



## 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](mailto:fire@thefire.org) • [www.thefire.org](http://www.thefire.org)

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May 8, 2008

Sharon Howell  
Adams House Resident Dean  
Harvard University  
26 Plympton Street  
Cambridge, Massachusetts 02138

*Sent via U.S. Mail and Facsimile (617-495-8550)*

Dear Dean Howell:

As you can see from our list of Directors and Board of Advisors, FIRE unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals from across the political and ideological spectrum on behalf of liberty, legal equality, freedom of religion, due process, freedom of speech, and academic freedom 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.

FIRE is concerned about the threat to freedom of expression posed by Adams House's recent threat to cancel a scheduled party due to the event's name.

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

This past April, the Latino Men's Collective (LMC) and Fuerza Latina, two Harvard student groups, proposed that a party be held in the Adams House Dining Hall. Adams House administrators agreed to host the party, without having been informed that the party was to be advertised under the name "Barely Legal." Once the party was publicized on the Adams House e-mail list using the "Barely Legal" name, several students responded with complaints, and others voiced concerns to the House Masters. The student leadership of both LMC and Fuerza Latina publicly stated that they meant no offense by the party's name and did not intend to glorify or encourage illegal activity. Shortly thereafter, however, LMC and Fuerza Latina were told by Adams House administrators that unless the name was changed, the party would not be allowed to proceed. The students agreed to take down all publicity for the party.

According to *The Harvard Crimson*, you remarked that the students “should have been more thoughtful considering the context.” However, to the extent the threatened cancellation of the party was due to the “Barely Legal” name, FIRE must remind you that punishing students for engaging in clearly protected expression—no matter how offensive or inappropriate to some—clearly violates not only the moral imperatives of the First Amendment but also Harvard’s own binding promises of freedom of expression.

Although the United States Constitution does not bind private universities like Harvard to guarantee freedom of expression to students, those that claim to value the open exchange of diverse ideas, as Harvard does, should pay heed to the principles enshrined in the First Amendment. With this in mind, you should know that even highly offensive material, including profanity, is fully protected under the First Amendment. In *Cohen v. California*, the Supreme Court ruled that a Vietnam War protester’s jacket bearing the words “Fuck the Draft” was constitutionally protected expression even when worn in a courthouse. Similarly, in *Hustler Magazine v. Falwell*, the Court ruled that the First Amendment protects even extraordinarily offensive satire and parody—in that case, a cartoon suggesting that the Reverend Jerry Falwell lost his virginity in a drunken encounter with his mother in an outhouse. Taken together, these cases decisively and clearly protect offensive material, farce, profanity, and exaggeration, and, in fact, even recognize that the “right to offend” serves a vital societal function. No matter how repugnant to the sensibilities of some, therefore, the “Barely Legal” party name does not come close to approaching these levels of offense; it is clearly and fully protected.

Harvard’s own policies clearly protect the right of its students to free expression. Harvard’s “Free Speech Guidelines” unequivocally state:

Free interchange of ideas is vital for our primary function of discovering and disseminating ideas through research, teaching, and learning... Because no other community defines itself so much in terms of knowledge, few others place such a high priority on freedom of speech. As a community, we take certain risks by assigning such a high priority to free speech. We assume that the long-term benefits to our community will outweigh the short-term unpleasant effects of sometimes-noxious views. Because we are a community united by a commitment to rational processes, we do not permit censorship of noxious ideas. We are committed to maintaining a climate in which reason and speech provide the correct response to a disagreeable idea.

Under such clear guidelines, forcing student groups to alter an “offensive” party name or risk the party’s cancellation cannot be justified.

In keeping with the principles of the First Amendment and Harvard’s own binding promises of freedom of expression, FIRE requests that Adams House reaffirm its commitment to ensuring that students enjoy the robust freedoms to which they are morally and legally entitled.

We ask for a response to this letter by May 30, 2008.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Kissel". The signature is fluid and cursive, with the first name "Adam" written in a larger, more prominent script than the last name "Kissel".

Adam Kissel '94  
Director, Individual Rights Defense Program  
Adams House Resident, 1991–94

cc:

Judith and Sean Palfrey, Adams House Masters  
Sophia Chaknis, Adams House Administrator  
Otto Coontz, Assistant to the Resident Dean  
Jessica D. Acosta, President, Fuerza Latina  
Xavier Del Rosario, President, Latino Men's Collective