



April 9, 2008

County Attorney Christine Malafi

**Via Facsimile and Federal Express**

***Re: Suffolk County Community College's Violation of Gina DeLuca's First Amendment Rights***

Dear County Attorney Malafi:

The American Center for Law and Justice ("ACLJ") represents Gina DeLuca, a student at Suffolk County Community College ("SCCC"), regarding her professor's unconstitutional decision to make passing a required philosophy course contingent upon her willingness to express agreement with philosophical critiques of the existence of God that conflict with her religious beliefs. To prevent further injury to Gina's rights under the First and Fourteenth Amendments, the ACLJ requests that SCCC take all appropriate measures to ensure that Gina's rights are preserved throughout the remainder of her time at SCCC. Further, we ask that you advise the professor regarding students' constitutional rights and the First Amendment, with particular regard to Gina's situation.

By way of introduction, the ACLJ is a public interest law firm that is committed to defending the constitutional rights of students on their public school campuses. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. *See, e.g., Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); *Lamb's Chapel v. Center Moriches School District*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment).

## STATEMENT OF FACTS

Gina DeLuca has been a student at SCCC for the past two years. Gina maintains a 3.9 GPA and has had good relationships with her professors at SCCC. This semester, she is taking an Introduction to Philosophy course that is required by the college for graduation. Gina did very well on the first few class assignments, receiving a 4 out of 4 grade. However, the grades she received on class assignments dropped significantly once God and religion became prominent topics of class discussion and her refusal to compromise her Christian faith became apparent. This is because the course goes beyond merely requiring knowledge of prominent philosophers and their arguments or ways of thinking, which Gina does not object to. Rather, the professor believes that it is his job to get students to *change their own personal viewpoints or state that they are unsure of whether their own personal beliefs are correct.*

Gina's online class discussions with the professor and her fellow students demonstrate her knowledge of the material and ability to provide a reasoned defense of her positions. She has participated in every discussion, read all assigned materials, and completed every assignment. Gina has studied and discussed various philosophical arguments on whether God exists and whether He possesses certain characteristics such as being all-knowing or all-present. However, Gina will not state that she personally believes that the idea of God is problematic or that she needs to reconsider her sincerely held religious beliefs.

As a result, the professor has repeatedly referred to Gina as "closed-minded" on the course's online message board. He also pejoratively refers to Gina as a "Level 1" or "Level 2" thinker, referring to Plato's famous "Allegory of the Cave" in which a prisoner advances through four basic stages of rational thought: 1) believing that he adequately understands reality, 2) being confronted with a new perspective that challenges his understanding of reality, 3) being freed of his former (incorrect) understanding of reality, and 4) seeking to help others to reach the same level of understanding that he has achieved. In one exchange, the professor said the following of Gina:

You are a level one thinker and appear to be content but you will not be the one to solve the problems the 7 billion people in the world are facing. You[r] level one thinking allows you to be comfortable thinking that you have the answers when in fact you do not even know the questions.

In addition, the professor has stated that his responsibility is not merely to teach what different philosophers believe, but rather "*to move people to levels three and four of Plato's Divided line.*" In essence, the professor has been ridiculing Gina, and grading her poorly, for refusing to reconsider (or abandon) her sincerely held religious beliefs.

The basic issue is whether a professor may require a student to state that she *believes* a certain philosophical argument that conflicts with her religious beliefs or give her a poor grade for failing to do so. In one exchange, Gina stated, "I am not choosing not to develop my critical thinking, in fact, I am sure that I have. *I am choosing not to alter my religious convictions. There is a difference.*" Gina also explained:

I have enjoyed thus far learning about all the different arguments, the Teleological, Cosmological, and Ontological. I have gained much knowledge on the subjects of the Problem with Evil . . . . There is no question that I am learning through this course. I have not taken this course to fool around and waste either of our time, yet I would hope that you would understand that it has nothing to do with me not wanting to develop my critical thinking skills, because in fact I do. *I do not reject many of the ideas, yet I do not accept all of them.*

When Gina stated, “I can *KNOW* the material, without having to *BELIEVE* it,” the professor responded by stating:

[I]t is clear that knowledge is linked to belief and that KNOWLEDGE is a justified true belief. If you do not believe that X is true then you can not claim to know that X is true. What you do is to deceive yourself and others by claiming that “*I can KNOW the material, without having to BELIEVE it.*” What you do is MEMORIZE and REPEAT without understanding. You have no understanding of what it means to know something.

In other words, merely learning and discussing philosophical arguments challenging the existence of God are not sufficient in the professor’s view. In one comment, the professor criticized Gina by stating, “You SUBVERT the very [process] of inquiry this class is designed to develop and support. . . . [Y]ou are merely looking for support for your own predetermined, assumed, [positions] that you identify with your faith . . . .” The professor added, “in your most careful thinking you are uncritical being blinded by belief and supported by faith and comforted by your feelings.” Ironically, the professor would quote Bible verses to Gina in an attempt to point out supposed contradictions in the Bible and, when Gina would defend her faith by pointing to other Bible verses, the professor would tell Gina to stop proselytizing her religion.

One comment that incurred the professor’s anger was Gina’s statement that she was content with her Christian worldview and did not feel a personal, inner drive to “search the world for answers” *through philosophy* because her Christian faith provided them for her. The professor responded by asking Gina to provide the following “answers”:

1. Cure for cancer?
2. Solution to nuclear waste disposal?
3. Cure for AIDS?
4. A preventative for the spread of HIV?
5. Cure for childhood [leukemia]?
6. Cause of autism?
7. Cure for autism?

He added: “Gina what you claim is hurtful to all the people suffering every day on this planet because we do not have answers for the diseases and we do not have answers for some very real physical problems.” It is unclear why the professor believes that Gina’s Christian worldview is “hurtful” or inconsistent with a desire to find a *medical* cure for cancer or other diseases.

A review of the professor's online textbook provides context for his conversations with Gina about her beliefs. One topic within the Chapter on "Philosophy of Religion" is entitled, "*Problem with the Attributes of deity (god).*"<sup>1</sup> The chapter asserts that no being could simultaneously possess all of the attributes supposedly possessed by the god of Judaism, Christianity, and Islam such as being eternal, all good, all powerful, all knowing, all present, all just, all merciful, and all loving. The text goes beyond merely identifying philosophical questions such as, "How can a god that is all good and all knowing and all-powerful permit evil to occur?" to providing the professor's personal opinion of the answers:

There are problems with any single being having all the properties traditionally assigned to the deity of the Western religions.

If the deity is ALL POWERFUL would it not have the power to create beings that would know what GOOD was without knowing or committing EVIL? If this is not possible then how is the being ALL POWERFUL?

If the being must make EVIL to make GOOD then how is the being ALL GOOD?

If the being is ALL KNOWING and thus knows in advance that there will be a use of FREE WILL that produces EVIL and then goes and creates FREE WILL then the being has made EVIL and is not ALL GOOD.

So, there are problems with the SET OF BELIEFS associated with the one deity of the Western religions.

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Another problem with the deity being ALL PERFECT is that the being would need to possess all perfections and if freedom is a perfection or a good thing as opposed to its opposite being not god then the deity that is all perfect would also need to be free and yet it cannot be free as it is not free to be or do anything that is less than perfect or the very best possible. As it cannot be free it is NOT ALL PERFECT.<sup>2</sup>

The Chapter recommends that students try an online game called, "Do-It-Yourself Deity" which asks, "Can you construct the perfect God? We somehow doubt it!"<sup>3</sup> The Chapter also refers to several articles that provide arguments for the nonexistence of God and that challenge the rationality of a belief in God's omnipresence and omniscience.

The professor's insistence upon attempting to coax Gina into reconsidering her religious beliefs is reflected in his view of the relationship between philosophy and religion:

Now for those who believe in the GOD of the Judeo-Christian-Islamic tradition they must believe in a single being with characteristics of being: SUPREME, ALL POWERFUL, ALL GOOD, ALL PERFECT, ALL KNOWING, ETERNAL etc... Why must they? Well, because they have no choice either they believe in the GOD of those traditions or else they make up their own ideas and they are then actually moving out of those traditions and are giving good example of the post modern relativistic, subjectivist tradition of the Twentieth Century. The

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<sup>1</sup> *Introduction To Philosophy: An Online Textbook; Chapter 3 – Philosophy of Religion*, 2000.

<sup>2</sup> *Id.*

<sup>3</sup> The Philosophers' Magazine, *Do-It-Yourself Deity*, at <http://www.philosophersnet.com/games/>.

religions of the West have very clear ideas about the DEITY they have at the center of their beliefs. These religions have doctrines and dogma that the faithful must accept.<sup>4</sup>

In other words, the professor believes that one purpose of philosophy is to coax followers of the “Judeo-Christian-Islamic tradition”—such as Gina DeLuca—into abandoning their dogmatic beliefs for a more enlightened view. In fact, when Gina stated that “to change the idea of God would be to create my own religion,” the professor responded, “[t]his is not necessarily true.”

In sum, it is clear that Gina’s stated unwillingness to reconsider or abandon her personal beliefs in favor of the professor’s preferred viewpoints has led to her receiving poor grades on class assignments. As her 3.9 GPA and initial high grades in the Philosophy class reflect, Gina is a diligent and intelligent student who can learn new material, think critically, and interact with her professors and peers. While Gina does not object to learning about and discussing philosophical arguments that conflict with her Christian religious beliefs, *she does object to having her professor give her poor grades and call her “closed-minded,” “uncritical,” “hurtful,” and “blinded by belief” simply because she will not adopt his way of thinking.*

SCCC must take immediate action to correct this problem. While a college professor may encourage students to be informed about viewpoints and arguments that differ from their own, *it is inappropriate—and unconstitutional—for a public college professor to make passing a required course (and thus graduation) contingent upon a student’s willingness to express agreement with philosophical viewpoints that conflict with her religious beliefs.* As the remainder of this letter explains, the professor’s statements and decision to grade Gina poorly due to her expressed Christian viewpoint violate the First Amendment.

## STATEMENT OF LAW

### **I. GRADING GINA POORLY DUE TO HER EXPRESSED RELIGIOUS VIEWPOINT VIOLATES THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT.**

Students at public colleges and universities enjoy the protection of the First Amendment on their campuses. This includes religious viewpoints expressed in student curricular assignments such as Gina’s discussion of her disagreement with philosophical arguments that challenge the existence or attributes of God. It is abundantly clear that, but for Gina’s expressed opposition to philosophical arguments favored by her professor, she would have continued to receive excellent grades *as she did in this course before her religious beliefs became known.* Grading Gina poorly due to her religious viewpoint is unconstitutional viewpoint discrimination.

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<sup>4</sup> *Supra* note 1.

**A. *Students Enjoy First Amendment Rights on their Public School Campuses.***

While Presidents, deans, department chairs, and professors at public colleges have broad discretion to design curriculum and enforce school policies, they must do so within the limits set by the Constitution and federal and state law.<sup>5</sup> The First Amendment is among the most significant sources of legal authority that public colleges are bound to comply with in their day-to-day operations.

A public university professor's decision to give a student poor grades once she expresses opposition to certain philosophical arguments due to her religious faith raises serious First Amendment concerns. The Supreme Court has repeatedly held that the First Amendment has a special application on the campuses of public colleges and universities. In *Sweezy v. New Hampshire*, the Court stated that "[t]he essentiality of freedom in the community of American universities is almost self-evident."<sup>6</sup> The Court also noted that "[t]eachers and students must always remain free to inquire, to study and to evaluate, [and] to gain new maturity and understanding. . . ."<sup>7</sup>

Additionally, in *Keyishian v. Board of Regents*, the Court declared:

[T]he First Amendment . . . does not tolerate laws that cast a pall of orthodoxy over the classroom. The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. The classroom is peculiarly the "marketplace of ideas." The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth "out of a multitude of tongues, [rather] than through any kind of authoritative selection."<sup>8</sup>

The First Amendment ensures that a professor may not exclude student viewpoints from a classroom's "marketplace of ideas," or penalize students for expressing them, simply because he disagrees with them.

Moreover, in *Rosenberger v. Rector & Visitor of the University of Virginia*, the Court observed that, in the public university setting, "the State acts against a background and tradition of thought and experiment that is at the center of our intellectual and philosophic tradition."<sup>9</sup> The Court also held that university students should be free to express viewpoints—including religious perspectives in their writing—that are unpopular, unorthodox, or differ from those held by their professors.

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<sup>5</sup> See, e.g., *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995); *Keyishian v. Bd. of Regents*, 385 U.S. 589 (1967); *Sweezy v. New Hampshire*, 354 U.S. 234 (1957); see also *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988); *Bethel Sch. Dist. v. Fraser*, 478 U.S. 675 (1986); *Bd. of Educ. v. Pico*, 457 U.S. 853 (1982); *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503 (1969); *Epperson v. Arkansas*, 393 U.S. 97 (1968); *West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943).

<sup>6</sup> 354 U.S. at 250.

<sup>7</sup> *Id.*

<sup>8</sup> 385 U.S. at 603 (citations omitted).

<sup>9</sup> 515 U.S. at 835.

The quality and creative power of student intellectual life to this day remains a vital measure of a school's influence and attainment. *For [a] University . . . to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry* in one of the vital centers for the Nation's intellectual life, its college and university campuses.<sup>10</sup>

In other words, public university professors must not suppress student viewpoints, including religious viewpoints, which they disagree with. Student essays, projects, online postings, and other assignments must be judged on the basis of *neutral academic criteria*, not on whether the professor shares the viewpoints or beliefs expressed by the student.

The right to express one's viewpoint is so fundamental that it is even held by elementary and secondary school students. In a landmark decision involving high school and junior high school students, the Supreme Court held in *Tinker* that "[i]t can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."<sup>11</sup> Students enjoy the protection of the First Amendment "in the cafeteria, or on the playing field, or on campus during the authorized hours . . ."<sup>12</sup> It is clear that a teacher's desire to avoid unpopular or controversial viewpoints or expression is insufficient to justify suppression of student speech.

### ***B. Student Religious Speech is Protected by the First Amendment.***

The First Amendment's protection of student expression on public university campuses includes religious viewpoints. While some school officials may believe that they can suppress religious viewpoints due to political correctness or the "separation of church and state," it is well settled that private religious speech—including the speech of students—is protected by the First Amendment. The Supreme Court has explained:

Private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression. Indeed, in Anglo-American history, at least, government suppression of speech has so commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince.<sup>13</sup>

The Court has also noted that "there is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect."<sup>14</sup>

It is well established that the government—including public colleges and professors—may not

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<sup>10</sup> *Id.* at 836 (emphasis added).

<sup>11</sup> 393 U.S. at 506.

<sup>12</sup> *Id.* at 512-13 (citation omitted); see also *Morse v. Frederick*, 127 S. Ct. 2618, 2622 (2007).

<sup>13</sup> *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995).

<sup>14</sup> *Mergens*, 496 U.S. at 250.

give private speech disfavored treatment because the speech is religious.<sup>15</sup> To restrict private religious speech because it is religious (that is, to treat religious speech less favorably than other speech) amounts to unconstitutional viewpoint discrimination.<sup>16</sup>

The First Amendment precludes any effort by a public college professor or other government employee to single out and criticize or censor the speech of private parties solely because that speech is religious. The Supreme Court has explained:

It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys. . . . In the realm of private speech or expression, government regulation may not favor one speaker over another. Discrimination against speech because of its message is presumed to be unconstitutional. . . . The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.<sup>17</sup>

Moreover, the Supreme Court has noted in the public school setting that

[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.*<sup>18</sup>

Similarly, public college professors may not require students to express agreement or disagreement with particular philosophical or religious arguments as a condition for receiving high grades or graduating.

The free speech rights of students in public elementary and secondary schools as well as universities extend to their classroom assignments. In February 2003, the United States Secretary of Education issued guidelines on permissible student religious activities in public schools.<sup>19</sup> While public elementary and secondary schools *must* comply with these guidelines as a condition of receiving certain federal education funds, the guidelines' application of First Amendment principles to the classroom setting is equally relevant to public colleges and universities.

On the topic of religious expression in classroom assignments, the guidelines state:

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<sup>15</sup> See, e.g., *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001); *Rosenberger*, 515 U.S. at 819; *Pinette*, 515 U.S. at 753; *Lamb's Chapel*, 508 U.S. at 394; *Mergens*, 496 U.S. at 226; *Widmar v. Vincent*, 454 U.S. 263 (1981).

<sup>16</sup> See *Good News Club*, 533 U.S. at 98; *Lamb's Chapel*, 508 U.S. at 394.

<sup>17</sup> *Rosenberger*, 515 U.S. at 828 (internal citations omitted).

<sup>18</sup> *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (emphasis added).

<sup>19</sup> *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, 68 Fed. Reg. 9645 (Feb. 7, 2003).



### *Religious Expression and Prayer in Class Assignments*

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Thus, if a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards (such as literary quality) and neither penalized nor rewarded on account of its religious content.<sup>20</sup>

In the context of the Introduction to Philosophy class, the work of a student who completes all class assignments and is actively engaged in discussion on the class message board “should be judged on the basis of academic standards . . . and neither penalized nor rewarded on account of its religious content.” Accordingly, Gina’s grades should be based on her *knowledge of the course material*, not on her willingness to express agreement with particular viewpoints or arguments. When the government acts to accommodate religious beliefs—such as by allowing student assignments to reflect the students’ religious viewpoints—“it follows the best of our traditions.”<sup>21</sup>

In this case, it is readily apparent that Gina, an otherwise deserving student, has received poor grades in the latter part of her philosophy class solely due to her refusal to conform to the professor’s way of thinking. The unjust and unconstitutional treatment that Gina has received due to her religious viewpoint must be addressed immediately.

## **II. GRADING GINA POORLY BECAUSE OF HER RELIGIOUS VIEWPOINT VIOLATES THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT.**

While public college professors must neither favor nor disfavor students that incorporate a religious perspective in their assignments, the professor has demonstrated patent hostility toward Gina’s religious viewpoint. As such, the negative grading of Gina’s assignments due to her expressed Christian viewpoint violates the Establishment Clause.

It is well established that the Constitution “requires the state to be neutral in its relations with groups of religious believers and non-believers; *it does not require the state to be their adversary.*”<sup>22</sup> The Supreme Court has repeatedly held that the Establishment Clause neither requires nor allows government hostility toward religion.<sup>23</sup> The Constitution “affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.”<sup>24</sup>

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<sup>20</sup> *Id.* at 9647-48. The Department of Education has long encouraged public schools to allow student submissions to incorporate the students’ own religious principles, as the first two sentences of the class assignments paragraph of the guidelines were part of Department guidelines issued in 1995. *Religious Expression in Public Schools*, p. 61-62, at <http://www.ed.gov/PDFDocs/faith-good-ideas.pdf>.

<sup>21</sup> See *Zorach v. Clauson*, 343 U.S. 306, 314 (1952).

<sup>22</sup> *Everson v. Bd. of Educ.*, 330 U.S. 1, 18 (1947) (emphasis added).

<sup>23</sup> See, e.g., *Rosenberger*, 515 U.S. at 819; *Lamb’s Chapel*, 508 U.S. at 395; *Widmar*, 454 U.S. at 263.

<sup>24</sup> *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984).

The Supreme Court has held that “[t]he Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore subject to unique disabilities.”<sup>25</sup> Moreover, the Court has noted that “[a] relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution.”<sup>26</sup>

In determining whether a government action violates the Establishment Clause, a court considers whether a “reasonable observer” would determine that the action has the primary purpose or effect of inhibiting or endorsing a religious viewpoint.<sup>27</sup> Here, a reasonable person would conclude that the professor’s act of giving Gina lower grades on her class assignments once she began to express her disagreement with arguments that challenge the existence and attributes of God demonstrates a clear hostility toward religion. The idea that those who express a religious perspective on philosophical issues are “close-minded,” “uncritical,” “hurtful,” and “blinded by belief” simply because they will not accept a particular methodology is indefensible, and it is especially appalling when supported by a public college. While some philosophers within the “marketplace of ideas” may be biased against those who believe that God exists, SCCC should help to prepare students to combat that bias rather than reinforce it.

In addition, a reasonable observer would consider all of the facts that confirm that Gina would have continued to receive excellent grades but for hostility to her Christian perspective. A reasonable observer would take into account the fact that Gina earned a 3.9 GPA in the other classes she has taken at SCCC and has enjoyed good relationships with her other professors. He would also consider the fact that Gina did very well on the first few assignments in the Introduction to Philosophy class, receiving a 4 out of 4 grade, before the philosophy of religion was covered. The fact that the professor has expressed that it is his goal to change the way students think, and that Gina began to receive lower grades in the course *only after* she stated her disagreement with arguments that question the existence or attributes of God, provides further support for the reasonable observer’s conclusion that Gina received poor grades due to hostility toward a religious viewpoint expressed in her comments. The professor’s hostile reaction to Gina’s Christian perspective clearly violated the Establishment Clause and must be remedied.

## CONCLUSION

The law is clear: SCCC, through the philosophy professor, has violated Gina’s First Amendment rights. Given the fast approaching close of the semester, time is of the essence in this matter. As such, we would appreciate in writing your assurances that Gina’s First Amendment rights will be preserved by SCCC throughout the remainder of her time spent at the college. Additionally, we ask that SCCC take affirmative measures to advise the professor with regard to students’ First Amendment rights, and Gina’s rights in this particular situation.

If we do not receive these assurances **by Monday, April 14, 2008**, we will advise Gina of her right to vindicate her constitutional rights in federal district court. As you are undoubtedly aware,

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<sup>25</sup> *Mergens*, 496 U.S. at 248 (citation omitted).

<sup>26</sup> *Lee v. Weisman*, 505 U.S. 577, 598 (1992).

<sup>27</sup> *See County of Allegheny v. ACLU*, 492 U.S. 573, 595 (1989); *Lynch*, 465 U.S. at 690 (O’Connor, J., concurring).

the violation of an individual's constitutional rights, even for a moment, results in irreparable injury.<sup>28</sup>

Should you have any questions regarding the contents of this letter, please do not hesitate to contact me at (757) 226-2489. Thank you for your attention to this matter.

Sincerely,

**AMERICAN CENTER FOR  
LAW AND JUSTICE**

Erik M. Zimmerman, Esq.  
Staff Counsel

cc: Gina DeLuca  
Vincent P. McCarthy, ACLJ Senior Regional Counsel  
SCCC Academic Chair of Philosophy Department  
SCCC Adjunct Professor

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<sup>28</sup> *Elrod v. Burns*, 427 U.S. 347, 373 (1976).