



Foundation for Individual Rights in Education

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November 12, 2003

Dr. Gary M. Green, President
Forsyth Technical Community College
2100 Silas Creek Parkway
Winston-Salem, North Carolina 27103

Sent By U.S. Mail and Facsimile (336-761-2399)

Dear President Green,

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

FIRE is profoundly concerned about the threat to free speech and academic freedom posed by the dismissal of Forsyth Technical Community College (FTCC) instructor Elizabeth Ito. The administration has claimed that one of the primary reasons for not renewing her contract was "incompetence," but we find this claim to be unfounded. From the facts that we have gathered, it appears that this was an effort on the part of the administration to chill protected speech and to warn instructors that they express their political viewpoints at their own risk. A public college or university—such as FTCC—is the last place where instructors should have to fear facing sanctions for expressing their deeply held beliefs.

This is our understanding of the facts, based upon publicized accounts and documents provided to us by Ms. Ito. On March 28, 2003, Elizabeth Ito began her business writing class with a discussion of the activities of the United States in the then-ongoing war in Iraq, during which she did not refrain from expressing her own views, which were critical of U.S. policy. This lasted approximately ten minutes, after which Ms. Ito returned to the normal curriculum. Two students who disagreed with Ms. Ito's views on the war later notified the chair of the Department of Humanities & Communications, Susan Keener, that Ms. Ito had criticized the war in class. Ms. Ito acknowledges that the way in which she expressed her views may have caused students who disagreed with her to feel afraid to express their beliefs in class. For this reason, she had the students write short essays on their feelings about the war during part of that class's next

meeting, on Monday, March 31. The students exchanged papers several times and then read each other's essays aloud.

Later during the day of March 31, Ms. Keener and Dean of the Arts and Sciences Division John Slade met with Ms. Ito and asked her to promise not to discuss the war again in her class. Ms. Ito stated that she was not willing to make this commitment, although she did not intend to discuss the war in class again. Dean Slade told her that her response—which was simply a refusal to categorically relinquish her freedom of speech and academic freedom on a topic of global importance—constituted “insubordination,” and he placed a disciplinary letter in Ms. Ito's file that he presented to her later that same week. In the letter, he demands that she “exercise better judgment and professionalism” and clearly states that it was these qualities that had been called into question by her recent actions—not her “competence or commitment.” The letter briefly mentions a second occasion on which Ms. Ito expressed her views on the war during the week of March 24: “On two occasions during the week of March 24, you chose to use time designated for ENG 114, Research and Report Writing, to vent your views and share your unsolicited political statement about current events.” It is our understanding that this is a misrepresentation of the facts. As Ms. Ito explained on more than one occasion—including her March 31 meeting with Dean Slade and Ms. Keener—the first of these events actually took place after class had been dismissed, in response to one student's remarks about her peace armband. The letter concludes with a warning that more serious consequences would follow if she were to act inappropriately again but that they considered this matter “resolved.”

Ms. Ito did not discuss the war again in her class. Yet having received a very positive evaluation from Ms. Keener on March 6, she was then criticized sharply by Ms. Keener and Dean Slade in her annual evaluation, dated April 8. On May 15, Ms. Ito received a letter stating that Forsyth Tech would not renew her contract for the upcoming school year. She appealed this decision in a memo that she sent to the Personnel Committee of the Board of Trustees on September 5. Ms. Ito argued that she was denied a new contract because of her political speech—not due to incompetence or insubordination. The Personnel Committee later rejected her appeal, stating that “no *impermissible grounds* served as the basis for the recommendation not to tender a new or renewal contract.” In a September 30 memo from Director of Human Resources Gregory Chase to Ms. Ito, several reasons are given for the non-renewal of Ms. Ito's contract, including her “inappropriate behavior in bringing topics and issues into the classroom without relation to her course's subject matter and curriculum.” The memo also cites her alleged “insubordination by refusing to follow the instruction of her department chair and her dean” and states that she “refused to comply to a policy that requires faculty to relate classroom topics to the community college curriculum and refrain from using the lecture as a means of furthering personal viewpoints.” It is clear from the September 30 memo and from all of the facts surrounding it that Ms. Ito's political speech about the war in Iraq was the driving force behind her dismissal.

Several additional reasons are cited in the September 30 memo as evidence of Ms. Ito's alleged incompetence and lack of professionalism, including her “negative attitude towards students.” The only document that seems to support this claim is the April 8 evaluation in which Ms. Keener claims that Ms. Ito referred to students as “scam-artists.” Ms. Ito came up with the metaphor of “scam-artist/wary consumer” in a faculty workshop when asked to come up with a metaphor describing the student/teacher relationship. It is difficult to see how merely referring

to the tensions that sometimes arise between students and instructors could be construed as a serious offense.

While there is a lack of support for allegations that Ms. Ito had a troubled relationship with her students, there is substantial evidence to the contrary. In fact, in his March 31 disciplinary letter, Dean Slade acknowledges that even the two students who were troubled by her ten-minute statement on the war in Iraq “emphasized their opinion” that Ms. Ito is “a really good instructor,” and he states that he had “no reason to think otherwise.” As previously noted, Dean Slade also points out that neither her “competence” nor her “commitment” was called into question by the events leading up to the disciplinary memo. In addition, at least twenty students have written letters to the college administration to testify to Ms. Ito’s abilities as a teacher since the incident in question. FTCC’s allegation that antagonism existed between Ms. Ito and her students is inconsistent with the facts of this case.

The overwhelmingly positive evaluation of Ms. Ito’s work dated March 6 gives further reason to doubt the validity of the administration’s claims that Ms. Ito is “incompetent.” Ms. Keener describes her as “always enthusiastic” and notes that she “shows a positive attitude.” The relationship between Ms. Ito and her students is also described as far from antagonistic: Ms. Keener notes her “good rapport with the students” and states that “[i]t was apparent that students felt comfortable asking questions.” This high opinion of Ms. Ito’s teaching changed only after the events of March 28.

There is also a lack of evidence to support claims that Ms. Ito did not respect her colleagues. In the March 6 evaluation, Ms. Ito is commended for having “followed up on previous advice to visit our instructors’ classes for ideas.” Ms. Keener writes, “I appreciate her willingness to learn new techniques and strategies.” This is in marked contrast to the April 8 evaluation conducted by Ms. Keener. In it, Ms. Keener claims that Ms. Ito “would not commit to ensuring that classroom discussions pertain to the curriculum,” and in his portion of the evaluation, Dean Slade states that Ms. Ito “seems unwilling to understand that the classroom does not constitute a boundless public forum for an instructor to discuss and teach on topics totally unrelated to the content of the course being taught.” These accusations were leveled against her despite the fact that Ms. Ito not only apologized for her speech in class on March 28, but she also did not bring up the topic of the war in Iraq again in class following the free-writing exercise. As Ms. Ito noted in her response to the evaluation, the comments made by Ms. Keener and Dean Slade are broad and unreasonable interpretations of her refusal to promise never to discuss the war in Iraq in her classroom again. Finally, although the Personnel Committee’s appeal verdict of October 9 deems Ms. Ito guilty of insubordination for “not agreeing to attend a meeting after being requested to do so by [her] immediate supervisor,” even Ms. Keener’s April 8 evaluation of Ms. Ito’s work contains the statement that Ms. Ito “has attended all required meetings.” These statements are in direct conflict.

The source of these allegations of insubordination and a lack of respect for her colleagues, then, seems to be Ms. Ito’s refusal to give up her rights to free speech and academic freedom on a topic of global importance. The fact that the primary reasons for Ms. Ito’s firing cited by Mr. Chase in the September 30 memo relate to either her expression of a viewpoint or the fact that she raised certain topics and issues in her classroom makes it clear that, more than anything else,

it is Ms. Ito's constitutionally protected expression that FTCC's administration has decided to punish.

While a college may have the right to dismiss an instructor for consistently discussing topics that have nothing to do with a class, the facts of Ms. Ito's case fail to support such a claim. A ten-minute discussion of the war in Iraq—a major world event—hardly constitutes an unreasonable departure from the appropriate use of class time. This is especially true in a course like the one taught by Ms. Ito, as conveying opinions and advocacy is a valid component of teaching the art of writing. On the basis of this one incident, Ms. Ito has been accused of abusing her authority as an instructor. In his October 7 statement, Dr. Green states that she “failed to respect diverse ideas of students” and “did not permit students to express their opinions.” Ms. Ito has repeatedly stated that she regrets how she handled the first ten minutes of her class on March 28. She even made a determined effort to encourage students to express views contrary to her own in the free-writing exercise that she conducted in class on March 31. The fact that Ms. Ito followed up on her initial discussion of the war by having students respond in *writing* rather than orally also brought the conversation about a major world event into the context of the course. It is therefore very strange that, in her summary of her March 31 meeting with Dean Slade and Ms. Ito, Ms. Keener states, “I feel that if in the future, Elizabeth is confronted with opposing views from students, she will again lose control and get into a shouting match with students who disagree with her.” In this statement, as has been seen elsewhere, a member of FTCC's administration has grossly misinterpreted Ms. Ito's actions and has failed to take note of her efforts to allow students to present their own points of view, and to do so in a manner that made use of the skills she hoped to develop in the course.

As previously mentioned, Ms. Ito did not raise the topic of the war in Iraq again in class following the free-writing exercise of March 31. The fact that she refused to promise never to mention the war in class again is not evidence of insubordination or “unprofessionalism”; rather, it shows a principled commitment to defending her rights to free speech and academic freedom. Ms. Ito merely recognized that teachers of courses on writing must have the latitude to discuss a wide range of topics in class. To censor the discussion of current events and controversial issues severely and unreasonably limits what students may be exposed to in the classroom. Because their class does not exist within a vacuum, it is unfair to Ms. Ito's students to place such narrow limits on “germaneness.” The argument that a modern international crisis or act of war has no relation to the study of writing will not stand up to academic or moral scrutiny. It also goes against one of the main points in FTCC's mission: to “prepare globally competent citizens.” It would be very difficult to educate students about the world around them if the controversies that touch the lives of people in many parts of the globe were considered “off-limits” in the classroom.

The fact that a negative evaluation of Ms. Ito's performance and the non-renewal of her contract followed so closely on the heels of her controversial statements gives ample reason to believe that it was the expression of her political views that caused Ms. Ito to be dismissed. The remarks that Ms. Ito made on March 28 were referenced in Ms. Keener's April 8 evaluation, the memo sent by Mr. Chase on September 30, Dr. Green's statement on October 7, and in the Personnel Committee's October 9 decision on her appeal. The expression of a controversial viewpoint in the academic environment is not grounds for dismissal. FTCC is a public institution, and is

therefore bound to guarantee First Amendment freedoms to all of the members of its community, regardless of their political viewpoints.

Forsyth Technical Community College must understand that its denial of free speech and academic freedom to Ms. Ito erodes the rights of its existing students and faculty, degrades the academy's robust spirit of inquiry, and sends a chilling message to higher education as a whole. A university in which students and faculty have any fear of reprisal for discussing controversial topics is one that is impotent to address society's most crucial issues.

FIRE hopes to resolve this dispute discreetly and amicably. We are, however, committed to using our resources to support Elizabeth Ito and to see this process to a just and moral conclusion.

I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Lukianoff".

Greg Lukianoff
Director of Legal and Public Advocacy
Foundation for Individual Rights in Education

cc:

Susan M. Keener, Chair, Department of Humanities and Communications, Forsyth Technical Community College
John R. Slade, Jr., Dean, Arts and Sciences Division, Forsyth Technical Community College
Gregory Chase, Director, Human Resources, Forsyth Technical Community College
Kenneth W. Jarvis, Vice President, Business Services, Forsyth Technical Community College
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Elizabeth Ito