



Foundation for Individual Rights in Education

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PRESIDENT

December 16, 2004

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Edwin R. Massey
President
Indian River Community College
3209 Virginia Avenue
Ft. Pierce, Florida 34981-5596

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Dear President Massey:

As you can see from our Directors and Board of Advisors, FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, due process, legal equality, voluntary association, freedom of speech, and religious liberty on America's college campuses. Our web page, www.thefire.org, will give you a greater sense of our identity and activities.

We consider this matter to be of the utmost urgency, with the most essential constitutional and moral values at stake. We understand that Indian River Community College has prevented the Christian Student Fellowship (CSF) from advertising and holding a viewing of *The Passion of the Christ* on campus. It should be obvious that this unlawfully and immorally tramples the group's legal and moral rights to free speech and freedom of conscience.

The following is our understanding of the facts. Please correct any factual errors, if they exist. On November 15, 2004, Vice President of Student Affairs Johnny Moore met with CSF Faculty Advisor Daniel Strumas to ask him to cancel the showing of *The Passion of the Christ* that CSF had planned to view on November 16 and 17 at 12:30 PM in CSF's regular meeting room. According to CSF, Lori LaCivita, Coordinator of Student Leadership Development, refused to approve the fliers advertising the events and instead confiscated them. LaCivita stated that the reason for these actions was that the movie was "R-rated" and "controversial."

Confiscating a student group's flier advertising an R-rated movie and preventing it from even viewing the movie is both outrageous and unlawful. It is appalling that IRCC would violate its own students' moral, constitutional, and, indeed, human rights through these paternalistic actions. Highly offensive material, including profanity, is fully protected under the First Amendment—which IRCC, as a state institution, is obligated to uphold.

We further understand that IRCC has instituted a policy requiring student group faculty advisors be present at all student group meetings. This policy, plus the brazen acts of censorship listed above, show a deeply troubling lack of respect for the rights of your students, almost all of whom we may assume are over the age of eighteen (and even if they are not, R-rating only means that minors should be accompanied by adults, which, in this case, they would be). IRCC has a low opinion of its students, indeed, if it believes they cannot be trusted to meet on their own or watch films it deems "controversial." IRCC is further infantilizing its students by using the fact that *The Passion of the Christ* is R-rated to justify the censorship.

In FIRE's history we have seldom seen a more insulting justification of censorship than the one IRCC has offered CSF. Has IRCC consistently prevented students from showing R-rated movies on campus? If the answer is "yes," IRCC has imposed on its students an absurd and unjustifiable rule. If it is "no," then IRCC has singled out *The Passion of the Christ* for censorship in what amounts to an astonishing instance of viewpoint discrimination, which is explicitly forbidden under the First Amendment.

We strongly encourage you to read the landmark U.S. Supreme Court cases *Cohen v. California*, 403 U.S. 15 (1971), and *Hustler Magazine, Inc. et al. v. Jerry Falwell*, 485 U.S. 46 (1988). In *Cohen v. California*, the Court ruled that a Vietnam War protester's jacket bearing the words "Fuck the Draft" was constitutionally protected expression even when worn in a courthouse. Similarly, in *Hustler Magazine v. Falwell*, the Court ruled that the First Amendment protects even extraordinarily offensive satire and parody—in that case, a cartoon suggesting that the Reverend Jerry Falwell lost his virginity in a drunken encounter with his mother in an outhouse. Taken together, these cases decisively and clearly protect offensive material, farce, profanity, and exaggeration, and recognize that the "right to offend" serves a vital societal function. Does IRCC wish to argue that *The Passion of the Christ*—one of the top grossing movies of all time—is so much more offensive than the expression listed above as to be beyond the protection of the constitution?

Furthermore, IRCC's actions not only violate federal law, but also violate its own written policies defending free expression and freedom of conscience. IRCC's Student Standards of Conduct explicitly state that it "looks upon its students as mature individuals at an age of responsibility for their own actions." IRCC's policies also state that it recognizes "a fundamental obligation to encourage the pursuit of truth and to provide maximum opportunities for self-fulfillment of individuals.... [IRCC] is thus committed to respect the rights of minorities, majorities, and individuals and to zealously guard these rights through every means at its disposal." If any of the above allegations are true, IRCC is not even minimally living up to its promises to its students or its commitments under federal law.

FIRE requests that Indian River Community College fulfill its legal obligations and stated commitment to guard individual rights by immediately 1) affirming that CSF's expression is fully protected under the First Amendment to the United States Constitution and that no device or contrivance will be used to circumvent those rights; 2) permitting CSF and other groups to meet without the presence of faculty; and 3) guaranteeing that CSF will no longer endure any censorship or retaliation for its constitutionally protected expression now or in the future.

FIRE hopes that we can resolve this situation thoroughly and swiftly; however, we are committed to using all of our resources in support of the Christian Student Fellowship's expressive rights and to seeing this process through to a just and moral conclusion. Please spare Indian River Community College the embarrassment of fighting against the Bill of Rights, by which it is legally and morally bound.

Due to our desire to have this case resolved before the holidays we ask that you respond in writing by the close of business on Tuesday, December 21, 2004.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Lukianoff".

Greg Lukianoff
Director of Legal and Public Advocacy

cc:

Johnny Moore, Vice President of Student Affairs, Indian River Community College
Mary Locke, Associate V.P./Provost Main Campus, Indian River Community College
Wendell Martin, Dean of Minority Affairs, Indian River Community College
Nathaniel Wells, FACC Student Development Commission Representative, Indian River Community College
Lori LaCivita, Coordinator of Student Leadership Development, Indian River Community College
Elsie Mokoban, Publicity Coordinator, Christian Student Fellowship, Indian River Community College