

## Summary of Free Speech Discussion, February 18, 2014

**Present:** Amber Chiang, Sonya Christian, Michael Korcok, Elizabeth Peisner, Ann Tatum, Christian Zoller (Absent: Kathy Freeman)

**Goals:** The short-term goal is to begin the discussion about free speech on the Bakersfield College campuses. The long-term goal is for the college to create clearer policies and an educational campaign for the campus and broader community.

**Background:** Spring semester, 2014, a former student arrived at Bakersfield College to preach in the free speech area. BC has clear procedures and paperwork for campus clubs, petitioners, and outside vendors to follow when they want to share information and/or sell products on campus property; however, it does not have clear procedures in place for other entities. The former student was asked to fill out the same paperwork but refused. Because of this, campus security asked him to leave the campus. He refused and was allowed to stay. Other students have made informal complaints regarding class disturbance and alleged personal verbal attacks. Students have also made at least one visible protest, and BC's student paper, *The Rip*, has published two stories on the situation: one in its February 5, 2014 edition and one in its February 18, 2014 edition. Campus Security has continued to monitor the situation.

### Meeting Summary:

District lawyers will be weighing in, but President Christian would like the campus to have its own discussion on the matter as well, focusing on free speech on campus in general as well as this particular situation. Currently, neither BC nor KCCD have protocols in place when it comes to the behavior of visitors; it is not entirely clear whether or not he is even required to fill out paperwork at all based on current procedures.

The group discussed a report created by the California Advisory Committee to the United States Commission on Civil Rights titled *Equal Educational Opportunity and Free Speech on Public College and University Campuses in California*. The report says that the legal definition of harassment is

very specific, and the usual definition doesn't apply when talking about the 1st Amendment. It goes on to say that current speech codes on college campuses are too restrictive:

Although the Supreme Court issued its *Davis* ruling over 10 years ago explaining offensive speech or conduct only constitutes "harassment" which can be prohibited if it is "so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit;" and that ruling has been applied to institutions of higher learning in *DeJohn* and other court rulings; California public colleges and universities continue either to enact speech restrictions contrary to *Davis* or enforce student codes of conduct in a manner inconsistent with *Davis*. (11)

The report goes on to give recommendations, and, ultimately, argues that people should be able to speak with minimal restrictions and that all parties should be made aware of their first amendment rights. (A dissenting member comment as well as a response from the CSU Chancellor's Office were included.)

Although campuses are allowed to remove people who are "interfering with normal operations," how do they determine whether or not visitors are actually "interfering with normal operations"? Is it only if they are disturbing classes? Is it if they are saying offensive things to other students based on ethnicity, gender, religion, sexual orientation, etc.? Where do the rights of one person end and another begin? At what point does free speech become fighting words or hate speech? Although a campus has the right to ask a person who has no business on campus to leave, the reason for asking him or her to leave is important. These are all issues Bakersfield College needs to discuss.

A few other interesting points came up during the discussion:

- Students who were informally polled in their classes about the speaker were not always supportive of his message and/or style, but none felt he should be removed.

- Should students respond to a speaker, they could risk getting in trouble if they violate student conduct codes.
- BC's Student Government will be discussing the issue and drafting a resolution, with all meetings open, as always.
- A university in Tennessee told an individual who wanted to preach he would have to follow protocol: pay a \$50 fee and wait two weeks. He sued the school. The case was thrown out, he appealed, and the lawsuit was reinstated. In another case, a student got into a verbal argument with a campus preacher and was tackled by campus police. The incident was posted to YouTube, and the student is suing the school. BC's Public Safety office is aware of these lawsuits.
- If any student files a formal complaint against the speaker alleging discrimination, it would be followed up on as per current procedures. So far all complaints have been informal.

**Conclusion:** BC values free speech. The group agreed that discussion should continue and that an educational campaign would be a good idea. Clear policies should also be developed, and input from the entire campus community would be valuable. In the meantime, until formally advised by legal council, the campus will continue to support free speech in a safe manner.