FIRE

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

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May 11, 2012

Provost Peter Maphumulo
Northern Virginia Community College
Alexandria Campus
3001 North Beauregard Street
Alexandria, Virginia 22311

Sent via U.S. Mail and Facsimile (703-845-6238)

Dear Provost Maphumulo:

The Foundation for Individual Rights in Education (FIRE) unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals from across the political and ideological spectrum on behalf of liberty, free speech, legal equality, due process, the right of conscience, and academic freedom on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE is concerned by the threat to freedom of expression and freedom of association posed by Northern Virginia Community College's (NVCC's) discriminatory policy for funding recognized student organizations. NVCC used this policy to deny funding to the student organization Students for Sensible Drug Policy (SSDP), in violation of the group's First Amendment rights.

The following is our understanding of the facts. Please inform us if you believe we are in error.

NVCC assesses a mandatory Student Activities Fee to fund recognized student organizations at NVCC. In February 2012, SSDP, a recognized student organization, requested funding from NVCC's Student Senate for the purpose of attending a national conference. In a February 26 email to SSDP President Chris McMillon, however, Student Services Specialist for Student Activities Patricia Gordon stated that NVCC was "unable to fund any student organizations with a political agenda," including SSDP and the nonpartisan political student organization Virginia21. Gordon referenced the NVCC Administrative Services Procedural Manual, section 30.0.1, which states that members of the Virginia Community College System (VCCS, which includes NVCC) do not "provide funding for student clubs or organizations with a political or religious affiliation." NVCC's student handbook states the same policy.

This policy constitutes unconstitutional viewpoint discrimination, particularly as applied against SSDP.

That the First Amendment's protections fully extend to public colleges like NVCC is settled law. See *Rust v. Sullivan*, 500 U.S. 173, 200 (1991) ("[W]e have recognized that the university is a traditional sphere of free expression so fundamental to the functioning of our society that the Government's ability to control speech within that sphere by means of conditions attached to the expenditure of Government funds is restricted by the vagueness and overbreadth doctrines of the First Amendment"); *Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981) ("With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities"); *Healy v. James*, 408 U.S. 169, 180 (1972) (citation omitted) ("[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, 'the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools'").

Student organizations such as SSDP enjoy fundamental First Amendment rights. NVCC is required to grant political, religious, and other expressive organizations equal access to campus facilities. See *Widmar v. Vincent*, 454 U.S. 263 (1981). It also must grant political, religious, and other expressive organizations equal access—on a viewpoint-neutral basis—to student fee funding available to other student organizations. See *Board of Regents v. Southworth*, 529 U.S. 217, 233 (2000) ("When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others."); *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819, 836 (1995) ("For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation's intellectual life, its college and university campuses."). NVCC cannot require student groups to set their political and religious affiliations aside as a precondition for receiving recognition, benefits, or access to facilities available to others. See *Healy v. James*, 408 U.S. 169 (1972).

Moreover, it is not clear whether SSDP and Virginia21 are the only organizations denied funding because they have a "political agenda" or a "political or religious affiliation." NVCC's Alexandria campus also lists, among other campus organizations, the Muslim Student Association and Students for a Democratic Society. Each of these organizations deserves equal access to student fee funding. Regardless of its affiliation, any group might choose to engage in religious or political activity that otherwise meets NVCC's permissible funding guidelines. It is impermissible that NVCC automatically excludes from funding any group that seeks to express its core religious or political mission.

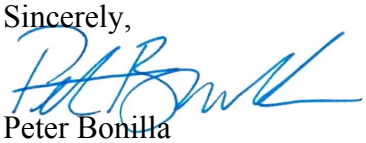
Northern Virginia Community College and the Virginia Community College System must revise their unconstitutional, discriminatory funding policies to conform to the requirements of the First Amendment. In addition, FIRE requests that NVCC notify all of its recognized student organizations that they are eligible for funding at NVCC. Please ensure that all recognized

student organizations exist on a level playing field such that groups with political or religious viewpoints and affiliations are no longer relegated to second-class status on campus.

FIRE is committed to using all of the resources at our disposal to see this matter through to a fair and just conclusion. Please spare NVCC the embarrassment of fighting against the Bill of Rights, by which it is morally and legally bound.

We request a response to this letter by June 1, 2012.

Sincerely,



Peter Bonilla
Assistant Director, Individual Rights Defense Program

cc:
Patricia Gordon, Student Services Specialist for Student Activities, Northern Virginia Community College, Alexandria Campus
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