



Foundation for Individual Rights in Education

601 Walnut Street, Suite 510 • Philadelphia, Pennsylvania 19106
T 215-717-3473 • F 215-717-3440 • fire@thefire.org • www.thefire.org

Greg Lukianoff
PRESIDENT

Robert L. Shibley
VICE PRESIDENT

William Creeley
DIRECTOR OF LEGAL AND
PUBLIC ADVOCACY

Alan Charles Kors
CO-FOUNDER AND
CHAIRMAN EMERITUS

BOARD OF DIRECTORS

Harvey A. Silverglate
CO-FOUNDER AND
CHAIRMAN

Barbara Bishop
James E. Ferguson II
William J. Hume
Richard Losick
Joseph M. Maline
Marlene Mieske
Daphne Patai
Virginia Postrel
Daniel Shuchman

BOARD OF ADVISORS

Lloyd Buchanan
T. Kenneth Cribb, Jr.
Candace de Russy
William A. Dunn
Benjamin F. Hammond
Nat Hentoff
Roy Innis
Wendy Kaminer
Woody Kaplan
Leonard Liggio
Herbert London
Peter L. Malkin
Muriel Morisey
Steven Pinker
Milton Rosenberg
John R. Searle
Christina Hoff Sommers

March 2, 2010

President Robert J. Zimmer
University of Chicago
Administration Building
5801 South Ellis Avenue
Chicago, Illinois 60637

Sent via U.S. Mail and Facsimile (773-702-0809)

Dear President Zimmer:

It is disappointing that the Foundation for Individual Rights in Education (FIRE) must write you a second time in just over a year regarding the university's policing of speech on the social networking website Facebook.com, despite the University of Chicago's promises of free expression.

On February 23, 2009, FIRE wrote you because Dean Susan Art censored a student's Facebook photograph album and invoked a university policy against "disrespect" as justification for censoring this off-campus expression. We reminded you that the university promises freedom of expression in its *Student Manual*: "The ideas of different members of the University community will frequently conflict and we do not attempt to shield people from ideas that they may find unwelcome, disagreeable, or even offensive. Nor, as a general rule, does the University intervene to enforce social standards of civility."

Unfortunately, you refused to answer FIRE's letter. We learned that our letter was passed to the university's General Counsel on the premise that FIRE had threatened litigation. This premise is false; FIRE does not litigate. As a moral issue, a university's fulfillment of its promises of freedom of speech deserves attention from the university's administrative leadership rather than from the university's legal counsel. I thus urge you to respond personally to the present letter.

In the present case, the university violated its promises to student Joseph Dozier when a University of Chicago Police Department (UCPD) officer investigated at length Dozier's Facebook posting about one of his professors, suggested that he would investigate Dozier's comments on his radio broadcasts, and required that Dozier immediately remove his posting or else the officer would recommend that the posting be reported to the professor.

This is our understanding of the facts. Dozier's account of these violations has not been disputed by the UCPD even after Dozier offered UCPD an opportunity for correction; nevertheless, please inform us if you believe we are in error. Please also note that as this is neither an educational nor a disciplinary matter, you are free to discuss all of the details of the case with FIRE.

On December 6, 2009, Dozier put several brief postings on his personal Facebook page and identical postings on his Twitter account, another social networking site. Facebook postings are normally private and can be accessed only by a specific pre-authorized group, while Twitter postings may be viewed by the public unless a user designates otherwise. A screen shot of the postings is enclosed. The first three postings on that day were these:

Dreamt that I assassinated [University of Chicago professor] John Mearsheimer for a secret Israeli organization - there was a hidden closet w/ Nazi paraphanelia [sic]. Haha! :-)

Perusing the Cambridge Economic History of the Greco-Roman world - my prof's cited 3 times. I actually got excited! #iamsuchaloser #uchicago

Someone just ripped a nice, loud fart in Harper Library. :-) #props #UChicago #finals

The following information comes from Dozier's five-page account of what happened next, which UCPD has not contested. UCPD officer Abraham Martinez phoned Dozier several times about the first posting above. Not recognizing the phone number and busy with finals, Dozier did not answer the phone. Dozier finally answered one of Martinez' calls on December 7.

In their conversation, Martinez called Dozier's posting a "death threat." Dozier responded that the posting was clearly a joke and not a threat. Martinez then pursued a line of questioning about why Dozier posted the joke, asking if Dozier disagreed with Mearsheimer politically. Martinez also asked Dozier if he had made similar comments about Mearsheimer in the past, including "controversial comments" that the UCPD should be aware of. Dozier replied that he had made various comments about Mearsheimer that might be considered politically incorrect but that there was no reason for concern.

Martinez also told Dozier that he had "researched" Dozier and his weekly radio show *The Boiling Point*, which is broadcast on the university-hosted station WHPK. He asked Dozier if he had made any comment that Martinez should be aware of on any of his past shows, such as a comment similar to the one he had posted about Mearsheimer on Facebook.

Martinez then said that Dozier's comment suggested a serious threat, that he would have launched a further investigation if Dozier had not picked up the phone, and that he was required to contact Mearsheimer to inform him of the comment. Dozier replied that he would be taking a course with Mearsheimer in the winter quarter and perhaps more courses in the future, that he had great respect for Mearsheimer (having taken a course with him previously), and that he feared negative repercussions if his innocent comment were reported to his professor. Martinez answered that he was supposed to file a report recommending further action. He said he would

note Dozier's insistence that the comment was only meant as a joke, but added that it is the UCPD's job to take note of such comments. Dozier asked Martinez if UCPD accesses student Facebook profiles, and he responded that it is the UCPD's job to monitor for potential comments that may be threatening to members of the university community.

Dozier repeated his request that UCPD not report his comment to Mearsheimer and added that Dozier wanted to find a way to resolve the issue because he was in the middle of finals. Martinez responded that if Dozier deleted the comment within 30 minutes and immediately let him know, he would include the removal in his official report and not contact Mearsheimer. Dozier replied to Martinez that it would take a couple of hours before he could comply with Martinez' direction. Martinez then told Dozier that he had two hours to delete the comment and report back to him, so that he would not contact Mearsheimer. Martinez gave Dozier a direct phone number to use for that purpose.

Later that day, Dozier deleted the comment from his Facebook and Twitter pages and then called Martinez to report that he had done so. Martinez responded that he would note in his report that Dozier was apologetic, took care of the comment, and wanted Mearsheimer not to be contacted due to his status as a recurring student of the professor. Dozier repeated that he wanted assurance from Martinez that Mearsheimer would not be contacted. Martinez said that the decision was up to his senior officer.

FIRE understands that Dozier offered UCPD an opportunity to correct this account but that he received no response. Yet, if this account is anywhere close to the truth, it describes an unacceptable set of violations of the university's promises of free expression. Any reasonable person would see that Dozier's posting was in no way threatening and was entirely unserious, even if Dozier had actually had such a dream. Furthermore, in context with the other postings, it is fully clear that Dozier's posting was in no way threatening. There was no reasonable rationale to threaten to investigate Dozier's other comments, nor was there any reasonable rationale to threaten to notify his professor unless Dozier removed the posting immediately. Consistent with the university's promises of free speech, University of Chicago students must be permitted to tell jokes about their professors on off-campus social networking sites without investigations by the UCPD and without *quid pro quo* demands that their jokes be removed. Finally, UCPD's demand that Dozier remove the posting makes no sense; if Dozier had been any threat to Mearsheimer, censoring his Facebook posting would have done nothing to reduce the threat.

As FIRE requested last year, we again request that all students be assured that their right to free speech and free inquiry remains entirely intact. We ask that you do the following:

- 1) Please inform all students that they do not lose their right to free expression when they enroll at the University of Chicago and that the university will never again censor speech that is protected by the university's promises, including private off-campus speech.
- 2) Please confirm whether UCPD is continuing to police students' postings on social networking websites.
- 3) With this letter, we request a copy of Martinez' report about this case.

FIRE hopes to resolve this matter amicably and swiftly, but we are prepared to use all of our resources to see this situation through to a just and moral conclusion. Again, FIRE itself does not litigate. We request a response from you by March 16, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Kissel". The signature is fluid and cursive, with the first name "Adam" and last name "Kissel" clearly distinguishable.

Adam Kissel, A.M. 2002
Director, Individual Rights Defense Program

Encl.

cc:

Kimberly Goff-Crews, Vice President for Campus Life and Dean of Students in the University

Susan M. Art, Dean of Students in the College

John W. Boyer, Dean of the College

Gregory A. Jackson, Vice President and Chief Information Officer

Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor, University of Chicago Law School

Abraham Martinez, University of Chicago Police Department

Marlon C. Lynch, Associate Vice President, Safety & Security, and Chief of Police, UCPD