

December 17, 2008

# Open Letter to Michigan State University President Lou Anna K. Simon

We the undersigned write to express our profound concern about the state of free expression at Michigan State University (MSU) following MSU's recent ruling against student Kara Spencer.

As you know, MSU's Student-Faculty Judiciary has found Spencer guilty of violating the university's Network Acceptable Use Policy and engaging in an "unauthorized" use of the MSU network. MSU has labeled her a "spammer" on the basis of an e-mail she sent to certain members of the faculty addressing and protesting controversial changes to MSU's Academic Calendar and Fall Welcome schedule. We maintain that it is unacceptable that Spencer has been disciplined, even in the form of a "warning," for sending a constitutionally protected message to public employees. We also maintain that labeling her a "spammer" is improper and should be reversed.

MSU's policy and actions demonstrate a deep misapprehension of the duties of a public college under both the First Amendment and the canons of academic freedom. We are troubled both by the "anti-spam" policy on its face and by its application here.

First, MSU's "anti-spam" policy is constitutionally suspect on its face. It is vague and allows the university unfettered discretion, requiring prior administrative approval before sending e-mails to more than approximately "20-30" recipients. It also discriminates on the basis of content, prohibiting e-mail sent "for personal purposes, advertising or solicitations, or political statements or purposes."

Second, the policy's application in this instance is egregiously wrongheaded. Spencer is a student government leader. Her speech was in conjunction with a formal student-faculty committee's response to a significant change in the university calendar—a policy shift that, if enacted, would affect the entire MSU community. With the implicit approval of her committee, Spencer e-mailed a set of professors about a matter of campus concern. Her effort is directly analogous to writing fellow citizens exhorting them to voice opinions about impending regulatory decisions, or writing local government officials about a funding issue.

It is highly inappropriate for a public university to place arbitrary limits on both the content and quantity of such plainly political speech. Worse still, punishing a student for civic engagement teaches MSU students precisely the wrong lesson about their responsibilities as citizens in a democratic society. This decision violates Spencer's First Amendment rights, misinforms students about their rights, and chills the speech of any student who wishes to bring an issue of public concern before the MSU community using e-mail as a communications method.

**We ask that you immediately overturn the guilty finding against Kara Spencer. We further suggest that you rewrite the current Network Acceptable Use Policy to eliminate its constitutional infirmities. We would be pleased to assist you in this process.**

Sincerely,

Foundation for Individual Rights in Education  
Alliance Defense Fund Center for Academic Freedom  
Center for Democracy & Technology  
Feminists for Free Expression  
National Coalition Against Censorship  
People For the American Way Foundation  
Woodhull Freedom Foundation

Electronic Frontier Foundation  
American Booksellers Foundation for Free Expression  
Defending Dissent Foundation  
First Amendment Project  
Online Policy Group  
Reporters Without Borders USA