



September 17, 2014

President William Ruud
University of Northern Iowa
1 Seerley Hall
Cedar Falls, IA 50614-0705

Sent via Certified U.S. Mail

Re: First Amendment Compliance

Dear President William Ruud:

The Foundation for Individual Rights in Education (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 religion, and freedom of speech on America's college campuses. Our website, [thefire.org](http://www.thefire.org), will give you a greater sense of our identity and activities.

I write today to notify you that one or more of University of Northern Iowa's policies unconstitutionally restricts freedom of expression, as guaranteed by the First Amendment and defined by established legal precedent. Accordingly, FIRE has rated UNI a "red light" institution on Spotlight, our online database of policies governing student and faculty speech at colleges and universities across the country. "Red light" institutions maintain policies that clearly and substantially restrict constitutionally protected speech. For more information, I invite you to visit FIRE's website, where you may read FIRE's full explanation of our speech code ratings (<http://www.thefire.org/spotlight/using-the-spotlight-database>) and view FIRE's policy-by-policy ratings for UNI's speech codes (<http://www.thefire.org/schools/university-of-northern-iowa/>).

FIRE strongly recommends that you reform your institution's policies to ensure compliance with the First Amendment, by which UNI is both legally and morally bound. Failure to do so betrays UNI's mission as a public institution of higher learning, violates the expressive rights of your students and faculty, and invites constitutional challenge in federal court.

FIRE is always available to advise your institution on the best way to revise policies that restrict speech on campus—free of charge. Since FIRE’s founding in 1999, we are proud to have worked productively with colleges and universities nationwide to reform their speech codes. In fact, just this month, the University of Florida eliminated the last of its speech codes following correspondence with FIRE, thus earning our highest, “green light” rating. We were pleased to issue a national press release celebrating the University of Florida’s commitment to freedom of expression.

FIRE prefers to secure students’ and faculty members’ free speech rights by working cooperatively with colleges and universities. However, FIRE will not hesitate to turn to the courts when necessary. Throughout our 15 years defending student and faculty rights, FIRE has consistently coordinated successful First Amendment challenges against unconstitutional speech codes. For example, in March 2013, Ohio’s Sinclair Community College abandoned its bizarre prohibition against students and visitors holding signs on campus following the filing of a federal lawsuit coordinated by FIRE. In August 2012, following a suit coordinated by FIRE, a federal judge issued a permanent injunction against the University of Cincinnati’s shockingly restrictive free speech zone, which had quarantined “demonstrations, pickets, and rallies” to just 0.1 percent of the university’s 137-acre campus. And in 2010, Texas’s Tarrant County College rescinded its free speech zone and saw its “co-sponsorship” policy struck down following a student lawsuit coordinated by FIRE and the American Civil Liberties Union of Texas. A federal judge awarded the students’ attorneys \$240,000 in fees following the victory.

But despite these and other defeats, far too many institutions—like University of Northern Iowa—still maintain unconstitutional speech codes. To eradicate speech codes from our nation’s campuses once and for all, FIRE launched our new Stand Up For Speech Litigation Project on July 1 by announcing the filing of four First Amendment lawsuits against public colleges and universities on behalf of students and faculty. In the coming months, FIRE will continue to coordinate First Amendment lawsuits against public institutions maintaining unconstitutional speech codes in each federal circuit. After each victory by ruling or settlement, FIRE will target another institution in the same circuit—making clear that unless public colleges and universities obey the law, they will be sued.

Within the past year, FIRE has worked with attorneys from the law firm of Davis Wright Tremaine to file federal civil rights lawsuits against colleges and universities violating the First Amendment nationwide:

- At Modesto Junior College in California, a student was prevented from distributing copies of the U.S. Constitution on September 17, 2013, which was, in fact, Constitution Day. A staff member even told the student that he would have to confine his peaceful expressive activity to the public college’s tiny “free speech zone” and register well ahead of time with the administration. FIRE coordinated a lawsuit to vindicate the student’s First Amendment rights, resulting in a settlement

in which the college agreed to pay \$50,000 and dismantle its unconstitutional free speech zone policy.

- FIRE coordinated a lawsuit against the University of Hawaii at Hilo on behalf of two students this April. Just as in the Modesto case, these students were prevented from handing out copies of the Constitution to fellow students. The students were also informed that their protest against National Security Agency spying should be held in the university's small, isolated free speech zone. Shortly after the lawsuit was filed, the University of Hawaii at Hilo suspended enforcement of its restrictive free speech zone policy.
- In one of four federal lawsuits announced by FIRE on July 1, students at Iowa State University are challenging their administration's censorship of a t-shirt designed by their student organization, the Iowa State chapter of the National Organization for the Reform of Marijuana Laws (NORML). In this case, the university has enforced a vague and overbroad rule prohibiting any use of Iowa State's name or trademarks to promote "dangerous, illegal or unhealthy products, actions or behaviors."
- At Chicago State University, officials have repeatedly attempted to silence a faculty blog that criticizes administrative policy and hiring decisions, using rationales ranging from trademark law to "cyberbullying" prevention, despite the fact that the professors' speech is clearly constitutionally protected. On July 1, FIRE announced that it has coordinated a legal challenge brought by two of the faculty contributors to the blog.
- At Citrus College in California, FIRE is helping a student to challenge three unconstitutional speech codes, including a restrictive free speech zone policy that restricts freedom of expression to just 1.37 percent of campus and requires student groups to undergo a two-week approval process for expressive activity. Shockingly, this is the second time FIRE has coordinated a lawsuit against Citrus College's "free speech area." In 2003, the college agreed to abandon its free speech zone as part of a court-approved settlement following a First Amendment lawsuit filed by a student. Citrus College has agreed to suspend enforcement of the challenged policies as the lawsuit proceeds.
- Finally, at Ohio University, members of the student organization Students Defending Students are challenging the university's censorship of their T-shirt, as well as an overbroad university policy banning any "act that degrades, demeans, or disgraces" another. Like the Iowa State, Chicago State, and Citrus College lawsuits, this challenge was coordinated by FIRE and announced on July 1.

In each of these cases, students and faculty members have taken a stand for their First Amendment rights, and FIRE has coordinated the legal challenges necessary to vindicate

those rights. More such suits will follow until public colleges and universities finally understand that complying with the First Amendment is not optional.

By maintaining speech codes that run afoul of well-established legal precedent, University of Northern Iowa risks a similar lawsuit. The First Amendment rights of UNI students and faculty are continually violated as long as these unconstitutional speech codes remain operable.

As such, your institution would be well advised to revise its policies to meet the requirements of the First Amendment—requirements by which UNI is both legally and morally bound. FIRE would be pleased to work with you on the necessary policy revisions. As a starting point, I have enclosed a copy of FIRE's *Correcting Common Mistakes in Campus Speech Policies* to provide a sense of the restrictions on speech we often see in institutional policies and how best to fix them.

To provide you with more information about FIRE's Stand Up For Speech Litigation Project, I have enclosed a copy of a July 1, 2014, article in *The New York Times*, titled "Advocacy Group Sues 4 Universities in Challenge to Policies It Says Curb Free Speech." You may also learn more by visiting the Project's website, www.standupforspeech.com.

Thank you for your attention to the expressive rights of your students and faculty. We look forward to working with you to ensure that University of Northern Iowa's policies fully comply with the First Amendment.

Sincerely,

Will Creeley
Director of Legal and Public Advocacy

cc:

Samantha Harris, Director of Policy Research, FIRE
Azhar Majeed, Director, Individual Rights Education Program, FIRE
Catherine Sevchenko, Associate Director for Litigation, FIRE

Encl.

The New York Times

Advocacy Group Sues 4 Universities in Challenge to Policies It Says Curb Free Speech

By JENNIFER MEDINA

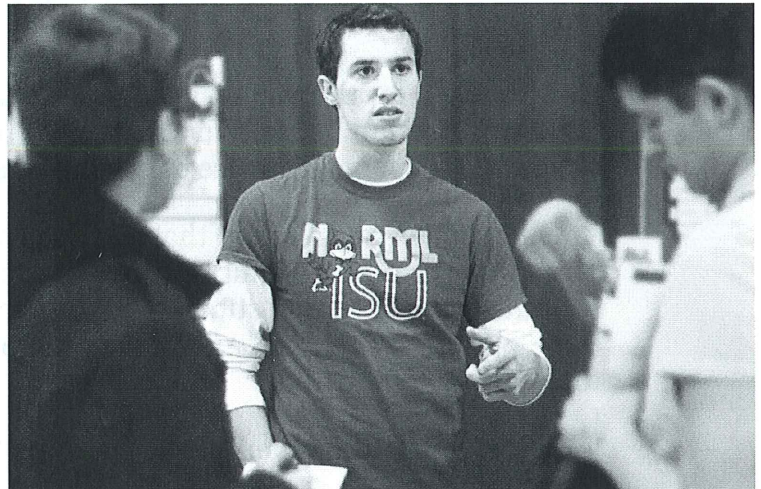
JULY 1, 2014

LOS ANGELES — Arguing that free speech is being stifled at college campuses across the country, a Philadelphia-based advocacy group on Tuesday filed lawsuits against four universities, seeking to force the schools to revise policies that the group says restrict some forms of speech.

The group, the Foundation for Individual Rights in Education, singled out four schools that it says squelched free speech in noteworthy ways — by banning certain T-shirts on campus, for example, or by trying to shut down a faculty blog that criticized the administration — and said it planned to file dozens of similar lawsuits. By the group’s estimate, nearly 60 percent of public universities and colleges have restrictions on rights guaranteed by the First Amendment.

The lawsuits were filed after recent protests at several schools against scheduled commencement speakers, whom some on campus deemed inappropriate. Many of those invited to address graduating students ultimately declined to speak. Also this year, students at several colleges urged their professors to adopt policies warning them about potentially offensive content introduced in class.

“We’re cultivating an intellectually unhealthy attitude that it is not O.K., or even dangerous, to hear opinions that might make you uncomfortable,” said Greg Lukianoff, the president of the group filing the suits. “Universities have been much too shy in saying that there’s a great educational benefit from hearing



An Iowa State University student wearing a T-shirt that is mentioned in a suit by a Philadelphia-based advocacy group. Credit Blake Lanser/Iowa State Daily

dissent. You have a whole generation of people who think that they should be protected from anything they see as unwanted or disagreeable.”

The suits allege that both Iowa State University and Ohio University banned certain T-shirts; Chicago State University, tried to shut down a faculty blog; and Citrus College in Glendora, Calif., set limits on where a student could collect signatures for a petition.

According to the group, many colleges have adopted vague anti-harassment policies that ban speech deemed offensive, and that give administrators the power to quash all sorts of political debate, satire or art.

At Iowa State, a group of students involved with the campus chapter of the National Organization for the Reform of Marijuana Laws, or NORML, ordered T-shirts with the university mascot replacing the O in the organization’s logo, use that was approved by the university’s trademark office. After dozens of the T-shirts were sold on campus, however, school officials ordered the students to stop, arguing that the shirts implied that the university supported the legalization of marijuana.

A spokesman for the university, John McCarroll, would not comment on the pending litigation but said in a statement that “Iowa State has the right and obligation to manage the use of our university trademarks.”

At Ohio University, a group that provides help to students accused of misconduct on campus printed a T-shirt with the statement “We get you off for free.” Administrators ordered students in the group to stop wearing the shirts, saying they “objectified women” and “promoted prostitution,” according to the foundation’s complaint.

Ohio University, however, denies banning the shirts.

“Administrators never directed the students or the student organization to not wear the T-shirts mentioned in the lawsuit, and no student misconduct action was ever threatened or taken,” Katie Quaranta, a spokeswoman, said in a statement.

The two other schools being sued did not return requests for comment.

The group previously filed two similar lawsuits, including one last year against Modesto Junior College in California, after staff members told a student that he could not pass out copies of the United States Constitution outside the college’s “free-speech zone.” The college settled the lawsuit for \$50,000 and dismantled the zone.

Jennifer Medina, *Advocacy Group Sues 4 Universities in Challenge to Policies It Says Curb Free Speech*, N.Y. TIMES, July 1, 2014, at A18, available at <http://www.nytimes.com/2014/07/02/us/advocacy-group-sues-4-universities-in-challenge-to-policies-it-says-curb-free-speech.html>.