



Foundation for Individual Rights in Education

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September 26, 2003

Chancellor Ralph J. Cicerone
University of California, Irvine
Office of the Chancellor
501 Administration
Irvine, California 92697-1900

Dear Chancellor Cicerone,

As you can see from our Directors and Board of Advisors, the Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, freedom of religion, academic freedom, due process, and, in this case, freedom of speech and expression on America's college campuses. Our web page, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is profoundly concerned by reports that administrators at the University of California, Irvine (UCI) shut down the UCI College Republicans' "Affirmative Action Bake Sale" held on campus yesterday. This "bake sale" constituted a form of satirical protest, and therefore enjoyed the fullest protection of the Constitution of the United States and the Constitution of the state of California. Respect for the dignity and individuality of each member of UCI's student body demands the most profound respect for your students' freedom of speech—even when some in the community are offended by that expression. As you know full well, if everyone banned what he or she took offense to we all would be reduced to silence.

This is our understanding of the facts as reported to us by UCI students. We urge you to inform us if any part of our understanding of the facts is in error. On September 25, 2003, the UCI College Republicans held an "Affirmative Action Bake Sale" on campus to demonstrate their opposition to racial preferences and to express their support for California Proposition 54, which would prevent racial data from being collected by many state agencies. At

this “bake sale,” students purchasing doughnuts were charged different prices depending on their race or gender: minorities and women were asked to pay lower prices while white male students were asked to pay higher prices for the same items. The event drew a small crowd, some of whom protested the College Republicans’ actions.

According to UCI students, the College Republicans were then approached by Sally Peterson, UCI’s dean of students, and Byron Breland, director of Student Judicial Affairs. Peterson and Breland informed the College Republicans that the sale was racially discriminatory and therefore not permissible on university property. The president of the UCI College Republicans, UCI student Bryan Zuetel, then offered to change the price list so that it read “suggested price” in response to Peterson’s and Breland’s objections. Zuetel was informed that his organization’s actions would still constitute discrimination even if this change was made, and the College Republicans were then ordered to take down the signs advertising the sale.

The College Republicans’ “bake sale” was clearly not intended as a commercial endeavor. This fact is underlined by Zuetel’s offer to change the price list for their goods to a “suggested price” list. The “bake sale”—which has been replicated at other schools around the country—was a satirical protest of government policy regarding the issue of racial preferences. Categorizing the “bake sale” as “discrimination” ignores—or willfully misinterprets—the expressive purpose of the event.

Satirical political protest is at the very heart of our country’s honored traditions. Rhetorical devices such as satire and parody exist to challenge, to amuse, and even to offend. With the vote on California’s Proposition 54 less than three weeks away, censoring political speech on this topic is particularly pernicious. UCI students need the greatest reassurance that they are free to engage in unfettered debate on issues of crucial public importance and concern.

UCI’s moral obligation to guarantee its students’ free speech rights is clear; its legal obligation to uphold the First Amendment is indisputable. As you know, UCI is a public university and therefore has an overarching legal obligation, in addition to its moral obligation, to ensure the First Amendment rights of its students. The Supreme Court of the United States recognizes the value of satire and has granted satirists extensive protection under the First Amendment. In the landmark case of *Hustler Magazine v. Falwell*, the Supreme Court determined that even the most aggressive and graphic satire is worthy of First Amendment protection. In light of case law, it cannot be doubted that the First Amendment and the Constitution of the state of California protect both satire and creative forms of protest, regardless of whom they offend.

UCI should realize that establishing a precedent that controversial ideas cannot be expressed if they are poorly received would put the power of censorship in the hands of anyone inclined to disrupt the expression of ideas. We urgently request that UCI affirm the full protection of the College Republicans' right to social satire and to freedom of expression, and that no university policy or contrivance will be used to circumvent those rights.

We look forward to your reply.

Sincerely,

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

Greg Lukianoff
Director of Legal and Public Advocacy

cc:

Sally Peterson, Dean of Students, University of California, Irvine
Byron Breland, Director, Student Judicial Affairs, University of California, Irvine
Manuel Gomez, Vice Chancellor, Student Affairs, University of California, Irvine
Kathleen H. Canul, University Ombudsman, University of California, Irvine
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Robert C. Dynes, President Designate, University of California
Bryan Zuetel