



## 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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February 6, 2008

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San José/Evergreen Community College District

4750 San Felipe Road

San José, California 95135

*Sent via U.S. Mail and Facsimile (408-453-5390)*

Alan Charles Kors  
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Dear Mr. Tanaka:

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

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FIRE is concerned about the threats to free expression, academic freedom, and due process posed by San José/Evergreen Community College's (SJCC's) treatment of Professor June Sheldon. After she led a class discussion on the biological and social elements of the nature/nurture debate with regard to sexual orientation, she was removed from the adjunct seniority rehire preference list (SRP), she lost her teaching position for the spring term, and she was terminated (pending the Board of Trustees meeting on February 12), all without a proper hearing. In taking these actions against Professor Sheldon, SJCC has dramatically violated its own promises of academic freedom and due process and has chilled speech on the SJCC campus.

This is our understanding of the facts. Please inform us if you believe we are in error. Professor Sheldon has taught biology as a member of the adjunct faculty of SJCC since 2004 and had a place on the SRP. On June 21, 2007, in her summer 2007 Human Heredity course, Sheldon led a short discussion of the topic of sexual orientation, which was covered in the course readings. On or about July 25, a student submitted a letter to SJCC complaining that the "lecture" had been "offensive and unscientific."

On September 6, Sheldon attended a meeting with Dean of Mathematics and Science Leandra Martin, grievance officer Debbie De La Rosa, and others. At that

meeting she was given, for the first time, a copy of the student complaint. According to Sheldon, she responded that she had addressed both nature and nurture issues during the class discussion and had referred to scientific studies that supported her own comments. In particular, she said that she had given research evidence supporting her contention that “the cause of lesbianism is more nurture than nature.”

According to De La Rosa, Sheldon was to meet with members of the SJCC biology department to discuss how “controversial issues” are “presented or taught in the classroom” and what “criteria [are] used to present these issues in a fair and objective manner.” Sheldon later asked not to meet with the faculty because she had independently chosen to attend a workshop at De Anza Community College on teaching controversial topics, which she completed on October 19.

Dean Martin continued to investigate the content of Sheldon’s classroom discussion. On December 6, Martin reported that she had investigated Sheldon for saying that “there was no such thing as true female homosexuality.” Martin reported that she had met with “the four full-time faculty members in the biology department” and had asked them about the “nature versus nurture question” and whether “the scientific community was in agreement that there were female homosexuals.” All four faculty members reportedly replied that the nature/nurture issue was “very complex” and that both genetic and environmental factors were involved in sexual orientation. Martin, however, reported that Sheldon “was teaching misinformation as science in a science course,” and Martin recommended that Sheldon be removed from the SRP.

On December 18, Anita Morris, SJCC Vice Chancellor of Human Resources, wrote Sheldon a termination letter “regarding statements you made in your Human Heredity [course] regarding homosexuality.” The letter noted that Sheldon had been removed from the SRP as a result of the alleged statements and, therefore, that SJCC’s offer to Sheldon to teach in the spring 2008 semester had been withdrawn. The letter added that “if there is any question as to whether your removal from the SRP can [a]ffect your Spring assignment, the District has an independent right ... to terminate adjunct employees without cause” and that SJCC had terminated Sheldon pending final approval of the SJCC Board of Trustees. The Board of Trustees is scheduled to hear this case on February 12.

The SJCC collective bargaining agreement promises academic freedom to SJCC faculty:

Instructors have the right to study and investigate, to interpret their findings, and express conclusions. ***Instructors may present views that are controversial*** and may evaluate opinions held by others ... (Section 4.6.4; emphasis added.)

Moreover, our nation’s moral commitment to free expression clearly includes classroom expression. In fact, as the Supreme Court noted in *Sweezy v. New Hampshire* (1957),

The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any straitjacket upon the intellectual leaders in our colleges and universities would imperil the future of our nation.

In addition to violating her right to academic freedom, SJCC failed to safeguard Sheldon's basic due process rights in its handling of this case. Sheldon was given almost no chance to defend herself against a single student complaint. Dean Martin misrepresented Sheldon's classroom comments during her investigation. Dean Martin also misconstrued the biology faculty's admission of a genuine debate on the matter at issue, claiming instead that Sheldon had taught "misinformation as science." In addition, Sheldon's termination letter makes clear that her termination is directly related to her protected classroom speech, despite the claim in the letter that her termination was not related to this speech.

FIRE requests that SJCC reverse its findings against Professor Sheldon, restore her to the SRP list, withdraw its punishment of termination, and remove all information regarding this case from her personnel file. We also urge you to assure the SJCC faculty that SJCC would never punish a faculty member in any way for exercising his or her right to academic freedom. FIRE hopes to resolve this matter amicably and swiftly, but we are prepared to use all of our resources to see this terrible assault against academic freedom through to a just and moral conclusion.

Due to the time-sensitive nature of this matter, we request a response by February 11, 2008.

Sincerely,



Adam Kissel

Director, Individual Rights Defense Program

cc:

Ron Lind, Trustee, San José/Evergreen Community College District

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