



Governor's Office of General Counsel | University Legal Counsel  
Dixon University Center | 2986 North Second Street | Harrisburg, PA 17110-1201  
717-720-4070 | Fax: 717-720-4213 | www.passhe.edu

March 16, 2010

VIA U.S. MAIL AND FACSIMILE (215-717-3440)

Adam Kissel, Director  
Individual Rights Defense Program  
Foundation for Individual Rights in Education  
601 Walnut Street, Suite 510  
Philadelphia, PA 19106

Dear Mr. Kissel:

Please be advised that I represent East Stroudsburg University. Your March 8, 2010 letter to President Dillman has been forwarded to me for response. In your letter, you express concerns over threats to free expression and due process as a result of a personnel action taken against one of East Stroudsburg University's faculty members. Please accept this correspondence as East Stroudsburg University's response to your March 8, 2010 correspondence and an effort to state East Stroudsburg University's position regarding its decision to place a faculty member on administrative leave for postings made on Facebook.

As I am sure you can understand and appreciate, to give deference to the faculty member's privacy and allow the matter to be vetted through the proper personnel policies and procedures, the University will not comment on specific facts supporting its decision to place the faculty member on administrative leave.

In response to your allegations that East Stroudsburg University has failed in its "moral and legal obligation to uphold the First Amendment," I would point out that the University has no intention of denying its faculty freedom of expression guaranteed by the First Amendment. East Stroudsburg University fully respects and acknowledges its obligation to uphold such freedoms; however, such freedoms are not absolute in the face of threats made against its students.

To wit, I direct your attention to Robert Shibley's comment in his November 20, 2008 article, "Tennessee State Bans JuicyCampus.com from Network" which noted, "[S]tudents, faculty, and administrators need to come to terms with the fact that the Internet is changing how people communicate. It functions to quickly and efficiently disseminate information, but takes away some of the ability for people to determine the source of that information and whether or not it is true." This statement rings particularly true for postings made on Facebook where the statements may be communicated to individuals outside of the immediate circle of the Facebook friends.

Adam Kissel, Director  
Individual Rights Defense Program  
March 16, 2010  
Page 2

The University's knowledge of perceived threats comes with a responsibility to act in a manner that ensures the safety of our students, employees and our campus community. Accordingly, when such perceived threats are brought to its attention, the University will act accordingly to explore the context of the statement and the intentions of the speaker.

Very truly yours,



Suzanne C. Hixenbaugh  
University Legal Counsel

SCH/vlh

c: Dr. Robert J. Dillman, President  
Dr. Marilyn Wells, Interim Provost and Vice President for Academic Affairs  
Dr. Peter Hawkes, Dean, College of Arts & Sciences  
Ms. Teresa Fritsche, Director, Human Resources