



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

BOARD OF DIRECTORS

Alan Charles Kors
CHAIRMAN

Harvey A. Silverglate
VICE 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

April 13, 2006

Chancellor Douglas N. Hastad
University of Wisconsin-La Crosse
135 Graff Main Hall
1725 State Street
La Crosse, Wisconsin 54601

Sent via U.S. Mail and Facsimile (608-785-6947)

Dear Chancellor Hastad:

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, in this case, freedom of speech and of the press on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE is gravely concerned about the University of Wisconsin-La Crosse (UW-L) Student Association Student Senate's March 29 resolution to limit the distribution of the student magazine *The Second Supper*. This attempt to censor *The Second Supper* for content deemed racist by some members of the Student Senate violates the First Amendment to the United States Constitution and demonstrates a disturbing lack of respect for students' freedom of expression. This action also shows a basic lack of understanding of the purpose behind the constitutional rights of freedom of speech and of the press.

This is our understanding of the facts. Please inform us if you believe we are in error. *The Second Supper* is a satirical magazine published by UW-La Crosse students and recognized by the student government. *The Second Supper* does not accept student fee funding and, until recently, distributed approximately 2000 copies to the UW-L campus on a bi-weekly basis. In its February 28, 2006, issue, *The Second Supper* ran a satirical article by Nick Koegel entitled "Cheney Kills Five Crips in Inner-City Hunting Accident." The article parodied Vice President Dick Cheney's February hunting accident by portraying Cheney as a gang member, stating that "When he shot at some thought-to-be-bloods, he was actually shooting at individuals who Mr. Cheney referred to as 'his very best niggaz.'"

After that issue was published, the Student Senate introduced a resolution determining that “the recent and past events of racist, sexist, homophobic, ablest (*sic*), anti-Semites (*sic*) speech in the Second Supper are threatening the **recruitment and retention** of students from underrepresented groups.” (Emphasis in original.) The March 29 resolution was sponsored by “the students silenced by privilege,” and punished *The Second Supper* by curtailing its distribution from 2000 copies per issue, distributed at 8 distribution points across campus, to 60 copies per issue, to be distributed only in three university buildings.

The Second Supper’s editor-in-chief, Joseph Gullo, met with members of the Student Senate on March 27 to petition for a less severe punishment. On March 29, the Student Senate passed another resolution limiting distribution to 900 copies, to be distributed between the university’s Cartwright Hall, Carl Wimberly Hall, and Whitney Center. Gullo has submitted an appeal to UW-L’s Student Court in order to have the resolution repealed.

First, let us be clear that the content in question—the use of the word “niggaz” in a humorous context for the purpose of political satire—is unquestionably protected expression under the First Amendment to the U.S. Constitution. The principle of freedom of speech does not exist to protect only non-controversial speech; indeed, it exists precisely to protect speech that some members of a community may find controversial or “offensive.” Parody and satire, even when they include “offensive” language, are forms of political speech that are at the core of our country’s honored traditions. They exist precisely to challenge, to amuse, to provoke, and, indeed, to offend. Case law on this subject is quite clear; we strongly encourage you to read the landmark Supreme Court cases of *Cohen v. California*, 403 U.S. 15 (1971) and *Hustler Magazine, Inc. et al. v. Jerry Falwell*, 485 U.S. 46 (1988). Taken together, these cases protect—as core political speech—highly offensive material, farce, profanity, and exaggeration, and confirm the essential role of parody and satire precisely because they challenge readers’ deepest assumptions and beliefs. No campus that claims to take seriously the free speech rights of students may retaliate against a student publication because some students were offended by fully protected speech.

The Student Senate, as an agent of the UW-L administration (and therefore of the state government), has a duty to uphold the rights enshrined in the First Amendment. It has failed to do so. The Student Senate’s March 29 resolution cites the fact that UW-L has pledged in a strategic plan called “Plan 2008: Phase II” to “[b]uild a campus community that fosters recruitment and retention of a diverse administration, faculty, staff and students,” and then goes on to pronounce that *The Second Supper*’s use of the word “niggaz” did not accord with that goal. However, in attempting to enforce standards set forth in the university’s strategic plan, the Student Senate has seriously misinterpreted its role. The Student Senate should at every turn realize and protect UW-L students’ basic civil liberties, not force student publications to advocate for the university’s stated objectives. Under no circumstances may the Student Senate pass a rule, policy, or resolution that would overturn students’ fundamental rights. Indeed, no university policy, “strategic plan” or otherwise, can trump the First Amendment.

On April 6, 2006, the *La Crosse Tribune* wrote that Student Senate President A.J. Clauss “argued the senate’s move, which she co-wrote, doesn’t violate free speech because it did not completely ban Second Supper from campus and will be in effect only through this academic year.” This

disturbing comment is hugely mistaken—the limitation on *The Second Supper*'s distribution rights does indeed constitute a serious form of censorship. The punishment not only damages *The Second Supper* itself, since its print runs for the duration of the year will be cut by more than half, but also injures the UW-L community, which will for the rest of the semester have limited access to the popular magazine. The punishment also casts *The Second Supper*'s financial stability into jeopardy, since the magazine is fully funded by advertisers, who expect that their advertisements will reach 2000 readers with each issue. The power to potentially destroy a publication through censorship is a power that no organizing body at a public institution of higher learning should have.

In censoring *The Second Supper* for satirically using a word that may be offensive to some members of the UW-L community, the Student Senate has overstepped its bounds. The UW-L administration now has a moral and legal duty to intervene to ensure that the denial of *The Second Supper*'s First Amendment rights does not continue. The rights of newspapers in a free society cannot and must not be so dramatically curtailed at the whim of a few powerful individuals.

FIRE strongly urges the University of Wisconsin-La Crosse to cease its censorship of *The Second Supper* and to clarify that the Student Senate does not retain the right to unconstitutionally limit the distribution of student publications. FIRE further asks that UW-L take seriously its commitment to a liberal education and to the First Amendment of the Constitution, by which it is morally and legally bound. A university in a free society must not allow the cry of offense to become the call of the censor. UW-L must loudly and clearly reject campus censorship and work to assure its students that freedom of expression is to be celebrated, not feared. While we hope to come to an amicable resolution to this matter, FIRE is committed to using all of its resources to oppose the censorship of *The Second Supper* or any other campus publication. Because of the egregious nature of this continuing violation of fundamental rights on UW-L's campus, we request a response on this issue by April 20, 2006.

Sincerely,



Robert L. Shibley
Vice President

cc:

Michael Miyamoto, Interim Dean of Student Development, University of Wisconsin-La Crosse
Marcia Johnson-Sage, Interim Assistant Dean of Students, University of Wisconsin-La Crosse
A.J. Clauss, Student Senate President, University of Wisconsin-La Crosse
Ryan C. Kockler, President, Student Association, University of Wisconsin-La Crosse
Larry Ringgenberg, Faculty Adviser, Student Association, University of Wisconsin-La Crosse
Ryan Schryver, Chief Justice, Student Court, University of Wisconsin-La Crosse
Kaye Schendel, Faculty Advisor, Student Court, University of Wisconsin-La Crosse
Joseph Gullo, Editor-in-Chief, *The Second Supper*