



Foundation for Individual Rights in Education

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September 1, 2010

President John C. Bravman
Bucknell University
220 Marts Hall
Lewisburg, Pennsylvania 17837

Sent via U.S. Mail and Facsimile (570-577-3369)

Dear President Bravman:

Thank you for your July 8, 2010, response to our June 18 letter. I appreciate your intention of studying the free speech issues at Bucknell University that we brought to your attention. I also appreciate your statements that “no student, faculty or group at Bucknell will be punished for speaking out on the issues of the day” and that “no policy here will be used to squelch free speech, even if it is provocative.” To that end, two Bucknell policies must be revised.

First, Bucknell maintains a campus-wide Sales and Promotions policy that requires preregistration and preapproval of “promotions” of “causes.” Quite apart from any past events, this policy is not consistent with the principles of free speech. Speech that normally would be protected when students promote a cause, such as distributing political literature in the open areas of campus, cannot be subject to conditions of prior registration and prior approval without restricting freedom of speech. Bucknell might reasonably choose to require preregistration for literature distribution in areas where there is more competition for space than can be accommodated by a less onerous policy. As it is written, however, the policy applies to the entire campus. Since the time of Thomas Paine, it has been inconsistent with basic American conceptions of liberty to require any kind of licensing or preapproval for pamphleteers or others who wish to engage in noncommercial speech. I urge you to revise the Sales and Promotions policy accordingly.

Second, Bucknell maintains an unwritten policy prohibiting “affirmative action” bake sales and similar kinds of bake sales. The pricing for the “affirmative action” bake sale that the Bucknell University Conservatives Club (BUCC) requested after having the first one shut down was, contrary to the information you received, symbolic and *not* “based on the race of the buyer.” FIRE has published an audio recording of BUCC’s request for event approval in May 2009 at <http://www.thefire.org/article/10723.html>. On the recording, a BUCC member asks if the event would be approved if the group

listed the bake sale prices as “optional,” making it clear that anyone could pay whatever price they wanted, regardless of race. Former Dean Gerald Commerford completely rejected this option, however, saying, “No, no, no, no, no, no, no, because it’s a discriminatory [pricing] policy.” He then added, “It’s a political issue, ok; it needs to be debated in its proper forum, ok, and not on the public property on the campus.” When a BUCC member then asked, “There is no way we can have an event like this?” Commerford replied, “No.” You are welcome to listen to the recording yourself. If Commerford’s words can be interpreted in any other way than as a blanket ban on this kind of symbolic speech about affirmative action, it does not now occur to us.

To be clear, it is inconsistent with free speech to maintain a policy prohibiting a politically themed bake sale with satirical, optional pricing. This is the case whether the theme is affirmative action (as criticized by BUCC) or the gender wage gap (as criticized by, among others, the Campus Women’s Organization at the University of Pittsburgh last September).

Bucknell’s policy against such political bake sales is not improved by offering a group an alternative public forum to express its message. You perhaps were not told that BUCC did in fact hold a speech about affirmative action by Star Parker after the first bake sale was shut down. BUCC holds many meetings and events every year to draw additional attention to affirmative action and other issues. BUCC also regularly publishes a well-known monthly magazine, *The Counterweight*. The fact that BUCC utilizes many means of expression in no way excuses Bucknell’s unreasonable limitations on expression in its policies.

In short, Bucknell must revise its unwritten policy against political bake sales with optional, satirical pricing. Such events are not discriminatory, nor are they in any way unlawful. I hope you have had an opportunity to explore what other universities, public and private, have determined on this issue. Such events—wage gap bake sales and affirmative action bake sales—have been permitted at many public and private universities nationwide, and they have enriched campus discourse. Bucknell is the outlier here, not the vanguard of nondiscrimination.

For these reasons, FIRE is quite sure that our advertisement in *U.S. News & World Report* listing Bucknell as a serious violator of free speech is based on solid, documented information. Even if we were to continue to disagree about the past, however, the two policies named here would be inconsistent with the principles of free speech whether or not BUCC had run afoul of them. The primary goal of the advertisement is not to embarrass Bucknell but to defend and preserve free speech for college students at Bucknell and across the country. I urge you to correct the deficiencies in Bucknell’s policies for the sake of every student at Bucknell so that next year’s advertisement will not feature Bucknell. Indeed, FIRE would be very happy to take Bucknell off of our Red Alert list and to publicly credit you for being an agent of free speech reform on campus.

I understand that being a new university president presents considerable demands on your time, yet free expression is at the core of a free university, and Bucknell has already had

quite a long time to correct its policies. Please start your presidency on the right foot by revising Bucknell's policies to make them consistent with your promise of free speech.

We request a response by September 15, 2010.

Sincerely,



Adam Kissel

Director, Individual Rights Defense Program

cc:

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