



Foundation for Individual Rights in Education

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November 1, 2006

President John C. Hitt
University of Central Florida
Office of the President
Millican Hall
Orlando, Florida 32816

Sent via U.S. Mail and Facsimile (407-823-2264)

Dear President Hitt:

As you can see from our Directors and Board of Advisors, 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, freedom of religion, academic freedom, due process, and, in this case, freedom of speech and expression on America's college campuses. Our website, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is deeply concerned about the unconstitutional policies restricting freedom of speech at the University of Central Florida (UCF). According to UCF's student handbook, the university designates only four "free speech zones" on campus. Restricting free speech to only four areas of the UCF campus has a chilling effect on freedom of expression and ignores students' constitutional guarantee of free speech, which UCF, as a public institution, is bound by the First Amendment to protect.

Section 16.F of the *Golden Rule Student Handbook 2006-2007*, which governs "Free Assembly Areas," provides that only "four areas shall be deemed free assembly areas for the conduct of political activity and other exercises of free speech." These four areas include:

- a. The open grass area between the Kiosk and the Math and Physics Building as bounded by Apollo Circle and the sidewalks leading to the southwest entrance of the Math and Physics Building,
- b. The brick mall area between the John T. Washington Center and the Student Union.

- c. The area behind Health and Public Affairs 2 bordering the sidewalks and road adjacent to Engineering 2.
- d. The triangle formed by the sidewalks bordering Colbourn Hall, the John T. Washington Center, and the Colbourn Hall Faculty Parking Lot.

Registered student organizations planning events must register their event with the Office of Student Involvement as required in Section 16.E of the student handbook and obtain official approval from the university before holding an event in the one of the free assembly areas. The practice of free speech is not permitted outside these zones.

In recent months, student gatherings at UCF have been forced to disband when they have violated the Free Assembly Areas policy. Students reported that on March 20, 2006, Students for a Democratic Society (SDS) and UCF Campus Peace Action were confronted by campus police when they held an anti-war rally outside of a “free speech zone.” The students had assembled in front of the Student Union to attract attention to their cause. The campus police were called when the protesters refused to disband or be confined to the “free speech zone.” After a confrontation with campus police, the students vacated the area.

FIRE also received a report that on April 19, several students stood along the length of the breezeway of the John T. Washington Center carrying signs advertising a “talk-in” on a possible US attack on Iran. The protesters report that they neither created a disturbance nor blocked the walkway. A campus police officer arrived and told the protesters to leave the premises or they would be charged with trespassing. The students dispersed peacefully.

In reaction to these incidents, SDS held a rally on September 7 to protest the “free speech zones.” The students again stood along the breezeway near the John T. Washington Center, carrying signs decrying UCF’s policies violating free expression. The students took a considerable risk by protesting again outside the “free speech zones.” However, no students were charged with violating the Free Assembly Areas policy.

As a public institution, UCF is legally obligated to uphold the First Amendment rights of its students and faculty. By requiring free speech activities to take place in free assembly areas, UCF has failed to uphold this obligation. The only possible defense of UCF’s policy would be that it presents a reasonable time, place, and manner restriction as allowed by cases like *Ward v. Rock Against Racism*, 491 U.S. 781 (1989). There is nothing reasonable, however, about transforming the vast majority of the university’s property—indeed, *public* property—into a censorship area, or about maintaining a system of onerous requirements by which students must abide in order to exercise their fundamental rights. Federal case law regarding freedom of expression simply does not support the transformation of public institutions of higher education into places where constitutional protections are the exception rather than the rule. Time and again, courts have determined that to be considered legal, time, place, and manner restrictions must be narrowly tailored to serve substantial governmental interests. The generalized concern for order that underlies the establishment of “free speech zone” policies is neither specific nor substantial enough to justify such restrictions.

FIRE has challenged the establishment of free speech zones at universities across the nation, including at West Virginia University, Seminole Community College in Florida, Citrus College

in California, the University of North Carolina–Greensboro, Texas Tech University, and the University of Nevada–Reno. In all of these cases, the institutions challenged have either decided to open their campuses to expressive activities or have been forced by a court to do so. For instance, in FIRE’s case at Texas Tech, a federal court determined that Texas Tech’s policy must be interpreted to allow free speech for students on “park areas, sidewalks, streets, or other similar common areas...irrespective of whether the University has so designated them or not.” See *Roberts v. Haragan*, 346 F. Supp. 2d 853 (N.D. Tex. 2004). UCF would be well advised to take this decision into account in considering its own policies.

Moreover, UCF’s strict regulations on speech are tragic in light of the fact that the special function of the university as a whole is to serve as the ultimate “free speech area.” UCF reflects this sentiment in its mission statement, which states, “UCF is committed to the free expression of ideas.” In an article in the *Central Florida Future* entitled “Student group holds ‘talk-in’ over perceived loss of rights,” Director of the Office of Student Involvement Kerry P. Welch said, “The administration fully supports the notion that free speech is a necessary component of academia and higher education.” UCF’s Free Assembly Areas policy runs afoul of both the First Amendment and UCF’s own commitments to free speech by restricting speech and assembly to four small areas of its vast campus.

UCF should immediately revise its illegal and immoral “free speech zone” policies. Please spare UCF the embarrassment of fighting against the Bill of Rights—a statement of both law and principle by which the university is legally and morally bound. We urge UCF to undo these unjust policies and to affirm that free speech at UCF is to be celebrated, honored, and broadened—not feared, restrained, and hidden. Let your students exercise their basic legal, moral, and human rights; let them speak, assemble, and protest as their consciences dictate.

FIRE hopes to solve this matter amicably and swiftly, but we are committed to using all of our resources to abolish the unconstitutional limits on freedom of expression at UCF. We request a response on this matter by November 15, 2006.

Sincerely,

Tara Sweeney
Senior Program Officer

cc:

Beth Barnes, Vice President and Chief of Staff, University of Central Florida
Craig E. Ullom, Associate Vice President of Campus Life, University of Central Florida
Patricia S. Mackown, Director, Office of Student Right and Responsibilities, University of Central Florida
Kerry P. Welch, Director of the Office of Student Involvement, University of Central Florida
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