



March 7, 2007

**VIA U.S. MAIL AND FACSIMILE**

President Robert A. Corrigan  
President's Office, ADM 562  
4000 Hill St.

San Francisco, CA 4132

Re: SFSU College Republicans – SOHP Hearing on March 9, 2007

Dear Dr. Corrigan:

On behalf of the American Civil Liberties Union of Northern California ("ACLU"), I am writing you concerning the Student Organization Hearing Panel ("SOHP") scheduled for March

9, 2007. This hearing is in response to a student complaint filed against the College

Republicans, based on events that occurred on October 17, 2006 at a public rally sponsored by that student organization. Because this hearing raises the possibility of sanctions being imposed for the exercise of First Amendment rights, an issue of paramount concern to the ACLU, we would like to address the important constitutional principles that we believe are at

stake. We hope that you will share this letter with the members of the panel, as well as any



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First, the expressive conduct at issue in this case is protected by the First Amendment. Though stepping on Hamas and Hezbollah flags is not an act of pure speech, it is an expressive act of communication that falls squarely within the zone of core constitutional protection. The U.S. Supreme Court set forth this test for whether expressive conduct is protected by the First Amendment: “whether [a]n intent to convey a particularized message was present and [whether] the likelihood was great that the message would be understood by those who viewed it.” *Texas v. Johnson*, 491 U.S. 397, 404 (1989). The context of the act is also central to the analysis. In this seminal flag burning case, the “expressive, overtly political nature of the group’s conduct

was both intentional and overwhelmingly apparent.” *Texas v. Johnson*, 491 U.S. at 406. The College Republicans intended to communicate an “anti-terrorist” message by standing on Hamas and Hezbollah flags to express their condemnation of these groups, and to do so in a forum where their message would be heard and understood by those attending the rally. The expression of such political views is at the heart of First Amendment freedoms.

*U.S. v. Eichman*, 496 U.S. 310, 318-19 (1990) (citations omitted). While “civility” and respect for the views of others is an important and worthy goal for the University community, it cannot be used as the defining test for what expression is constitutionally protected.

Fourth, the announcement of those in the audience who felt a sacred symbol was being

desecrated is certainly understandable. In the post- 9/11 era in this country, Muslims have been subjected to many acts of discrimination, both by the government and by private actors. The ACLU is working closely with other organizations to protect and defend the rights of victims of such unlawful discrimination and anti-Muslim bias, and we understand that balancing free speech rights with equal protection rights can be a difficult and delicate task. However, while

III. Conclusion

The ACLU supports the University's efforts to create a diverse campus community that is safe learning environment for all free from discrimination and harassment. Institutional

The United States Supreme Court should have the last word:

The constitutional right of free expression is powerful medicine in a society as diverse and populous as ours. It is designed and

intended to remove governmental restraints from the arena of

voiced largely into the hands of each of us, in the hope that use of such freedom will ultimately produce a more capable citizenry and