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This is our understanding of the facts, based on documents and e-mails from Washington State College of Education administrators as well as an account from the affected student himself. Ed Swan is a 42-year-old fourth-year student in the elementary education program at Washington State's College of Education. Swan's problems stem from the College of Education's use of Professional Dispositions Evaluations (PDEs) to evaluate education students for their fitness to become teachers. Swan's first hint that the PDEs would present a problem came at the conclusion of a required course entitled "Diversity in Schools and Society," taught by Professor Paula Groves Price during the Fall 2004 semester. Swan, who describes himself as a conservative Christian, observed what he felt to be a liberal political bias in the class and had some concerns on one assignment about his political ideals aligning with those of the College of Education. He came to Professor Groves Price with these concerns, and Professor Groves Price responded in an e-mail, writing:

I was just thinking about the question that you just asked me about the pedagogy assessment. For what you are doing for my class, I would like for you to write what you really feel--save the "performance" for the "real" one. Also, I do very much recognize that there is a very strong "liberal bias" in our program (and also

Disposition 1, which defines as part of a “positive climate” showing “respect of and consideration for the thoughts and feelings of others,” is an extremely vague and subjective measure upon which to base a student evaluation. This vagueness was seized upon by College of Education faculty members to give Swan a low evaluation on this disposition. For instance, Professor Groves Price complained of “disengagement” by Swan in small-group discussion that “seemed to be rooted in strong differences of opinion,” and stated that she “was not sure that there was an open mind in listening and attempting to understand other’s worldviews.” Upon being informed that Swan is hard of hearing, Professor Groves Price raised her assessment of Swan, but still gave him a mark of less than “at/above standard.”

It is truly disturbing that a disagreement in the classroom environment—even a vehement disagreement with the “worldview” of another student—could be seen as a liability in a higher education setting. Indeed, the U.S. Supreme Court recognized this principle in its opinion in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), a case decided during the darkest days of World War II. Justice Robert H. Jackson, writing for the Court, declared,

[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. 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.

Unfortunately, the College of Education’s efforts to force students to adhere to the subjective values enunciated in Dispositions 6 and 7 are excellent examples of precisely what Justice Jackson condemned in *Barnette* as being outside the power of government employees such as Washington State’s education professors.

On Disposition 6, which involves being “sensitive to community and cultural norms of the teacher education program, the university, and

As problematic as it is to hold students to the nebulous and ill-defined standards of Dispositions 1 and 6, Disposition 7 is the College of Education's most disturbing ideological requirement. This disposition asks the professor to rate whether "[t]he pre-service teacher appreciates and values human diversity and shows respect for others' varied talents and perspectives." According to Professor Groves Price, "Mr. Swan revealed opinions that have caused [her] great concern in the areas of race, gender, sexual orientation, and privilege." She listed among these the belief that "white privilege and male privilege does not exist" and stated that he "revealed some very anti-gay/lesbian sentiments and ideologies about gender and 'a woman's' place that [she] found troubling." She went on:

When asked how he can work through these strong sentiments as a teacher, if he has a Muslim child, a child with gay/lesbian parents, an undocumented immigrant, or a child of color who discusses his race in class, he responded that

criteria including dispositions 6 and 7, and specifies that “any conduct that evidences disrespect towards others” will be used as an excuse for still more “supervision.” It also specifies, “These conditions are final,” and states that if he does not meet the conditions, he will be terminated from the teacher education program.

Washington State’s College of Education has created a system in which education students who do not agree with the university’s approved political beliefs are put through an inquisition, punished, and even threatened with dismissal for their expression. This system violates students’ constitutionally protected freedoms of conscience and expression. It is beyond question that students at public institutions have the right to express themselves on controversial topics without fear of official reprisal. For instance, in the aforementioned case of *West Virginia State Board of Education v. Barnette*, the Supreme Court determined that school children could not be forced to say the Pledge of Allegiance in class—even in the midst of World War II. If elementary school students cannot be forced to pledge allegiance to the flag, adult university students certainly cannot be forced to pledge allegiance to Washington State’s official positions on diversity and multiculturalism. And no professor has made the argument that Swan’s opposition to the school’s official political beliefs has been disruptive to classes—in fact, Professor Groves Price even made the point that Swan received an A in her class based on the *requirements* of the course.

Not only is it impossible for Washington State to justify punishing a student for his or her expression or beliefs, but you also have personally promised that it will not do so. For instance, in your letter of March 3, 2003, regarding the upcoming war in Iraq, you stated, “We do have clear policies in support of free speech and assembly, and we will use all of our resources to support the right of the members of our community to exercise their rights on this campus, subject to the usual caveat that they cannot interfere with the rights of others to do the same.” This statement is heavy with irony considering that the university paid for hecklers to interfere with the expressive rights of actors in a student-produced musical. Similarly, Swan’s expression of his views has been met not only with punishment but with calls from a faculty member to do whatever the school can to “find a way” to prevent him from becoming a teacher.

In that same letter, you also endorsed a statement by Chancellor John Wiley of the University of Wisconsin, Madison, who remarked, “We are a community with many voices, and I will not discourage debate or free expression by any action that would suggest that there is a fundamental inequality in the value of some of those voices as opposed to others.” You followed this statement by saying, simply, “I endorse the position of Chancellor Wiley.” Yet Ed Swan is being punished because his views of the meaning and utility of diversity and multiculturalism differ from the official views of the College of Education. Your statements endorsing and promising free speech for students simply cannot be reconciled with the actions Washington State has taken against Ed Swan or Chris Lee.

By requiring that students in its College of Education adhere to the university’s official political beliefs regarding diversity and what constitutes a “positive” classroom climate, Washington State has also created an unconstitutional condition for receiving a degree from a state university. In *Perry v. Sindermann*, 408 U.S. 593, 597 (1972), the U.S. Supreme Court wrote:

[T]he government...may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially, his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to “produce a result which [it] could not command directly.” *Speiser v. Randall*, 357 U.S. 513, 526. Such interference with constitutional rights is impermissible.

The practices of Washington State’s College of Education directly conflict with established Supreme Court precedent. The explanations accompanying Ed Swan’s low marks for Dispositions 6 and 7 make it clear that it was because of his political and ideological opinions and beliefs that Washington State punished him by lowering his marks, mandating that he attend a professional development meeting, and now threatening him with dismissal if he does not sign an outrageous agreement requiring him to act in accordance with the school’s political and ideological interpretations of Dispositions 6 and 7. By pursuing this policy, Washington State courts severe legal liability for its actions.

Between the heckler’s veto of Chris Lee’s musical and the punishment of Ed Swan for unapproved political beliefs, Washington State University is fast becoming a leading campus in the United States when it comes to ideologically and politically based censorship and coercion. We ask you, as president of Washington State and the person ultimately responsible for abuses of students’ First Amendment rights, to intervene in this matter and preserve the rights of one of your own students, Ed Swan, to freedom of speech and conscience. FIRE is wholly committed to using all of our legal, public, and other resources to bring this matter to a just and fair conclusion. Washington State University and the taxpayers who support it have no interest in censorship and ideological coercion of its students. We urge you to recognize this fact and to stop this outrageous miscarriage of justice.

Because of the critical nature of the rights involved, and because Swan has been threatened with dismissal if he does not sign, by Tuesday, August 30, an unlawful contract depriving him of his constitutional rights, we require a response on this matter by 5 p.m. Eastern Time on Tuesday, August 30, 2005.

Sincerely,



Robert L. Shibley
Program Manager

cc:

Robert C. Bates, Provost, Washington State University
Charlene K. Jaeger, Vice President for Student Affairs, Washington State University
Judy Mitchell, Dean, WSU College of Education
Edwin Helmstetter, Chair of Teaching & Learning Department, WSU College of Education
Linda Chaplin, Director, Student Services, WSU College of Education

Melynda Huskey, Assistant Vice President for Equity and Diversity, WSU
Ed Swan

Encl.