College because of loud noise generated by students at the College.

One exception to this rule might be a circumstance where a college-approved activity being conducted within the College buildings is conducted in such a fashion that a noise violation is found to exist at neighboring properties. However, I believe that the complaint is centered on the more typical problem of boisterous and sometimes very loud college students walking or congregating outside the College buildings, either on or off of the College campus itself. These situations must be handled by the Police Department on a case-by-case basis allowing the officers to utilize their own judgment. If a group of students decides to have a loud party outside, accompanied by loud music or similar actions, it may be appropriate for the Police to take action.

However, where it is a matter of students acting in a manner that creates loud noise from their voices or acts, there is an inherent conflict with the First Amendment Right of Free Speech. The Village must be very careful to honor the right of individuals to exercise this Right of Free Speech, certainly a time-honored tradition in the Village of Yellow

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Springs. Further, the College cannot be cited for actions of these individuals if the activity is not college-sponsored. As in any police matter, proper discretion and warnings are ordinarily appropriate when the Officer deems it to fit the facts of the situation.

It seems to me that the existing policy followed by the Village Police Department is appropriate.

Very truly yours,



John C. Chambers
Village Solicitor

JCC/wlw

cc: Eric Swansen, Village Manager
Deborah Benning, Clerk of Council
Sharon Potter