

August 2, 2004

President John Nazarian
Rhode Island College
600 Mt. Pleasant Avenue
Providence, Rhode Island 02908

URGENT

Sent By U.S. Mail and Facsimile (401-456-8287)

Dear President Nazarian,

As you can see from our Directors and Board of Advisors, the Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, freedom of religion, due process, freedom of speech and academic freedom on America's college campuses. Our website, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is profoundly concerned about the dire threat to free speech posed by the formal hearings now proceeding at Rhode Island College against Professor Lisa B. Church, who has been accused of violating a policy on "hostile environment racism" and of "the use of intimidation" in her handling of a controversy over racially-based comments made by a parent of a student at RIC's Cooperative Preschool. The charges against Dr. Church have triggered RIC's disciplinary hearing procedures, which can lead to punishments ranging from oral reprimand to termination of employment. From the facts that we have gathered, FIRE believes these claims to be thoroughly unfounded and wholly without merit. Furthermore, for a public institution of higher education such as RIC to make such claims actionable as potential "discrimination" is an egregious violation of the freedoms of speech and expression guaranteed to RIC students, faculty and staff by the First Amendment to the U.S. Constitution.

The following is our understanding of the facts, based upon documents and a personal account provided by Professor Church. We ask that you correct any misunderstanding of the facts, if any exists. In addition to being an associate professor at RIC, Professor Church was the coordinator for the 2003-2004 school year of a cooperative preschool on campus that is open to all students, faculty, and

staff. On February 19, 2004, three mothers of students participating in the preschool engaged in

According to Professor Church, Associate Dean Kane indicated that he was not interested in whether or not the RIC policy was unconstitutional. He also told her that he was uninterested in the July 2003 letter from the Office of Civil Rights of the United States Department of Education

to fail the course...A boss or professor may routinely remind an employee or student of those facts and be intimidating.”

Unfortunately, Giammarco did not heed this largely accurate characterization of the law and of the rights of students and faculty. Instead, she responded in an e-mail on the following day, asserting that she agreed with Long more than she disagreed with him. She also suggested that the “reasonable person” standard used to judge whether speech is offensive could be replaced by a doctrine (commonly called the “eggshell skull” doctrine) which would hold people making offensive comments more responsible if the person was “extremely sensitive” to the offense. Less than seven hours later, Long responded to that message with a strong statement that he did not believe that “the College has the legal authority...to create additional or different legal standards of conduct, particularly

dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging...That is why freedom of speech, though not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest. There is no room under our Constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups. (Internal citations omitted.)

While the offended mother obviously found the speech at issue to be offensive, this simply is not a basis for punishing the person who made those remarks, and certainly is not a basis for punishing Professor Church for refusing to take steps to censor such speech. This is not to sa take step

