



## 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 OF  
OPERATIONS

Samantha K. Harris  
DIRECTOR OF LEGAL AND  
PUBLIC ADVOCACY

Alan Charles Kors  
CO-FOUNDER AND  
CHAIRMAN EMERITUS

#### BOARD OF DIRECTORS

Harvey A. Silverglate  
CO-FOUNDER AND  
CHAIRMAN

William J. Hume  
Joseph M. Maline  
Marlene Mieske  
Daphne Patai  
Virginia Postrel  
James E. Wiggins

#### 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  
Milton Rosenberg  
John R. Searle  
Ricky Silberman  
Christina Hoff Sommers

November 29, 2007

Patricia Telles-Irvin  
Vice President for Student Affairs  
Division of Student Affairs  
University of Florida  
146 Grinter Hall  
P.O. Box 113250  
Gainesville, FL 32611-3250

*Sent via U.S. Mail and Facsimile (352-392-7301)*

Dear Ms. Telles-Irvin:

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 concerned about the threats to free speech and due process posed by your letter to all University of Florida students on November 26 in response to posters for the movie *Obsession* put up by several student organizations.

This is our understanding of the facts. Please inform us if we are in error. The poster advertised a screening of the film on November 13 using the headline, "RADICAL ISLAM WANTS YOU DEAD," and the tagline, "Radical Islam's War Against the West." According to the poster, the screening was sponsored by "The Law School Republicans, Gators for Israel, Jewish Student Union, the College Republicans and Jewish Law Students Association."

On November 26, you emailed a letter to "All University Students," titled "Official Response to a recent advertisement for the movie 'Obsession.'" In the letter, you state that "opinions **must** be based on accurate information when describing other members of the community." (Emphasis added.) You added that "the groups that posted them [the posters] owe the campus, and particularly campus members of the Islamic faith, an apology and a clarification." In addition, you wrote that at "the University of Florida we have embraced a set of values, one of which is diversity."

According to a November 27 letter to you from Professor of Law Steven J. Willis, the faculty advisor to the Law School Republicans, due process of law in this case

would include reasonable notification to them [the sponsoring organizations] and to their advisors regarding proposed meetings, as well as reasonable attempts to discuss disciplinary matters with their advisors. You and your office provided neither. Your office supported a meeting last week—which included the loaded words “Racism” and “Discrimination” in the title. You provided me with no notice. You provided the students with inadequate notice. Now, one day after the Thanksgiving Holiday break, you issue an “Official Response” from the University. In it you confusingly state—using first person—that you “believe” the groups owe an apology to the campus and others, as well as clarification. Again, you provided me with no notice and you provided the students—and their legal counsel—no opportunity to be heard in advance.

Professor Willis added:

when you issue an “Official Response” in the name of the University, *you* have limitations on *your* right to speak. You owe due process. You may not threaten or intimidate others in their exercise of their rights to assemble or to speak: [citation of Florida Civil Rights Code Section 760.51 on “Violations of constitutional rights”].

His letter also states:

Your arguments about “diversity” and “responsibility” and “divisiveness” are irrelevant to that fundamental issue: the actions are protected speech and you have no right—in your “Official” capacity—to censure them, either before or after the fact. Indeed, you have the obligation not to do so. You are the one behaving inappropriately and you are the one who should apologize.

Let us be clear that while the content in question, a message about radical Islam, might offend members of the campus community, it is unquestionably protected expression under the First Amendment. The principle of freedom of speech does not exist to protect only non-controversial speech; indeed, it exists precisely to protect speech that some members of a community may find controversial or “offensive.” The Supreme Court stated in *Texas v. Johnson*, 491 U.S. 397, 414 (1989) that “[i]f there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” Similarly, the Court wrote in *Papish v. Board of Curators of the University of Missouri*, 410 U.S. 667, 670 (1973) that “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”

FIRE asks that you publicly assure all students that they will be neither prosecuted nor investigated for their protected speech. We further request that you ensure that no college policy or contrivance is used to infringe upon the rights of students at the University of Florida. Please spare the University of Florida the embarrassment of fighting against the Constitution, by which it is legally and morally bound.

FIRE hopes to resolve this situation amicably and swiftly. Because of the immediate threats to free speech in your letter, FIRE requests a response by December 10, 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:

J. Bernard Machen, President, University of Florida

Janie Fouke, University Provost and Senior Vice President, University of Florida

Christian Waugh, President, Law School Republicans

Matthew Klein, Student, University of Florida

Robert Jerry, Dean, University of Florida Levin College of Law

Steven J. Willis, Professor of Law, University of Florida Levin College of Law

Adam Hasner, Majority Leader, Florida House of Representatives