

February 26, 2004

Erin Bedell, President
RWU Student Senate
Roger Williams University
One Old Ferry Road
Bristol, RI 02809

Dear Ms. Bedell:

On behalf of the Rhode Island Affiliate of the ACLU and its Chapter at your university's School of Law, we are writing to express our deep concern about the Student Senate's continued attempts to punish the College Republican club for its free speech activities. We call upon Senate members to halt these efforts, which we believe are both counter-productive and inimical to the critical goal of any university in promoting wide-ranging, robust and uninhibited speech.

As you know, the Senate's current efforts to sanction the College Republicans are a repeat of troubling actions last fall, when action was taken to eliminate the group's funding in response to a series of homophobic articles that appeared in the club's newsletter, *The Hawk's Right Eye*. As offensive as those stories clearly were, they were just as clearly an exercise of free speech.

The same is true with this latest controversy. As members of the club have said from the beginning, their offer of a whites-only scholarship was an attempt to make a statement about affirmative action. Certainly one can question whether this controversial approach is the best way to generate debate on this subject, but ultimately that is for the speaker – the College Republicans – and not others to decide. The Student Senate itself seemed to recognize this a week ago when it refused to censure the group. College Republican club members were thus understandably perturbed to find themselves facing another resolution only days later over the same activity.

We understand that the most recent resolution, seeking to revoke the charter of the club, was the subject of a discussion and vote yesterday. Although the resolution failed, the Club fears another attempt to take action against it will be offered. Rather than helping the debate, we believe these efforts at censorship only fan the flames of divisiveness, give the Republican club even more attention to their cause, and ultimately only divert attention from a legitimate debate about affirmative action which is at the center of this controversy.

Yesterday's resolution appears to make three points in support of the effort to revoke the club's charter. It is worth addressing them individually, for we believe none of them justifies the proposed action.

First, the resolution claims that while the club's offer of the whites-only scholarship constituted freedom of speech, once the scholarship was actually awarded, the activity ceased to be speech, but became illegal "political action" deserving of punishment. We are quite troubled by the notion of "discriminatory" political action. Political action forms the essence of freedom of speech. We fail to see a distinction between, for example, a racist stating that he plans to run for office, and his actually taking action to do so. Under the resolution's formulation, the first action would be protected, but the latter action would not. Similarly with the supporter of the candidate, who expresses his views about the politician, but then apparently engages in an improper "political action" by voting for him or donating to his campaign.

Second, the resolution states that the award of the scholarship violates the "Commitment to Student Equality Act," which states that clubs "will operate fairly and objectively without regard to race, color, religion, gender, sexual orientation, political ideology, national origin, handicap or age." The problem is that many clubs would, of necessity, fail this test. For example, in examining the University's web site listing of student clubs, we note that Hillel describes itself as "serv[ing] the needs of the Jewish community," the Intervarsity Christian Fellowship "is a mix of Christians from all denominations . . . that share a common faith," the Multicultural Student Union "provides leadership development for cultural minorities on campus," and the Newman Club helps students "explore their relationship with God and the Christian community." The list also includes the "Society of Women Engineers." One cannot sincerely argue that these clubs operate "objectively without regard to" race, gender, religion, etc. Nor should one expect them to. Perhaps the College Republican club and its counterpart, the College Democrats, are the perfect examples of the flaws in this well-intentioned act. How can overtly political clubs like those be expected to operate "without regard to political ideology"?

Finally, the resolution expresses concern that the College Republican's scholarship exploit might jeopardize the University's federal funding. It is difficult for us to understand how the private actions of a private student club involving a private exchange of money could put the university itself in jeopardy. At this point, we are not aware of anybody from the university administration making such a sweeping claim. If it were a legitimate problem, this is surely something that administration officials, not a student body, would and should first address. To the contrary, public statements from officials at both the university and the law school have, quite appropriately, criticized the club's actions as contrary to the institution's commitment to diversity, while recognizing the club's free speech rights to engage in this activity. The student senate should do no less. It is truly unfortunate when a college student body appears to show less concern for the free speech rights of its fellow students than does the university administration.

Like so many issues of freedom of speech, it is also worth noting the indivisibility of the principles involved. While the College Republicans may not wish to give credit where it is due, we must note that the theme underlying its scholarship stunt may be a relative to actions promoted by women's rights groups a few years ago. Through a quick Internet search, we found references at least a few years old to "discriminatory" bake sales conducted on college campuses and elsewhere by feminist groups to protest unequal pay in the workplace. For example, a summer 2002 newsletter of the Madison, Wisconsin chapter of NOW references a "Pay Equity Bake Sale," where it raised \$200. According to the newsletter, in order to "raise public awareness of the pay gap between men and women in the USA, we sold baked goods to women for 75 cents and to men for \$1.00." The same year, the Feminist Majority Leadership Alliance, a student club at San Francisco State University, held a similar bake sale.

Of course, we do not wish to suggest that a store, or even a student club, could routinely sell items at difference prices based on the customer's race, gender or religion. But in each of these instances, as with the Republicans, political clubs engaged in one-time activities that were clearly efforts at political speech designed to make a political point. It is overkill, to say the least, to threaten a student club with loss of its charter over such an activity.

It is a truism, but one worth repeating, that the cure for "bad" speech is not its censorship, but instead the exercise of "good" speech by others. So it is with this controversy. We hope that Student Senate members will reconsider their actions and agree with this approach. Thank you in advance for considering our views.

Sincerely,

Steven Brown
Executive Director, RIACLU

Bridget Longridge
RWU ACLU

cc: Student Senate Members
Jason Mattera
President Roy Nirschel