



**Foundation for Individual Rights in Education**

601 Walnut Street, Suite 510 • Philadelphia, Pennsylvania 19106  
T 215-717-3473 • F 215-717-3440 • fire@thefire.org • www.thefire.org

Greg Lukianoff  
PRESIDENT

Robert L. Shibley  
VICE PRESIDENT

William Creeley  
DIRECTOR OF LEGAL AND  
PUBLIC ADVOCACY

Alan Charles Kors  
CO-FOUNDER AND  
CHAIRMAN EMERITUS

BOARD OF DIRECTORS

Harvey A. Silverglate  
CO-FOUNDER AND  
CHAIRMAN

Barbara Bishop  
James E. Ferguson II  
William J. Hume  
Richard Losick  
Joseph M. Maline  
Marlene Mieske  
Daphne Patai  
Virginia Postrel  
Daniel Shuchman

BOARD OF ADVISORS

Lloyd Buchanan  
T. Kenneth Cribb, Jr.  
Candace de Russy  
William A. Dunn  
Benjamin F. Hammond  
Nat Hentoff  
Roy Innis  
Wendy Kaminer  
Woody Kaplan  
Leonard Liggio  
Herbert London  
Peter L. Malkin  
Muriel Morisey  
Steven Pinker  
Milton Rosenberg  
John R. Searle  
Christina Hoff Sommers

July 14, 2010

Cornelius M. Kerwin, President  
American University  
Office of the President  
4400 Massachusetts Avenue, NW  
Washington, DC 20016

*Sent via U.S. Mail and Facsimile (202-385-3265)*

Dear President Kerwin:

As you can see from the list of our Directors and Board of Advisors, FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, freedom of speech, freedom of the press, due process, freedom of association, religious liberty, 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 concerned about American University's (AU's) response to the theft of the March 29 issue of *The Eagle* and the vandalism of the outside of *The Eagle's* office in response to a controversial column published by the newspaper. Although AU has respected *The Eagle's* First Amendment rights, AU has not, to our knowledge, investigated the actions committed against *The Eagle*, which unacceptably suggests that politically motivated theft and vandalism are condoned at AU.

This is our understanding of the facts; please correct us if you believe we are in error. *The Eagle* is an independent student newspaper at AU. In its March 29 issue, *The Eagle* published a column by student Alex Knepper about "date rape" that was deemed offensive by some members of the AU community. Shortly following the distribution of the issue around campus, several persons—at least one of whom is an AU student who has now admitted her role—stole several stacks of the newspaper from their racks and strewed them outside *The Eagle's* office.

The Student Press Law Center (SPLC) reported on March 29 that *Eagle* editor-in-chief Jen Calantone estimated that more than 1,000 copies were removed, a significant portion of *The Eagle's* stated circulation of 6,000. Outside the *Eagle* office and at several of the newspaper's distribution racks, the perpetrators of the thefts posted signs reading, "NO ROOM FOR RAPE APOLOGISTS."

Photographs published in news sources including *The Eagle* and *Washington City Paper* confirm the theft and vandalism. SPLC also reported that after learning of the theft and vandalism, AU's student media advisor contacted AU's Public Safety department. It is unclear, however, whether Public Safety conducted any kind of investigation.

More recently, in a May 6 article published in the *Washington City Paper*, AU student Chloe Rubenstein admitted to being among the "anonymous group of campus activists" who had stolen and vandalized the papers. The *Washington City Paper* reported her admission:

Rubenstein participated in the stunt, albeit halfheartedly. "I took some of the copies and moved them around," she says. "The article was insulting to every woman who has ever been sexually assaulted on campus. So it was an effective action in the sense that it got people to talk, but it was sort of an immature way to do it," she says.

Upon reading this article in early May, incoming *Eagle* editor-in-chief Charlie Szold contacted Public Safety, which told him it would look into the thefts. To date, however, no one at *The Eagle* has received any communications from AU suggesting that an investigation has occurred.

While American University, as a private university, is not bound by the First Amendment, it is both legally and morally obligated to honor the promises of free speech it makes to its students. AU's Freedom of Expression Guidelines state that "Freedom of expression and dissent is protected by university policy for all members of the university community." You demonstrated your appreciation of this obligation in your statement on April 14 about the controversy, stating that "the First Amendment protects the right to share viewpoints, even when they may be hurtful or insensitive." Likewise, a joint letter published in *The Eagle* on March 31 by Provost Scott A. Bass and Vice President for Campus Life Gail Short Hanson acknowledges that

AU ... has a commitment to freedom of expression. Consistent with that commitment, individuals have the right to express their opinions – even opinions we find offensive.

The freedom to dissent does not extend, however, to theft or vandalism. AU's Freedom of Expression Guidelines make this point clear, stating that "expressions of dissent should not ... infringe upon the rights of other students, faculty, staff, or guests of the university community."

AU's promises of free speech are betrayed if the university does not conduct a proper investigation of the theft and vandalism and make clear that such actions are not acceptable. By failing to investigate this incident and hold the perpetrators accountable, AU implicitly grants license to censor to the least tolerant members of the community, who apparently feel justified or even noble in suppressing the expression of ideas they dislike.

The U.S. Supreme Court famously declared that "[t]he college classroom with its surrounding environs is peculiarly the 'marketplace of ideas.'" *Healy v. James*, 408 U.S. 169, 180 (1972) (internal citation omitted). For this marketplace to function effectively at AU, AU must protect the rights of those who express controversial and unpopular ideas just as it protects the rights of

those who oppose them. AU must not let violations of free speech and its own free speech policies go uninvestigated and unaddressed.

The student who reportedly participated in violating the rights of *The Eagle* deserves due process but also must be held accountable for her actions. FIRE understands that AU cannot reveal a student's disciplinary records without prior authorization. However, FIRE requests that American University clarify whether it has fully investigated the thefts and vandalism. FIRE also asks that AU make clear to its students that theft and vandalism such as were perpetrated against *The Eagle* are unacceptable at AU and will be investigated and addressed.

We request a response on this matter by July 28, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Kissel". The signature is fluid and cursive, with the first name "Adam" and last name "Kissel" clearly distinguishable.

Adam Kissel  
Director, Individual Rights Defense Program

cc:

Scott A. Bass, Provost, American University

Gail Short Hanson, Vice President for Campus Life, American University

Robert Hradsky, Assistant Vice President and Dean of Students, American University

Michael D. McNair, Director of Public Safety, American University

Alicia Rodrigues, Media Advisor, Student Activities, American University

Charlie Szold, Editor-in-Chief, *The Eagle*