



## 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

Samantha K. Harris  
DIRECTOR OF LEGAL AND  
PUBLIC ADVOCACY

Alan Charles Kors  
CO-FOUNDER AND  
CHAIRMAN EMERITUS

#### BOARD OF DIRECTORS

Harvey A. Silverglate  
CO-FOUNDER AND  
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

March 16, 2007

President Lou Anna Simon  
Office of the President  
450 Administration Building  
Michigan State University  
East Lansing, Michigan 48824

*Sent via U.S. Mail and Facsimile (517-355-4670)*

### **URGENT**

Dear President Simon:

The Foundation for Individual Rights in Education (FIRE) is disappointed to write to you for the second time in one year regarding threats to freedom of expression on the Michigan State University campus. FIRE writes today to express our concern about Michigan State's policy requiring student organizations to pay for security if they host controversial events. This policy imposes unconstitutional viewpoint restrictions on student expression and impedes the open exchange of ideas on campus.

This is our understanding of the facts. Please advise us if you believe we are in error. The Young Americans for Freedom (YAF) student organization is planning to host an on-campus screening of the film "Obsession: Radical Islam's War Against the West," a documentary about Islamic terrorism, on March 22, 2007. On February 15, Michigan State University Police Officer David Oslund sent an e-mail to YAF President Kyle Bristow stating that "due to the topic being discuss [sic] we may want to assign greencoat security to the event." Oslund then informed Bristow that two Greencoat student security guards would be assigned to the event. Michigan State's Special Events policy states that "Greencoat security is billed out to the organization at \$15.00 per hour." YAF is therefore expected to pay \$60.00 to provide security for the two hours during which it shows the film.

Bristow reports that Greencoat security guards are students who lack the authority to arrest disruptive protestors. Because a YAF co-sponsored campus appearance by Congressman Tom Tancredo was interrupted by violent protestors in December, Bristow inquired in an e-mail response to Oslund if University Police officers would be available to provide security at the screening of "Obsession." Bristow was informed that if University Police assigned an officer to the event,

then YAF would have to pay the officer's overtime wages. When Bristow refused to pay for the officer's overtime, Special Events Coordinator Kelly Beck implied in an e-mail that if a protest broke out at the event and the police were called in, then YAF would incur extra fees. Beck wrote:

In the past, there have been events in which the security need was not adequately met due to groups not wanting to spend the extra funds on having police presence for their entire event and their attempt to "police" their peers was unsuccessful. This has led to pulling additional police personnel from their patrol duties and thus creating a shortage of manpower to respond to emergencies in the community. Those groups were subsequently charged for the additional manpower necessary to bring their special event under control.

Michigan State's requirement that student organizations hosting controversial events pay for extra security may seem like a reasonable policy, but it is clearly unconstitutional, as it affixes a price tag to events based upon their expressive content. The Supreme Court addressed this issue in *Forsyth County v. Nationalist Movement*, 505 U.S. 123 (1992), by striking down an ordinance in Forsyth County, Georgia, that permitted the local government to set varying fees for events based upon how much police protection the event would need. The Court wrote that in the case of the Forsyth County ordinance, "[t]he fee assessed will depend on the administrator's measure of the amount of hostility likely to be created by the speech based on its content. Those wishing to express views unpopular with bottle throwers, for example, may have to pay more for their permit." Deciding that such a determination required county administrators to "examine the content of the message that is conveyed," the Court wrote that "[l]isteners' reaction to speech is not a content-neutral basis for regulation. . . . **Speech cannot be financially burdened, any more than it can be punished or banned, simply because it might offend a hostile mob.**" [Emphasis added.] In the interest of preserving content neutrality in determining fees for campus events, Michigan State cannot and must not force student groups to pay more money for security protection because administrators have deemed certain events "controversial" or because others in the community might protest against a planned event.

Moreover, by holding student organizations hosting expressive events responsible for whatever disruptive activity results from those events, Michigan State grants an unconstitutional "heckler's veto" to the most disruptive members of the university community. By following this policy, Michigan State encourages protestors to turn to violent disruption to shut down speech with which they disagree, since the sponsoring organization—not those responsible for the violent disruption—will be held accountable for the cost of police protection. As happened with the Tancredo lecture in December, disruptive protest is likely to win out over responsible expressive activity.

FIRE strongly urges Michigan State to revise its policy on security costs at student organization events so that organizations no longer have to pay more money based upon the nature of their expression. An institution that relies on the unfettered freedom to express various viewpoints may not and must not officially disfavor those who engage in or sponsor controversial expression. Furthermore, the duty to keep the university campus free from violence falls upon the Michigan State administration and the University Police, not upon a student organization

responsibly engaging in protected political expression. The university must not hold YAF responsible for additional security costs or for whatever protests occur in reaction to the screening of "Obsession."

FIRE hopes to resolve this situation amicably and swiftly; we are, however, prepared to use all of our resources to see this situation through to a just and moral conclusion. Due to the pressing nature of this situation, we request a response to this letter by Wednesday, March 21, 2007.

Sincerely,

Tara E. Sweeney  
Senior Program Officer

cc:

Kim A. Wilcox, Provost, Michigan State University  
Lee N. June, Vice President for Student Affairs and Services, Michigan State University  
Terry Denbow, Vice President for University Relations, Michigan State University  
James H. Dunlap, Director of University Police, Michigan State University  
Kelly Beck, Special Events Coordinator, Michigan State University  
David Oslund, Police Officer, Michigan State University  
Kyle Bristow