



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

September 17, 2007

President Linda Hanson
Office of the President
Hamline University MS-C1914
1536 Hewitt Avenue
St. Paul, Minnesota 55104

Sent via U.S. Mail and Facsimile (651-523-2030)

Dear President Hanson:

As you know, FIRE first wrote to you on May 29, 2007 (letter enclosed) regarding Hamline's suspension of Troy Scheffler. We explained that Mr. Scheffler's e-mails of April 17 and April 19 did not constitute the legal definition of a "threat" and asked that you lift his "interim suspension."

We are in receipt of your response letter of June 11, 2007. You argue that the decision to place Scheffler on interim suspension was determined by three factors: "the two e-mails he sent on April 17 and 19"; his "subsequent silence in the face of [your] invitation to meet"; and "critical input from various members of the Hamline community" who had interacted with Scheffler. All three of these determining factors are wrought with problems.

In regard to Scheffler's e-mails to you and to Vice President of Student Affairs David Stern, FIRE explained in our previous letter that these e-mails did not contain "true threats," "intimidation," or any other actionable expression, but rather voiced the political perspective of a student concerned about administrators' public statements. As we stated, although Hamline is not bound by the U.S. Constitution to protect students' expression, the university's own commitments as stated in the "Freedom of Expression and Inquiry" policy guarantee that students are "free to examine and discuss all questions of interest to them and to express opinions publicly and privately." In sending these e-mails, Scheffler has broken no university policy, and he should not be treated as if he has.

FIRE also has addressed Hamline's second determining factor in placing Scheffler on interim suspension—his "silence in the face of [your] invitation to meet." This "invitation" consisted of an e-mail response to Scheffler on Friday, April 20, asking if he could meet with you regarding the concerns he voiced in his e-mails. You waited less than one full working day for Scheffler to respond before

sending him a letter on Monday, April 23, stating that he was placed on interim suspension. In your haste to sanction Scheffler, you did not give him adequate time to respond, and then read ill will into his “delay” in responding.

The third determining factor enumerated in your letter to FIRE contained new information—information that has not been explained to Scheffler himself. You wrote that you took into consideration “additional, critical input from various members of the Hamline community who had interacted with [Scheffler]. This includes individuals who came forward on their own prior to the April emails, expressing their concerns about Mr. Scheffler.” This added information is troubling for several reasons. First, Scheffler reports that administrators have not made him aware of complaints against him from other members of the Hamline community. The university’s decision to act on complaints waged against Scheffler without notifying him about the manner and substance of those complaints presents serious due process concerns and violates the Dean of Students’ “Student Judicial System” policy, which guarantees that the university will notify a student of charges brought against him or her. The “Student Judicial System” policy states, in relevant part, that “The respondent(s), and/or student organization(s) will receive written notification of charges and procedures for arranging a pre-hearing conference. Normally, the notice will be delivered no later than three business days after the complaint was filed.” The “Rights of Complainants and Respondents” section of that policy goes on:

- Each party will be contacted and given written notice of the charges stating the alleged facts upon which the charges are based, the section of the Judicial Code that has allegedly been violated, and the date by which the pre-conference hearing must occur.
- Each party will be provided a copy of the complaint during the pre-hearing conference meeting.
- Each party may present relevant evidence including any written statements, oral statements, and/or physical exhibits, may question witnesses, and may present arguments.

Despite these stated protections, Scheffler is unaware that anyone has expressed concerns about him or his behavior. If Hamline claims to take students’ rights seriously, it cannot maintain a system of justice in which administrators collect secret complaints against students that lay dormant until someone decides to conveniently use them to compound other concerns that subsequently arise. If individuals have indeed come forward with complaints against Scheffler, Hamline must make those complaints available to Scheffler, so that he has adequate opportunity to defend himself. The claim that Hamline is protecting the identity of the complainants in concealing these complaints violates both standard practices of due process and Hamline’s own policies.

Finally, your requirement that Scheffler undergo a psychological evaluation before you will even meet with him to discuss his interim suspension is an invasive and—unless there is substantially more to this story—wholly unnecessary measure. You wrote in your letter to FIRE that “Hamline’s practice to seek external professional guidance to determine whether a student constitutes a threat, protects that student’s rights. Information from an independent professional helps to avoid a scenario, as your letter suggests, in which a serious decision would be driven by

differences of opinion.” But to force a student to undergo psychological evaluation as a condition of being allowed back on campus is an extreme step, appropriate in only the most severe circumstances. Far from protecting a student’s rights, make no mistake that **psychological evaluation—especially when the student is unwilling to undergo such evaluation—is itself a severe punishment**. In the absence of any evidence other than two e-mails containing expressions of disdain, Hamline has not provided reason enough to warrant a mandatory psychological evaluation of Scheffler.

A Hamline graduate student’s education has been put on hold over an issue of speech well within the realm of constitutional protection and Hamline’s own policies. If other issues are involved, Hamline must protect Scheffler’s due process rights by notifying him of those issues. We ask once again that you forgo the mandatory psychological evaluation and lift Troy Scheffler’s interim suspension, or that you immediately notify Scheffler of the charges made against him, give him a chance to face his accusers, and grant him the opportunity to present his side of the ordeal to an impartial panel.

We hope to resolve this situation amicably and swiftly, but FIRE remains committed to seeing this matter through to a just and moral conclusion. We appreciate your attention to this matter and request a response by October 1, 2007.

Sincerely,

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

Greg Lukianoff
President

cc:

David Stern, Vice President of Academic and Student Affairs, Hamline University
Julian Schuster, Dean of Graduate School of Management, Hamline University
Shirleen Hoffman, Director of Safety and Security, Hamline University
Alan Sickbert, Dean of Students, Hamline University
Patti Klein, Assistant Dean of Students, Hamline University
Kenneth Woodrow, Chair of the Board of Trustees, Hamline University
Rodney W. Jordan, Vice Chair of the Board of Trustees, Hamline University
Kita McVay, Second Vice Chair of the Board of Trustees, Hamline University
Peg Birk, Secretary, Hamline University
Allan R. DeBoer, Treasurer, Hamline University
Connie Bakken, Trustee, Hamline University
John Banovetz, Trustee, Hamline University
Ann Bentsdahl-Wessels, Trustee, Hamline University
Mary Brainerd, Trustee, Hamline University
Laura Chin, Trustee, Hamline University
Sally Dyck, Trustee, Hamline University
Irving D. Fish, Trustee, Hamline University

Winston Folkers, Trustee, Hamline University
Joan L. Gardner, Trustee, Hamline University
Joseph P. Graba, Trustee, Hamline University
Richard A. Hoel, Trustee, Hamline University
Charles H. Johnson, Trustee, Hamline University
Gloria Kauls, Trustee, Hamline University
Gwen Lerner, Trustee, Hamline University
Barbara K. Lupient, Trustee, Hamline University
Katherine Austin Mahle, Trustee, Hamline University
David Petrocchi, Trustee, Hamline University
Joel Portice, Trustee, Hamline University
Robb Prince, Trustee, Hamline University
Bruce Robbins, Trustee, Hamline University
Mary Schrock, Trustee, Hamline University
Gary Stern, Trustee, Hamline University
Gloria Roach Thomas, Trustee, Hamline University
Ricardo Paul Vallejos, Trustee, Hamline University
Troy Scheffler

Encl.