



## Foundation for Individual Rights in Education

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December 5, 2007

President David B. Williams  
The University of Alabama in Huntsville  
118 Madison Hall  
Huntsville, Alabama 35899

*Sent via U.S. Mail and Facsimile (256-824-6538)*

Dear President Williams:

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, academic freedom, due process, freedom of speech, and freedom of conscience on America's college campuses. Our website, [www.thefire.org](http://www.thefire.org), will give you a greater sense of our identity and activities.

FIRE is gravely concerned about the threats to free expression and the right to petition for the redress of grievances posed by The University of Alabama in Huntsville's (UAH's) investigation of students Donald Ganiere and Samuel Parks for their work in passing a student government resolution critical of UAH's computer network and services. The fact that UAH is considering punishing students simply for exercising their right to petition the government for the redress of grievances shows a disturbing disregard both for a right explicitly enshrined in the First Amendment to the U.S. Constitution and for America's democratic tradition in general.

This is our understanding of the facts. Please inform us if you believe we are in error. Sometime around April 2007, Donald Ganiere authored and presented a resolution to the Student Government Association (SGA). The resolution proclaimed that "the overall state of the University campus network is deplorable for a university of our size and stature" and that "the voice of the student body respecting this issue has been principally disregarded for the last several years." The resolution called for an independent audit of UAH's Department of Computer and Networking Services (CNS) and for a temporary campus-wide committee that would work toward improving CNS. The resolution was cosponsored by four other students. The resolution included an "Official Addendum" with evidence corroborating the two claims given above. For instance, the EDUCAUSE Core Data Service Fiscal Year 2004 Summary Report had put UAH's bandwidth "in the lower two point nine percent (2.9%)" of all schools offering doctoral degrees.

The resolution passed unanimously on April 16, 2007. It was slightly amended by the SGA Senate and signed in September and October 2007 by SGA President Samuel Parks, Ganiere, the four other sponsors, and three members of the SGA Senate.

On November 8, CNS Director Donald Halverstadt filed a complaint reading:

Mr. Parks and Mr. Ganiere with forethought purposeful [led] the SGA to pass Resolution [S]R.06-07.02 on October 18, 2007 without reading and knowing that the statements made in it were untrue.

Halverstadt charged Ganiere and Parks with injurious conduct, assisting misconduct, false information, and disruption of university activity. On November 12, Professor Lior Burko, as Preliminary Action Officer, notified Ganiere and Parks of the charges. Since then they have been under investigation in this case. Parks has reported that Burko has already asked him to write a letter of apology, effectively requesting that Parks admit his supposed “misconduct.”

This situation is both legally and morally unacceptable. The First Amendment protects citizens from punishment for engaging in protected expression and for petitioning for the redress of grievances—precisely what the SGA resolution authored by Ganiere meant to accomplish. As a public university, UAH is bound to uphold these constitutional protections. As the Supreme Court noted in *Healy v. James*, 408 U.S. 169, 180 (1972), “[s]tate colleges and universities are not enclaves immune from the sweep of the First Amendment;” indeed, “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” It is a particularly grievous violation of this principle when, as in this case, students are investigated for exercising their right to petition for the redress of grievances. Not only is this right so important that it is included in the First Amendment along with freedom of speech and religious liberty, but the lack of this right directly contributed to the American Revolution itself. The ability to ask the government to change its behavior or policies without fear of punishment is one of the crucial distinctions between a free and an unfree society.

Moreover, Chapter 7 of UAH’s *Code of Student Conduct* states clearly:

A person enrolling at the University comes to the campus as both a citizen and a member of the academic community. As a citizen, a student is entitled to the freedoms and rights guaranteed to other citizens by the United States Constitution and the Constitution of Alabama. The right of free speech, lawful assembly, petition, due process, etc., are not lost upon enrollment.

As the president of UAH, you could have renounced your administration’s erroneous actions. Instead, two students have been under investigation for more than three weeks for their protected expression. If this resolution, which is reasonable, well-considered, and adopted by the student Senate itself, is outside the parameters of acceptable speech at UAH, surely no criticism of any kind is safe. Are these truly the lessons that UAH wishes to teach to students who will soon be entering into civil society at large, where free expression and the right to petition the government are assured?

UAH should immediately end its investigation of Ganiere and Parks. While much damage to free expression and to the right to petition for the redress of grievances has already been done, you have an opportunity now to reassure the SGA and all UAH students that they are free to criticize the university and to ask the university to make improvements. Please spare UAH the embarrassment of fighting against the Constitution and its own published guarantees, by which it is legally and morally bound.

With this letter we enclose signed FERPA waivers from both Donald Ganiere and Samuel Parks, authorizing you to discuss these matters with FIRE.

FIRE hopes to resolve this matter amicably and swiftly, but we are prepared to use all of our resources to see this situation through to a just and moral conclusion. We request a response by December 19, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Kissel". The signature is fluid and cursive, with the first name "Adam" written in a larger, more prominent script than the last name "Kissel".

Adam Kissel  
Director, Individual Rights Defense Program

cc:

Lior Burko, Preliminary Action Officer and Assistant Professor, Department of Physics, UAH  
Antonia F. Morgan, Director of Judicial Affairs, UAH  
Donald E. Halverstadt, Assistant Vice President for Computer and Network Services, UAH