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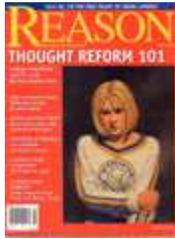
An Open Letter to the Board of Visitors of the College of William & Mary December 18, 2003

Dear Board of Visitors:

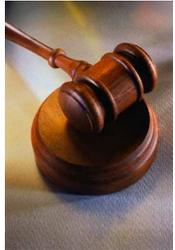
The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, freedom of religion, academic freedom, legal equality, due process, and—at the College of William & Mary—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.

You may already be aware of the recent controversy involving the administration's censorship of an "Affirmative Action Bake Sale" held by the Sons of Liberty, a libertarian student organization at the College of William & Mary (W&M). You should also be aware of W&M President Timothy J. Sullivan's flippant and unprofessional treatment of the concerned Virginians and other citizens who have written to him to express their concerns about censorship at W&M.

On November 8, 2003, the Sons of Liberty held an "Affirmative Action Bake Sale" at the University Center. Affirmative action bake sales are satirical protests in which organizers display a menu with a mock pricing scheme, charging Latino and black students less than Asian or white students for the same items. The pricing scheme draws attention to what protest organizers believe is the inequality and discrimination inherent in affirmative action programs. The bake sales are intended only to spark campus debate about the implications of affirmative action policies—not to raise revenue. Similar bake sales have been held by feminist groups across the nation to protest what they view as wage inequalities between the sexes, charging men and women different prices for the same items to reflect the difference between their average



Read *Thought Reform 101* by Alan Charles Kors.



Read *Memo to Free Speech Advocates* University of

Wisconsin-Madison by Harvey A. Silverglate.

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salaries. Both of these types of events are fully protected expression and are representative of America's rich tradition of political satire and creative protest.

While conducting the protest, Will Coggin, a freshman at W&M and one of the organizers of the bake sale, received a telephone call from Assistant Vice President for Student Affairs Mark Constantine, who asked him to halt the event. Constantine told *The Flat Hat*, a student newspaper at W&M, that although he told Coggin the bake sale could continue, he also "asked [Coggin] to stop selling the baked goods at different prices and remove the sign." Coggin recognized that agreeing to these restrictions would eliminate the entire point of the political protest, but he believed he had to either comply or face campus judicial action. Coggin therefore shut the sale down completely. W&M successfully silenced the protest's message.

E-mails obtained by FIRE show that Coggin's fears of facing judicial action if the protest had continued as originally intended were valid. In an e-mail sent on November 11, Constantine accused Coggin of "violating campus policy as stated in [W&M's] handbook," although he failed to state what policy had been violated. Ignoring Coggin's repeated requests to specify the offense, Constantine replied on November 17 that "Referring to the Student Handbook at this point in time is counterproductive." Subsequent e-mails to Vice President for Student Affairs W. Samuel Sadler also failed to produce a reason for the censorship.

While W&M administrators have repeatedly told Will Coggin and the Sons of Liberty that they will face no punishment for having held their protest, they have also repeatedly failed to name any policy that allowed them to censor political speech in the first place. Indeed, even if there were a policy at W&M that gave the college the discretion to shut down such a satirical protest, it would be unconstitutional under the First Amendment. Further, as you surely know, if administrators were permitted to squelch any views with which they disagreed, our nation's institutions of higher education would be dull and intellectually barren places.

This particular case of censorship took a very bizarre twist, however, when W&M's president, Timothy J. Sullivan, personally answered e-mails from people critical of W&M's handling of this case. FIRE has received what we fear are representative examples of his intemperate responses to individuals who wrote to express their displeasure with W&M's censorship. On Saturday,

December 13, Curtis Crawford, a resident of Charlottesville, Virginia, wrote President Sullivan an e-mail that, while polite, was critical of W&M's actions (you will find this e-mail exchange attached). President Sullivan responded:

Dear Mr. Crawford, Some fool has sent me an e-mail and signed your name to it. You should do what you can to discover the identity of the person. He or she is doing real harm to your reputation. I will help you if I can. Tim Sullivan

According to Mr. Crawford, he wrote back to President Sullivan asking if he stood by this comment, to which Sullivan responded, "You can quote me." Two days later, Sullivan sent a very similar e-mail to another person who had expressed criticism of W&M's handling of the protest; this time he asserted that, "Some damned fool is sending e-mail messages and signing your name. I will try to help you if I can." It is bewildering and deeply disappointing that any college administrator, let alone the president of one of America's oldest and most respected institutions, would be so dismissive of reasoned debate, discussion, and criticism on issues as important as affirmative action and student censorship. Apparently, President Sullivan believes that he may both silence students and show outright contempt for citizens who believe in constitutional rights.

President Sullivan's e-mails, along with those of Mark Constantine and W. Samuel Sadler, fail to provide any logic or reasoning behind W&M's decision to censor the Sons of Liberty's political message. It is telling that, when asked directly about what policy the college could have used to justify its censorship, administrators invariably change the subject rather than simply answer the question. Free communities work when citizens invite and engage in debate and discussion; if President Sullivan sees no point in either debate or discussion, then we can see little reason why he would wish to be involved with the process of education at all.

FIRE will continue to pursue this matter until President Sullivan and the administration of the College of William & Mary decide to address the issue of censorship and to reaffirm constitutional rights on this great public campus. If the college has determined that it will silence certain political views, it should declare this openly and be willing to defend its position in the court of public opinion and, indeed, in the courts of law. We fervently hope that the College of William & Mary will soon determine that to

cancel the political beliefs of its students flies in the face of both the Bill of Rights and of America's traditional dedication to political liberty—a tradition of which the college has been a proud part since 1693.

Sincerely,

Greg Lukianoff
Director of Legal and Public Advocacy

Because Your Liberty is a Precious Thing
