



Foundation for Individual Rights in Education

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August 1, 2008

Louis Levy
Vice President for Academic Affairs
Valdosta State University
1500 N. Patterson Street
Valdosta, GA 31698-0180

Sent via U.S. Mail and Facsimile (229-333-7400)

Dear Vice President Levy:

Thank you for your response of June 27, 2008.

FIRE appreciates your attention to our continuing concerns regarding Valdosta State University's Free Expression Area. In particular, we were pleased to note your explicit commitment to preserving freedom of speech at VSU. In light of recent events at Valdosta State, FIRE hopes that your recognition of the importance of robust free speech on campus signals a forthcoming shift in policy and a renewed focus on protecting student rights under incoming President Dr. Patrick J. Schloss. VSU students deserve no less.

We are aware of the outcome of *Morris v. Zaccari*, Civil Action No. 7:03-cv-51 (HL) (M.D. Ga. Oct. 3, 2003), the federal lawsuit challenging the Free Expression Area at VSU. However, this ruling should in no way prevent VSU from fully restoring the constitutionally guaranteed right of VSU students to engage in expressive activity on campus. It remains FIRE's strong belief that the Free Expression Area policy is both unconstitutional and contrary to VSU's stated commitment to freedom of expression.

FIRE believes the district court's ruling in *Morris* is flawed in several substantial ways. Without providing a comprehensive inventory of the ruling's jurisprudential deficiencies, it is appropriate to briefly review some of the opinion's most problematic aspects.

First, the facts of *Morris* presented the district court with an incomplete view of the categories of speech affected by VSU's Free Expression Area policy (then known as the "Student Expression Area"). As you know, the plaintiffs in the litigation were itinerant preachers, not VSU community members, which unquestionably impacted the court's analysis. Secondly, the district court simply failed to correctly apply well-established legal precedent in reaching its decision.

For example, the court's opinion correctly recognizes that public universities, as state actors, may institute "regulations of the time, place, and manner of expression which are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication." *Perry Education Association v. Perry Local Educators' Association*, 460 U.S. 37, 45 (1983). However, the court fails to seriously evaluate VSU's Free Expression Area policy on these explicit criteria, choosing instead to accept the propriety of the university's restrictions on speech after a shallow analysis of the university's proffered justification. Finally, the court's infantilizing conception of VSU students as a "captive audience of impressionable young minds" is inappropriate for VSU's student body, the vast majority of whom have attained legal majority and are old enough to elect our nation's leaders and serve in our nation's armed forces. Indeed, the *Morris* court's startling lack of confidence in the ability of VSU's students to think, reason, and speak for themselves in a manner befitting the future leaders of our nation is simply depressing.

Fortunately, VSU is by no means bound by the problematic ruling in *Morris* to continue to maintain its illiberal free speech zone. The power to restore the First Amendment's robust guarantee of free expression is entirely yours. If Valdosta State truly believes that "free speech is critically important to any college campus," as you write, then surely you will recognize that limiting this vital component of a modern liberal education to just one small stage for just two hours per day is a detriment to intellectual and social life on campus. Dismantling VSU's free speech zone would serve as an unmistakable signal to your students that VSU holds them in the highest regard and considers them fully capable of engaging the marketplace of ideas.

As explained in our previous letters, FIRE has been joined by the Thomas Jefferson Center for the Protection of Free Expression, the Student Press Law Center, outraged alumni, concerned citizens, and journalists from across the country in calling for VSU to reform its Free Expression Area policy. Also, we again reiterate that VSU's continuing refusal to ensure freedom of expression on campus has elicited negative attention from such national media outlets as the *Huffington Post*, *The Chronicle of Higher Education*, and InsideHigherEd.com, in addition to extensive local coverage.

We must also remind you that VSU is one of only five schools that FIRE has put on our "Red Alert" list, an ignominious distinction reserved for those institutions that have demonstrated particularly severe and ongoing disregard for their contractual or constitutional commitments to uphold students' fundamental rights. The "Red Alert" distinction serves to warn current and prospective students and parents that students are not free to speak their minds at VSU, and are in danger of being censored and sanctioned merely for expressing opinions outside of the Free Expression Area.

Again, FIRE urges Valdosta State to honor its constitutional obligation to guarantee VSU students and faculty the full enjoyment of their First Amendment freedoms.

We implore VSU's new leadership to recognize that free speech is to be celebrated, honored, and broadened—not feared, suppressed, and restricted. Let your students exercise their basic legal, moral, and human rights; let them speak as their consciences dictate.

We request a response on this matter by August 15, 2008.

Sincerely,



William Creeley
Director of Legal and Public Advocacy

cc:

Dr. Patrick J. Schloss, President-Elect, Valdosta State University
Chancellor Erroll B. Davis, Jr., Board of Regents of the University System of Georgia
Dr. Kurt J. Keppler, Vice President for Student Affairs, Valdosta State University
Laverne Lewis Gaskins, University Attorney, Valdosta State University
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