



Foundation for Individual Rights in Education

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April 11, 2011

M. Justin Davis, Student Body Treasurer
Student Government Association
East Carolina University
101 Mendenhall Student Center
Greenville, North Carolina 27858

URGENT

Sent via U.S. Mail and Facsimile (252-328-2038)

Dear Mr. Davis:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals from across the political and ideological spectrum on behalf of liberty, legal equality, academic freedom, due process, freedom of speech, and freedom of conscience on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE writes to you today out of concern for the rights of the student group Young Americans for Liberty (YAL), which is appealing the recommendation of the Student Appropriations Committee of East Carolina University's (ECU's) Student Government Association (SGA) to partially deny funding for YAL's proposed "Hemp Fest" event. The recommendation, if acted upon, will constitute unconstitutional viewpoint discrimination against the group. SGA is scheduled to hear YAL's appeal this afternoon.

This is FIRE's understanding of the facts; please correct us if you believe we are in error.

Like many public universities, ECU assesses a mandatory student activity fee to its students. ECU has delegated to the Student Government Association the power to distribute the fees among student organizations at ECU; for this purpose, it is an authorized agent of the university.

On or around March 14, 2011, YAL requested \$735 in funding from SGA for its Hemp Fest event, aimed at educating students about "how cannabis can positively affect our society as regulated recreation, medicine, food, clothing, and more." The requested \$735 in funding classifies Hemp Fest as a Tier 1 event; by

SGA's Total Funding Guideline, SGA considers funding Tier 1 events at up to 100% of the funding requested. As part of the promotion for the event, YAL requested \$150 to purchase "samples of different ... products made from hempseed." YAL listed April 20, 2011, as the proposed date for Hemp Fest.

On March 23, 2011, you emailed YAL President Matthew Blackmon, notifying him of the Student Appropriations Committee's recommendation to provide only \$210 of the \$735 requested. The stated reasons for the recommendation explicitly pointed to the content of the event as reason for recommending against funding:

[T]he nature of the event is combustible insofar as the Student Government Association's reputation is concerned. Appropriations will not risk tarnishing SGA by funding the portion of the request determined necessary for the purchase of hemp products; purchasing these with Appropriations-recommended dollars is hereby expressly prohibited.

It has long been settled law that the First Amendment applies fully on college campuses. See *Healy v. James*, 408 U.S. 169, 180 (1972) (citation omitted) ("[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, 'the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools'"); *Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981) ("With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities"). As an authorized agent of ECU, the Student Government Association is obligated to uphold the First Amendment rights of the student groups under its auspices.

Further, SGA is obligated to distribute student fees to groups in a viewpoint-neutral manner. See *Rosenberger v. Rectors of the University of Virginia*, 515 U.S. 819, 836 (1995) ("For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation's intellectual life, its college and university campuses."); *Board of Regents v. Southworth*, 529 U.S. 217, 233 (2000) ("When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.").

Denying funding to YAL because the content of its event is deemed "combustible" or because SGA does not want to "risk tarnishing" its reputation by approving such content violates SGA's obligation to maintain viewpoint neutrality. Further, SGA has violated its own funding guidelines by declaring after the fact that the funding of events with certain expressive content was "hereby expressly prohibited." As the Supreme Court has shown, and as FIRE has successfully argued at numerous universities throughout the country, this discriminatory treatment is unconstitutional.

We ask that the Student Government Association employ only the content-neutral guidelines defined in SGA's Total Funding Guideline when considering YAL's appeal. Please spare East Carolina University the embarrassment of a public fight against the Bill of Rights.

We ask for a response to this letter by April 18, 2011; I may additionally be reached by email at peter@thefire.org.

Sincerely,



Peter Bonilla

Assistant Director, Individual Rights Defense Program

cc:

Tremayne Smith, President, Student Government Association, East Carolina University

Josh Martinkovic, Vice President, Student Government Association, East Carolina University

Daniel Thornton, Chair, Rules and Judiciary Committee, Student Government Association, East Carolina University

Veronique Pope, Chair, Appropriations Committee, Student Government Association, East Carolina University

Steve Ballard, Chancellor, East Carolina University

Virginia Hardy, Vice Provost for Student Affairs, East Carolina University

Lynn Roeder, Associate Vice Chancellor and Dean of Students, East Carolina University