

F I R E

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January 26, 2009

President John L. Hennessy
Office of the President
Building 10
Stanford University
Stanford, California 94305-2061

Sent via U.S. Mail and Facsimile (650-725-6847)

Dear President Hennessy:

It is with great disappointment that FIRE must write you a second time regarding Michele Kerr, a student in Stanford School of Education's Stanford Teacher Education Program (STEP).

FIRE first wrote you on May 23, 2008, when STEP appeared to condition Kerr's admission upon her ability to refrain from public criticism of STEP's curriculum. STEP administrators had even consulted a lawyer, apparently in hopes of rescinding her admission. At that time,

addition, we are deeply concerned about her treatment in the program, but for now, we shall let Kerr's academic and non-academic grievances, which she has recently filed and which are enclosed, speak for themselves. We include them with this letter and hope you will take them very seriously. As for the other matters, this is our understanding of the facts. Please inform us if you believe we are in error.

program” for the purpose of determining whether or not Kerr was “sharing confidential information.” If the proposed monitors were to express any such concern, Callan added, he “would expect [her] to give [him] access to the blog to investigate the matter further.” He included the principal of Kerr’s placement school as a recipient of the e-mail, despite the fact that the principal had not expressed concern about the blog since September.

Finally, on or about January 13, 2009, Callan e-mailed Kerr again. He referred vaguely to “professional norms of confidentiality” and the requirements of “relevant federal law” as a basis for monitoring Kerr’s blog. He added, oddly, that “as a matter of good conscience” he would refuse to accept Kerr’s word that she was abiding by the law and by existing Stanford policy.

To Kerr’s knowledge, this requirement is made of no other student or faculty member at STEP. We trust you understand that such a requirement would be a severe violation of the right to freedom of speech. Stanford’s Statement on Academic Freedom clearly states that “[e]xpression of the widest range of viewpoints should be encouraged, *free from institutional orthodoxy and from internal or external coercion*” (emphasis added). In addition, as you undoubtedly are aware, although Stanford is a private institution, California’s Leonard Law forbids private, secular, postsecondary institutions from punishing students for speech otherwise protected by the First Amendment—a restriction that would be violated by uniquely mandating that Kerr subject her blog postings to a censor.

pattern of unequal treatment, the outline described a rare or unique set of “no evidence” assessments regarding Kerr’s professionalism despite documented evidence to the contrary.

In addition, the December 11 e-mail addressed Lotan’s allegation in the December 10 meeting that Kerr “was overbearing and domineering with [her] classmates and that they had complained.” According to Kerr, after she asked Lotan for specific examples of such behavior, Lotan responded with only a few vague and unspecified complaints, such as the allegation from one anonymous student that Kerr was “intolerable” and a request from one or more other students that she not sit with them, although no reasons for this desire were revealed. Such complaints by classmates are hardly acceptable as evidence of being unsuitable for the practice of teaching.

Finally, Kerr’s e-mail responded generally to the students who had complained about her. We quote her e-mail at length because it is now being used against her by Lotan and Callan:

1) I genuinely like and respect every STEP candidate I have ever met. . . . [Y]ou are all fantastic, passionate, committed people who I think will make outstanding teachers. However, if I despised one of you, hated what you said in class, held my breath and turned blue every time you opened your mouth, I wouldn’t even think of complaining to the instructor or Rachel [Lotan]. And if Rachel invited me to complain about any student, I’d have laughed in her face and told her to go find a whiner who actually thinks she should be running around guaranteeing her babies a safe and nurturing environment. Which ain’t me. This is just one other sign, I suppose, that my values aren’t in line with those of STEP.

2) If you can’t speak up in a STEP classroom to assert yourself and reach out for

it's not one I'll accept in a graduate academic setting. I'll continue being me, and those of you who feel uncomfortable can maybe learn how to speak up. Or not. Your call.

On December 16, Lotan and Callan sent Kerr a letter regarding this e-mail and regarding the December 10 meeting. The letter noted that their discussion had been “the first step under the STEP Guidelines for Reviewing Concerns Regarding Suitability for the Practice of Teaching.” In a bizarre twist, Lotan and Callan argued that Kerr’s defense of herself in the December 11 e-mail “could have the effect of silencing those who are wary of confronting you directly” and “could have a chilling effect on other students’ ability to express themselves freely.” Since this e-mail was merely an exercise in free expression, and since Kerr has no power over the lives or careers of any other students in the STEP program, it is difficult to imagine how such a “chilling effect”

Again, please see the attached grievances, and please let us know if you would like to see Kerr's detailed accounts of her conversations. If STEP's immoral persecution of Kerr continues, FIRE will write to you again specifically on this issue.

For now, please note the landmark Supreme Court decision *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 633–34 (1943), in which the Court struck down a West Virginia state law compelling all public school students to participate in a daily flag salute. The Supreme Court ruled that the requirement was unconstitutional because it forced citizens to “declare a belief” in violation of the First Amendment, one purpose of which is to protect the “sphere of intellect and spirit” from “official control.” As Justice Robert Jackson famously wrote, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”

That STEP—a Stanford graduate program that prepares students for teaching jobs in the public and private schools of California—is violating Kerr's rights in precisely this regard puts into question the credibility of nearly the entire program.

Thus, please remind Callan and Lotan that any attempt to punish Kerr for refusing to change her views on matters of opinion, including ideologies of teaching, is a violation of Kerr's right to private conscience.

Finally, your own strong defense of freedom of expression in *Stanford Magazine* (November/December 2007) is worth noting:

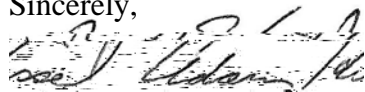
The right to express one's ideas freely is accepted easily when the ideas are in the center of the political spectrum. It is the difficult and extreme circumstances that try our principles and put the strength of our commitment to free and open dialogue to test.

It appears that in the context of the STEP program, Michele Kerr and her views are considered so extreme that they are worthy of monitoring, censorship, punishment, and perhaps even expulsion. The “wind of freedom,” as Stanford's motto has it, seems not to be blowing at STEP.

FIRE asks that Stanford recognize its legal and moral commitments by immediately and unequivocally abandoning attempts to monitor Kerr's blog, withdrawing threats to punish Kerr for “intimidation,” and ceasing efforts to fail Kerr out of STEP because of her protected expression and her protected beliefs. We again request that that no college policy or contrivance be used to retaliate against Kerr or to infringe upon her rights.

We ask for a response to this letter by 5:00 p.m. EST on February 10, 2009.

Sincerely,



Adam Kissel
Director, Individual Rights Defense Program

cc:

Deborah J. Stipek, Dean, Stanford University School of Education
Eamonn K. Callan, Associate Dean for Student Affairs, Stanford University School of Education
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Education
Edward H. Haertel, Associate Dean for Faculty Affairs, Stanford University School of Education
Casey Kelley, Admissions Officer, Stanford University School of Education
David Arnot Rasch, University Ombuds, Stanford University
Michele Kerr

Encl. (U.S. mail only)