



Foundation for Individual Rights in Education

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Nancy Cantor, Chancellor
Syracuse University
900 South Crouse Avenue
Crouse-Hinds Hall, Suite 600
Syracuse, New York 13244

Sent via U.S. Mail and Facsimile (315-443-3073)

Dear Chancellor Cantor:

As you may remember, FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals from across the political and ideological spectrum on behalf of liberty, free speech, legal equality, due process, the right of conscience, and academic freedom on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE is deeply concerned about the threat to freedom of expression presented by Syracuse University's decision to indefinitely suspend a graduate student and subject him to mandatory psychological counseling due to comments he posted on Facebook.

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

On July 20, 2011, Syracuse University School of Education (SOE) graduate student Matthew Werenczak posted his reaction on his personal Facebook page to a "Syracuse NAACP Rep" who allegedly had stated, "[W]e need to start hiring our teachers from historically black colleges." In three responses, Werenczak wrote:

Mind you two white tutors were in the room. I'll let you take your own inference from that. Because that sort of stuff matters.

Just making sure we're okay with racism. It's not enough I'm busting my ass tutoring in the worst school in the city, I suppose I oughta be black or stay in my own side of town.

[I]t kind of offends me that I'm basically volunteering the summer at Danforth, getting up at 6[:]30, with no AC, to help tutor kids and that's not enough.

On August 30, Assistant Professor of Social Studies Education Jeffery A. Mangram emailed Werenczak, asking him to attend a meeting on September 1 “to discuss your Facebook postings this summer regarding Danforth School.” Werenczak attended the meeting, as did Director of English Education Programs Kelly Chandler-Olcott and SOE Instructor Judith Sheldon. According to notes that Werenczak recorded a few hours after the meeting, those attending the meeting stated that Werenczak was “‘at odds’ with minorities and women in our program and classes,” that his postings were “problematic,” and that the issue in part involved “white male privilege.” They also alleged that Werenczak had made “sexist anti-immigrant jokes” and that other students in his graduate course were “shocked” that Werenczak had asked in their class, “[A]re you allowed to hit a kid who is hitting you to get away?”

Apart from this discussion, Werenczak received no disciplinary hearing with regard to his postings.

On September 1, Werenczak emailed Mangram, asking whether “any formal complaints and/or academic charges are being or will be brought against me.” On September 2, Mangram replied by email that formal charges had not been filed: “Amie Redmond, Assistant Dean of Student and Academic Services ... and the Dean will advise me as to whether they want to file formal charges.” Mangram added, however, that Werenczak was not permitted to begin his student teaching at Solvay High School the following week. Werenczak never began his student teaching there.

On September 6, Mangram emailed Werenczak, informing him that “the Dean’s office” had made “a decision.” On September 7, Mangram sent Werenczak a letter informing him that he was going to be indefinitely suspended or expelled from SOE because he had “posted on [his] Facebook page comments the SOE finds unprofessional, offensive, and insensitive not only to the Danforth School but also to the SOE and Syracuse University.” The letter mentioned no expression other than the Facebook comments.

The letter informed Werenczak that he alternatively could “immediately withdraw from SOE.” If Werenczak chose to be indefinitely suspended, however, he was not allowed to engage in student teaching in the fall of 2011, and he would have to meet various requirements with no guarantee of readmission:

You are permitted from [sic] doing student-teaching in the fall of 2011 while being required to seek counseling for not only anger management issues but also issues related to your being harassed. Second, you will have to successfully complete an additional course or program on cultural diversity that the SOE chooses. Third, you will have to write a reflective paper that demonstrates the progress and growth you have made in relation to issues regarding cultural diversity as well as your own personal growth. Fourth, a committee will review your paper, meet with you, and determine if you [are] capable of continuing in the program.

With no real alternative for continuing his education and his career, Werenczak accepted these conditions. He fulfilled all three of the conditions within his power, including a psychological

visit with medical professional Rainer Feyer. Feyer's October 26, 2011, report states that Feyer spent an "extended period of time" with Werenczak assessing his "possible aggressive nature or anti-social tendencies" and concluded, "I have not found these to be present at all. Matthew appears to be a caring person and did not display any notions of anger. ... I do not see any reason why Matthew should not be able to teach or be sensible in his interaction with students and faculty and should be able, without restrictions, to fulfill his graduate studies."

On December 5, 2011, Werenczak notified Redmond by email that he had completed the required paper. He notified Mangram via email on December 14. According to an email from Mangram to Werenczak on January 3, 2012, however, SOE had not yet formed a committee to review the case. On January 4, Werenczak emailed Redmond and Mangram, stating that he would need to "take action" if the SOE's decision lingered beyond the end of the week. Half an hour later, Mangram emailed Werenczak, warning him that if Werenczak chooses to "take action," it would "further delay the process."

SOE's punishment of Werenczak because of his stated opinions is morally and legally unacceptable and profoundly violates Syracuse's express promises of freedom of speech. Syracuse promises in its *Student Handbook* that "[s]tudents have the right to express themselves freely on any subject provided they do so in a manner that does not violate the Code of Student Conduct," and that "Syracuse University is committed to the principle that freedom of discussion is essential to the search for truth and, consequently, welcomes and encourages the expression of dissent." SOE's actions against Werenczak, whose Facebook posts did not incur Code of Student Conduct charges, betray these guarantees.

The principle of freedom of speech does not exist to protect only non-controversial speech; indeed, it exists precisely to protect speech that some members of a community may find controversial or offensive. Syracuse has bound itself to this principle in its promises, and it has a moral and legal duty to uphold its promises. The right to free speech includes the right to say things that are deeply offensive to many people, and the Supreme Court has explicitly held, in rulings spanning decades, that speech cannot be restricted simply because it offends people. In *Papish v. Board of Curators of the University of Missouri*, 410 U.S. 667, 670 (1973), the Court held that "the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of 'conventions of decency.'" In *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949), the Court held that "a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger." In *Texas v. Johnson*, 491 U.S. 397, 414 (1989), the Court explained the rationale behind these decisions well, saying that "[i]f there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

As a private institution, Syracuse made the choice to promise freedom of speech to its students. Under such promises and principles, there can be no question that Werenczak's speech here is protected.

Furthermore, Syracuse's "Statement of Student Rights and Responsibilities" promises:

Students have the right to fundamental fairness before formal disciplinary sanctions are imposed by the University for violations of the Code of Student Conduct—as provided in the published procedures of the University Judicial System or other official University publications. Students have the right to written notice and the opportunity for a hearing before any change in status is incurred for disciplinary reasons unless a significant threat to persons or property exists.

SOE, however, has not provided fundamental fairness to Werenczak, who has never been charged with an offense or provided with meaningful notice and a meaningful hearing. Despite the absence of these protections, Werenczak has been suspended indefinitely, subject to the decision of a committee regarding his readmission. He has been prohibited from student-teaching. SOE has even required him to undergo psychological counseling which a medical professional has declared to be unnecessary. SOE's treatment of Werenczak is completely unacceptable.

We urge you to correct SOE's error in this case. As you know, FIRE named Syracuse University one of the "12 Worst Colleges for Free Speech" in *The Huffington Post* in January 2011. Your decision to reinstate Werenczak without conditions would go a long way toward reassuring students, faculty members, and the public that Syracuse University no longer belongs in that ignominious category.

FIRE asks you to act immediately. While we hope this situation can be resolved amicably and swiftly, we are committed to using all of our resources to see this situation through to a just and moral conclusion.

With this letter we enclose a signed FERPA waiver from Matthew Werenczak, permitting you to fully discuss his case with FIRE.

Please respond by January 17, 2012. We look forward to hearing from you.

Sincerely,



Adam Kissel
Vice President of Programs

Encl.

cc:

Jeffery A. Mangram, Assistant Professor of Social Studies Education, School of Education
Kelly Chandler-Olcott, Director of English Education Programs, School of Education
Amie Redmond, Assistant Dean for Academic and Student Services, School of Education
Judith Sheldon, Instructor, School of Education
Douglas Biklen, Dean, School of Education