



Foundation for Individual Rights in Education

601 Walnut Street, Suite 510 • Philadelphia, Pennsylvania 19106
T 215-717-3473 • F 215-717-3440 • fire@thefire.org • www.thefire.org

Greg Lukianoff
PRESIDENT

Robert L. Shibley
VICE PRESIDENT OF
OPERATIONS

Samantha K. Harris
DIRECTOR OF LEGAL AND
PUBLIC ADVOCACY

Alan Charles Kors
CO-FOUNDER AND
CHAIRMAN EMERITUS

BOARD OF DIRECTORS

Harvey A. Silverglate
CO-FOUNDER AND
CHAIRMAN

William J. Hume
Joseph M. Maline
Marlene Mieske
Daphne Patai
Virginia Postrel
James E. Wiggins

BOARD OF ADVISORS

Lloyd Buchanan
T. Kenneth Cribb, Jr.
Candace de Russy
William A. Dunn
Benjamin F. Hammond
Nat Hentoff
Roy Innis
Wendy Kaminer
Woody Kaplan
Leonard Liggio
Herbert London
Peter L. Malkin
Milton Rosenberg
John R. Searle
Ricky Silberman
Christina Hoff Sommers

August 28, 2006

President Jean Floten
Bellevue Community College
3000 Landerholm Circle SE
Bellevue, Washington 98007

Sent via U.S. Mail and Facsimile (425-564-2261)

Dear President Floten:

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, freedom of speech, due process, and, in this case, academic freedom, on America's college campuses. Our web page, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is gravely concerned by Bellevue Community College's (BCC's) reaction to Professor Peter Ratener's 2004 math exam question—a question that was interpreted by some as “racially insensitive.” BCC's decision to suspend Ratener for one week without pay is extreme and unfair, especially since BCC has both already publicly shamed Ratener and acknowledged that any offense caused by the question was unintentional.

This is our understanding of the facts. Please inform us if you believe we are in error. In spring 2004, Ratener wrote a question for an intermediate algebra exam that stated:

Condoleezza holds a watermelon just over the edge of the roof of the 300-foot Federal Building, and tosses it up with a velocity of 20 feet per second. The height of the watermelon above the ground t seconds later is given by the formula $h = 16t^2 + 20t + 300$. A) In how many seconds will it pass her (she's standing at a height of 300 feet) on the way down? B) When will the watermelon hit the ground? C) How high did the watermelon get above the ground?

Ratener reports that in his first draft he used the name “Gallagher,” the comedian known for smashing watermelons on stage. Realizing that students might not recognize the name “Gallagher,” Ratener changed the name to

“Condoleezza.” Other professors in the math department approved the exam, which was administered to approximately 450 students in 2004 and elicited no complaints. In March 2006, another professor distributed the same exam to students in the Math 099 class as a practice exam. After reading the exam, student Chelsey Richardson met with Math Department Chair David Stacy to express that she was offended by the fact that a prominent African American woman was mentioned in the same question with a watermelon. Stacy agreed to remove the exam from the departmental files.

On April 7, KOMO-4 local news ran a segment on the exam question. On April 10, Richardson met with BCC administrators and local activist Wayne Perryman to discuss the racial insensitivity of the question. After that meeting, media clamor intensified. Perryman sent a mass e-mail to his supporters asking them to “please e-mail the college and express your outrage... I am demanding that the college to do several things to correct the problem.” On April 12, *The Seattle Times* ran a story, and on April 14 the Urban League of Metropolitan Seattle, chaired by BCC Trustee Paul Chiles, issued a press release calling the exam question “another example of hate and bigotry,” and asking you and BCC’s Board of Trustees to discipline the person responsible for the question. Media accounts of the exam question soon appeared in media outlets across the country.

On April 15, BCC’s Board of Trustees held a special meeting to discuss a reaction to Ratener’s test question. The Board of Trustees then issued a public statement that was available on BCC’s website for more than three months and that read in part,

We ... are deeply offended by the conduct of a math instructor at Bellevue Community College and strongly condemn this offensive behavior. This behavior is a gross violation of BCC’s mission and core value of respect for diversity. ... The Bellevue Community College math instructor deliberately chose to change the question resulting in a question which was racially insensitive and demeaning to Secretary of State Condoleezza Rice, the students in his class who were expected to respond to the question, and the BCC community. ... We, the Board, have asked the President of the College to review this conduct and take appropriate disciplinary action. This type of incident is wrong and unacceptable at our institution. We are also asking that the college examine the curriculum and practices of all its departments to eliminate the use of unacceptable negative stereotypes in the future.

On April 19, Ratener issued a public apology for having written a test question that unintentionally invoked a racial stereotype. That apology was posted on the BCC website, where it remained until July.

In early May, Ratener received a letter from Executive Dean of Instructional Services Ron Leatherbarrow notifying him that he would be suspended for one week. Leatherbarrow stated that the test question “offended a student who read it while practicing for the Math 099 exam in Winter, 2006.” Leatherbarrow continued, “I indicated to you that your action, while unintentional, interfered with the educational

process for this student and, possibly, for others as well.” Leatherbarrow explained that this admittedly unintentional action did not meet BCC’s standards “regarding choosing appropriate test materials and treating students with respect.” Leatherbarrow determined that Ratener’s conduct “warrants disciplinary action” in the form of a one week suspension with no pay. Ratener has appealed his suspension. His grievance is currently awaiting arbitration.

While a college has the right to suspend a professor for genuinely harassing or threatening expression, Ratener’s exam question certainly does not fit into the category of such unprotected speech. The principles of academic freedom and free expression in the university setting mandate more leniency than BCC has afforded Ratener. As the Supreme Court stated in *Texas v. Johnson*, 491 U.S. 397, 414 (1989), “**If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.**” [Emphasis added.] The Court handed down such a robust defense of potentially offensive speech precisely because deeming certain speech to be offensive is an entirely subjective exercise. In a milieu as diverse as the modern academy, speech is bound to be misinterpreted, and offense is virtually unavoidable. Free speech needs breathing room in order to thrive.

Ratener himself characterized his exam question as a mistake, explaining in his public apology that, “I try to use humor to relieve tension of test takers. ... Students today no longer recognize the name Gallagher. Condoleezza had name recognition going for her; and it’s a fascinating name to me. So I substituted that name in the question. Race had nothing to do with it, nor did politics.” But BCC’s administration has failed to accept Ratener’s explanations or apology for having offended students. Instead of giving him the benefit of the doubt, BCC has raced to vilify Ratener and punish him for what he admits was a mistake.

It appears that BCC has been driven to suspend Ratener by the fear that negative reactions to the exam question reflect poorly upon the college as a whole. Leatherbarrow even stated in the letter to Ratener that,

I acknowledge that you have apologized for your actions, which is an important consideration. I also have considered the fact that the college has been judged by your test question: this incident has brought disfavor to Bellevue Community College, damaged the college’s reputation, publicly undermined its meritorious work in pluralism, and created disruption to its academic and educational environments.

But if BCC is to legitimately claim to provide a liberal education, it cannot prioritize protecting its own reputation over protecting the freedom of speech and academic freedom of its professors. Guarantees of liberty, such as those found in the First Amendment or in the canons of academic freedom, are meaningless if they are to be jettisoned as soon as they become unpopular.

FIRE asks BCC to reverse Professor Peter Ratener's suspension. Professor Ratener has already endured intense media attention and public shame propagated by BCC—he must not also face official reprisal, in the form of suspension or in any other form. Please treat Ratener with the fundamental fairness to which he, as a tenured professor with a spotless record and 26 years of service to BCC, is due. FIRE is committed to using all of its resources to support Professor Peter Ratener in this matter, and to seeing this process to a just and moral conclusion. Because of the serious and continued violations of Professor Ratener's basic rights, FIRE requests a response by September 11, 2006.

Sincerely,



Robert L. Shibley
Vice President

cc:

Lucy Macneil, Vice President for Human Resources, Bellevue Community College
Ron Leatherbarrow, Executive Dean of Instructional Services, Bellevue Community College

Lynne Sage, Science Division Chair, Bellevue Community College

David Stacy, Math Department Chair, Bellevue Community College

Vijay Vashee, Chair, Board of Trustees, Bellevue Community College

Ruthann Kurose, Vice Chair, Board of Trustees, Bellevue Community College

Paul Chiles, Board of Trustees, Bellevue Community College

Lee Kraft, Board of Trustees, Bellevue Community College

Steve Miller, Board of Trustees, Bellevue Community College

Peter Ratener