



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

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September 10, 2010

President Michael M. Crow
Office of the President
Arizona State University
P.O. Box 877705
Tempe, Arizona 85287-7705

Sent via U.S. Mail and Facsimile (480-965-0865)

Dear President Crow:

As you can see from our Directors and Board of Advisors, the Foundation for Individual Rights in Education (FIRE) unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, due process, legal equality, freedom of speech, and religious liberty on America's college campuses. Our website, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE maintains a free, searchable database of colleges and universities for anyone wishing to obtain information about the extent to which a particular institution restricts free speech. In that database, we classify institutions as "red light," "yellow light," or "green light" based on the extent to which the institution in question maintains policies prohibiting speech protected by the First Amendment.

We are writing today because Arizona State University (ASU) is very close to earning our most favorable, "green light" rating—a distinction currently awarded to just twelve of the more than 400 schools in our database. Overall, ASU's policies are very protective of free speech, for which you and your administration are to be commended. There is one policy, however, that infringes on students' rights to free expression to an extent that currently earns the university a "yellow light" rating. If you saw fit to revise this policy, we would be happy to update ASU's rating to a green light and to publicize ASU's protection of the freedom of speech.

ASU's "Advertising and Posting" policy for student organizations regulates how and where student organizations can advertise their events and activities. One of its provisions is that "[a]ll advertising must avoid the promotion of excessive use of alcohol and must make reasonable effort to avoid demeaning, sexual or discriminatory portrayal of individuals or groups." While this policy is obviously well-intentioned, it is an impermissible viewpoint-based restriction that limits student organizations' ability to advertise potentially controversial events.

ASU has a wide variety of politically and socially oriented student groups whose efforts to advertise events and activities could be impacted by this policy. Take, for example, the group “Vday at ASU.” According to the national V-Day website, “V-Day is a global movement to end violence against women and girls that raises funds and awareness through benefit productions of Playwright/Founder Eve Ensler’s award winning play *The Vagina Monologues* and other artistic works.” Any posting advertising a campus performance of *The Vagina Monologues* would run afoul of the posting policy, since it would by definition be sexual in nature. Similarly, there is a group called “Voices for Planned Parenthood” whose stated goals include “promoting sexual education and health.” How can it function on campus and attract new members and supporters if its postings cannot include any sexual content?

Political student groups that take unpopular views on controversial issues may also violate this policy, as other students on campus might find advertisements for their speakers or events to be demeaning. And while the university may prevent student groups from engaging in actual, invidious discrimination, it is not clear what constitutes a “discriminatory portrayal of individuals or groups.” This vague prohibition could cover virtually any speech that paints another person or group in a negative or inferior light.

As a public university, ASU is legally obligated to uphold its students’ First Amendment rights. Additionally, the university has, in its own policies, strongly committed itself to the protection of even highly controversial expression:

ASU is also strongly committed to academic freedom and free speech. Respect for these rights requires that it tolerate expressions of opinion that differ from its own or that it may find abhorrent. These values of free expression justify protection of speech that is critical of diversity and other principles central to the University’s academic mission.

Revising the Advertising and Posting policy—and earning a green-light rating from FIRE—would establish Arizona State University as a national leader in protecting student rights on campus. We urge you to make this important change, and we request a response on this matter by October 1, 2010.

Sincerely,



Samantha Harris
Director, Speech Code Research

cc:

José A. Cárdenas, Senior Vice President and General Counsel