



UNIVERSITY of  
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April 9, 2009

Adam Kissel  
Director, Individual Rights Defense Program  
Foundation for Individual Rights in Education  
601 Walnut Street, Suite 510  
Philadelphia, PA 19106

Dear Mr. Kissel:

I write in response to your letter of March 24, 2009 to University of Massachusetts Chancellor Robert C. Holub. In your letter, you alleged that the University charged the UMass Amherst Republican Club an extra \$444.52 for security because of the expected presence of protestors at a speech by columnist Don Feder.

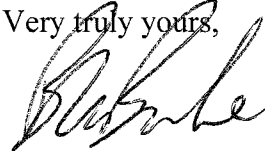
We agree that the First Amendment does not permit the government to discriminate against speech because of its viewpoint. Second, and for that reason, the government cannot make content-based distinctions in permitting or licensing fees for speech. Finally, assessing fees based on the reaction of the listeners is such a content-based distinction, and is unconstitutional.

It is not the case, however, that the University placed a surcharge on the Republican Club because we anticipated protestors for the event. We increased the charge because the number of anticipated attendees increased from 70 to 150, and because the Republican Club representative declined to move the event to a more suitable venue. In fact, the University administration was not concerned about a disturbance at the speech, and none occurred. While Mr. Feder was heckled, the crowd's behavior was not excessive. Police officers had no difficulty handling the situation in the room.

The University has long recognized the rights of members of the University community to freedom of assembly and speech, and strongly believes in fostering discourse and open exchange of ideas at the University. Consistent with this belief, and recognizing the considerable confusion on the part of the Republican Club as to how the decision was made to increase the police

contingent, we will refund to the Republican Club the \$444.52 difference between the fee for a 70-person event and a 150-person event in the Cape Cod Lounge.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. Burke", written in a cursive style.

Brian W. Burke  
Associate Counsel

Cc: Jo-Anne Vanin