

1. My name is William Creeley. I reside at 205 31st Street, Brooklyn, New York, 11232.
2. I am over the age of 18 years and I am competent to make this declaration, which is based on my personal and organizational knowledge as the Director of Legal and Public Advocacy for the Foundation for Individual Rights in Education, Inc. (FIRE).
3. I am an attorney and a member in good standing of the New York Bar.
4. I am the Director of Legal and Public Advocacy for the Foundation for Individual Rights in Education, Inc. FIRE is a non-profit, tax-exempt educational and civil liberties organization pursuant to section 501(c)(3) of the Internal Revenue Code, dedicated to promoting and protecting First Amendment rights at American institutions of higher education.
5. Since FIRE's inception in 1999, FIRE has won 160 public victories for students and faculty members at 121 colleges and universities with a total enrollment of more than 2.6 million students. FIRE has been directly responsible for changing 81 unconstitutional or repressive policies affecting nearly 1.7 million students.
6. While FIRE does not directly litigate on behalf of clients, FIRE coordinates litigation with cooperating counsel when appropriate to challenge unconstitutional speech codes at public universities. FIRE's Speech Codes Litigation Project has won victories, either by court order or settlement, at Shippensburg University of Pennsylvania, Texas Tech University, Citrus College, the State University of New York at Brockport, Temple University, and San Francisco State University.
7. Many of FIRE's victories are won without litigation, via engaging in dialogue with university administrators and bringing public pressure on institutions violating student and faculty rights.
8. In one recent example, a letter from FIRE (Exhibit A) helped convince the University of North Texas (UNT) to revise its "Free Speech and Public Assembly Policy," which provided for only six "free speech areas" on campus where students could "engage in constitutionally protected speech and expression at the University of North Texas." The policy further required students and student groups intending to use the free speech zones to request approval from the Dean of Students and to make reservations "at least two working days in advance." The new policy eliminates UNT's free speech zones.
9. FIRE has successfully intervened on behalf of student members of Students for Concealed Carry on Campus (SCCC). For example, on October 2, 2009, FIRE announced a successful resolution to a dispute at the Community College of Allegheny County (CCAC) in Pennsylvania. CCAC administrators had told

student Christine Brashier, who wanted to form a chapter of Students for Concealed Carry on Campus, that her pamphlets were unacceptable “solicitation” and that any further efforts would be considered “academic misconduct.” FIRE wrote CCAC President Alex Johnson on April 29, 2009 about these violations of Brashier’s First Amendment speech and association rights, pointing out that her speech in no way constituted solicitation, that CCAC may not condition approval of literature on its viewpoint or content, and that if CCAC recognizes student organizations at all, it must recognize an organization that supports concealed carry on campus. (See Exhibit B.) After CCAC refused to acknowledge Brashier’s First Amendment rights, Michael J. Rinaldi, a FIRE Legal Network attorney in the Commercial Litigation Practice Group at Drinker Biddle & Reath LLP in Philadelphia, represented Brashier. Rinaldi successfully pressed CCAC to allow not only Brashier but all CCAC students to exercise their fundamental rights on campus.

10. FIRE has previously warned Tarrant County College (TCC) that its treatment of student protestors and maintenance of “free speech zones” violates the First Amendment.
11. In communications dating to April 2008, FIRE has repeatedly notified TCC in writing about the constitutional infirmities in its policies and practices governing student speech, with specific reference to its treatment of students wishing to engage in symbolic expressive activity on campus.
12. On March 28, 2008, TCC student Brett Poulos e-mailed TCC South Campus President Ernest L. Thomas to inform Thomas of his intent to engage in symbolic protest on campus. (See Exhibit C.) Specifically, Poulos wished to stage an “empty holster” protest, to coincide with a series of national empty holster protests coordinated by national student advocacy group Students for Concealed Carry on Campus and held concurrently at colleges and universities across the country. The protest was planned for the week of April 21st through April 25th.
13. Poulos’ e-mail made clear that the protest would not include “a speech, march, or rally of members,” but rather that “students involved in this event will be attending classes as they would on an everyday basis.” Poulos wrote:

The symbolic point of the Empty Holster Protest is to represent that students, faculty, and guests on college campuses are left defenseless (with nothing but *empty holsters*) by state laws and school policies that refuse to afford concealed handgun license holders the same rights on college campuses that they are afforded virtually everywhere else. [Emphasis in original.]

14. TCC Vice President for Student Development Juan Garcia e-mailed Poulos a response (Exhibit D) on April 10, 2008, informing Poulos that:

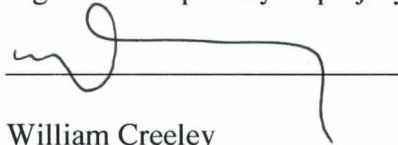
Your protest will be limited to the Free Speech Zone designated on the South Campus, and **you and other protestors may not wear empty gun holsters on campus, including the Free Speech Zone during the protest, or at any other time.** You and your group are prohibited from staging this protest at any place other than the Free Speech Zone which is located in the center of the campus in a large, open space in front of the Library. [Emphasis in original.]

15. Concerned that his First Amendment rights at TCC were being violated, Poulos contacted FIRE for assistance shortly after receiving Garcia's e-mail.
16. FIRE wrote President Thomas on April 24, 2008. (See Exhibit E.)
17. FIRE's letter informed President Thomas that "TCC has both moral and legal obligations not to restrict expression to such specific areas as Free Speech Zones," noting that "[w]hile a college may establish a 'reasonable time, place and manner' restriction as allowed by cases like *Ward v. Rock Against Racism*, 491 U.S. 781 (1989), there is nothing at all 'reasonable' about transforming the vast majority of the university's property—indeed, *public* property—into a 'censorship area.'"
18. FIRE's letter informed President Thomas that "wearing an empty holster on the TCC campus is clearly a constitutionally protected act of symbolic expression tantamount to the black armbands students wore when they protested the Vietnam War—acts explicitly protected in *Tinker* [*Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).]"
19. FIRE's letter urged President Thomas "to act immediately by rescinding the restrictions on the 'Empty Holster Protest,' namely the prohibition against wearing empty holsters, the prohibition against protesting outside of the unconstitutional Free Speech Zone, and the vague restriction against wearing t-shirts in support of the cause."
20. Because of TCC's refusal to recognize their legal obligation to uphold the First Amendment on campus, Brett Poulos' protest did not take place as planned.
21. On May 20, 2008, nearly one month after the planned event had passed, Erma J. Hadley, Vice Chancellor of Administrative and Community Services for the Tarrant County College District, responded to FIRE's request, standing by the decision to ban the content of the speech and claiming that the College District does not "discriminate against speech on the basis of viewpoint." (See Exhibit F.)
22. On or around December 17, 2008, as part of a national mailing notifying 266 public college and university presidents of the constitutional infirmities in their policies, FIRE sent President Thomas a letter via certified mail informing him that TCC's policies governing student speech, including the "Free Speech Zone" policy, continue to violate the First Amendment. (See Exhibit G, an approximate

copy of the letter sent to President Thomas.) To date, FIRE has not received a response from TCC.

23. Clayton Smith, a TCC student and member of Students for Concealed Carry on Campus, e-mailed TCC administrators on April 10, 2009 to inform the college of his intent to engage in peaceful, symbolic protest on campus. Like Poulos before him, Smith wished to hold an empty holster protest on campus, in coordination with SCCC's national series of protests on campuses across the country from April 20-24, 2009. (See Exhibit H.)
24. The e-mail Smith sent to TCC administrators describing the protest's intent and means was nearly identical to the e-mail sent by Poulos to Garcia in 2008.
25. On April 16, 2009, a TCC administrator e-mailed Smith, expressly prohibiting Smith and other protestors from wearing empty gun holsters on campus, including in the free speech zone, during the protest, or at any other time. Smith was also informed that students were not allowed to hand out flyers on campus. (See Exhibit I.)
26. Smith contacted FIRE for help in April 2009.
27. Working in conjunction with the ACLU of Texas, FIRE has aided Smith in finding counsel.
28. FIRE knows of no SCCC-sponsored empty holster protest that has resulted in any disruption on any campus that has hosted such an event.

Signed under penalty of perjury on this third day of November, 2009,

A handwritten signature in dark ink, appearing to read 'William Creeley', is written over a horizontal line.

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