

Greg Lukianoff
PRESIDENT

November 29, 2011

Russlynn Ali
Assistant Secretary for Civil Rights
Office for Civil Rights
United States Department of Education
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Sent via U.S. Mail and Facsimile (202-453-6012)

Dear Assistant Secretary Ali:

The Foundation for Individual Rights in Education has learned that California State University–San Marcos (CSUSM) students have filed a complaint with the United States Department of Education’s Office for Civil Rights (OCR) regarding the protected by the prospect of OCR undertaking disciplinary action against CSUSM if the university does not punish protected expression.

This is our understanding of the facts. On September 27, 2011, Volume 2, Issue 1 of humor magazine *The Koala* was published and distributed on CSUSM’s campus. On the cover page of the issue, the magazine describes itself as “Crushing Your Hopes And Dreams With Comedy.” The magazine uses humor to address a wide variety of topics including animal rights, sex, and the scandals of public figures, such as former California Governor Arnold Schwarzenegger’s separation from Maria Shriver. A satirical political piece in the issue asked students to vote online for one of four women to be Homecoming Queen to accompany a woman who had been running for Homecoming King. The article

he was charged with two student conduct code violations because of unspecified conduct on September 27: “Disorderly, lewd, indecent, or obscene behavior at a University related activity,

the First Amendment protects even the most blatantly ridiculing, outlandishly offensive parody—in that case, a satirical advertisement suggesting that the Reverend Jerry Falwell lost his virginity in a drunken encounter with his mother in an outhouse. In *Texas v. Johnson*, 491 U.S.

Eloise Stiglitz, Vice President for Student Affairs, California State University–San Marcos
Gregory Toya, Associate Dean of Students, California State University–San Marcos
Bridget Blanshan, Dean of Students & Associate Vice President for Student Development
Services, California State University–San Marcos
David Blair-Loy, Legal Director, ACLU Foundation of San Diego & Imperial Counties