

F O U N D A T I O N F O R I N D I V I D U A L R I G H T S I N E D U C A T I O N

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August 27, 2009

Chancellor Erroll B. Davis Jr.
Office of the Chancellor
Board of Regents of the University System of Georgia
Suite 7025
270 Washington Street, SW
Atlanta, Georgia 30334

Sent via U.S. Mail and Facsimile (404-657-6979)

Dear Chancellor Davis:

The Foundation for Individual Rights in Education (FIRE) last wrote you on October 23, 2007, after Valdosta State University's former president, Ronald Zaccari, expelled a student in violation of the student's rights to freedom of speech and due process. It is unfortunate that FIRE must write you a second time today. FIRE is gravely concerned about the threats to freedom of speech and due process presented by East Georgia College's (EGC's) August 7, 2009, firing of professor Thomas Thibeault.

Thibeault has documented—and EGC President John Bryant Black has foregone an opportunity to deny—that Black personally fired Thibeault without a hearing and then had him escorted off of EGC's campus by police, as a result of Thibeault's expressed concerns about EGC's sexual harassment policy. According to Thibeault, Black summarily fired him for "sexual harassment" without presenting any evidence whatsoever. Further communication between Thibeault and a colleague has revealed that one day after Thibeault expressed his concerns, his colleagues were pressured to produce evidence of "sexual harassment." A central item of evidence apparently was Thibeault's reading aloud of non-sexual excerpts from the book *An Encyclopedia of Assholes* to colleagues in a faculty break room—with the alleged element of "sexual harassment" arising simply from the book's title. Black has therefore effectively fired a professor for engaging in speech protected by the First Amendment. Perhaps even worse, it appears that Black and EGC have denied Thibeault any semblance of the due process to which he is entitled under the Fifth and Fourteenth Amendments and have ignored established protocol for faculty punishment.

This is our understanding of the facts. Please inform us if you believe we are in error.

According to Thibeault, on August 5, 2009, he protested against certain aspects of EGC's sexual harassment policy during a faculty training meet

name alone of ‘conventions of decency.’” In *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949), the Court held that “a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.” In *Texas v. Johnson*, 491 U.S. 397, 414 (1989), the Court explained the rationale behind these decisions well, saying 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.” Under these standards, there can be no question that reading non-sexual material out of the book *An Encyclopedia of Assholes* is protected by the First Amendment. Nor can there be any rational basis for trumping up sexual harassment charges against a professor who registered concerns about the college’s sexual harassment policy during an event specifically about that policy.

EGC HAS VIOLATED THIBEAULT’S RIGHT TO DUE PROCESS

The circumstances of Thibeault’s firing represent a blatant violation of both EGC’s own established hearing procedures and Thibeault’s Fifth and Fourteenth Amendment rights to due process.

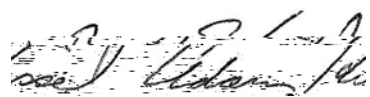
According to EGC’s *Faculty Handbook*, section 6.5.1, EGC follows the *Policy Manual* of the Board of Regents of the University System of Georgia, which provides that “dismissal or other sanctions” for alleged sexual harassment must only come “*after compliance with procedural due process requirements*” (emphasis added). *Faculty Handbook* section 6.5.4 provides that after a formal complaint is filed:

An investigation into the incident will be conducted by the vice president for student services, the vice president for academic affairs, the vice president for fiscal affairs, or the president. Appropriate action will be taken. Any appeal as a result of the investigation shall be made to the president of the college. Any appeal of a decision of the president shall be made to the Board of Regents.

Thibeault’s appeal is thus properly before you, but his case never

protections required by the Constitution and rudimentary standards of fairness is unconstitutional, unlawful, and immoral.

Thomas Thibeault cannot legally be fired by EGC and deprived of his constitutional right to due

A handwritten signature in cursive script, appearing to read "Thomas Thibeault". The signature is written in black ink on a white background.

Larry Walker, Board of Regents of the University System of Georgia
Keesha L. Coleman, Project and Communications Manager, Board of Regents of the University
System of Georgia
John Black, President, East Georgia College
Mary C. Smith, Vice President for Legal Affairs, East Georgia College
Timothy D. Goodman, Vice President for Academic Affairs, East Georgia College
Donald D. Avery, Vice President for Enrollment & Student Services, East Georgia College
Susan Wagner-Craven, Vice President for Fiscal Affairs, East Georgia College
Tracy M. Woods, Director of Human Resources, East Georgia College
Carmine D. Palumbo, Chair, Division of Humanities, East Georgia College
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Encl.