



Foundation for Individual Rights in Education

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August 29, 2005

President V. Lane Rawlins
Office of the President
PO Box 641048
Washington State University
Pullman, Washington 99164-1048

Sent by U.S. Mail and Facsimile (509-335-0137)

Dear President Rawlins:

It is with profound dismay that FIRE writes to you for the third time in as many months to protest severe and substantial abuses of fundamental freedoms by the Washington State University faculty and administration. As I am sure you will recall, in June FIRE wrote to you regarding your administration's decision to pay for hecklers to attend and disrupt a performance of student playwright Christopher Lee's *Passion of the Musical*. You publicly defended this decision, telling the *Daily Evergreen* that the hecklers "exercised their rights of free speech in a very responsible manner by letting the writer and players know exactly how they felt"—despite the fact that videotape evidence and eyewitness accounts prove that the hecklers threatened cast members with violence and disrupted the play several times. How you could have concluded that such behavior is acceptable in any situation, much less worthy of sponsorship by state officials at a taxpayer-supported university, is inexplicable, while the university's characterization of a play as a "public forum" where the audience is invited to freely opine on its own is wholly without basis in logic or legal reality.

Unfortunately, FIRE has now discovered that Washington State's commitment to censorship and ideological conformity does not stop with the establishment of an unconstitutional "heckler's veto" over controversial campus expression. In fact, as the case of College of Education student Ed Swan makes clear, Washington State has established an apparatus of ideological enforcement, complete with required beliefs and values for students, within its College of Education. Those students who disagree with the official political and ideological values of the College of Education are threatened with sanctions ranging from mandatory "sensitivity training" to outright dismissal from the program—therefore making a state government agency, Washington State University, responsible for a wholly unconstitutional series of ideological litmus tests for those in its teacher education program.

This is our understanding of the facts, based on documents and e-mails from Washington State College of Education administrators as well as an account from the affected student himself. Ed Swan is a 42-year-old fourth-year student in the elementary education program at Washington State's College of Education. Swan's problems stem from the College of Education's use of Professional Dispositions Evaluations (PDEs) to evaluate education students for their fitness to become teachers. Swan's first hint that the PDEs would present a problem came at the conclusion of a required course entitled "Diversity in Schools and Society," taught by Professor Paula Groves Price during the Fall 2004 semester. Swan, who describes himself as a conservative Christian, observed what he felt to be a liberal political bias in the class and had some concerns on one assignment about his political ideals aligning with those of the College of Education. He came to Professor Groves Price with these concerns, and Professor Groves Price responded in an e-mail, writing:

I was just thinking about the question that you just asked me about the pedagogy assessment. For what you are doing for my class, I would like for you to write what you really feel--save the "performance" for the "real" one. Also, I do very much recognize that there is a very strong "liberal bias" in our program (and also my class). I hope that you feel comfortable in class and feel that your opinions are welcomed and important to enriching the conversations in class. I sincerely hope that I have not made you feel silenced in any way. I really do enjoy having you in class and also reading your papers.

Paula

Unfortunately, Professor Groves Price's apparently welcoming attitude towards those who disagreed with her political beliefs was not mirrored by the College of Education in general. Indeed, in its dealings with Swan, the College of Education revealed that its PDE system in fact served as a method for Washington State to unconstitutionally force its students to subscribe to a certain ideological viewpoint or face punishments up to and including dismissal from the state-funded program.

Professor Groves Price's own PDE was Swan's first signal that he was likely to be punished by Washington State for his political and ideological beliefs. The PDE form (attached) asks for the professor's evaluation of ten "dispositions" for each student. Some of these dispositions, such as "The pre-service teacher is willing to give and receive help," are uncontroversial. However, at least three of these dispositions are not only extremely subjective but, as applied by Washington State, ask whether students subscribe to an officially established set of political and/or ideological values. Disposition 1 asks the professor to evaluate whether "[t]he pre-service teacher contributes to a positive climate," while Disposition 6 asks whether "[t]he pre-service teacher is sensitive to community and cultural norms of the teacher evaluation program, the university classroom, and practicum settings." Disposition 7 solicits the professor's opinion on whether "[t]he pre-service teacher appreciates and values human diversity and shows respect for others' varied talents and perspectives." Students are evaluated on whether they are "below standard," "approaching standard," or "at/above standard" on each of these dispositions, and professors are asked to turn in a written explanation for any marks less than "at/above standard."

Disposition 1, which defines as part of a “positive climate” showing “respect of and consideration for the thoughts and feelings of others,” is an extremely vague and subjective measure upon which to base a student evaluation. This vagueness was seized upon by College of Education faculty members to give Swan a low evaluation on this disposition. For instance, Professor Groves Price complained of “disengagement” by Swan in small-group discussion that “seemed to be rooted in strong differences of opinion,” and stated that she “was not sure that there was an open mind in listening and attempting to understand other’s worldviews.” Upon being informed that Swan is hard of hearing, Professor Groves Price raised her assessment of Swan, but still gave him a mark of less than “at/above standard.”

It is truly disturbing that a disagreement in the classroom environment—even a vehement disagreement with the “worldview” of another student—could be seen as a liability in a higher education setting. Indeed, the U.S. Supreme Court recognized this principle in its opinion in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), a case decided during the darkest days of World War II. Justice Robert H. Jackson, writing for the Court, declared,

[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

Unfortunately, the College of Education’s efforts to force students to adhere to the subjective values enunciated in Dispositions 6 and 7 are excellent examples of precisely what Justice Jackson condemned in *Barnette* as being outside the power of government employees such as Washington State’s education professors.

On Disposition 6, which involves being “sensitive to community and cultural norms of the teacher education program, the university, and practicum settings,” Professor Groves Price graded Swan as “approaching” the school’s standards. Noting that “[t]he elementary education program is very committed to equity, diversity and social justice” and that the school’s “conceptual framework and ‘six big ideas’ are strongly based on teaching from a multicultural perspective,” Professor Groves Price expressed concerns that “Mr. Swan has voiced some of his opinions, primarily through written papers, that I believe are in conflict with the program and department’s cultural norms. Specifically, I am concerned about language that was expressed in one of his papers where he used the term ‘wetback’ to describe recent Mexican immigrants.” She stated that “in his paper he qualified the use of the term by stating that Mexicans in his home town use the term,” but went on to say that “[her] belief is that it is never appropriate for someone, particularly someone outside of that cultural group, to use the term.” (In fact, Professor Groves Price’s description of Swan’s use of the term “wetback” is highly misleading, as he used the term to inform the reader that some Mexican immigrants use the term to describe other, more recent immigrants from Mexico.)

As problematic as it is to hold students to the nebulous and ill-defined standards of Dispositions 1 and 6, Disposition 7 is the College of Education's most disturbing ideological requirement. This disposition asks the professor to rate whether "[t]he pre-service teacher appreciates and values human diversity and shows respect for others' varied talents and perspectives." According to Professor Groves Price, "Mr. Swan revealed opinions that have caused [her] great concern in the areas of race, gender, sexual orientation, and privilege." She listed among these the belief that "white privilege and male privilege does not exist" and stated that he "revealed some very anti-gay/lesbian sentiments and ideologies about gender and 'a woman's' place that [she] found troubling." She went on:

When asked how he can work through these strong sentiments as a teacher, if he has a Muslim child, a child with gay/lesbian parents, an undocumented immigrant, or a child of color who discusses his race in class, he responded that he believed that he could, as a professional, teach all of his kids and be fair. He very strongly believes that he can, in fact, separate these feelings from his practice in the classroom. The surfacing of these dispositions, ideologies, and feelings has given me strong concern, and it is for this reason only, that I am submitting this form.

Ironically, Professor Groves Price ended her statement with a note that "[Swan] has completed all required assignments, and has received an A in the course based on the requirements, not on ideology."

Professor Groves Price was far from the only faculty member to express hostility to Swan because of his political beliefs. For example, Professor Mira Reisberg, Swan's professor for the required course "T&L 390—Integrating Fine Arts into K-8 Curriculum," gave him the lowest mark of "below standard" for most of his dispositions, including Dispositions 1, 6, and 7. Rather than explaining each of these marks as requested in the form, however, Reisberg justified her marks by outrageously accusing Swan of being a "White Supremacist." Reisberg also claimed that since Swan's hobbies (which he was asked to discuss in class) include hunting and because he expressed views strongly opposing gun control, she felt "uncomfortable" following what she called "the normal procedure [which] is to fill out a PDE form in advance allowing students the opportunity to defend themselves...." This was despite the fact that she admits that "Ed [Swan] never made any personally threatening comments to me *and was an excellent student apart from his comments and choices.*" (Emphasis added.) She concluded by begging Linda Chaplin, the College of Education's director of student services, to "find a way to prevent Ed from becoming a teacher" because of "emotional problems that are manifested in his racist beliefs."

Reisberg's comments make it clear that it was not because of Swan's ability as a student or his intelligence that she felt he should not be allowed to be a teacher, but rather because he holds opinions that disagree with her own and with those of the College of Education. The PDE Swan received from Professor David Holliway in his required "EdPsy 401—Classroom Assessment, Elementary" class also shows that having the "correct" political beliefs is a requirement at Washington State University. In an otherwise unblemished PDE, Swan received one "below standard" from Professor Halliway for Disposition 7, which mandates that the student "appreciates and values human diversity and shows respect for others' varied talents and

perspectives.” Professor Halliway’s brief explanation for this mark, handwritten at the bottom of the form, was, “I read ‘diversity is perversity’ in one of his personal responses in Chapter 4 of our text book.” This three-word piece of political criticism of the College of Education’s concept of “diversity” was apparently sufficient for Professor Halliway to determine that Swan did not “appreciate and value human diversity and show respect for others’ varied talents and perspectives.”

Washington State’s attacks on Swan’s beliefs are not confined to the PDE reports. In February, because of the politically motivated low marks on his PDE forms, Swan was summoned to a meeting with the Teacher Education Student Affairs Committee. On February 9, Swan met with the committee and agreed to undergo one hour of “professional development activity” related to the school’s concerns about his scores for Dispositions 6 and 7. To fulfill this, Swan met with Melynda Huskey, who serves as Washington State’s assistant vice president for diversity and equity and as director of the university’s Gay, Lesbian, Bisexual, and Allies Program. While Swan disputes many of the assertions of fact in Huskey’s memorandum of the meeting, the document is extremely revealing with regard to the university’s ideologically coercive agenda.

Huskey is extremely critical of Swan in the memo, accusing him of ignorance, bigotry, a lack of self-awareness, stupidity, being a white supremacist, and failing to have the “skills, knowledge, or competencies” that she thought would be “minimal for teaching in a multi-cultural classroom.” She criticizes him for calling himself “a victim of the department’s liberal ideology” and for his unwillingness to “go without a fight.” She states that his willingness to have a “direct confrontation” with her over her choice to be a “lesbian mom” was inappropriate—despite the fact that they ostensibly met to honestly discuss controversial issues. She implies that he cannot be concerned about the “breakdown of the nuclear family” simply because he is divorced. Huskey even mocked Swan because he “did not seem to know” that Holland and the Netherlands are “two names for the same nation,” when in fact Holland is only a part of the Netherlands (although in English they are often used interchangeably). Virtually every complaint that Huskey makes about Swan either relates to his political or ideological views or is an unsupported accusation of stupidity or ignorance. Huskey concludes by saying that she “certainly would not be willing to trust [her] own children to him.”

There can be no logical interpretation of this meeting other than to call it what it was—an ideological and political inquisition. Huskey’s own report (which Swan believes to be untrue and possibly libelous) depicts the meeting as little more than an administrator’s attempt to get a fuller report of Swan’s views and to report those views back to Edwin Helmstetter, chair of the department of Teaching and Learning, and Teaching and Learning faculty member Dawn Shinew, who according to Huskey had asked for her “reflections” on the meeting with Swan. There can be no reason for Helmstetter and Shinew to request this information other than to determine if Swan’s political views agreed with those of the College of Education.

On Wednesday, August 25, Swan was summoned to another meeting of the Teacher Education Student Affairs Committee to “establish clear expectations of [him] for the fall semester, particularly with reference to the professional dispositions noted above [Dispositions 6 and 7].” At the meeting, Swan was given an agreement that he was told he must sign by Tuesday, August 30. This agreement purports to bind him, among other things, to “act in accordance” with PDE

criteria including dispositions 6 and 7, and specifies that “any conduct that evidences disrespect towards others” will be used as an excuse for still more “supervision.” It also specifies, “These conditions are final,” and states that if he does not meet the conditions, he will be terminated from the teacher education program.

Washington State’s College of Education has created a system in which education students who do not agree with the university’s approved political beliefs are put through an inquisition, punished, and even threatened with dismissal for their expression. This system violates students’ constitutionally protected freedoms of conscience and expression. It is beyond question that students at public institutions have the right to express themselves on controversial topics without fear of official reprisal. For instance, in the aforementioned case of *West Virginia State Board of Education v. Barnette*, the Supreme Court determined that school children could not be forced to say the Pledge of Allegiance in class—even in the midst of World War II. If elementary school students cannot be forced to pledge allegiance to the flag, adult university students certainly cannot be forced to pledge allegiance to Washington State’s official positions on diversity and multiculturalism. And no professor has made the argument that Swan’s opposition to the school’s official political beliefs has been disruptive to classes—in fact, Professor Groves Price even made the point that Swan received an A in her class based on the *requirements* of the course.

Not only is it impossible for Washington State to justify punishing a student for his or her expression or beliefs, but you also have personally promised that it will not do so. For instance, in your letter of March 3, 2003, regarding the upcoming war in Iraq, you stated, “We do have clear policies in support of free speech and assembly, and we will use all of our resources to support the right of the members of our community to exercise their rights on this campus, subject to the usual caveat that they cannot interfere with the rights of others to do the same.” This statement is heavy with irony considering that the university paid for hecklers to interfere with the expressive rights of actors in a student-produced musical. Similarly, Swan’s expression of his views has been met not only with punishment but with calls from a faculty member to do whatever the school can to “find a way” to prevent him from becoming a teacher.

In that same letter, you also endorsed a statement by Chancellor John Wiley of the University of Wisconsin, Madison, who remarked, “We are a community with many voices, and I will not discourage debate or free expression by any action that would suggest that there is a fundamental inequality in the value of some of those voices as opposed to others.” You followed this statement by saying, simply, “I endorse the position of Chancellor Wiley.” Yet Ed Swan is being punished because his views of the meaning and utility of diversity and multiculturalism differ from the official views of the College of Education. Your statements endorsing and promising free speech for students simply cannot be reconciled with the actions Washington State has taken against Ed Swan or Chris Lee.

By requiring that students in its College of Education adhere to the university’s official political beliefs regarding diversity and what constitutes a “positive” classroom climate, Washington State has also created an unconstitutional condition for receiving a degree from a state university. In *Perry v. Sindermann*, 408 U.S. 593, 597 (1972), the U.S. Supreme Court wrote:

[T]he government...may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially, his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to “produce a result which [it] could not command directly.” *Speiser v. Randall*, 357 U.S. 513, 526. Such interference with constitutional rights is impermissible.

The practices of Washington State’s College of Education directly conflict with established Supreme Court precedent. The explanations accompanying Ed Swan’s low marks for Dispositions 6 and 7 make it clear that it was because of his political and ideological opinions and beliefs that Washington State punished him by lowering his marks, mandating that he attend a professional development meeting, and now threatening him with dismissal if he does not sign an outrageous agreement requiring him to act in accordance with the school’s political and ideological interpretations of Dispositions 6 and 7. By pursuing this policy, Washington State courts severe legal liability for its actions.

Between the heckler’s veto of Chris Lee’s musical and the punishment of Ed Swan for unapproved political beliefs, Washington State University is fast becoming a leading campus in the United States when it comes to ideologically and politically based censorship and coercion. We ask you, as president of Washington State and the person ultimately responsible for abuses of students’ First Amendment rights, to intervene in this matter and preserve the rights of one of your own students, Ed Swan, to freedom of speech and conscience. FIRE is wholly committed to using all of our legal, public, and other resources to bring this matter to a just and fair conclusion. Washington State University and the taxpayers who support it have no interest in censorship and ideological coercion of its students. We urge you to recognize this fact and to stop this outrageous miscarriage of justice.

Because of the critical nature of the rights involved, and because Swan has been threatened with dismissal if he does not sign, by Tuesday, August 30, an unlawful contract depriving him of his constitutional rights, we require a response on this matter by 5 p.m. Eastern Time on Tuesday, August 30, 2005.

Sincerely,



Robert L. Shibley
Program Manager

cc:

Robert C. Bates, Provost, Washington State University
Charlene K. Jaeger, Vice President for Student Affairs, Washington State University
Judy Mitchell, Dean, WSU College of Education
Edwin Helmstetter, Chair of Teaching & Learning Department, WSU College of Education
Linda Chaplin, Director, Student Services, WSU College of Education

Melynda Huskey, Assistant Vice President for Equity and Diversity, WSU
Ed Swan

Encl.