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## Foundation for Individual Rights in Education

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### Censorship at the College of William & Mary: The Evidence

In a recent [statement](#), President Timothy J. Sullivan of the College of William & Mary claims that his administration's censorship of an "affirmative action bake sale" satirical protest was not based on discrimination against the views of the Sons of Liberty, the student group at W&M that held the censored bake sale in November 2003. After three months of administrative silence on the issue of why they shut down the November bake sale, Sullivan now claims that the group "did not meet the administrative requirements we routinely impose on such activities."

However, the evidence gathered by FIRE and presented below shows that this post-hoc rationalization of why W&M shut down the bake sale is without merit. There was no problem with the student group's application, contrary to what Sullivan's statement implies. The students had a permit, and the administration did not cite problems with the permit at the time that they shut the protest down or in the months following the protest.

While W&M always remained vague on the reason for shutting down the sale, administrators echoed the rationale of several other schools that claimed such protests are a form of punishable "discrimination." As should have been obvious—the signs for the protest read "Affirmative Action Bake Sale"—the bake sale was satirical and a protest of what the organizers view as the discrimination inherent in Affirmative Action policies. It was not a commercial endeavor. Similar protests, such as the feminist "wage gap" bake sales—in which men are charged more for baked goods than women, in protest of what of what organizers view as wage discrimination—have been uncontroversial on college campuses, and, to FIRE's knowledge, have never been shut down because of alleged price "discrimination."

Sullivan's statement does not specify which "administrative requirements" the Sons of Liberty supposedly failed to meet the first time, but he implies that there was a problem with the permit for the first sale but not the one for the second, virtually identical sale. At the time of the first protest, however, and for months after the protest was shut down, the administration did not argue that a problem was posed by the permit. FIRE invites readers to view and compare the permits for both sales, which can be found below.

**Read the permit for the November bake sale [here](#) [28 KB PDF].**

**Read the permit for the January bake sale [here](#) [106 KB PDF].**

W&M freshman and Sons of Liberty president Will Coggin, as well as several other individuals, spent nearly three months calling and e-mailing W&M administrators in unsuccessful attempts to learn the reason for W&M's censorship of the groups' views. What follows is an account of these attempts that exposes W&M's current deception.

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The first e-mail regarding W&M's censorship of the Sons of Liberty's affirmative action bake sale came from Assistant Vice President for Student Affairs Mark Constantine and was addressed to Will Coggin. The Sons of Liberty's censored bake sale took place on November 8, 2003. This e-mail was sent to Coggin three days

later and accused him of "violating campus policy as stated in [W&M's] Handbook."

(Note: Contact information has been edited for privacy and clarity, and critical statements in the e-mails have been put in bold face by FIRE. Bracketed comments are provided by FIRE.)

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From: Mark Constantine  
Sent: Tuesday, November 11, 2003 7:15 PM  
To: Will Coggin  
Cc: Patricia Volp [Patricia Volp is the Dean of Students at W&M]  
Subject: Setting a meeting with me

Will, please call 1-3300 or come by the office to meet with me sometime early next week. I will be out of the office the rest of this week.

I'm requesting this meeting so that we can discuss your organizations' actions over this past weekend. I certainly understand freedom of speech, but I also understand what discrimination is as well. The sense of community that we work so hard for at W&M is diminished when acts such as your organizations' take place. Education and taking a stance is one thing; another is violating campus policy as stated in our Handbook. I look forward to our discussion. Take Care, Mark

Mark Constantine  
Assistant VP for Student Affairs  
College of William and Mary  
203 Campus Center  
P.O. Box 8795  
Williamsburg, VA 23187-8795  
(757)221-3300  
(757)221-3451 Fax

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Constantine 's statement that the Sons of Liberty were "violating campus policy" shows that W&M administrators actively shut down the bake sale and believed that they had the right to do so. Constantine is making the argument here that this satirical protest was a form of "discrimination."

However, Constantine soon backed away from the assertion that the Sons of Liberty had been "violating campus policy." Coggin contacted Constantine to ask for more information about the meeting and what rules he had violated. He received this e-mail in response:

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From: Mark Constantine  
Sent: Wednesday, November 19, 2003 10:42 AM  
To: Will Coggin  
Subject: Re: Meeting

Good morning! I tried calling you this morning but no one answered and your voice message system was not set up. Since emails are so easily copied, disseminated to others they were not intended for, and aren't always understood from the written form, I would have preferred to talk to you personally. (over the last few days I have received emails from many sources that were not intended for my viewing, and seen my own emails sent to specific people they were not intended for)

About your questions related to our meeting. Will, please understand that this meeting is not for judicial reasons. I don't want you to worry about that. **Referring to the Student Handbook at this point in time is counterproductive to the issues at hand.** I just wanted to get together to discuss the November 8 incident at the UC. Since we only discussed it on the phone, and that phone went dead at the end of our discussion, I thought it would be good to meet face to face. I know that

Chon Glover from Student Affairs was also there that day to further discuss our wishes at the time.

My true hope is to help your organization be successful on this campus in a manner that is consistent, creative, and meets our **community standards**. (I know that some don't like this word "community", but to tell you the truth, without it our society has nothing in many instances) I do not have some ulterior motive for this meeting other than making sure we know the facts and can move forward in a positive fashion.

Finally, I don't intend for our meeting to be a something other than it is. I've heard about protests, sending additional supporters, and making a possible scene. PLEASE come prepared to meet with me one on one. We don't need to make this out to be something more than it truly is. Thanks, Mark

Mark Constantine  
Assistant VP for Student Affairs  
College of William and Mary

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Coggin was relieved that he no longer seemed to be in trouble, but he still did not know on what grounds W&M had shut down the sale. It was clear, however, that Constantine seemed to want his group to comply with "community standards"—a standard so vague and necessarily viewpoint-based as to be likely unconstitutional. Coggin then got in touch with Mal Kline of the group Accuracy in Academia and asked him to contact Constantine and Vice President for Student Affairs W. Samuel Sadler to ask what rules Coggin had violated. Kline apparently received no response from Constantine or Sadler, so Coggin wrote both of them the following e-mail asking them yet again what policy could justify their censorship of the protest:

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From: Will Coggin  
To: Mark Constantine, Sam Sadler  
Cc: [REMOVED]; [REMOVED]  
Sent: Tuesday, December 02, 2003 4:17 PM  
Subject: Bake Sale and the Law

Dear Sirs,

In these past few weeks, members of the college administration have deemed my actions in a bake sale that took place on Nov. 8 in the UC lobby illegal and have stated so to me. **I am curious just what laws and College policies I have allegedly violated.**

I have received notification from Mal Kline at Accuracy in Academia that he has not received a reply to his email to you, Mr. Sadler and Mr. Constantine, asking for what specific laws and College policies that I supposedly violated in the bake sale. I would also like to make clear that Mr. Constantine, in my meeting with him Nov. 20, was very evasive as to what exactly I violated. Whether or not the College is pursuing action against me, the College still needs to outline what laws and policies I violated if it is going to label my actions as illegal. I will now follow up Mr. Kline's email by reiterating his request for what policies and laws I have violated. **As an adult and as a citizen of the United States, it is very upsetting to be branded a criminal without being notified of what laws I violated.**

Sincerely,  
Will Coggin  
President  
Sons of Liberty

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Coggin received the following e-mail by way of reply. Note that once again, a W&M administrator fails to address the most important issue—what specific policy would have allowed them to shut down the affirmative action bake sale. He also makes no mention of any "administrative requirements" that the Sons of Liberty might have missed:

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From: W. Samuel Sadler  
Sent: Wednesday, December 03, 2003 4:24 PM  
To: Will Coggin  
Subject: Re: Bake Sale and the Law

Will:

As far as I know no one in the administration has branded you a criminal. Further, **there is no judicial action related to the incident of Nov. 8 under consideration nor has there been.** I am puzzled by why you still seem to be confused about that fact. Mr. Constantine, while out of town at the moment, told me that he advised you of the same thing approximately two weeks ago. I'm not sure what else anyone can say to convince you this is the case but, if you still have doubts, why don't you make an appointment to talk with me.

Sam Sadler

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At that point, Will Coggin, Mal Kline, and others whose e-mails are not included in this document had asked W&M administrators what policies the Sons of Liberty were supposed to have violated, and none of them had received a response that addressed this question.

FIRE issued a press release on the shutdown of multiple affirmative action bake sales on campuses across the country on December 12, 2003. The censorship of the bake sale protest at W&M was included in this release. As a result, several concerned citizens wrote to W&M President Timothy J. Sullivan to express their disapproval of his administration's decision to censor the protest. One was a Virginian, Curtis Crawford, who engaged in the following e-mail exchange with President Sullivan. Rather than answer Crawford's concerns, Sullivan simply chose to insult him:

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At 10:56 PM 12/12/2003 -0500, Curtis Crawford wrote:

Timothy J. Sullivan, President  
College of William and Mary

Shame on the College for shutting down a student bakesale protesting affirmative action programs that discriminate based on race. People who believe that such programs are good for America should say why. Their reasons for supporting race-based affirmative action must be pretty feeble, if they respond to opposition by trying to silence it.

Curtis Crawford

*[President Sullivan replied:]*

From: "Timothy J. Sullivan" <tjsull@wm.edu>  
To: Curtis Crawford  
Date: Sat, 13 Dec 2003 00:45:00 -0500

Dear Mr Crawford, Some fool has sent me an e-mail and signed your name to it. You should do what you can to discover the identity of the person. He or she is doing real harm to your reputation. I will help you if I can. Tim Sullivan

*[Surprised by this response, Mr. Crawford wrote back to President Sullivan:]*

At 06:00 PM 12/13/2003 -0500, you wrote:

Mr. Sullivan, I notice that you wrote in the middle of the night, after perhaps a trying week. Would you like, in a calmer mood, to revise your e-mail to me?

Curtis Crawford

*[President Sullivan's response:]*

From: "Timothy J. Sullivan" <tjsull@wm.edu>  
To: Curtis Crawford  
Date: Sat, 13 Dec 2003 22:42:00 -0500  
Subject: Re: SHUTTING DOWN AFFIRMATIVE ACTION BAKESALES

No Tim Sullivan-You can quote me.

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President Sullivan had now joined the ranks of W&M administrators who failed to produce any reason for shutting down the affirmative action bake sale protest. And again, there was no mention of any "administrative requirements" behind W&M's decision to stop the protest.

Mr. Crawford and others who wrote to President Sullivan and received insulting responses forwarded the correspondence to FIRE. FIRE then wrote an open letter to the to the Board of Visitors of the College of William & Mary, pointing out that administrators "repeatedly failed to name any policy that allowed them to censor political speech in the first place," and further stating that, "Indeed, even if there were a policy at W&M that gave the college the discretion to shut down such a satirical protest, it would be unconstitutional under the First Amendment." FIRE received no response to this letter from any W&M official.

**Read FIRE's open letter to the Board of Visitors [here](#).**

Meanwhile, back on campus, the Sons of Liberty were planning to hold another bake sale expressly for the purpose of asserting their First Amendment right to free speech and expression. In order to ensure that the group would have no trouble in expressing their views, FIRE wrote a letter to President Sullivan pointing out once again that "no W&M official was able to provide a policy or even a cogent reason for shutting down the protest." FIRE went on to say that because of this uncertainty, "Mr. Coggin is understandably concerned that the upcoming bake sale will also be suppressed." Finally, FIRE asked for President Sullivan's assurance that the January 27 bake sale would meet with no administrative interference.

**Read FIRE's letter to President Sullivan [here](#) [64 KB PDF].**

The Sons of Liberty held their second affirmative action bake sale on January 27 and this time met with no official interference. However, as mentioned above, W&M published a [statement](#) by President Sullivan on its website on the day of the second protest in which he claimed that "A similar event, held last semester, did not meet the administrative requirements we routinely impose on such activities. The application for Tuesday's event did."

Sullivan's statement was quite vague as to the specific administrative requirement that the Sons of Liberty were alleged to have violated in the first sale. However, an e-mail that President Sullivan sent to a W&M student (who wishes to remain anonymous) after the second bake sale went into further detail about W&M's new story about censoring the original bake sale:

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**From:** Timothy Sullivan  
**Sent:** Thursday, January 29, 2004 4:46 PM  
**To:** [Anonymous Student]  
**Subject:** Bake Sale Question

Dear [Anonymous Student]:

The issue with the first bake sale was not that the Sons of Liberty failed to get permission or that they were not a recognized organization. They were at the time a recognized campus group and they asked for permission to hold a bake sale. The important thing to emphasize is that the Student Handbook provides a process to be followed if a group wants to sell something on campus and a separate process if a group is scheduling a demonstration or protest. The Sons of Liberty, when they held their first "bake sale," applied under the first policy. There was never any reference to the activity being a protest or a demonstration. **At the "sale" itself, there was nothing on their signage indicating that the activity was a protest. It appeared to be a straight-forward sale of their "product."** That is why they were asked to stop selling their brownies at differential prices.

The approach taken to the "sale" this week was different. The group indicated from the outset that they were conducting a protest against affirmative action by holding a "satirical" bake sale. Their signage indicated the same. The activity was approved as a demonstration and complied fully with the College's policies governing such activities.

That is the difference between the two and I appreciate the opportunity to clarify this point for you.

Timothy J. Sullivan, President  
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Unfortunately, while President Sullivan finally seems to have given a reason for the censorship of the bake sale, the reason he gives is not plausible. For nearly three months, W&M failed to give an answer as to why the bake sale was shut down. The only rationale administrators gave, besides vague and quickly retracted references to the student code, was that the protest—an obvious satire directed at racial preferences, not a commercial endeavor—was itself punishable discrimination.

Sullivan's assertion that there was no indication that the first bake sale was a protest is similarly unconvincing. The Sons of Liberty had large signs saying "Sons of Liberty Affirmative Action Bake Sale." Any reasonable observer would realize that this was not a mere bake sale to raise club funds, because the signs themselves brought up the controversial topic of affirmative action. In addition, this type of bake sale has become widespread on America's campuses and had already garnered significant national media attention. It simply strains credulity to believe that administrators or even passers-by would not realize upon very quick inspection that this was not an ordinary bake sale.

In summary, the record in this case simply shows no evidence that at any point up to January 27 were administrators concerned about or even aware of any "administrative requirements" that the Sons of Liberty had violated in the first sale. W&M's new explanation for its censorship of the November affirmative action bake sale protest simply is not supported by the facts.

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