



THE FIRE QUARTERLY

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FIRE Victory: Federal Judge Strikes Down Texas Tech Speech Code

FIRES continuing Speech Codes Litigation Project recently won its third victory when a federal judge struck down the speech code at Texas Tech University.

The story began in May 2003 when student Jason Roberts wanted to give a campus speech and pass out literature to express his religious and political opposition to homosexuality. But the third-year law student didn't want to use the school's only designated "free speech area," a gazebo adjacent to the student union building.

Following university policy, Roberts sought permission to speak in a more public area. His request was denied. He appealed and finally obtained permission to speak in the area he had requested. Even so, Roberts saw a larger question that deserved an answer: Don't students have a right to express their views in the public areas of a public university without a permit? Doesn't the First Amendment guarantee that right?

To get an answer, Roberts challenged the speech code by suing Donald R. Haragan, president of Texas Tech. His case was coordinated by FIRE's Legal Network and filed by the Liberty Legal Institute and the Alliance Defense Fund. The outcome was the third victory in FIRE's Speech Codes Litigation Project.

On September 30, U.S. District Judge Sam R. Cummings struck down the university's speech code. He ruled that the code's requirement for



Texas Tech's Former "Free Speech Gazebo"

prior permission to speak "is not narrowly tailored and therefore is unconstitutional because it sweeps too broadly in imposing a burden on a substantial amount of expression that does not interfere with any significant interests of the University." The ruling also applied to restrictions on distributing printed matter and to the school's ban on "insults, epithets, ridicule or personal attacks," among other things.

Initially, the only "free speech area" on campus was a 20-foot-wide gazebo that could accommodate about 40 people—for a campus of 28,000 students. After FIRE intervened last year, and before the case went to court, Texas Tech added acres of additional free speech zones. But that wasn't enough. Judge Cummings further enlarged that area, ruling that students have a

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David French

From the President

A question that I often receive as president of FIRE is: "Why do you choose to defend low-value speech?" Few of our friends and supporters question the defense of professors who are victims of ideological discrimination, or religious groups who are denied the basic right to worship. But when we defend speech that touches on issues of race, gender, and sexuality—and when that speech is seen as "unsophisticated"—FIRE often receives an avalanche of criticism.

Let me give you a couple of examples. We've recently defended the rights of students who drew a crude parody of the "Grand Wizard" of the Ku Klux Klan, and also of a student who posted a cartoon that shows a woman in outdated workout clothes urging other women to take the dormitory stairs to lose the "freshman 15." In neither case did the students present a serious argument on an important issue of the day. And, in hindsight, the students themselves aren't especially proud of their masterpieces. Nonetheless, FIRE has expended considerable energy defending their right to express themselves in ways that proved embarrassing to them and unenlightening for the rest of us.

Why do we include cases such as these in our commitment to defend individual rights? There are several reasons.

First, in both cases, the universities involved began campaigns not just to punish offensive speech but also to ruin the lives and careers of the students who spoke. In the case of the "Grand

Wizard" drawing, the University of Massachusetts at Amherst threatened the students with expulsion and even *criminal charges* for harassment. The students were faced with the destruction of their academic careers and the loss of their liberty. The threats were not merely limited to the one student who actually drew the picture, but to every student who was even present when the picture was drawn. At the University of New Hampshire, the student who posted the "offensive" cartoon was literally thrown out of the dorms and forced to live out of his car.

Constitutional doctrine aside, these penalties are plainly unjust and immoral. They are wildly disproportionate to the "offenses" and reveal a disturbing level of viciousness on the part of campus administrators. Any reasonable person is bound to ask: Do these administrators even care about the human beings involved? Or are they mere pawns in an ideological game?

Second, these acts of censorship do involve constitutional doctrine. The university policies in these two cases restrict or prohibit constitutionally protected speech. For our friends who question FIRE's involvement in these and similar cases, I would urge you to consider a crucially important distinction. It is made in an often quoted line that you've probably heard: "I disapprove of what you say, but I will defend to the death your right to say it." In defending these students, FIRE is not approving of the *content* of their speech. We are defending their *right* to speak, even if the content is offensive to some and unifying to all. The policies that punished these students do not chill merely the expression of jokes and parody. They also chill the "core speech" that is critical to political, cultural, and religious discourse in this country.

Finally, FIRE questions the notion that parody and humor (even crude parody

and humor) are necessarily "low-value" speech. One merely has to look at the sweep of American history to see that biting sarcasm, "offensive" humor and "vicious" satire have often been used with great effect to right wrongs and to make America a more lively and vital nation. Do you really want education bureaucrats determining what kind of humor is or is not appropriate for your eyes and ears? Must even our nation's civil liberties organizations bow to an oppressive and humorless culture of scolds—permitting and protecting only speech that makes us furrow our brows in thought as opposed to the speech that makes us laugh or even roll our eyes and groan? These questions answer themselves, as well as the question of why we sometimes defend "low-value" speech.

The last quarter of 2004 has been exciting and eventful at FIRE. We have completed and printed our flagship publication, FIRE's *Guide to Free Speech on Campus*, and we have unveiled a new, enhanced website that contains a searchable database of FIRE's cases and the hundreds of news items, articles, and other resources that provide critical assistance to friends of liberty at colleges and universities across the country.

As FIRE continues to be victorious, as we produce the resources that are helping to change a culture that is intolerant of free speech and individual rights, we remain deeply grateful for your support. It is your generosity and your commitment to the cause of individual rights that keeps our team on the front lines. That is why the credit for our victories ultimately belongs to you. For that, I salute you, and on behalf of everyone at FIRE, I thank you.

A handwritten signature in black ink, appearing to read "DAVID FRENCH".

David French

Changing the CULTURE

Bringing Justice to the People

Edited by Lee Edwards

Foreword by Edwin Meese III

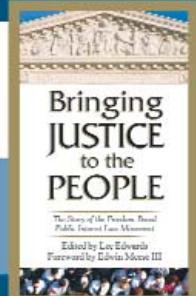
FIRES plays an important part in what is broadly known as the freedom-based public-interest law movement, an informal affiliation of some three dozen legal foundations that work diligently to uphold the principles of the U.S. Constitution. These independent organizations work across the legal arena to defend constitutional liberties and to ensure that no American is denied the fundamental liberties guaranteed in our Bill of Rights. On more than one occasion FIRE has allied itself with organizations in the freedom-based public-interest law movement when defending individual rights on campus. For example, the Center for Individual Rights and the Alliance Defense Fund were essential allies in challenging speech codes in California and in Texas.

The remarkable 30-year history of freedom-based public-interest legal groups is now chronicled in a new book, *Bringing Justice to the People* (Heritage Books, 2004). Featuring a chapter by Thor L. Halvorssen, FIRE's first executive director and CEO, the book records FIRE's impact in the areas of free speech, religious liberty, and freedom of association. Halvorssen was invited by Edwin Meese, attorney general under President Reagan, to contribute the chapter "Freedom of Speech for All." If the price of liberty is eternal vigilance, *Bringing Justice to the People* is an informative and timely history of a group of institutions that remain ever vigilant. ♦

Bringing Justice to the People

September 2004

Edited by Lee Edwards
Foreword by
Edwin Meese III



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FIRE Launches New Website

After much planning, FIRE is pleased to announce a new and improved website. We have redesigned and reorganized the site in order to facilitate navigation through our vast news and case archives. The new site includes a search feature, key issues separated with related cases and news articles, and expanded information on FIRE's program activities. Please visit the new site and send comments to FIRE@thefire.org. ♦

Practical Advice for Fraternities Caught in the Battle for Free Speech on Campus

By Greg Lukianoff & Matthew Vasconcellos

While there is no shortage of free speech battles on college campuses, fraternities can claim the dubious honor of being at the center of many of the least sympathetic controversies. From Halloween parties with brothers wearing costumes of the Ku Klux Klan, to fraternity newsletters that graphically relate a brother's sexual exploits with named co-eds, fraternities sometimes express themselves in ways that don't exactly win hearts and minds.

But the perceived value of a particular expression does not and should not determine whether it is protected. Although fraternities may later regret the actions of some of their brothers, they must not allow their rights to be stripped away by overzealous administrations. Fraternities' willingness to stand up for their rights may affect the freedoms of all college and university students.

Fraternities are by no means alone in seeing their rights abridged. A quick examination of FIRE's website, thefire.org, and that of Student Press Law Center, splc.org, demonstrates the pervasiveness of assaults on free speech on campus. Many of these controversies are downright absurd.

At Rhode Island College, for example, a professor was tried for "discrimination" after merely refusing to punish a student who had engaged in "offensive" speech. The professor rightly believed she had no power to do so as a public employee, but the proceedings went ahead anyway.

Texas Tech University established a "free speech zone" that restricted free expression for the University's 28,000 students to one 20-foot-wide "Free Speech

Gazebo." (The restrictive policy was recently overturned as part of FIRE's Speech Codes Litigation Project. See story on Page 1.)

More recently, a student at the University of New Hampshire who was frustrated by slow dormitory elevators was found guilty of violating policies on affirmative action, harassment, and disorderly conduct for posting fliers which joked that co-eds could lose the "Freshman 15" by taking the stairs. The university evicted him from student housing and sentenced him to mandatory counseling and probation.

These cases, along with dozens of others, demonstrate that many universities are not even minimally living up to the ideal of the open and free-flowing expression on which an intellectually robust university depends. This is especially true where fraternities are concerned. University administrators tend to show little patience for the antics of fraternities. But when a fraternity's activities involve the exercise of free speech rights, that expression cannot be punished or prohibited just because it is deemed offensive or crude.

Fraternities need to take an active role in defending their own rights and those of the academic community. Free speech is too often taken for granted until an organization faces a challenge to its own existence. Beyond the obvious value of defending one of our country's most fundamental principles, when a fraternity advocates for free speech, it may reap additional benefits both for the fraternity and for the university as a whole.

First, educating fraternity members about free speech—its parameters, lim-

its and controversies—reminds brothers that the right to engage in a particular form of expression does not make that expression wise or good. Although "offensive" expression is protected by the First Amendment, fraternity brothers will learn from previous fraternity speech controversies that it may subject them to unwanted public scorn or embarrassment. These lessons may help prevent potentially troublesome situations in the future.

Second, successfully defending against an attack on the free speech rights of other groups may prevent administrators from attempting to use similar tactics in the future. For example, in 2003, the University of California at Irvine (UCI) shut down the College Republicans' "affirmative action bake sale"—a widely-used political protest parodying affirmative action policies—arguing that it was a form of "discrimination."

Regardless of what one thinks about the propriety of such protests, the "bake sale" was a fully protected form of political satire and was not "discrimination" in any legal sense. FIRE intervened by writing to the university and explaining why UCI's actions violated both the letter and spirit of the First Amendment, bringing national media attention to the case.

A few months after FIRE's intervention, the College Republicans held the sale again. This time the event was allowed to proceed without administrative intervention. After a brief public outcry against its actions, UCI learned it could not use "discrimination" as a back door to censorship. By taking a stand for free speech in such controversies, fraternities can teach their university that commonly used tactics to circumvent free speech rights will not be quietly tolerated. This may prevent future attempts to silence speech.

AΣΦ

Third, standing up for others' rights may mean that the fraternity will not be alone if and when it needs defending. A fraternity that supports a university's decision to punish the expression of another group might not find much support when its own rights are challenged. While legally, the popularity of a particular expression is irrelevant to its protected status, as a practical matter, the support of other groups or the student media can prevent a free speech controversy from mushrooming into a witch-hunt.

Finally, and perhaps most importantly, from a legal standpoint, speaking out on such issues may have an additional and surprising benefit: It may help secure a chapter's legal position as an expressive association in the future.

A recent federal appeals court ruling, *Pi Lambda Phi Fraternity, Inc. v. University of Pittsburgh*, 229 F.3d 435 (3rd Cir., 2000), held that fraternities that speak out on issues are more likely to be entitled to free association protection than those that do not. In that case, the Third Circuit denied a fraternity the associational protections afforded to "expressive associations," stating: "Nothing in the record indicates that the Chapter ever took a public stance on any issue of public political, social, or cultural importance."

If ever the right to exist on campus is challenged, a fraternity's position will be greatly enhanced if it has previously taken positions on issues and actively exercised its members' right to speak. Advocating for free speech is an effective way to establish a fraternity as an "expressive association."

Whether due to a reluctance to defend some of the actions of their brothers, a desire to avoid a confrontation with the administration, or a basic misunderstand-

ing of their rights, fraternities too often do not fight back when universities impose punishments for engaging in protected speech.

However, fraternities, their alumni, and their nationals must remember that in our legal system, all citizens enjoy only those rights that the least of us enjoy. Therefore, fraternities need to realize that what might seem like a trivial fight over an offensive Halloween costume may have a profound impact on administrators' or students' approaches to dealing with speech in the future.

Fraternities willing to fight for their free speech rights usually prevail. University administrators have come to depend on the acquiescence of students when they impose illegitimate sanctions for protected speech. When challenged, however, pressure from the public, the media, alumni, donors, and organizations like FIRE is often enough to force a university to back away from morally and constitutionally objectionable sanctions against students or organizations. When public pressure does not suffice, lawsuits usually do.

In those rare instances where universities have insisted on litigating such cases, they typically lose. Fully litigated cases involving free speech rights of fraternity members resulting in legal decisions are somewhat rare; often when a fraternity or other organization files a lawsuit, the university relents.

For example, when officials at the University of California at Riverside disbanded a chapter of Phi Kappa Sigma for three years after it produced a T-shirt that some Latino students found offen-



Greg Lukianoff

sive, the fraternity filed suit. The university quickly reversed the sanctions, settled the lawsuit, and agreed to have two top administrators attend First Amendment "sensitivity training."

Similar scenarios involving fraternities have occurred at Auburn University and Cal State Northridge. When the fraternities filed lawsuits alleging a violation of their free speech rights, the universities readmitted the chapters and settled the lawsuits. Given the clear weight of the law against such unconstitutional policies, one can easily see why universities are so reluctant to take such cases to court.

We have not seen the last time a fraternity gets in trouble for offensive expression, but FIRE hopes that the next time such a controversy arises, the fraternity, its alumni, and the national governing body will recognize the importance of protecting the right to free speech. Standing up for free speech in general does not mean the same thing as endorsing the expression itself. Defending expression that is unpopular or that one disagrees with personally requires courage and principle, and is crucial to safeguarding the rights of all students. □

Greg Lukianoff is FIRE's Director of Legal and Public Advocacy. *Matthew Vasconcellos* is a FIRE Legal Intern and a student at the University of Michigan Law School.

In the Mail

University of Arkansas - Message (Plain Text)

File Edit View Insert Format Tools Actions Help

Reply Reply to All Forward Attachment X A² Options

Link to History Select... Name Select...

Extra line breaks in this message were removed.

From: Carlton Saffa [csaffa@cox-internet.com] **Sent:** Tuesday, October 05, 2004 10:56 PM
To: fire@thefire.org
Subject: University of Arkansas

I want to thank you for all that your organization does. For some time now I have intended to write to you. I want to thank you for your FIRE Guides, in particular your manual covering due process. Last spring, along with another student, I was subjected to a ridiculous prosecution by the University of Arkansas' Office of Community Standards and Student Ethics. Your book familiarized me with my rights as a student and gave me the confidence to approach an attorney.

It is my hope that the judicial division of University of Arkansas has learned what it can and cannot do to its students; sadly, I do not think that they have changed. This campus may be worth challenging in the future, should an appropriate case arise. I noted that your organization provides a "yellow" rating to the University of Arkansas, and I think such a cautionary rating is certainly warranted.

Sincerely,

Carlton Saffa

Repression and Double Standards at UMass Amherst

The University of Massachusetts Amherst is campaigning to persecute nine students who were seen in photographs containing a caricature of one of them as the “Grand Wizard” of the Ku Klux Klan. The drawing, which was intended to mock both the Klan itself and spurious accusations of “racism” made during the course of a student government election campaign, depicted the so-called Grand Wizard with his eyes crossed and his tongue hanging out. The mere existence of such a drawing led UMass to charge the nine students with “harassment” and threaten them with penalties ranging from criminal charges to expulsion.

On March 26, after the elections for the UMass Student Government Association (SGA), several candidates

gathered in a student organization office for a post-election party. One student at the party, Patrick Higgins, was defeated in a race for SGA president during which he was labeled a “racist” for opposing a plan to set aside a number of seats in the Student

Senate solely for members of a campus group called ALANA. (Eventually the plan was judged unconstitutional by UMass’ own general counsel.) ALANA claims to represent “African, Latino/a, Asian/Pacific Islander and Native American” students at UMass.

FIRE pointed out that “the First Amendment protects even extraordinarily offensive satire and parody” and emphasized that any punishment decisions “must be made without reference to the ‘offensive’ caricature.”

In an effort to mock the charges of racism, a person at the party drew a caricature of Higgins as a member of the Ku Klux Klan on a dry-erase board. This “Grand Wizard” had a speech bubble above his head that read, “I LOVE

ALANA!!” One of the partygoers took photographs of the caricature and posted them on his personal website. An unknown student later circulated the photographs around campus, along with others that appear to show some of the partygoers drinking alcohol.

UMass charged all nine students with “harassment conduct less than a physical attack” and other charges related to the consumption of alcohol. During the resulting judicial proceedings, UMass offered “settlements” that include punishments far more severe than those typically imposed for first-time alcohol offenses.

On October 7, FIRE wrote UMass Amherst Chancellor John V. Lombardi on behalf of the students, pointing out that not only was the drawing irresponsibly mischaracterized, but that it was also constitutionally protected expression that UMass, as a state institution, was forbidden to punish. FIRE pointed out that “the First Amendment protects even extraordinarily offensive satire and parody” and emphasized that any punishment decisions “must be made without reference to the ‘offensive’ caricature.” FIRE will continue to defend the nine accused students in the hope of protecting freedom of speech for all UMass students and professors. ☩

FIRE Victory: Federal Judge Strikes Down Texas Tech Speech Code

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right to speak freely, without prior permission, on “park areas, sidewalks, streets, or other similar common areas . . . irrespective of whether the University has so designated them or not.”

FIRE’s Speech Codes Litigation Project is turning the tide in the battle for free speech on campus. Following



This drawing led to charges of harassment at UMass

the first three victories at Texas Tech, Shippensburg University in Pennsylvania, and Citrus College in California, college and university administrators are rapidly realizing that the First Amendment trumps politically correct restrictions on free speech. ☩

Rhode Island College Union Files Free Speech Grievance

In a welcome development for free speech on America's campuses, the faculty union at Rhode Island College (RIC) has filed a grievance challenging RIC's unconstitutional speech codes.

Professor Jason Blank, president of the RIC/AFT Local 1819, filed the grievance in the wake of RIC's decision to subject Professor Lisa Church to disciplinary hearings for her refusal to punish constitutionally protected student speech.

Under intense public scrutiny as a result of FIRE's public campaign on behalf of Professor Church, the college decided to take no further action against her. RIC reached this decision, however, after trying her for "discrimination" because she refused to punish students for "offensive" comments they had allegedly made. RIC administrators have neither acknowledged the unconstitutionality of their actions nor taken steps to strike down the college's speech code.

The RIC/AFT recognition that speech codes not only violate Constitutional and

moral principles, but also prevent professors from effectively doing their jobs, marks an important moment in FIRE's ongoing campaign against campus speech codes. In the union's newsletter, RIC/AFT President Blank and newsletter editor Professor Dan Weisman reminded the faculty that "[t]he fact that Dr. Church was exonerated does not change the fact that a clear message went out to students, faculty, staff, and the general community that RIC is a '*careful speech zone!*' Those without tenure or planning to apply for promotions or sabbaticals know that they'd better watch their words or their careers here might be jeopardized."

Blank and Weisman also pointed out that Professor Church herself had recently chaired a disciplinary panel, and that her committee had recommended that the college bring its procedures in line with the Constitution and the union contract. Professor Weisman and the union had also expressed related concerns on a num-

ber of other occasions prior to Church's trial. However, RIC ignored all of these recommendations and eventually tried Church under the same faulty procedures to which she had advocated changes.

FIRE hopes that the bold actions of RIC/AFT in favor of due process and fundamental freedoms will encourage faculty unions across the country to take steps toward ensuring that their own members are never subjected to such ordeals. ♦

The RIC/AFT recognition that speech codes not only violate Constitutional and moral principles, but also prevent professors from effectively doing their jobs, marks an important moment in FIRE's ongoing campaign against campus speech codes.

Evicted University of New Hampshire Student Allowed to Return to Dorm

FIRE is continuing on a path towards liberty on college campuses with yet another victory in defense of free speech. When the University of New Hampshire (UNH) evicted student Timothy Garneau merely for posting fliers in his dormitory, FIRE vehemently defended Garneau's First Amendment rights and fought to get him back into UNH's housing system. As a result, UNH backed away from its attempt to infringe upon the student's expressive rights, and the student,

who was living out of his car, is back in the dorms today.

FIRE came to Garneau's aid after he was punished for posting fliers in his dormitory's elevators encouraging the use of his dormitory's stairwells instead of its elevators for short trips up or down. The fliers, which were made quickly and intended to be humorous, suggested that freshman girls could lose the "freshman 15" by taking the stairs instead of

Photo by Brian Dekoning



UNH Student Timothy Garneau

Victory for Religious Freedom at Ohio State

The Ohio State University has agreed to change a “nondiscrimination” policy that prohibited religious student organizations from making critical decisions based on religious criteria. The decision came a few weeks after FIRE wrote to Ohio State on behalf of a broad interfaith coalition of Muslim and Christian student organizations that felt that the policy interfered with the First Amendment’s guarantees of religious freedom and free association. FIRE’s effort was in cooperation with that of the Christian Legal Society (CLS), which had already filed a lawsuit asserting the same claims against Ohio State.

The coalition of religious groups—including the Muslim Student Association, Inter-Varsity Christian Fellowship, the Christian Graduate Student Alliance, Campus Crusade for Christ, Mosaic, Reformed Christian Students, the Christian Medical Dental Association, Student Christian Fellowship, and International Friendships—used religious criteria for decisions regarding group leadership, group message and, some-

times, group membership. Ohio State’s official recognition policy had stated that in order for groups to receive full recognition from the university, they could not “discriminate” on the basis of religion.

FIRE wrote to Karen A. Holbrook, president of Ohio State, pointing out that as a public institution, “Ohio State cannot constitutionally control a religious student organization’s message or composition,” and that “no federal, state, local, or university statute, policy, or regulation can trump the exercise of First Amendment rights guaranteed by the United States Constitution.... Groups whose purpose is to communicate a religious message must be allowed to control that message without unconstitutional administrative interference.”

Religious freedom on our nation’s campuses recently received another boost through a letter from Kenneth Marcus of the U.S. Department of Education’s Office for Civil Rights (OCR). Many public universities have claimed that federal laws under OCR’s juris-

“...Groups whose purpose is to communicate a religious message must be allowed to control that message without unconstitutional administrative interference.”

diction, such as Title IX and Title VI (which prohibit discrimination in higher education on the basis of sex and race), require them to adopt and enforce “nondiscrimination” codes that effectively discriminate against religious students. OCR’s letter demolishes that claim, directly stating that “no OCR policy should be construed to permit, much less to require, any form of religious discrimination or any encroachment upon the free exercise of religion.”

The Ohio State decision marks an important moment in the battle for religious liberty and free association on campus. Following victories at Tufts, Rutgers, Purdue, and elsewhere, another of America’s leading public universities has recognized that religious organizations must be permitted to make decisions using religious principles. ☩

the elevator—which would make the elevator wait shorter for everyone else. When the residence hall director angrily asked Garneau if he had made the fliers, Garneau denied responsibility at first but minutes later confessed to his involvement. UNH charged Garneau with “acts of dishonesty”; violation of “affirmative action” policies; “harassment”; and “conduct which is disorderly, lewd.” He was sentenced to eviction from student housing, extended disciplinary probation, and psychological counseling. After his appeal was denied, Garneau turned to FIRE for support.

FIRE challenged UNH’s actions in a letter to President Ann Weaver Hart, stating that expulsion from public university student housing for posting a satirical flier unlawfully violated the First Amendment. FIRE also disputed the “harassment” charges, pointing out that the fliers were hardly serious enough to constitute real harassment, and that to call posting a flier “harassment” cheapened victims of real harassment.

Three days after FIRE wrote to President Hart, UNH began to back away from all of

its unconstitutional charges. Garneau, who had been living in his car after being expelled from his room, was informed that his sentence was reduced

to “relocation” to another dormitory, disciplinary probation, and a single “ethics” meeting with a UNH judicial officer.

Though Garneau admits to initially hiding the truth from his hall director, Brad Williams, he claims it was because he was afraid of a severe and unlawful punishment. After being kicked out of the dorm for three weeks, it was clear that his fears were completely justified. Williams had no business ‘investigating’ constitutionally protected speech in the first place.

FIRE’s case at UNH demonstrates that when FIRE steps in with powerful arguments for liberty, public university administrators often make the choice to respect the rights of their students. ☩

FIRE challenged UNH’s actions in a letter to President Ann Weaver Hart, stating that expulsion from public university student housing for posting a satirical flier unlawfully violated the First Amendment.

From the Chairman

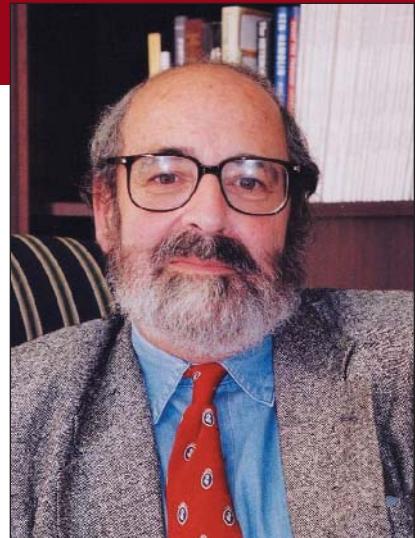
Why do parents continue to send their children to campuses contemptuous of core American values? Our colleges and universities are the only institutions permitted to test for intelligence and the ability to complete complex tasks. Even without value added by education, the brightness and self-discipline of their graduates are attested to by the admissions process and the fact of graduation. Thus, it is rational for entrepreneurial and corporate America to recruit and reward differentially based upon the admissions standards of a college or university. For as long as that is true, it is rational for loving parents who want the most options for their children to send those children to the most prestigious schools. This occurs, of course, despite and not because of the politically correct coercions and indoctrinations that occur there. Subsidized, without competition, and sheltered in so many areas from assessment on the basis of value added, our colleges and universities own our children from eighteen to twenty-two.

To affect this dreary dynamic most efficaciously, one would need to offer a competitive model of higher education with a BA of a market value equal to that of the Ivy League or the flagship state universities. Such value, however, depends upon inertial reputation, admissions standards, and general perception. The creation of an education of equal “value” would require what some term “the Sultan of Brunei solution”: The library and rare

books, the laboratories, the prize-winning faculty, the various indicia of academic greatness—all would come at prohibitive cost. A model that offered a prestigious degree, high admissions standards, a superb and rigorous education, a faculty that was truly and usefully intellectually pluralistic, and a climate of individual rights and responsibilities (joined with rights of voluntary association) would, I believe, sweep the field. No one, however, can afford to build a great university to offer that model.

How do universities work and how might they be changed? Currently, sexuality trumps neutral standards; race trumps sexuality; sex (“gender”) trumps race; but careerism and money trump everything. At the present time, the sympathies of academic administrative warlords lie with the groupthink of the politically correct, and their careers now depend on satisfying those constituencies. Above all, however, career advancement best predicts administrative behavior. The potentially differing interests of politically correct constituencies and of administrators can work in liberty’s favor.

To advance their careers, administrators must attract funds and must avoid public scandal or embarrassment. This helps to make FIRE’s campaign of publicly exposing the depredations of political correctness so powerful. FIRE’s strategy of assigning appropriate public blame, of identifying those who do harm, and of bringing the light of national attention



Alan Charles Kors

and scandal to shine on administrators who betray the values of liberty, fairness, and decency forces administrators concerned about their future to look over both shoulders now.

Careerist administrators have made a dreadful Faustian bargain. In return for keeping the sciences rigorous and most professional schools appropriate to those who fund and hire from them, administrators have given the humanities, the soft social sciences, and the entire university *in loco parentis* (the university standing in the place of parents) to political bigotry, ideological litmus tests, tendentiousness, double standards, and illiberalism. They know that they could not fund the sciences and the important professional schools if they had sold their souls in those locations. FIRE works to make it impossible for them to succeed if they sell their souls in the rest of university life.

An article

Alan Charles Kors
Chairman

Invest in Freedom

About the Publication

Volume 2 Number 4

The *FIRE Quarterly* is published four times per year by the Foundation for Individual Rights in Education.

The mission of FIRE is to defend and sustain individual rights at America's increasingly repressive and partisan colleges and universities. These rights include freedom of speech, legal equality, due process, religious liberty, and sanctity of conscience—the essential qualities of individual liberty and dignity. FIRE's core mission is to protect the unprotected and to educate the public and communities of concerned Americans about the threats to these rights on our campuses and about the means to preserve them.

FIRE is a charitable and educational tax-exempt foundation within the meaning of Section 501 (c) (3) of the Internal Revenue Code. Contributions to FIRE are deductible to the fullest extent provided by tax laws.

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The battle against those who wish to suppress free speech must be fought each day, and your donation to FIRE guarantees that the individual rights and liberties of our nation's future leaders will be secure

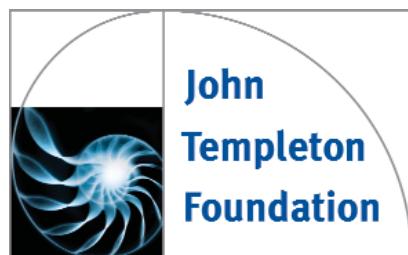
For more information on FIRE's current and planned giving options, please contact Rob Pfaltzgraff at rob@thefire.org or 215-717-3473.

John Templeton Foundation Challenge Grant Update

In the last issue of *TFQ*, FIRE announced the inception of a \$100,000 challenge grant from the John Templeton Foundation. The Foundation will match every dollar donated to FIRE's free speech efforts, enabling FIRE to extensively distribute and publicize the recently released *Guide to Free Speech on Campus*.

To date, FIRE has raised \$81,560 towards this goal from its donors. If you have not

taken advantage of this exceptional opportunity to double your contribution to FIRE, please send your contribution today.



The Last Word

At speechcodes.org, schools across the country are rated based on how the institution's speech code infringes on protected expression. Each rating corresponds to a particular color of a traffic light. Every month, a speech code is highlighted to scrutinize a specific institution's concern for, or disregard of, the central tenets of liberty and academic freedom. A red light university has at least one policy that both clearly and substantially restricts freedom of speech.

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