



Foundation for Individual Rights in Education

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May 2, 2006

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President Lorna Duphiney Edmundson
Office of the President
Wilson College
1015 Philadelphia Avenue
Chambersburg, Pennsylvania 17201

Sent via U.S. Mail and Facsimile (717-262-2046)

Dear President Edmundson:

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 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 gravely concerned about Wilson College's attempt to punish five students for their online affiliation with a profile on the Internet community MySpace.com. The charges of slander and identity theft show an ignorance of the time-honored use of parody and a complete lack of respect for students' individual freedom of expression. Furthermore, the charge of harassment trivializes actual harassment by equating it with satirical speech and chills open expression on Wilson's campus.

This is our understanding of the facts. Please inform us if you believe we are in error. In late January, 2006, students Kathryn Webber, Daniella Care, Miranda Fuller, Jacinta Reeder, and Ashley Culligan all received e-mail messages inviting them to become "friends" with a profile for Selena Robinson on MySpace.com. Robinson—the director of the Women with Children program at Wilson, in which all five students are enrolled—says she did not create the profile herself. All five students also deny creating the profile, and report that the profile was blank when they first accepted the invitations. Throughout February and March, satirical information, such as Wilson College's Dean of Students being listed as Robinson's personal hero, was added to Robinson's profile.

In late March, the MySpace profile apparently came to the attention of Robinson and of Wilson administrators. All five students received e-mails from Robinson herself on March 28 notifying them that they were "formally being charged with slander, identity theft and blatant disregard to the honor code (respect the dignity of all

persons, the rights and property of others and demonstrate concern for others' feelings and their needs for conditions which support their work and development).”

Students report that a Joint Honor Council (JHC) hearing was held on the matter from April 4-7. On April 10, the students received letters from Chair of the Faculty Committee on Student Affairs Ginger Fisher stating that they had been found “responsible” for the Honor Code violations and that an investigation into a charge of harassment, though not mentioned in the initial e-mail from Robinson, was still “ongoing by outside parties.” On April 12, Webber appealed the JHC decision, and a second JHC hearing was held on April 21. At that hearing, the students were informed that the charges of slander, identity theft, and harassment were still pending. Administrators presiding over that meeting also attempted to have the students sign a waiver allowing MySpace to release all information in connection with the students’ personal MySpace accounts to Wilson, no doubt in an attempt to determine which of the five students, if any, had created the profile for Robinson. The students refused to sign these waivers, and the charges of slander, identity theft, and harassment are still pending.

First, there is no reasonable claim to be made that the students’ online affiliation with the profile for Robinson constitutes “slander.” The students hold that the profile was obviously satirical, containing material that blatantly parodied Robinson. Although it is a private institution and therefore not bound by the First Amendment, Wilson would nonetheless be wise to learn from the landmark Supreme Court decision in *Hustler Magazine, Inc. et al. v. Jerry Falwell*, 485 U.S. 46 (1988). That case involved *Hustler’s* publication of a parodic advertisement stating that prominent evangelical Christian Jerry Falwell’s first sexual encounter occurred “during a drunken incestuous rendezvous with his mother in an outhouse.” The Court ruled that farce, exaggeration, and parody, even involving material far more offensive than that involved in the present case, are fully protected forms of expression under the law. Calling satirical expression “slander” when it is clearly not meant to misrepresent the subject of the expression is an abuse of the term and should be beneath the dignity of any institution of higher education.

The fact that the profile in question contained parodic information that could not have reasonably been taken seriously renders the charge of identity theft untenable as well. Not only is there no evidence suggesting that the students planned to use the information on the profile for illegal or fraudulent purposes, but the distinct and contemporary nature of online communities like MySpace is such that MySpace users commonly create profiles for their favorite actors, politicians, or even friends, often in jest, with the intention of lauding or deriding those individuals. Such actions are not immoral, but are merely the byproducts of the free expression of ideas in a new medium. Accusing these students of identity theft is simply not credible.

In addition, being a friend of a parodic profile on MySpace falls significantly short of any reasonable definition of harassment—including that put forth by Wilson College. Wilson’s student handbook contains the following definition of conduct that constitutes harassment:

- (1) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance; or
- (2) Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive work or academic environment; or
- (3) Such conduct adversely affects an individual’s employment or academic standing.

While Robinson may well have been offended by the profile, the students' actions, confined as they were to the Internet, simply could not have created an "intimidating, hostile, or offensive" work environment, nor could they have interfered in any substantial way with Robinson's ability to work. Robinson's exposure to the profile was not unavoidable but in fact required that she seek out the correct profile on MySpace's Internet site. Further, Wilson's policy goes on to state that "[t]his definition will be interpreted with sensitivity toward academic freedom and freedom of expression." By equating expression that is simply opinionated or potentially offensive with harassment, Wilson dangerously trivializes actual harassment, which is a serious and potentially very harmful offense.

Finally, Wilson's persistence in leveling charges of slander, identity theft, and harassment against the students, despite two JHC hearings in which sufficient evidence to find the students responsible of these charges was not found, represents a disturbing attempt to intimidate the students into confessing to having created the profile. Threats and intimidation are not tactics that any institution of higher education, especially one that purports to uphold high standards of honor and respect, should use.

FIRE strongly urges Wilson College to make a clear distinction between actual illegal activity and the expression of potentially insulting ideas by dropping the charges of slander, identity theft, and harassment. Please do not let one administrator's feelings of offense trump students' ability to engage in parodic and satirical expression. FIRE hopes that this situations will be resolved thoroughly and swiftly; however, we are committed to using all of our resources to seeing this process through to a just and moral conclusion.

Because of the serious nature of the allegations against these students, FIRE requests a response on this matter by May 9, 2006. Enclosed are waivers of rights under the Family Education Rights and Privacy Act (FERPA) signed by Kathryn Webber, Daniella Care, Miranda Fuller, Jacinta Reeder, and Ashley Culligan, allowing Wilson College to communicate with FIRE about the current case involving these students.

Sincerely,

Tara Sweeney
Program Officer

cc:

Tammy Samuels, Dean of Students, Wilson College
Elisa Harding Hunt, Assistant Dean of Students, Wilson College
Mary Hendrickson, Associate Dean of the College, Wilson College
Selena Robinson, Director of the Women with Children Program, Wilson College
Ginger Fisher, Chair of the Faculty Committee on Student Affairs, Wilson College