



## Foundation for Individual Rights in Education

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April 17, 2006

President John E. Sexton  
New York University  
70 Washington Square South  
New York, NY 10012

*Sent by U.S. Mail and Facsimile (212-995-4790)*

Dear President Sexton:

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, [thefire.org](http://thefire.org), will give you a greater sense of our identity and activities.

As you know, I participated in the NYU Objectivist Club's March 29 panel discussion of the Danish cartoons of Mohammed. Two days prior to the event, your administration gave the Objectivist Club's officers an ultimatum—if they wished to show the cartoons that were the subject of the event, they had to uninvite nearly 150 off-campus guests who had registered to attend. Meanwhile, your administration did nothing to prevent student activists angry at the decision to show the cartoons from taking and destroying student tickets to the event in a brazen and unapologetic attempt to prevent NYU students from attending. NYU has failed to abide by its own policies, which strongly protect even controversial speech, and, perhaps most tragically, you have failed to live up to your own public statements supporting academic freedom and freedom of speech.

This is our understanding of the facts. Please inform us if you believe we are in error. On March 22, Objectivist Club Vice President Stephan Walker notified NYU Director of Student Activities Robert Butler that a previously planned and scheduled Objectivist Club lecture by Peter Schwartz had been changed to a panel discussion of the Danish cartoons, at which the cartoons would be shown. That day, Butler requested a mandatory meeting with Objectivist Club leaders. This meeting occurred the next day, March 23. At the meeting, Butler agreed to allow the Objectivist Club to admit into the event 75 guests from outside the NYU community provided they registered beforehand. In the end, approximately 150 such people registered.

On March 27, Butler sent an e-mail (enclosed) to Walker and Objectivist Club President Kara Zavarella requesting another meeting with them the next day. He informed Walker that NYU would now “require that this event be open only to members of the NYU community.” Butler cited “the campus climate and controversy surrounding the cartoons,” ordering the students to inform the “non-NYU people” who had already registered that they “should not plan on attending.” He concluded, “This is not negotiable.”

This second meeting occurred on March 28 at 8:30 a.m., one day before the event. Christopher Bush, another officer of the Objectivist Club, was present along with Zavarella, Walker, and Butler. Butler reiterated his opposition to admitting the outside guests—his prior agreement to allow them into the event notwithstanding—and explicitly stated that this was because the cartoons of Mohammed would be shown. This time, he told the students that they could admit outside guests if they agreed not to show the cartoons. He repeated this option in an e-mail sent to Zavarella later that day (enclosed): “I have confirmed that the 75 guests on the guest list will be allowed to enter if the cartoons aren’t being displayed.” He ordered the students to contact his office with their decision.

It was also on March 28 that the Objectivist Club and FIRE came into possession of an e-mail (enclosed) from Imtiaz Mussa, the webmaster of the Bengali Students Association. That e-mail is so troubling that it is worth quoting in full:

I want to thank those of you who have sent e-mails. NYU has decided to let the event continue so the Islamic Center has decided to step things up. The event is tomorrow at 7 at E&L in Kimmel. Tickets are being distributed for free via Ticket Central. The Islamic Center would like everyone to get tickets to this event so we can kill their attendance figures.

Let’s remember, we have no problem with dialogue but the cartoons go against Muslims for two reasons. First, the depiction of the Prophet Muhammed (peace be upon him) is strictly forbidden. Secondly, it makes a horrible generalization that all Muslims are terrorists.

Therefore I ask you to go to ticket central, get two tickets for this event, and rip them up.

Late that day, I called your office to discuss the situation. I was referred to other administrators who were apparently also absent. I left an urgent message, but neither you nor anyone else at NYU ever contacted me.

The next day, March 29, with the event only hours away, the Objectivist Club leaders raised the Bengali Students Association’s e-mail in another meeting with Butler. According to the students, Butler refused to accept their “speculation” that hecklers had sabotaged student attendance at the event and stuck with his earlier ultimatum. If the cartoons were displayed, he said, there would be “serious consequences.” Given this

unjust set of circumstances, the students agreed not to show the cartoons—despite the fact that *the very purpose of the event was to discuss them*.

That evening, the panel discussion took place, and I participated. The cartoons were not shown, and while 75 off-campus guests were admitted, another 75 had to be turned away, including many members of the media. Walker states that before the event began, Butler came to him holding a bag of hundreds of destroyed or discarded tickets—proving that the Bengali Students Association’s attempt to enforce a heckler’s veto had proceeded as planned. It was then decided that students would be allowed to enter without tickets. Also during this time, NYU security reportedly forced one guest to remove a shirt depicting one of the Mohammed cartoons under threat of removal from the auditorium.

Because NYU is a private university, it is not bound by the First Amendment and is not required by law not to censor expression it deems offensive. However, NYU is bound by its own policies, which clearly proclaim that the university will protect the right of controversial speakers to be heard. I refer you in particular to Chapter 9 of the *NYU Students’ Guide*, which says the following:

**New York University is committed to maintaining an environment where open, vigorous debate and speech can occur.** This commitment entails encouraging and assisting University organizations that want to sponsor speakers as well as informing members of the University community who seek guidance concerning forms of protest against speakers. **It may also involve paying for extraordinary security measures in connection with a controversial speaker.** Consistent with these obligations, the University promulgates these Guidelines, which are **intended to be applied without regard to the content of any proposed speaker’s speech.** (Emphasis added.)

The *Guide* goes on to note that the organization sponsoring a speaking event—not NYU administrators—“may designate a meeting to which a speaker is invited as ‘open’ or ‘closed.’”

As Eugene Volokh of the UCLA School of Law has pointed out, these NYU policies—but not NYU’s recent actions—are also in accordance with your own public comments on such issues. The NYU website hosts a document called “The Research University in a Global Context,” reportedly based on a 2004 speech of yours, in which you are quoted as follows:

These days, the preservation of the sacred space within our universities is no easy task. Forces outside our gates increasingly threaten the sanctuary of our campuses. The very diversity of the global village that enriches us simultaneously activates those—including some who hold great power—who would limit the scope of our conversations and silence voices within them. Xenophobes and ideologues would influence the research we undertake, the books we write or the classes we teach.

In another document, “The University as Sanctuary,” you struck the same note:

Forces outside our gates threaten the sanctity of the dialogue on campus. Begin with an obvious example. Every university president, and most deans, at some point have to face sometimes enormous external pressure because a controversial speaker is coming to campus. Inviting speakers from the right or from the left, from the fringes or even from the majority, often attracts varying degrees of protest and accompanying demands that the speaker be banned.

Later, you noted the following regarding the consequences of banning such a speaker from campus:

[T]he short-term costs will be counterbalanced by long-term gains resulting from consistent fidelity to the principle of inclusion across an array of issues[, and] the long-term costs of exclusion, which in this case would involve a direct restriction of the freedom of members of the university to shape their own conversation within bounds of civil discourse, would be staggering. By introducing this form of censorship into the university’s dialogic space, thereby narrowing even the scope of civil discourse, we would unleash a process of exclusion with which, history reveals, communities become all too comfortable applying all too widely and all too quickly. The temptation to retreat into comfortable conversational space is so alluring—and so antithetical to the nature of the university we must build—that it must be resisted at the outset.

The principles you laid out in these documents are laudable—and they apply perfectly to what happened at NYU on March 29. Yes, the Danish cartoons of Mohammed are controversial and, to some, offensive. But that is not a reason to censor them. Neither is the fact that some people threatened to disrupt the event (and did, by tearing up tickets in an attempt to prevent students from attending). If NYU is, as its policies and your statements claim, “committed to maintaining an environment where open, vigorous debate and speech can occur,” it cannot censor speech on grounds of offensiveness or out of deference to the heckler’s veto. As FIRE wrote in its February 22 statement on the Danish cartoons, there is no question that the cartoons are protected speech. As we wrote then:

FIRE understands that the fear of violence is powerful, but such a fear must not lead universities to forget that their primary duty is to defend the rights of students and faculty to hold and express their opinions and to promote the perpetual search for truth, not to placate those who would silence them. The First Amendment confers upon authorities both a “positive” and “negative” duty: a “negative” duty *not* to censor, as well as a “positive” duty to protect speakers from being silenced by the mob. This second aspect of free speech may be the hardest element to implement, but without it, the crudest forms of tyranny could result.

Again, while NYU is not bound directly by the First Amendment, its policies show great respect for the principles enshrined in the First Amendment. One cannot claim to value

free speech but then refuse to protect students and faculty members from forces that wish to silence them. You claimed to know this all too well in your public statements—but sadly, you have failed to honor these fundamental principles when called upon.

At the end of FIRE’s statement, we also wrote, “Many universities have shown respect for the independence of the student media and an understanding of the decision to publish the cartoons, even if administrators personally disagreed with the decision.” This has been true of two other universities that have hosted events exactly like that which occurred at NYU last month: Johns Hopkins University and the University of Southern California. Both of those institutions permitted the cartoons to be shown, even if administrators personally disagreed with the decision to show them. No violence erupted, and many students, perhaps for the first time, were able to see the images over which people around the world have died.

NYU spokesmen’s public statements denying that any censorship took place have been truly dishonest. NYU Provost David W. McLaughlin has been quoted as saying that “at no time did the University say that cartoons could not be shown.” This is inexcusably deceptive: as Robert Butler’s e-mail shows, the students were given the choice between allowing their chosen audience to attend the event or showing the cartoons. Given the fact the students and administration knew of the plans by the student activists to destroy the student tickets, this was not really a choice at all.

If NYU wishes to portray itself as a marketplace of ideas, it must publicly repudiate its actions relating to the March 29 event, including Provost McLaughlin’s statement and Vice President John Beckman’s many public statements defending the censorship of the panel discussion.

In making the decision to prevent the Objectivist Club from publicly showing these cartoons, I do not know if you gave in to fear of violence, or a peculiar notion of “tolerance”—all too common in higher education these days—that equates broadmindedness with the silencing of truly dissenting viewpoints. Either way, you have done the concept of free and open expression at NYU a serious disservice. I ask you to consider how you would have reacted if evangelical Christians tried to shut down an event by an LGBT rights group because of a belief that the group’s views on Christianity were offensive, or if the same group of students tried to shut down a panel by the Islamic Center because they believed the teachings of Islam are blasphemous. We hope that under those circumstances you would have understood that the correct position—indeed, the only moral stance for a university that claims to value free and open expression—was to protect the expression of views and ideas from the forces of repression.

Instead, by failing to live up to your principles in this case, you have opened a Pandora’s box of censorship for future students who would like to control what others see, hear, read, or discuss. Unless you address NYU’s failure to defend the fundamental principles of a free university in this case, you will be haunted by the legacy of this incident for years to come. NYU’s students deserve better.

FIRE is categorically committed to using all of its resources in support of your students' expressive rights and seeing this matter through to a just conclusion. I hope you will do what is right.

Sincerely,

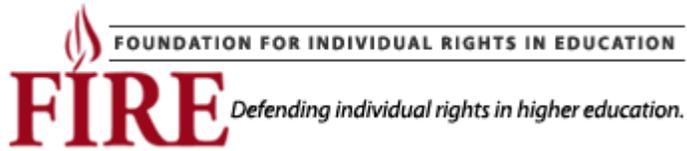


Greg Lukianoff  
President

cc:

David W. McLaughlin, Provost, New York University  
Robert Butler, Director of Student Activities, New York University  
John Beckman, Vice President for University Relations, New York University  
James Devitt, Office of Public Affairs, New York University  
Nadine Strossen, President, American Civil Liberties Union  
Eugene Volokh, Gary T. Schwartz Professor of Law, UCLA School of Law  
Nat Hentoff, Staff Writer, *The Village Voice*  
Editorial Board, *New York Post*  
Kara Zavarella  
Stephan Walker  
Christopher Bush

Encl.



## E-mail from NYU Director of Student Activities Robert Butler to NYU Students, March 27, 2006

From: Robert Butler [mailto:[bob.butler@nyu.edu](mailto:bob.butler@nyu.edu)]  
Sent: Monday, March 27, 2006 4:16 PM  
To: Kara Elizabeth Zavarella; Stephan D. Walker  
Cc: Angela Dixon; Pamela H Bolen; Evelyn M. De Leon; Lori Moore  
Subject: Objectivist/March 29, 2006

Kara Zavarella  
President - Objectivist Club at NYU

Stephan Walker  
Vice President - Objectivist Club at NYU

Dear Kara and Stephan,

I am writing to request that the three of us meet sometime on Tuesday, March 28th before 2pm to go over the format for the evening of March 29th. If that isn't good, please suggest other times.

When we meet please provide the names and NYU Net ID numbers of the NYU students who will be assisting with the event so we can prepare the official ID badges. Once we have that list, no additional students may be added. I will also need the name of the individual from New York Press who is planning to be on the panel so that we can prepare the badges for all of the program participants. The participant list is now closed and no additional speakers may be added.

As I have stated before, security and safety are always a concern when a controversial program is held on campus. After consulting with Jules Martin (VP for Public Safety) and Pamela Bolen (Kimmel Operations) regarding the campus climate and controversy surrounding the cartoons we are going to require that this event be open only to members of the NYU community. This event is to be close to all non-NYU guests including any non-NYU guests who have already made a reservations with you. Stephan had reported to us in the security meeting last week that there were only about 75 non-NYU people who had asked to attend so you'll need to contact them and let them know that the event is no longer open to non-NYU guests so they should not plan on attending. Only members of the NYU community holding a valid NYU photo ID card will be allowed to enter the event. Please add this info to any future advertising and if possible remove the info on your web site. This is not negotiable.

You might want to let your club's members know that they will need to bring their NYU ID to get into the event. That includes students working the event.

Please let me know if you have any questions.

Thanks.

Bob

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Robert Butler

Director of Student Activities

New York University

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## Charles Mitchell

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**From:** Robert Butler [bob.butler@nyu.edu]  
**Sent:** Tuesday, March 28, 2006 4:20 PM  
**To:** Kara Elizabeth Zavarella  
**Subject:** Your Update

Kara,

Any update on the display of the cartoons? I have confirmed that the 75 guests on the guest list will be allowed to enter if the cartoons aren't being displayed. If they are displayed then the security assessment will dictate that we don't open the event to the 75 guests. We will assist you with getting the word out if there is a change in the advertised program.

Thanks.

Bob

-----Original Message-----

From: Imtiaz Mussa [mailto:\_\_\_\_\_]

Sent: Tuesday, March 28, 2006 3:05 PM

To: BSA

Subject: Islamic Center Danish Cartoon Event Gameplan

I want to thank those of you who have sent e-mails. NYU has decided to let the event continue so the Islamic Center has decided to step things up. The event is tomorrow at 7 at E&L in Kimmel. Tickets are being distributed for free via Ticket Central. The Islamic Center would like everyone to get tickets to this event so we can kill their attendance figures.

Let's remember, we have no problem with dialogue but the cartoons go against Muslims for two reasons. First, the depiction of the Prophet Muhammed (peace be upon him) is strictly forbidden. Secondly, it makes a horrible generalization that all Muslims are terrorists.

Therefore I ask you to go to ticket central, get two tickets for this event, and rip them up.

-Imtiaz Mussa

Webmaster

Bengali Students Association