



Foundation for Individual Rights in Education

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October 10, 2008

President Michael Rao
Office of the President
Central Michigan University
Warriner Hall
Mount Pleasant, Michigan 48859

URGENT

Sent by U.S. Mail and Facsimile (989-774-3665)

Dear President Rao:

As you can see from our Directors and Board of Advisors, FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, due process, legal equality, freedom of association, religious liberty, and, in this case, freedom of speech on America's college campuses. Our web site, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is concerned about the threat to freedom of expression posed by Central Michigan University's (CMU's) decision to charge the Campus Conservatives, the Young Americans for Freedom (YAF) chapter at CMU, \$220 for security for a speech by David Horowitz to be held on Tuesday, October 14.

This is our understanding of the facts; please inform us if you believe we are in error.

On September 10, 2008, CMU student Dennis Lennox sent an e-mail to Stanley Dinius, Chief of the CMU Police Department. Lennox informed Dinius that YAF would be hosting author and conservative activist David Horowitz on Tuesday, October 14. Lennox expressed concerns over threats Horowitz had received in the past, and informed Chief Dinius that, although Horowitz would have a bodyguard, Horowitz's staff had requested additional security, including an escort to and from the speaking venue, uniformed and plain-clothes police at the event, and possibly metal detectors.

Captain Fred Harris replied to Lennox the following day. Harris informed Lennox that the CMU Police Department did provide additional security for

events, and that the sponsoring organization—in this case, YAF—would have to bear the cost. Lennox responded on September 12, expressing concern about providing the cost of security. According to Lennox, YAF had not been charged for security when they had previously requested it. Lennox asked Harris if charging student groups for providing security was formal policy. Harris didn't answer Lennox's question about the policy, but responded that Lennox should contact Keith Voeks, Assistant Director of University Events. Harris also supplied Lennox with the rates for hiring security officers: \$43.91 per officer and \$54.18 per sergeant. Harris also mentioned the possibility of hiring private security firm Elite Security and renting a metal detector.

Horowitz aide Floyd Resnick wrote Lennox on October 9, 2008, stating that Harris had told Resnick that two uniformed officers would be provided for two hours at a rate of \$55 per hour. The total cost for security would be \$220. On October 9, 2008, Dennis received an email from Voeks confirming that the security charge would be added to YAF's invoice.

As Lennox informed Harris, CMU has sent security to previous YAF events without charge. On January 31, 2007, Lennox contacted a member of the CMU police department and requested security for a February 6, 2007, event with Lithuanian Ambassador Vygaudas Usackas. The CMU Police Department sent officers without charge. Again, on March 21, 2007, the CMU Police Department provided two officers for YAF's showing of the documentary *Obsession*. No charge was applied.

CMU has set a clear precedent of providing security for YAF's events without charge. To the best of FIRE's knowledge, this applies to other student groups at CMU as well. FIRE is unaware of any CMU policy requiring student groups to pay for security, nor do reports of past practice indicate that CMU has such a policy. It is therefore unclear why CMU has decided to charge YAF for security now. Perhaps the most likely explanation is that David Horowitz has a reputation as a controversial speaker and often provokes strong reactions from those that disagree with his political views.

However, any requirement that student organizations hosting controversial events pay for extra security 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, CMU cannot and must not force student groups to pay more money for

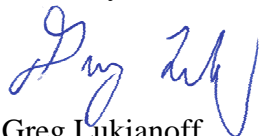
security protection because the event is controversial and others in the community might be offended and become violent.

Moreover, by holding student organizations hosting expressive events responsible for whatever disruptive activity results from the controversy of these events, CMU grants a heckler's veto to the most disruptive members of the university community. Protestors wishing to shut down speech with which they disagree merely have to threaten to protest, and student groups not able to furnish adequate funds for security will be forced to cancel their events. In such a situation, disruptive protests win out over responsible expressive activity. Controversial speech cannot be unduly burdened simply because it is controversial.

FIRE reminds CMU that it cannot, consistent with the university's legal and moral obligation to uphold the First Amendment on campus, require YAF to pay for security fees for an event simply because of the event's expressive content. When YAF hosts its upcoming event, currently scheduled for October 14, CMU must not hold the group responsible for security costs.

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. We request a response to this letter by Monday, October 13, 2008.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Lukianoff".

Greg Lukianoff
President

cc:

Julia E. Wallace, Executive Vice President and Provost
Bruce Roscoe, Dean of Students
Mike Owens, Associate Dean of Students
Robert J. Ebner, Director of University Events
Keith Voeks, Assistant Director of University Events
Stanley Dinius, Chief, CMU Police Department
Fred Harris, Captain, CMU Police Department
Dennis Lennox II