

Salvatore J. La Lima, President
Suffolk County Community College
533 College Road
Selden, NY 11784

July 21, 2003

Sent U.S. Mail and Facsimile (631-451-4715)

Dear President La Lima,

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, and, in this case, fundamental fairness 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 by the threats to free speech, journalistic freedom, and freedom of association posed by the punishment of Ursula Monaco, a student at Suffolk County Community College. Ms. Monaco wrote a rude word in an email that was addressed to a friend but accidentally sent to her professor. SCCC seems to be using this fact to justify punishing her severely and suppressing her political speech. Respect for the dignity and uniqueness of your students demands the most profound respect for their freedom of speech—even when some in the community regard the speech as rude or inappropriate. As you surely know, if everyone banned what he or she found rude or inappropriate, we would all be reduced to silence.

This is our understanding of the facts. Ms. Monaco, a fifty-five year old grandmother and part time student at SCCC, has been in conflict with the SCCC administration over the funding of the school paper, *The Western Student Press* (*WSP*). As is her right, Ms. Monaco has petitioned her state legislator on this matter and attended several legislative committee hearings on the topic. Ms. Monaco has been openly critical of the administration in the *WSP*. In a recent debate over funding of the *WSP*, she has called the actions of the administration “outrageous,” writing that their “nonsense...has hampered the *WSP* for the past few years.”

On May 2, 2003, Ms. Monaco contacted *The Compass*, another student-run paper, to obtain a photograph for a news article. Professor Margaret Altizer, advisor to *The Compass*, told Ms. Monaco that she could not request the photograph. Ms. Monaco, intending to forward Professor Altizer's email to a friend, accidentally hit the reply button and wrote: "Kathy, Do you believe this cunt! And she had the balls to reply all, Ursula." (The words "reply all" mean that Professor Altizer replied to all recipients of the original email—not just Ms. Monaco.)

Professor Altizer filed a complaint because of the email. On June 17, SCCC then informed Ms. Monaco that she would be charged with:

1. "Verbally abusing, threatening, intimidating, harassing, coercing or engaging in any other conduct that threatens or endangers the health or safety of any person," and
2. "Misusing or using without authority or in violation of law, the College's information technology or telecommunications systems."

The Disciplinary Committee found Ms. Monaco guilty of both charges.

Ms. Monaco received the punishment of "probation with loss of privileges" through the 2003 fall semester. In addition, in a letter dated June 27, Ms. Monaco was told: "You may not serve on College committees, nor any student group or organization. The committee has *further* decided that during your period of probation you may not participate in any way, or have any contact with, any student newspaper at Suffolk County Community College including The Western Student Press, The Compass, and The Beacon." [Emphasis added.] This further determination of the committee, to prohibit Ms. Monaco from having "any contact with the student newspaper," appears to demonstrate the administration's true motives in punishing Ms. Monaco—silencing a critic of the administration.

Amazingly, when Ms. Monaco appealed the committee's decision, she was further punished. In a letter dated July 14, Executive Dean Joanne Braxton informed Ms. Monaco that she "may not serve in any capacity [or] visit the offices of any college newspaper." She "may not contact the office" of any school paper by "any means, including mail, telephone or email." She "may not submit articles" to any school paper, nor may she "propose or suggest an article to anyone associated with a campus newspaper." Finally, she "may not approach any member of the campus community for the purpose of collecting information with which to write a news article."

We must assume that it is the use of the word "cunt" that was considered the offending element of the email. Simply uttering or writing words, without more, cannot be a crime, even if they are considered mean or rude. In order to avoid calling these offenses "word crimes," you have labeled them verbal abuse, threats, intimidation, harassment, and coercion. But the laws that parallel these rules require far more than simply using an objectionable word in an email. The facts do not describe a threat, coercion or intimidation, which require the communication of a future harmful action. The facts do not describe abuse or harassment, which require consistently repeated, severe and objectively outrageous and directed acts—not the accidental transmission of a single email.

Indeed, the facts do not describe any form of communication that the First Amendment would allow a public university to punish. Highly offensive material, including profanity, is protected under the First Amendment. We strongly encourage you to read the landmark Supreme Court cases *Cohen v. California*, 403 U.S. 15 (1971) and *Hustler Magazine, Inc. et al. v. Jerry Falwell*, 485 U.S. 46 (1988). In *Cohen v. California*, the Court ruled that a Vietnam War protester's jacket bearing the words "Fuck the Draft" was constitutionally protected expression (even if it was worn in a courthouse). In *Hustler Magazine v. Falwell*, too, the Court ruled that the First Amendment protects even an extraordinarily offensive parody - in this 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. No campus that claims to take seriously the free speech rights of students can retaliate against a student merely for using an offensive word.

Furthermore, vilifying and banning a mere word is remarkably closed-minded and reveals a highly intolerant conception of acceptable modes of speech. Far from an action that promotes tolerance, SCCC censorship smacks of class bias, narrow-mindedness, and cultural chauvinism, and it better suits the goals and mores of the Victorians than those of an allegedly free and open university.

Partially due to the fact that words mean different things to different people, the government should never be in the business of punishing their use. As the Supreme Court pointed out in *Cohen*, a case that also dealt with a "rude word":

[W]hile the particular four-letter word being litigated here is perhaps more distasteful than most others of its genre, it is **nevertheless often true that one man's vulgarity is another's lyric**. Indeed, we think it is largely because governmental officials cannot make principled distinctions in this area that the Constitution leaves matters of taste and style so largely to the individual. [Emphasis added.]

To illustrate this point, we recommend you read the recent book by Inga Muscio and Betty Dodson: *Cunt: A Declaration of Independence*. It is described by the publisher as a book that "reclaims the word 'cunt' as a positive force in the movement to unite and empower women." In addition, a highly respected African-American legal scholar, Harvard Law School's Randall Kennedy, made much the same argument in his book *Nigger: The Strange Career of a Troublesome Word*. In that book, Professor Kennedy argued in favor of protecting the right to use even that racially volatile word. Both of these works raise serious and profound questions worthy of the attention of your students. Considering this, it should be clear that any attempt to ban or punish mere words runs the serious risk of infringing on your students' constitutional and moral rights and, indeed, the very mission of your institution.

The charge of "misusing the College's information technology or communication systems" is likewise extremely spurious. Ms. Monaco did not use an SCCC computer to send her message; she did not even use an SCCC email account. Ms. Monaco did not use any SCCC resources—how could she then have "misused" them?

Lastly, the email was obviously sent to the recipient by mistake. This is clearly indicated from the fact that the email is addressed to “Kathy,” Ms. Monaco’s friend. As soon as she realized her error, Ms. Monaco forwarded an apology to Professor Altizer, which should have ended the matter. Free speech considerations aside, it is hard to imagine any honest judicial system that would punish a student—and punish her so harshly—for what was clearly an error.

These arguments suggest that SCCC is disingenuous in its punishment of Ms. Monaco, and that SCCC administrators have an ulterior motive for punishing the use of an unpleasant word. The decision to pursue this matter was clearly motivated by Mrs. Monaco’s role on the paper as a critic of the SCCC administration. While the incident had absolutely nothing to do with her work for the paper, her punishment included a ban on *virtually all involvement* with any student papers, the buildings where their offices are located, and the students affiliated with them. SCCC’s letter of July 14 even acknowledges that the punishment is “intended to carry out the disciplinary panel’s decision to suspend you from on-campus journalism activity.” By exploiting this minor incident, SCCC has conveniently silenced a vocal critic of the administration.

FIRE urgently requests that SCCC overturn its rulings against Ursula Monaco, correct her record and permit her to participate in all student activities, including the campus newspapers. Furthermore, we request that SCCC affirm the full protection of Ms. Monaco’s and every other student’s right to robust dissent, and that no SCCC policy or contrivance will be used to circumvent that right.

Let me assure you that many individuals and organizations devoted to freedom and civil liberties are watching, with acute attention, the chilling of such freedom. FIRE is committed to using all of our resources to support Ms. Monaco and, ultimately, to see this matter through to a just and moral conclusion. Please spare SCCC the embarrassment of fighting against journalistic freedom, fairness, and the Constitution. We hope reason and fairness will prevail.

I look forward to hearing from you.

Sincerely,

Greg Lukianoff
Director of Legal and Public Advocacy

cc:

James F. Canniff, Vice President for Academic and Campus Affairs, Suffolk County Community College
Michael Weissberg, Vice President for Student Affairs, Suffolk County Community College
Joanne E. Braxton, Executive Dean, Western Campus, Suffolk County Community College
Meryl S. Rogers, Associate Dean of Student Services, Western Campus, Suffolk County Community College
Michael V. Hollander, Chairperson, Board of Trustees, Suffolk County Community College
M. Vicky Wacksman, Vice Chairperson, Board of Trustees, Suffolk County Community College
William Moore, Secretary, Board of Trustees, Suffolk County Community College
Robert L. King, Chancellor, SUNY
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