



Foundation for Individual Rights in Education

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January 30, 2013

President Jackson N. Sasser
Santa Fe College
Office of the President
3000 NW 83rd Street
Gainesville, Florida 32606

Sent via U.S. Mail and Facsimile (352-395-5895)

Dear President Sasser:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals 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 is deeply concerned by the danger to free speech presented by Santa Fe College's (SFC's) threats of censorship against a student organization planning a symbolic "empty holster" protest on campus. These threats violate the First Amendment by impermissibly chilling speech at SFC, in defiance of SFC's moral and legal obligations to protect its students' free speech rights.

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

At the January 9 meeting of SFC's Student Government Senate, SFC student Adam Edwards, a member of the SFC chapter of the student group Young Americans for Liberty (YAL), announced plans for an "empty holster" protest that YAL would host on Monday, February 4. Empty holster protests, in which students wear empty gun holsters to protest laws and policies prohibiting them from carrying concealed handguns on campus, have been held peacefully and without incident on dozens of campuses for the past several years and constitute protected political expression. YAL planned to hold its protest in SFC's Oak Grove.

Director of Student Life Dan Rodkin was present at the Senate meeting in which Edwards announced plans for YAL's empty holster protest, and requested after the meeting that Edwards meet with him and SFC Chief of Police Ed Book to

discuss the event. Edwards and YAL President Josh Norris met with Rodkin and Book, as well as SFC Police Lieutenant Ryan Woods, on January 24. Edwards reports that at this meeting Book signaled strong opposition to the event, giving the impression that students wearing empty holsters at the protest might be subject to censorship or possible arrest.

It is settled law that the First Amendment is fully binding on public colleges such as SFC. See *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”); *Healy v. James*, 408 U.S. 169, 180 (1972) (“[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’”) (internal citation omitted).

FIRE is deeply worried by the SFC administration’s apparent implication that YAL’s planned empty holster protest would constitute unprotected speech and that engaging in such expression might leave YAL members subject to arrest. To the contrary, wearing empty holsters as a form of symbolic, peaceful political protest is entirely protected by the First Amendment. That YAL’s particular message may not be popular with the SFC administration or with some students in the SFC community cannot justify its censorship. As the Supreme Court of the United States has made clear, “undifferentiated fear or apprehension of disturbance [] is not enough to overcome the right to freedom of expression” on a public college campus. *Healy*, 408 U.S. at 191 (quoting *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 508 (1969)).

FIRE does not represent or litigate on behalf of the students and faculty whose rights we work to defend. However, SFC should be aware that, if reports of its threats against YAL are accurate, and if it follows through on such threats, the college will leave itself at risk of embarrassing and potentially costly legal challenges. We draw SFC’s attention to the recent case of Tarrant County College (TCC) in Texas, which for two consecutive years refused to allow students to hold a similar empty holster protest. The college prohibited students from wearing empty holsters on the campus, and confined all activity related to the protest to a tiny “free speech zone.” Assisted by FIRE and the American Civil Liberties Union of Texas, the censored students filed a federal civil rights lawsuit against TCC, alleging a violation of their First Amendment rights and challenging TCC policies. In deciding *Smith v. Tarrant County College District*, 694 F. Supp. 2d 610 (N.D. Tex. Mar. 15, 2010), a federal district court found that TCC’s reliance on a policy prohibiting “disruptive activities” to restrict the students from holding their peaceful protest by wearing empty holsters violated the First Amendment, ruling that students are entitled to protest by engaging in symbolic speech in classrooms, hallways, and public areas of campus. The policies TCC had relied on in denying the students the right to protest were all either invalidated by the court or voluntarily modified. TCC ultimately paid \$240,000 in attorneys’ fees for its disregard of the First Amendment. SFC would do well to familiarize itself with *Smith*.

We ask that SFC immediately and unequivocally rescind any threats of censorship against Young Americans for Liberty, acknowledge that its symbolic empty holster protest is a form of expression protected by the First Amendment, and ensure that YAL will not meet undue

interference or restriction from the SFC administration or police. Please spare SFC the embarrassment of a public fight against the Bill of Rights, by which it is legally and morally bound.

Given the time-sensitive nature of this matter, we request that you immediately inform YAL that it will not meet with any unconstitutional interference or censorship of its protest, and that you respond to our concerns in writing by 5:00 p.m. this Friday, February 1, 2013.

Sincerely,



Peter Bonilla

Associate Director, Individual Rights Defense Program

cc:

Dan Rodkin, Director of Student Life

Ed Book, Chief of Police