



THE UNIVERSITY of NORTH CAROLINA  
**GREENSBORO**

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December 9, 2005

Mr. Robert L. Shibley, Program Manager  
Foundation for Individual Rights in Education  
601 Walnut Street, Suite 510  
Philadelphia, PA 19106

Re: Your letter of December 5, 2005

Dear Mr. Shibley:

Chancellor Sullivan has asked me to respond to your letter which raises concerns about UNCG's outdoor assembly policies.

Let me begin by assuring you that UNCG values freedom of speech as one of the fundamental rights guaranteed by our Constitution and as the best means for arriving at truth and mutual understanding. By the same token, we believe that reasonable time, place, and manner regulations are essential to preserving that right lest there be free speech for no one.

I am unable to respond to your specific concerns about our student, Allison Jaynes, unless, consistent with the Federal Educational Rights and Privacy Act, you can provide me with a written consent signed by Ms. Jaynes. I am attaching the form we use for that purpose. Once we receive it, I will be happy to discuss her case in detail with you.

With respect to your general concerns about our outdoor assembly policy, I believe you have misinterpreted our policy. Our "free speech zones" are not the only location in which groups may exercise their speech rights. Any individual or group may seek to hold an assembly in any exterior space of the campus upon 48 hours advance written request. Those requests are reviewed, not on the basis of content, but simply to determine whether the space is available and whether the use of that space will interfere with University operations and the safety of our campus community. I am attaching a copy of the relevant portions of our Facilities Use Policy for your review.

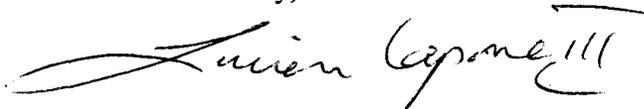
I am familiar with the case you cited in your letter, *Roberts v. Haragan*, 346 F.Supp.2d 853 (N.D. Tex. 2004). However, I am a bit perplexed as to why you would not have also discussed *ACLU v. Mote*, No. 04-1890 (4<sup>th</sup> Cir, Sept. 12, 2005) which is obviously more germane to us here in North Carolina. *Mote* holds that free speech zones are permissible in certain circumstances since public university campuses are limited public forums. "The campus is not akin to a public street, park, or theater...but instead has been a 'special type of enclave' that is devoted to higher education." (slip op. at p. 6, citing *United State v. Grace*, 461 U.S.171, 180 (1983). *Mote's* discussion of internal and external standards is of particular

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concern to us at UNCG as it may imply that different standards of scrutiny are to be applied to students than to individuals who are unaffiliated with the University. We were in the process of analyzing that question before your letter arrived on Chancellor Sullivan's desk. In fact, on November 14, 2005, Chancellor Sullivan directed the creation of a committee comprised of staff, faculty, and students to revisit UNCG's outdoor assembly policy. That committee has not geared up for its work yet due to the Thanksgiving holiday break, end of semester exams, and the impending winter break. However, I can assure you that this is a matter of priority for us. We certainly welcome any written input you would like to have in that process, including any legal analysis of *ACLU v. Mote*.

I trust I have addressed those concerns you expressed in your letter that I am able to address consistent with federal privacy act rights of our student.

Sincerely,

A handwritten signature in black ink that reads "Lucien Capone III". The signature is fluid and cursive, with a long horizontal flourish extending to the left.

Lucien Capone III  
University Counsel

LCIII/rws  
Attachments  
c: Chancellor Sullivan  
Vice Chancellor Disque