

Major Victory for Free Speech at Cal Poly

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University Settles Lawsuit, Abandons Effort to Defend Censorship

SAN LUIS OBISPO, CA—In a major victory for liberty and equal rights on campus, California Polytechnic State University (Cal Poly) has settled a free speech lawsuit. The case involved Cal Poly student Steve Hinkle, who was punished for posting a flier on a public bulletin board announcing a College Republicans-sponsored speech by a black social critic. Some students at the campus Multicultural Center found the flier "offensive." Cal Poly has agreed to expunge Hinkle's disciplinary record relating to the incident, to permit him to post fliers, and to pay significant attorney's fees. The settlement of the lawsuit ends a year-long campaign organized by the Foundation for Individual Rights in Education (FIRE) to restore the Bill of Rights and fundamental fairness to this public university.

"We are pleased that free speech has been upheld at Cal Poly, but we truly are stunned that this university fought so desperately to deny a student's most fundamental rights," said Alan Charles Kors, Chairman of FIRE. He added, "Cal Poly's example sends a warning to university administrators everywhere who deny rights and legal equality: You will fail in the court of public opinion; you will fail in the courts of law; and you will be held accountable by the citizens whose freedom you hold in contempt."

FIRE Legal Network attorney Carol Sobel filed the federal lawsuit against Cal Poly on September 25, 2003, in conjunction with the Center for Individual Rights (CIR), a nonprofit public interest law firm. The complaint asked the court to overturn Cal Poly's punishment of Steve Hinkle and to clear his record of any wrongdoing. Sobel and CIR also sought a ruling that Cal Poly's interpretation of "disruption"—which had been used to punish Hinkle's clearly protected speech—was unconstitutional.

The incident that led to the lawsuit occurred on November 12, 2002, when Hinkle attempted to post a flier in the common area of the campus Multicultural Center that advertised a speech by Mason Weaver, author of the book *It's OK to Leave the Plantation*. Weaver argues that dependence on government puts many African Americans in circumstances similar to slavery. The flier displayed only the title of the book, the time and place of the event, and a picture of the author. Several students at the Multicultural Center objected that the poster was "offensive." Hinkle offered to discuss the flier, but to no avail. After he left, a student called the university police, whose official report stated that officers had responded to complaints about "a suspicious white male passing out literature of an offensive racial nature."

The Cal Poly Judicial Affairs Office, after a seven-hour hearing in February 2003, found Hinkle guilty of "disruption of a campus event," as several students in the Multicultural Center public area claimed that they were having a meeting at the time, although no sign, announcement, or record of that event existed. For engaging in constitutionally protected expression, he was ordered to write letters of apology to the offended students. Failure to do so could lead to severe disciplinary penalties. Hinkle contacted FIRE in March 2003. FIRE wrote twice to Cal Poly President Warren Baker and, after the university refused to restore Hinkle's rights, began a national campaign of public exposure. FIRE also coordinated the now-settled September 2003 lawsuit, which received widespread public attention.

Under the settlement, Cal Poly agrees to clear the incident from Hinkle's disciplinary record and pledges not to interfere with Hinkle's right to post promotional fliers. Cal Poly also repudiates its overbroad definition of "disruption" and agrees that "disruption" actually must be willful and must "materially and substantially disrupt a University activity or the orderly operation of the University."

Curt Levey, CIR's director of legal and public affairs, explained the importance of the victory: "Thanks to the work of FIRE and CIR, it has become more difficult for schools to punish students for the 'crime' of 'offensive' speech." "However," he added, "this progress is endangered when schools attempt to use a charge of disruption as a pretext for censoring speech. Fortunately, Steve Hinkle's victory will serve to discourage such attempts at Cal Poly and beyond."

Greg Lukianoff, FIRE's director of legal and public advocacy, remarked, "The settlement brings an end to a bizarre and outrageous attempt to suppress free speech. Cal Poly's injustice has plagued an innocent student for the past year and a half." Lukianoff continued, "Unfortunately, the university's action comes too late for California taxpayers, who, in the midst of a serious fiscal crisis, must now foot the \$40,000 bill for Cal Poly President Baker's contempt for the U.S. Constitution."

The Center for Individual Rights (www.cir-usa.org) is a nonprofit public interest law firm dedicated to the defense of individual liberties. CIR provides free legal representation to deserving clients who cannot otherwise afford or obtain legal counsel and whose individual rights are threatened.

The Foundation for Individual Rights in Education is a nonprofit educational foundation. FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of individual rights, freedom of expression, freedom of conscience, and due process on our nation's campuses. FIRE's efforts to preserve liberty at Cal Poly and elsewhere can be seen by visiting www.thefire.org.

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