



Foundation for Individual Rights in Education

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August 18, 2005

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Dear President Kimmich and Chairman Tobey:

It is with great disappointment that FIRE writes Brooklyn College for the second time in a year concerning a serious matter that appears to threaten free speech and academic freedom. Last fall, Brooklyn College effectively disbanded the student government, preventing it from voting for a resolution which included an academic bill of rights. After FIRE wrote in protest of this decision, the college restored the student government to its earlier status. Now, FIRE has learned that Brooklyn College's School of Education (SOE) and its Faculty Council appear to be attempting to silence Professor Robert David Johnson for his public criticisms of the school's policies.

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The following is our understanding of the facts, based on reports and documents provided by Professor Johnson and on articles in the *Clarion* (an official faculty union publication) and the *New York Sun*. Robert David Johnson is a professor of history at Brooklyn College and the departmental advisor to students Evan Goldwyn and Christina Harned. On November 29, 2004, Johnson received an e-mail from SOE Professor Barbara Winslow inquiring about the behavior of Goldwyn and explaining that the SOE "is trying to be more systematic in looking at what educators call 'dispositions,' that is, behaviors necessary for being a successful teacher in the public schools." In that e-mail she further explained,

“[b]eing able to do excellent academic work does not always translate into being a thoughtful, self reflective and effective teacher for youngsters.”

On May 23, 2005, Johnson published an article in *Inside Higher Ed* in which he expressed his views on the national trend toward the use of “dispositions” theory by schools of education to assess students’ commitment to “social justice.” Without mentioning the names of the professor or students involved, the article discussed what Johnson believed to be Brooklyn College’s problematic use of dispositions theory and its possible retaliatory use by SOE Professor Priya Parmar against Goldwyn and Harned in her “Language Literacy in Secondary Education” class.

Then, on May 31, the *New York Sun* also published an article that quoted Johnson as being critical of the dispositions rubric used by Brooklyn’s SOE. This article went into greater detail about Goldwyn and Harned’s claim of retaliation after they had filed a complaint against Professor Parmar for what they believed to be viewpoint-discriminatory grading practices. The article also quoted several other figures who were skeptical of dispositions theory. According to the article, both Professors Parmar and Winslow were asked to comment about the SOE’s conception of “dispositions” theory and the allegations made by Goldwyn and Harned, but they declined to do so.

According to Professor Johnson, in an apparent response to the *New York Sun* and *Inside Higher Ed* articles, on June 7, the faculty union’s Professional Staff Congress held an “emergency academic freedom” meeting, during which union officials insinuated that the Faculty Council’s “Integrity Committee” would investigate Johnson. Professor Johnson has informed FIRE that he has not received any formal notice of such an investigation, nor has he been informed of the legal or regulatory basis for such an investigation into his expression.

However, on June 20, the SOE faculty sent Johnson an unsigned letter on Brooklyn College letterhead, with copies to President Kimmich, CUNY Chancellor Matthew Goldstein, every department chair at Brooklyn College, and every member of the CUNY Board of Trustees, insisting that Professor Johnson stop his “attacks” on a colleague, on the SOE, and on the dispositions rubric. This letter is essentially a demand that Professor Johnson cease publicly commenting about an issue of public concern—what he believes to be an ideological litmus test being applied to students at a state-supported institution.

Professor Johnson responded to the SOE letter on July 29, clarifying several facts and defending his right to free speech and academic freedom. He has yet to receive any response to this letter from the Brooklyn College administration or Faculty Council, and continues to lack any notice of an investigation from the Integrity Committee. Instead, the summer 2005 issue of the *Clarion* featured an article, “Two Brooklyn College Professors Under Attack,” that mentioned the SOE letter to Johnson. The article reported that “[i]n June almost every faculty member in the School of Education signed a letter addressed to Johnson, asking him to refrain from attacking other faculty members through the press.” Professor Johnson states that reporters for the *Clarion*, an

official faculty publication, did not contact him for a response to this article despite the fact that he is a faculty member of Brooklyn College.

The SOE letter and the *Clarion* article demonstrate the consistent and pervasive misunderstanding by members of the faculty and the faculty union of the nature of free speech and academic freedom on campus. A press investigation into education policy at a state-supported institution such as Brooklyn College is hardly an “attack” on academic freedom. Indeed, reporting on this topic is in itself an exercise of free speech. On the other hand, academic freedom does require that Professor Johnson’s constitutionally protected expression of his opinions of colleagues and of dispositions theory not be subject to administrative review or investigation by a state college (such as, for instance, any “investigation” by the Integrity Committee). The reason for this should be obvious; for example, if the constitution allowed journalists to be hauled into court any time they published anything “offensive” to someone, free speech would be utterly devastated even if the court found those journalists “innocent” every single time.

Brooklyn College must understand that the denial of free speech through any investigation of Professor Johnson’s expression on this matter erodes the rights of its existing students and faculty, degrades the academy’s robust spirit of inquiry, and sends a chilling message to higher education as a whole. Brooklyn College is charting a dangerous course in choosing to ignore the time-honored guarantees of the First Amendment. While the majority of SOE faculty are free to disagree with Johnson’s opinion on “dispositions” or his critique of Professor Parmar’s approach to “social justice,” they cannot threaten to have him “investigated” by any university committee. To do so violates his right to academic freedom and free speech, thereby undermining the very principles that the faculty union claims to uphold.

FIRE requests that Brooklyn College, the Faculty Council, and any other faculty or administrative organizations immediately rescind all unfair and unlawful treatment of Professor Johnson. We request that the college and faculty organizations: (1) inform Professor Johnson clearly whether or not an investigation has been launched against him; (2) cease any and all unlawful investigations and attempts to silence his constitutionally protected speech; (3) affirm that Professor Johnson’s opinions are fully protected under the First Amendment to the United States Constitution and that no device or contrivance will be used to circumvent his rights; and (4) guarantee that Professor Johnson will endure no further punishment or retaliation for the expression of his constitutionally protected opinions on this or any other issue. We further urge President Kimmich to issue a public statement reminding the Brooklyn College faculty that the privileges of academic freedom apply to all professors at the institution, and not solely those who represent the majority viewpoint.

FIRE hopes to resolve this dispute discreetly and amicably. We are, however, committed to using all of our resources to support Professor Robert David Johnson in this matter, and to seeing this process to a just and moral conclusion. Please spare Brooklyn College the embarrassment of fighting against the Bill of Rights, by which it is legally and morally bound.

Because of the potential violations of Professor Johnson's basic rights, FIRE requests a response by 5 p.m. on Friday, September 2, 2005.

I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Robert L. Shibley". The signature is written in a cursive style.

Robert L. Shibley
Program Manager

cc:

Roberta S. Matthews, Provost, Brooklyn College

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New York

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Robert David Johnson, Professor, Department of History, Brooklyn College