



## Foundation for Individual Rights in Education

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September 14, 2009

John R. Lawson, II, Rector  
Board of Visitors  
Virginia Polytechnic Institute and State University  
c/o W.M. Jordan Company, Inc.  
11010 Jefferson Avenue  
P.O. Box 1337  
Newport News, VA 23601

*Sent by U.S. Mail and Facsimile (757-596-7425)*

Dear Mr. Lawson:

As you can see from the list of 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, freedom of association, religious liberty and, as in this case, freedom of speech and 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.

### **Executive Summary**

FIRE is deeply concerned about the threats to freedom of conscience and academic freedom posed by Virginia Polytechnic Institute and State University (Virginia Tech) against its faculty members via persistent, growing pressure over the past few years to alter their research, teaching, and personal development activities in order to conform to the university's stated political agenda. FIRE does not oppose this agenda but does strongly oppose the coercive means being used to accomplish it.

Policy statements, tenure and promotion guidelines, and recent public statements make clear that Virginia Tech's president and provost are demanding "diversity accomplishments" far in excess of the diversity-oriented institutional mission that the Board of Visitors approved in 2005. The enclosed documents, excerpted and discussed below, make clear that the president and provost have no intention of easing these unconstitutional, unconscionable demands. FIRE asks the Board of Visitors to exercise its fiduciary responsibility to preserve academic freedom and freedom of conscience at Virginia Tech.

## **Introduction**

The information in this letter illustrates that Virginia Tech maintains an unacceptable *university-wide* requirement that faculty members produce materials that demonstrate their “diversity accomplishments” and their personal commitment to the university’s politicized social agenda when being considered for promotion or tenure. It is clear that Virginia Tech demands that faculty members demonstrate fealty to fundamental viewpoints with which they might not agree.

For example, FIRE wrote President Charles Steger on March 25, 2009, regarding the College of Liberal Arts and Human Sciences’ (CLAHS’s) proposed policy of requiring that promotion and tenure assessments of faculty members include “involvement in diversity initiatives.” CLAHS demanded “all dossiers to demonstrate the candidate’s active involvement in diversity.” Subsequently, that proposal was withdrawn pending further review, and Virginia Tech announced that “The fundamental problem was a **requirement** to produce materials in support of diversity.” (Emphasis in original; see below.) In fact, such a requirement remains, and it is university-wide.

Whether or not it is true that you told the American Council of Trustees and Alumni on April 1, 2009, that the Board of Visitors would review Virginia Tech’s diversity policies insofar as they pertain to faculty assessment, FIRE strongly urges you to do so. President Steger and Provost McNamee, as you will see below, have not demonstrated any scruples regarding these encroachments on the basic intellectual liberty of Virginia Tech’s faculty.

This is no theoretical exercise. We have been contacted by and are working with Virginia Tech faculty members who reject these violations of their liberty but fear retribution if their identities were made known regarding these concerns.

The following is our understanding of the facts. Please inform us if you believe we are in error.

## **Background: Board of Visitors’ Agreement to “Virginia Tech Principles of Community”**

On March 14, 2005, the Virginia Tech Board of Visitors endorsed and publicly signed an aspirational statement titled “Virginia Tech Principles of Community.” The statement was also endorsed by the Faculty Senate and other university bodies. It reads in full:

Virginia Tech is a public land-grant university, committed to teaching and learning, research, and outreach to the Commonwealth of Virginia, the nation, and the world community. Learning from the experiences that shape Virginia Tech as an institution, we acknowledge those aspects of our legacy that reflected bias and exclusion. Therefore, we adopt and practice the following principles as fundamental to our on-going efforts to increase access and inclusion and to create a community that nurtures learning and growth for all of its members:

*We affirm* the inherent dignity and value of every person and strive to maintain a climate for work and learning based on mutual respect and understanding.

*We affirm* the right of each person to express thoughts and opinions freely. We encourage open expression within a climate of civility, sensitivity, and mutual respect.

*We affirm* the value of human diversity because it enriches our lives and the University. We acknowledge and respect our differences while affirming our common humanity.

*We reject* all forms of prejudice and discrimination, including those based on age, color, disability, gender, national origin, political affiliation, race, religion, sexual orientation, and veteran status. We take individual and collective responsibility for helping to eliminate bias and discrimination and for increasing our own understanding of these issues through education, training, and interaction with others.

*We pledge* our collective commitment to these principles in the spirit of the Virginia Tech motto of *Ut Prosim* (That I May Serve).

### **The “Principles of Community” Are, and Should Be Seen As, Non-Binding and Aspirational**

It is important to understand that such aspirational statements as the “Virginia Tech Principles of Community” are not binding and, indeed, should not be.<sup>1</sup> Neither the Board of Visitors nor the Faculty Senate should decide what individual faculty members’ beliefs or moral commitments must be.

In 1998, for instance, Virginia Tech surveyed 2,648 full-time and part-time faculty members about the “campus climate.” (The data for white, heterosexual males were analyzed and reported separately, as were data for certain other groups.) The survey revealed these facts:

- 40 percent of the faculty members agreed that “Virginia Tech is placing too much emphasis on diversity”;
- 56 percent agreed that “diversity may lead to admission of underprepared students”;

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<sup>1</sup> According to a March 14, 2005, press release:

The Virginia Tech Principles of Community draws upon several documents and university-wide initiatives developed over recent years, including the university’s statement of mission and core values; the university’s strategic plan and complementary “Diversity Strategic Plan” published in 2001; the work of the Commission on Equal Opportunity and Diversity [CEOD] created in 2003; the “Standards for Inclusive Policies, Programs and Practices” adopted by the CEOD in 2004; and the “Working Document on Diversity” developed at the request of the board of visitors in 2004. The statement was also reviewed and discussed at the university’s recent Diversity Summit held in January.

All of these statements seem aspirational and non-binding, particularly when applied to individual faculty members. Please correct us if this inference is incorrect. For instance, the 2004 “Standards” document notes:

The Standards are intended to be broad in concept but flexible in application, providing a framework of expectation but leaving the details to those with the expertise and responsibility for program development and oversight. The Commission on Equal Opportunity and Diversity endorses and adopts these Standards as a guide to the university community for developing or revising a wide variety of programs, services, or practices that touch on the diversity of our community.

- 44 percent agreed that “affirmative action leads to hiring less qualified faculty and staff”;
- “White males hold these opinions in significantly higher proportions than women or faculty of color”; and
- “Only 31 percent of white men expressed interest in attending workshops or programs on learning to work with or teach women, minorities, non-heterosexuals, or those with disabilities.”

In addition, 94 percent agreed that “diversity was good for Virginia Tech and should be actively promoted,” leaving a significant minority of 6 percent (about 160 faculty members surveyed) who either disagreed or did not answer.

Thus, a significant proportion (and on one topic, a majority) of faculty members took a skeptical view of various aspects of “diversity” and “affirmative action” and how Virginia Tech, as long ago as 1998, was emphasizing “diversity.”<sup>2</sup> A majority view (or the views of university leaders) on such controversial matters must not be permitted to bind the consciences of everyone. There must be no penalties for failing to toe the line on controversial matters of belief and conscience such as a university’s “diversity” policies.

Moreover, Virginia Tech already knows, because of the survey, that any Virginia Tech policy demanding conformity to “diversity” goals must have a disparate impact by race and gender. The survey makes clear that a mandatory “diversity” policy, such as the one discussed in this letter, likely violates the freedom of conscience of white males more than that of members of other groups. In contrast, however, stated as aspirational goals and principles, such matters are appropriately set as standards that the university hopes all community members will reach. Again, FIRE does not challenge such goals *insofar as they are aspirational*.

This discussion would hardly be necessary in the absence of specific policies that actually do bind the conscience and limit the academic freedom of Virginia Tech faculty members, as described below. Moreover, the “Virginia Tech Principles of Community,” as endorsed by the Board of Visitors, is relatively uncontroversial compared to the increasingly significant, binding encroachments on faculty rights announced by President Steger and Provost McNamee since then.

### **Documents That Violate Academic Freedom and Freedom of Conscience**

The following documents are enclosed with this letter and are discussed below.

1. Memo to Faculty and Graduate Students, “Reporting Diversity-Related Activities on Faculty Activity Reports,” August 28, 2006

This official memo, numbered “Policy Memorandum No. 239,” reads as follows in its entirety:

**WHEREAS**, creating a diverse and inclusive community is an important and long-standing priority for Virginia Tech, and

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<sup>2</sup> These terms are in quotation marks here because “diversity” was not clearly defined in the 1998 survey questions, nor were such terms specified in the 2005 “Virginia Tech Principles of Community.”

**WHEREAS**, the Principles of Community are the most recent demonstration of the university's collective commitment to a respectful and inclusive community; and

**WHEREAS**, diversity is one of the three universal performance dimensions on which all classified staff are evaluated; and

**WHEREAS**, the university promotion and tenure dossier calls for a reporting of diversity-related activities, and

**WHEREAS**, only a few colleges specifically request that faculty members report on diversity-related activities as part of the annual faculty activity report; and

**WHEREAS**, reporting such activities on an annual basis is the first step in raising awareness of each faculty member's responsibility and potential for contribution to addressing this important university priority;

**THEREFORE be it resolved**, that diversity-related accomplishments be reported as part of the annual faculty activity reports (FAR) beginning with the next annual evaluation cycle which ends spring 2007; and

That during fall 2006, colleges and vice presidential areas develop formats for the FAR that embed diversity accomplishments and goals as appropriate for the university's mission; and

That personnel committees and department heads give consistent attention to these activities in the evaluation process and provide appropriate feedback to faculty members concerning their diversity contributions and goals; and

That the Center for Excellence in Undergraduate Teaching, members of the Commission on Equal Opportunity and Diversity [CEOD], the Offices of Multicultural Affairs and Equal Opportunity, and representatives of appropriate faculty groups take leadership to develop resources for faculty members seeking ideas on how to engage in and report on diversity accomplishments. [Underlining added.]

The underlined material above makes clear that Virginia Tech intended to require reporting of "diversity accomplishments and goals" for faculty assessment, and that showing such "accomplishments" is a "responsibility" of all Virginia Tech faculty. This framework of demands was filled out in the following document.

2. "Reporting Diversity Accomplishments in the Faculty Activities Report," December 16, 2006

This university-wide document, from the Office of the Provost, provides extensive guidance on how to construe Virginia Tech's mandatory "diversity accomplishments" criterion for faculty assessment. Under the heading of "Self-Education, Increasing Your Own Awareness," possible activities to report include:

Participation in diversity awareness workshops on campus or off, attending harassment prevention training from EO Office, participation in CEUT reading group on multicultural/diversity topics, attending diversity-related programs to

learn more about groups other than your own (Diversity Summit, identity group celebrations, Campus Climate Checkup, MLK events, special speakers, annual AdvanceVT and Scholarship of Diversity conferences, events hosted by Cranwell Center or Disability Services, special programs in your discipline or association, etc.); participating in an Undoing Racism workshop; learning another language (including American sign language) so that you might speak to current or prospective students, parents, or community members.

Similarly, under the heading of “Incorporating diversity-related scholarship in courses, readings, programs, service learning activities, and your own research/scholarship,” possible activities to report include:

**Revising a course reading list to incorporate concepts, readings, and scholarship** on issues of gender, race, and other perspectives relevant to the course material; **rethinking or adapting workshops, lectures, or publications to incorporate multicultural or gender perspectives**; creating classroom discussions about the Principles of Community; creating an extension program to address needs in the Hispanic community; developing a service learning experience to introduce students to issues of concern to residents of the Appalachian region; using/doing diversity research to help inform university programs and problem solving; inviting and hosting a diversity-related speaker for the department; facilitating educational programs in the residential halls; assisting students in planning cultural events related to courses; **securing research grants or industry funds to support diversity initiatives or research**; **facilitating a staff training activity on diversity, bias reduction, or celebration of diversity**. [Emphasis added.]

Such evaluative criteria unacceptably interfere with faculty members’ moral and intellectual agency. The American Association of University Professors’ (AAUP’s) academic freedom declaration of 1915 is instructive on this issue. It states:

To the degree that professional scholars, **in the formation or promulgation of their opinions**, are, or by the character of their tenure appear to be, **subject to any motive other than their own scientific conscience and a desire for the respect of their fellow-experts**, to that degree the university teaching profession is corrupted; its proper influence upon public opinion is diminished and vitiated; and society at large fails to get from its scholars in an unadulterated form the peculiar and necessary service which it is the office of the professional scholar to furnish. [Emphasis added.]

Although requiring candidates to demonstrate “involvement in diversity initiatives” may seem admirable and innocuous, in practice this requirement amounts to an ideological loyalty oath to an entirely abstract concept—“diversity”—that can represent vastly different things to different people. This flexibility might seem to be a virtue until professors realize that they are to be judged on the quality of their commitment to such an abstract concept, and that their peers and

the public might discount the quality of their work, knowing that their work may have been distorted by the official agenda of Virginia Tech.

“Diversity,” in current academic life and as described above to some degree in Virginia Tech’s own documents, reflects a worldview that very commonly involves a particular set of opinions on topics such as race and gender—topics on which reasonable scholars strongly disagree. Does anyone believe that scholarship that reaches conclusions *against* affirmative action for women and minority groups will be counted as “diversity-related scholarship”? Does anyone believe that “bias reduction” efforts to reduce anti-Catholic bias because of the Catholic position against homosexual activity will be seen to have the same merit as “bias reduction” efforts to reduce anti-gay bias among Catholics?

Moreover, as is shown below in item 5, CLAHS’s Diversity Committee has invested the term with a specific, ideological meaning which makes clear which kinds of views are approved or disapproved. If Virginia Tech truly believes in tolerance, freedom of conscience, and academic freedom, it simply cannot require professors to incorporate a political orthodoxy into their courses, research, or personal development activities, no matter how much the university may believe in the tenets of that orthodoxy and wish others to embrace those tenets.

3. “Virginia Tech Guidelines for Promotion and Tenure Dossiers,” 2007–2008, 2008–2009, and 2009–2010

On April 13, 2007, Virginia Tech revised its promotion and tenure guidelines to accord with the documents described above. The guidelines remained unchanged in 2008–2009 and remained substantially the same in 2009–2010. In short, the guidelines require “[d]iversity initiatives or contributions.”

For example, for the “Candidate’s Statement” (section III of dossiers), the 2007–2008 and 2008–2009 guidelines required, “The statement should also address the candidate’s engagement in diversity-related initiatives.”<sup>3</sup> In the 2009–2010 guidelines, this requirement has been watered down to read, “The statement also provides candidates an opportunity to address their active involvement in diversity and international activities.” This is a step in the right direction, but the requirement to show “diversity accomplishments” has *not* been lifted.

Section VII of the guidelines, “University Service,” also has maintained a “diversity” requirement. In both the prior guidelines and the current guidelines for this section, faculty members are to be assessed in part on their so-called diversity accomplishments. Such accomplishments are described not merely as actions in service of the university’s stated mission of diversity but also in terms of *changes to faculty members’ research, teaching, and personal development activities*, in violation of faculty members’ academic freedom and freedom of conscience. The 2007–2008 guidelines quote directly from the “Reporting Diversity Accomplishments in the Faculty Activities Report” document described above (item 2 above).

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<sup>3</sup> The word “should” in this document refers to requirements, for instance, “The candidate’s statement should be no more than three pages in length.”

The 2009–2010 guidelines maintain the same requirement in section VII. Instead of quoting the language of the “Reporting Diversity Accomplishments in the Faculty Activities Report” document, however, the guidelines merely refer professors to that document online:

Broad categories and examples of diversity contributions developed by the Commission on Equal Opportunity and Diversity are available at the following website: [www.provost.vt.edu/documents/reporting\\_diversity.php](http://www.provost.vt.edu/documents/reporting_diversity.php).

This change is another step in the right direction in that it de-emphasizes the existence of the requirement, but it is important to note that here, too, the requirement has *not* been lifted. Furthermore, the reference to an external document gives CEOD what seems to be an unprecedented level of discretion to change its document and thereby change the “diversity contributions” required of candidates in the middle of an academic year.

#### 4. Memorandum from Provost Mark McNamee, May 29, 2008

Provost McNamee sent an official memo to all department heads, to Chairs of 2008–2009 Departmental Promotion and Tenure Committees, and to Chairs of 2008–2009 Collegiate Promotion and Tenure Committees to reinforce Virginia Tech’s demand for “diversity accomplishments” among faculty members:

Diversity accomplishments: Diversity accomplishments are a meaningful part of the faculty review process. **Candidates must do a better job of participating in and documenting their involvement in diversity initiatives. Diversity accomplishments are especially important for candidates seeking promotion to full professor. Please use the categories developed by the Commission on Equal Opportunity and Diversity to prompt and organize diversity-related contributions.** The categories may be found at section VII. C. 1. - 8. of the promotion and tenure guidelines. They are also available at [www.provost.vt.edu/documents/reporting\\_diversity.php](http://www.provost.vt.edu/documents/reporting_diversity.php). Committees are asked to develop working expectations for department members, perhaps sharing good examples, and to review diversity contributions included in the dossier **with those expectations in mind.** [Emphasis added.]

No faculty member can read this memorandum and believe that “diversity accomplishments” are optional.

#### 5. “Diversity at the College of Liberal Arts & Human Sciences,” February 18, 2008

CLAHS has been particularly insistent that the documents above constitute mandatory requirements on faculty members. In 2008, the CLAHS Diversity Committee propounded a specific, highly ideological “[d]efinition of ‘[d]iversity’” which further binds the academic freedom and conscience of faculty members:

We, the College of Liberal Arts and Human Sciences Diversity Committee, use the term “diversity” to mean the desirability and value of many kinds of individual



differences **while at the same time acknowledging and respecting that socially constructed differences based on certain characteristics exist within systems of power that create and sustain inequality, hierarchy, and privilege.**\* The College of Liberal Arts and Human Sciences is **determined to eliminate these forms of inequality, hierarchy, and privilege in our programs and practices.** In this sense, **diversity is to be actively advanced** because it fosters excellence in learning, discovery, and engagement.

\* These characteristics include, but are not limited to ability, age, body size and condition, class, color, ethnicity, gender, gender expression, geographical and cultural background, health status, national origin, political affiliation, race, religion, sexual orientation, and veteran status. [Emphasis added.]

Taken together with the tenure and promotion guidelines, this document is a serious infringement upon the rights of faculty members who do not acknowledge that “socially constructed differences based on certain characteristics exist within systems of power that create and sustain inequality, hierarchy, and privilege” or who do not personally feel “determined to eliminate these forms of inequality, hierarchy, and privilege” in their work. As a college within a public university, CLAHS must be a true “marketplace of ideas” that does not demand its members’ loyalty to such specific, politicized pronouncements and commitments.

6. “College of Liberal Arts and Human Sciences Promotion and Tenure Guidelines,” March 2009

In the spring of 2009, CLAHS proposed promotion and tenure guidelines that specifically referred to McNamee’s 2008 memo (item 4) and other documents mentioned above:

The university and college committees require special attention to be given to documenting involvement in diversity initiatives; categories for documentation may be found in Section VII.C.1.-8. of the promotion and tenure guidelines, [http://www.provost.vt.edu/documents/pt\\_guidelines\\_08-09.pdf](http://www.provost.vt.edu/documents/pt_guidelines_08-09.pdf) or at [www.provost.vt.edu/documents/reporting\\_diversity.php](http://www.provost.vt.edu/documents/reporting_diversity.php).

[...]

According to the memo of 29 May 2008 from Provost McNamee, [http://www.provost.vt.edu/documents/pt\\_guidance.pdf](http://www.provost.vt.edu/documents/pt_guidance.pdf), there are several areas of particular importance with regard to promotion to the rank of professor:

- “[D]iversity accomplishments are especially important for candidates seeking promotion to full professor.” The university and college committees require that special attention be given to documenting involvement in diversity initiatives; categories for documentation may be found at Section VII.C.1.-8. of the promotion and tenure guidelines, [http://www.provost.vt.edu/documents/pt\\_guidelines\\_08-09.pdf](http://www.provost.vt.edu/documents/pt_guidelines_08-09.pdf) or at [www.provost.vt.edu/documents/reporting\\_diversity.php](http://www.provost.vt.edu/documents/reporting_diversity.php).

[...]

The committee expects all dossiers to demonstrate the candidate's active involvement in diversity.

This CLAHS proposal was the subject of FIRE's letter to President Steger on March 25, enclosed. In that letter, FIRE pointed out the serious encroachments on liberty in the CLAHS proposal. FIRE cited Virginia Tech's own "Statement of Mission and Purpose," relevant case law, and official statements of the AAUP—all of which emphasize the importance of academic freedom for the free pursuit of knowledge through research and the free dissemination of that knowledge through teaching. FIRE wrote:

Presumably, faculty are employed by Virginia Tech for the purpose of "discovery and dissemination of new knowledge" (quoting Virginia Tech's "Statement of Mission and Purpose"), not to demonstrate fealty to an abstract and ill-defined participatory ideal. Their prospects for promotion and tenure should be evaluated accordingly.

As a public institution, Virginia Tech is legally and morally bound by the First Amendment and the decisions of the Supreme Court concerning academic freedom at public colleges and universities. In *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967) the Supreme Court noted that "[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned." This being the case, the Court further explained that the First Amendment "does not tolerate laws that cast a pall of orthodoxy over the classroom . . . [which] is peculiarly the 'marketplace of ideas.'" In the landmark case of *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) the Court made clear the importance of freedom of conscience in our liberal democracy: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." The Court concluded that "the purpose of the First Amendment to our Constitution" was precisely to protect "from all official control" the domain that was "the sphere of intellect and spirit."

In response, Virginia Tech withdrew the CLAHS proposal from consideration pending corrections. (FIRE does not know the current status of the CLAHS-specific promotion and tenure guidelines.) In addition, on April 14, 2009, Virginia Tech Associate Vice President Lawrence G. Hincker responded to FIRE's concern about the CLAHS proposal. In confirming that "the provost has asked the college to rework its proposed guidelines," Hincker wrote that "The fundamental problem was a **requirement** to produce materials in support of diversity." (Emphasis in original.)

The university-wide documents described in this letter, however, still require faculty members to produce such materials. Indeed, the documents described below, which appeared *after* the CLAHS controversy became public, demonstrate Virginia Tech's unrelenting university-wide emphasis on its unconstitutional, unconscionable demands on faculty members.

7. Memo from CLAHS Dean Sue Ott Rowlands to CLAHS faculty, April 30, 2009

Despite the damning evidence that CLAHS and the university had imposed such requirements, CLAHS Dean Sue Ott Rowlands sent a memo to “CLAHS Colleagues” stating the opposite—and then reaffirming that an ideological obligation has been imposed on CLAHS faculty:

In the media recently, some have mischaracterized our college’s commitment to diversity as a rigid requirement for promotion and tenure. That has never been our intention and we will make sure that our P&T document makes that clear. At the same time, please know that our commitment to equity and inclusive excellence has never been stronger. One of our greatest strengths is in our commitment to embrace cultural differences, varied talents, and multiple ways of thinking and being. I particularly resonate with one of the paragraphs from the “core values” section of our soon-to-be-unveiled strategic plan. Here it is: “In the College of Liberal Arts and Human Sciences we strive to promote an environment in which learning, discovery, and engagement are created and sustained by a diverse body of students, faculty, and staff. The value we place upon equity **obliges us to challenge systems of oppression and privilege...**(Moreover) in CLAHS, **service is not just a path we choose but a perspective we consciously adopt** - one that enables us to discover and critique ourselves, our world, and others.” [Emphasis added.]

The CLAHS Diversity Committee publicly endorsed this restrictive statement on April 30.

8. “Open letter to the VT faculty, staff, and student community from President Charles Steger and Senior Vice President and Provost Mark McNamee,” April 30, 2009

In this letter, Steger and McNamee made no effort whatsoever to undo the unacceptable “diversity” requirements that they had placed on the Virginia Tech faculty over the previous several years. Instead, they reaffirmed their commitment to enforcing such demands, noting that faculty members have an “individual” responsibility to conform their thinking to fit Virginia Tech’s ideology and agenda:

We also affirm individual and collective responsibility for helping to eliminate bias and discrimination and for increasing our own understanding of these issues through education, training, and interaction with others.

9. “Promotion to Professor,” June 3, 2009

On June 3, McNamee participated in a Virginia Tech panel intended to help faculty members understand the university’s requirements for promotion. Audio of the presentation is available online at <http://connect.ag.vt.edu/p63636175>. If there was any question for faculty members whether the university was maintaining its mandatory requirements, McNamee made clear that Virginia Tech was continuing to demand conformity:

[W]hen we look at the accomplishments of our faculty, particularly at the level of professor, we are looking for faculty members to be making contributions to areas

of strategic importance to the university. There is no specific requirement that it has to be in any particular form in a particular area, but when we talk about diversity, international programs, and so on, we're encouraging and supporting and giving credit to faculty members who are in fact demonstrating real accomplishments in these areas, because **at the level of professor, you do have the time and the opportunity to make contributions to university goals, university strategic directions, in addition to your own personal research and service.** So all of these things weigh in our evaluation of what constitutes a strong file. (00:10:41)

[W]e're taking the time as a committee to look at what we talk about—examples of great contributions in diversity and trying to hold those up as examples of kinds of things faculty members do, and where they can make a difference, and so **we're going to continue to do that.** (1:00:02) [Emphasis added.]

Quite apart from McNamee's views about the leisure of tenured professors, he appears to be stating that somehow faculty members can distinguish their own "personal research," teaching, and personal development from their mandatory, diversity-related "university" research, teaching, and personal development. This statement further reveals McNamee's true intention to continue demanding "diversity accomplishments." It also seriously undermines faculty members' academic freedom and freedom of conscience.

### **Other Documents that the Board of Visitors Should Review**

The following two items are also worth examining, should the Board of Visitors seek to broadly review Virginia Tech's policies as they shed light on the relationship of "diversity" requirements to faculty liberties at Virginia Tech.<sup>4</sup>

1. "A Position Statement Affirming Our Civil Liberties," Faculty Senate, February 17, 2004

WHEREAS, the Commonwealth of Virginia has a rich history of securing the inalienable rights of individuals, dating to the first settlement of our Commonwealth in 1607, through the Revolutionary War and the adoption of key documents authored by Virginians such as Thomas Jefferson, James Madison, and George Mason; and

WHEREAS, these documents include the Declaration of Independence, the Virginia Declaration of Rights, the Virginia Act for Establishing Religious Freedom, the United States Constitution, and the U.S. Bill of Rights; [...]

[...]

NOW, THEREFORE, THE FACULTY SENATE AT VIRGINIA TECH:

1. AFFIRMS its strong support for fundamental constitutional rights; and

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<sup>4</sup> See also footnote 1 above.

2. AFFIRMS its opposition to measures that single out individuals for government stricture based solely on their ethnicity, gender, religious beliefs, political beliefs, and/or country of origin; and

3. RECOGNIZES efforts of Virginia Tech law enforcement to preserve and support the Bill of Rights and the U.S. Constitution and thereby preserve individuals' constitutional freedoms; and

4. CALLS UPON all members of the community to demonstrate similar respect for civil rights and civil liberties; and

[...]

8. REQUESTS that the Virginia Tech administration and police department continue to ensure that all persons within the University community are guaranteed their fundamental constitutional rights, including: freedom of religion, speech, assembly, and privacy; protection from unreasonable searches and seizures; due process and equal protection to any person; equality before the law and the presumption of innocence; access to counsel in judicial proceedings; and the right to a fair, speedy, and public trial.

This statement was accepted by Virginia Tech's Commission on Equal Opportunity and Diversity on March 22, 2004. It is ironic that this ringing statement of civil liberties has not had a stronger effect on the violations of faculty members' civil liberties from within the campus itself.

## 2. University Strategic Plan

The University Strategic Plan contains no direction or authorization for encroachments on faculty liberty at Virginia Tech. In contrast, the Plan's statement of "Our Core Values" corroborates the Faculty Senate's position statement above. The university's aspirational "commitment to diverse and inclusive communities" could not possibly be read as an endorsement of the university's mandate of "diversity accomplishments," especially given the university's core values of "[f]reedom of inquiry" and "[m]utual respect":

### *Our Core Values*

**Freedom of inquiry.** Fundamental to the creation and transmission of knowledge is a commitment to nurture and protect freedom of inquiry. Intellectual freedom is the foundation of academic excellence and is vital to sustaining environments in which sound and rigorous learning, discovery, and engagement occur.

**Mutual respect.** At the center of the educational enterprise is the commitment to the exchange of ideas and information. Respect for varied points of view and the diverse backgrounds upon which they may be based is essential to the continued growth and advancement of all members of the university community.

[...]

**A commitment to diverse and inclusive communities.** In carrying out its mission, Virginia Tech values the educational benefits of diverse ideas, peoples, and cultures. Articulated in the Virginia Tech Principles of Community, adopted

by the board of visitors in 2005, diversity enlivens the exchange of ideas, broadens scholarship, and contributes to just engagement in all the world's communities. [Emphasis in original.]

## **Conclusion**

As we wrote President Steger on March 25, Virginia Polytechnic Institute and State University must not tell its professors what they must believe, or even what they should believe, lest the process of honest intellectual inquiry and innovation end before it even starts. Virginia Tech must not require “diversity accomplishments” that reach into faculty members’ research, teaching, and personal development. Does Virginia Tech disagree with a professor’s right to think, study, and teach as he or she will? By requiring candidates for promotion and tenure to demonstrate active involvement in “diversity initiatives,” Virginia Tech impermissibly forces faculty members to confess both by word and by act their faith in the university’s model and ideals of “diversity.” The College of Liberal Arts and Human Sciences has propounded an even more ideological definition of diversity and has actively sought to demand conformity to it by CLAHS professors. Does Virginia Tech truly wish to violate academic, moral, and constitutional prohibitions against such coercion?

Must instructors at Virginia Tech who do not share the university’s assumptions about bias, race, gender, and culture be made exceptions to the ringing declarations of the meaning and value of true academic freedom expounded by the AAUP and Virginia Tech’s own promises and statements?

Please pause and think about Virginia Tech’s requirements substituting, in your minds, any politicized agenda other than the “diversity” agenda that Virginia Tech currently favors. Virginia Tech’s policy, in short, requires professors to affirm specific assumptions about bias, race, gender, other group identities, and cultural differences. This is no different from requiring that instructors demonstrate their belief in patriotism, empiricism, biological determinism, or creationism. These may be perfectly valid intellectual viewpoints, but viewpoints may not be imposed at a public institution (and should not be imposed by any institution devoted to academic freedom) by fiat through official requirements.

It bears repeating that FIRE would defend with equal fervor the rights of faculty at Virginia Tech and elsewhere to be protected from prohibitions *against* involvement in diversity initiatives, or inquisitions into their love of country or celebration of patriotism if, in a change of ideological climate, a public university sought to demand such conformity. Virginia Tech has a right to evaluate a candidate with broad discretion, but its inquisition into “involvement in diversity initiatives,” as stated above, imposes one fashionable agenda among many, reflecting an unacceptable orthodoxy that intrudes upon the private thought and conscience of free individuals in a free society. This truly does violate the university’s constitutional obligation of content neutrality, and it truly is a “loyalty oath” inimical to academic and intellectual freedom.

It is a human failing common to us all that we rarely see our own abuses of power, and no one, right, left, or center, is innocent of that failing. Once these abuses are called to consciousness, however, it becomes a moral imperative to restrain ourselves and to grant to others the academic freedom that we would demand for ourselves. The sad days of “loyalty oaths” to political

ideologies have already once darkened the academy. Let us not revive them ourselves or tolerate their resurrection by others.

FIRE asks simply that Virginia Tech's existing and proposed evaluative criteria for promotion and tenure candidates be revised to accord with the First Amendment, academic freedom, and common sense. Memos and statements that violate faculty members' rights and freedoms must be publicly withdrawn or superseded by a clear statement that "diversity accomplishments" will always be optional, with any lack of such accomplishments never being held against any faculty member.

FIRE hopes to resolve this situation amicably and swiftly; we are, however, prepared to use all of our resources to see this situation through to a just conclusion. We request a response from you or from President Steger by October 5, 2009.

Sincerely,



Adam Kissel  
Director, Individual Rights Defense Program

cc:

Board of Visitors, Virginia Tech  
Charles W. Steger, President, Virginia Tech  
Mark McNamee, Provost, Virginia Tech  
Sue Ott Rowlands, Dean, College of Liberal Arts and Human Sciences, Virginia Tech  
Department chairs, Virginia Tech  
Tim Kaine, Governor, Commonwealth of Virginia  
Robert Tata, Chair, Committee on Education, Virginia House of Delegates  
Steven R. Landes, Vice-Chair, Committee on Education, Virginia House of Delegates  
R. Edward Houck, Chair, Committee on Education and Health, Senate of Virginia  
Bill Mims, Attorney General, Commonwealth of Virginia

13 enclosures