



Foundation for Individual Rights in Education

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March 18, 2010

Valerie I. Harrison
Associate University Counsel
Temple University
300 Sullivan Hall
1330 West Berks Street
Philadelphia, Pennsylvania 19122-6087

Sent by U.S. Mail and Facsimile (215-204-5804)

Dear Ms. Harrison:

Thank you for your February 8, 2010, response to FIRE's letter of January 26 regarding the unconstitutional fee levied against the student group Temple University Purpose (TUP) to defray extra security costs for the October 20, 2009, presentation by controversial Dutch politician Geert Wilders.

While we are pleased that Temple University has withdrawn the bill for this event, it is disappointing that Temple has failed to acknowledge the legal principle under which it was required to do so. In addition, Temple's actions to date—imposing a fee, offering to withdraw it, and then finally withdrawing it—have been without any explanation on which student organizations can rely when hosting controversial events in the future. Since Temple has not acknowledged its error, for example, in stating that it could have charged \$6,000 to TUP for the extra security for the event, students have a reasonable fear of arbitrary imposition of such fees that is likely to have a persistent chilling effect on speech at Temple. Student organizations are likely to avoid bringing a controversial speaker to campus lest they face the vacillating treatment to which TUP was subjected, as well as the prospect of thousands of dollars in extra security fees.

Again, the Supreme Court in *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 132–33 (1992) found that the implementation of the county's ordinance showed no “narrowly drawn, reasonable and definite standards guiding the hand of the Forsyth County administrator” in assessing fees (citation omitted) (internal quotation marks omitted) and that “[n]othing in the law or its application prevents the official from **encouraging some views and discouraging others through the arbitrary application of fees**” (emphasis added).

In addition, your response directed FIRE to the Web page regarding Temple's "guidelines regarding student run programs," available at <http://www.temple.edu/studentaffairs/studentactivities/studentorgs/blackbook-programming.asp>. Please note that the opening "Ticket Sales" heading appears to be in the wrong font size, suggesting that the entire policy refers to "Ticket Sales." This mistake may confuse students into thinking that the following sections of the policy only apply to a student organization "holding an on-campus admission-charged event."

In any case, under "Security for Events," while the policy does appear to employ a variety of reasonable and definite standards, it does not clarify who is responsible to pay for any added security, leaving students further in the dark about their financial responsibilities under Temple's policy.

In particular, one of the criteria for determining security needs at Temple includes "Increased risks (e.g., threats received)," a criterion that Temple may not use when charging security fees to students. This criterion is not content neutral, and it is exactly what was contemplated by the Supreme Court in *Forsyth*, as FIRE pointed out in our first letter to President Ann Weaver Hart on January 4, 2010.

Temple must clarify that it will not financially burden the speech of student organizations, or their invited guests, because of "threats received" or other potentially hostile actions by protesters or audience members. In addition, we request that Temple refrain from arbitrarily assessing or waiving security fees in the future. All registered student organizations at Temple deserve equal treatment from Temple regardless of viewpoint, especially regarding matters of their First Amendment rights.

We look forward to hearing from you again. We request a response by April 7, 2010.

Sincerely,



Adam Kissel
Director, Individual Rights Defense Program

cc:

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