



## Foundation for Individual Rights in Education

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September 20, 2007

President John W. Miller  
Central Connecticut State University  
1615 Stanley Street  
Lawrence J. Davidson Building, 112  
New Britain, Connecticut 06050

*Sent via U.S. Mail and Facsimile (860-832-3033)*

Dear President Miller:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals 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.

FIRE is concerned about the threat to free speech posed by your announcement on September 14, 2007, urging "oversight boards" to "look further into making substantive, constructive changes" to the CCSU student paper, the *Recorder*, and suggesting the possibility of instituting a mandatory "cultural awareness" requirement. Also, we are aware that some members of the campus community are urging CCSU to sanction—and even suspend—the *Recorder's* staff because of a controversial cartoon published in the paper on September 12. Before the university takes further action against the students or the paper, FIRE would like to warn CCSU about the university's constitutional obligation to protect students' First Amendment rights. As Carolyn A. Magnan, Counsel to the President, correctly stated, "the First Amendment to the United States Constitution protects most student speech in *The Recorder* from interference by the University."

This is our understanding of the facts. Please inform us if you believe we are in error. The *Recorder* published a cartoon on September 12 that you and many others on campus have deemed offensive. In the cartoon, created by a non-student, a "Polydong" in the shape of a triangle says that it has a "14 year old Latino girl tied up in the closet" and suggests that it has urinated on the girl. On Friday, September 14, you met with offended persons at CCSU and announced a list of eight actions or initiatives that CCSU would take in response to the cartoon. Among them, you have asked Provost Carl Lovitt to consider "adding a component on cultural awareness to First Year Experience courses" in order "to

ensure that all students understand what is at stake in a diverse community.” You urge “the Media Board and other existing oversight boards [to] look further into making substantive, constructive changes in ameliorating the situation at the *Recorder*.” The university also has chosen not to advertise its programs in the *Recorder*.

In addition, FIRE has become aware of a formal judicial complaint filed by Communications Professor Serafín Méndez-Méndez against seven students who are members of the editorial board and staff of the *Recorder*. Professor Méndez-Méndez argues that the cartoon printed by the paper on September 12 constitutes unprotected speech because it is “hateful” and makes him and others on campus “feel threatened.” Professor Méndez-Méndez calls for the immediate suspension of the *Recorder* editorial board and, as reported by WSFB, calls for you to resign for not responding quickly enough against the paper.

As a public institution of higher learning, CCSU has a constitutional obligation to uphold students’ First Amendment rights to freedom of expression and freedom of the press. Let us be clear that the content in question—a cartoon about a triangle, a square, and a character named Juanita, provided in a humorous context—might offend members of the campus community, but it is unquestionably protected expression under the First Amendment. The principle of freedom of speech does not exist to protect only non-controversial speech; indeed, it exists precisely to protect speech that some members of a community may find controversial or “offensive.” The Supreme Court stated in *Texas v. Johnson*, 491 U.S. 397, 414 (1989), that “[i]f there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” Similarly, the Court wrote in *Papish v. Board of Curators of the University of Missouri*, 410 U.S. 667, 670 (1973) that “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”

Parody and satire, even when they include “offensive” language and situations, are forms of political speech that are at the core of our country’s honored traditions. They exist precisely to challenge, to amuse, to provoke—and, indeed, to offend. Case law on this subject is quite clear. The landmark Supreme Court cases *Cohen v. California*, 403 U.S. 15 (1971) and *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988) protect—as core political speech—shocking or deeply offensive material, farce, profanity, and exaggeration, and they confirm the essential role of parody and satire precisely because they challenge readers’ deepest assumptions and beliefs. No campus that claims to take seriously the free speech rights of students may retaliate against students or a student publication because others on campus felt offended by fully protected speech.

Professor Méndez-Méndez’s claim of feeling threatened does not mean a threat would be inferred by a reasonable person reading the cartoon. The cartoon involves no threats or intimidation, and it even includes a disclaimer (which would not be required) making clear that no threat of any kind is implied.

FIRE is pleased that CCSU understands that on First Amendment grounds, the paper and its staff may not be punished for offensive content, a principle made explicit in CCSU’s handling of last year’s well-known article published by the *Recorder*. In response to that controversy, CCSU

convened a Journalistic Integrity Task Force, which produced a report on April 26, 2007, stating specifically that “Finding a paper’s content abhorrent or contrary to the university’s policies is insufficient” to meet the burden of substantial interference with CCSU’s educational environment. Since the cartoon in question makes no threats and does not represent intimidation, neither the U.S. Constitution nor CCSU’s own policies permit the university to censor or sanction the *Recorder*.

Regarding immediate suspension, it is quite clear that, following the CCSU Student Code of Conduct, Part IV(E), the *Recorder*’s editorial board presents no continuing danger in any way, and we strongly doubt that the accused students pose any reasonable threat to the safety or well-being of other members of the campus community.

When a university holds hearings or conducts a lengthy investigation of clearly protected speech, it produces a chilling effect on freedom of expression. FIRE requests that the appropriate judicial officer, according to the CCSU Student Code of Conduct, resolve all complaints on this matter without further action, finding that there is no probable cause to believe that any violation has occurred. Please live up to the promise of the U.S. Constitution, CCSU’s policies, and the commitments made by the Journalistic Integrity Task Force by dismissing all complaints against the *Recorder* and ensuring the free speech rights of all CCSU students.

FIRE hopes to resolve this situation amicably and swiftly. We request a response about this matter by October 11, 2007.

Sincerely,

Adam Kissel  
Director, Individual Rights Defense Program

cc:

Jane W. Higgins, Dean of Students, CCSU

Carl R. Lovitt, Provost and Vice President for Academic Affairs, CCSU

Carolyn Magnan, Journalistic Integrity Committee Chair and Counsel to the President, CCSU