

**Open Letter to Faculty, Staff and Students
at the University of Rochester
Concerning Freedom of Expression, Diversity, and Inclusion**

**James Johnson
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Free expression is a crucial ingredient in any intellectual community. In many instances provocative action taken under the mantle of free expression is not only justifiable but justified. About those basics there is no dispute. But members of communities also understand that their expression - in speech or in various symbolic forms - has consequences. Otherwise it would be quite literally meaningless and hardly need protection. Thus, communities, by definition, are governed by explicit commitments and rules as well as by tacit norms of acceptable behavior. On college campuses, for instance, faculty, staff, and students rightly have exceptionally wide latitude to think and say what they want. Even there, though, freedom of expression rightly is constrained by various other principles that are embodied in both publicly stated administrative rules and, less formally, in the expectations of other members of the community. When members of our intellectual community exercise their right to free expression - especially in deliberately provocative ways - they reasonably must expect other members of the community to respond not only by challenging their substantive views, but also by questioning whether their provocation constitutes a breach of either the formal rules or the informal expectations that govern the community. They must, in other words, be prepared to justify their actions. None of this is especially controversial. Unfortunately, judging by recent events, much of it seems wholly lost on some students at the University of Rochester.

Recently the College Republicans at the University exercised what they presume are their unfettered free speech rights as part of what has emerged as a loosely coordinated campaign on College campuses across the nation. They held an "Affirmative Action Bake Sale" (as reported in the *Democrat & Chronicle*, 20 March 2004) ostensibly as a protest against the grievously unfair racial preferences they see embodied in Affirmative Action policies. The students involved in this activity, like all members of the University community, have a right to think and say what they want. About that I am emphatic. Like other members of the University community, however, their right to do so properly is constrained by other commitments - namely to principles of diversity and inclusion - that are equally important. Indeed, absent these latter commitments the right to free expression loses much of its point.

The Affirmative Action Bake Sale was a direct violation of the principles of diversity and inclusion that animate social and intellectual life on this campus and thereby to the value of free

expression for my colleagues, my students, and myself. That affront warrants calling the actions of the College Republicans just what they are - outrageous, offensive, and out of place at the University.

The students involved in the “Bake Sale” complain about being characterized in so unfavorable a light. Their complaints, while predictable, simply are disingenuous. The bigoted and patronizing nature of the event is both clear and unacceptable. Why offer for sale Oreos and Moon Pies rather than, say, Granola, Oatmeal Cookies, and Apple Turnovers? Why differentiate prices in ways that target women and students from racial or ethnic minorities without mentioning student-athletes, students from various geographical regions or socio-economic categories, “legacy” students, or others who benefit from the various criteria the University uses to make decisions on admissions and financial aid? Why hold a “Bake Sale” rather than propose speakers or debates or symposia on campus where students, faculty and administrators might state and defend their views in public and thereby take direct responsibility for them? That these questions seem so obvious makes me wonder whether in planning their event the students who sponsored the “Bake Sale” were intentionally mean spirited or simply obtuse. I am uncertain which would be more disturbing. But, having had the chance to respond to these questions and thereby acquit themselves, the College Republicans have chosen instead to portray themselves as victims of persecution. I find their self-assured refusal to reflect, even momentarily, on the event they sponsored or its impact on others to be itself symptomatic of the spirit with which they undertook the “Bake Sale.”

In my view the questions raised in the last paragraph and the subsequent unwillingness of the College Republicans to address them have a quite simple answer. The “Affirmative Action Bake Sale” was not intended to press a demand for “fairness.” Indeed, Affirmative Action is largely beside the point here. The “Bake Sale” was designed to question the presence on our campus of individual students who, by virtue of their gender, racial and/or ethnic identities, the College Republicans assume have no rightful place at the University. It therefore had the entirely foreseeable consequence of placing women and minority students on the defensive, of making them feel the need to justify their membership in the University community in ways that the College Republicans presume they themselves need not do. It also had the unsurprising consequence of prompting a substantial group of faculty to ask President Jackson to respond directly and publicly to the event. In a letter that I wrote, but which 34 other members of the faculty signed and a half-dozen others subsequently endorsed, I asked President Jackson to:

(1) state publicly that the “Bake Sale” was an inappropriate assault on the University’s stated commitment to diversity and inclusiveness;

- (2) insure that in expressing their views the College Republicans had complied with relevant University and College rules, and;
- (3) publicly reaffirm the convictions the University is meant to embody.

The letter explicitly and repeatedly acknowledges the students' right to say and think what they want. It simply challenges their views and the way they were presented by raising questions I and the other faculty felt it incumbent of the University administration to explore. This letter was neither written nor endorsed as a public manifesto simply because we believe this is a matter that President Jackson ought properly address in his role of spokesman for and defender of the institution and the principles it purportedly embodies. In writing this letter I intentionally did not name any individual student. And I intentionally addressed it to the President and other responsible administration officials so as to preempt any notion that individual faculty intended to bring illegitimate pressure on any student. I aimed solely to urge the administration to take this matter seriously and solicited other signatories in an effort to demonstrate that mine was not an idiosyncratic assessment.

President Jackson replied by - regrettably and mistakenly in my view - construing the matter narrowly and legalistically as a matter of free speech. In so doing he reinforced the College Republicans' view that they not only can say whatever they want, but can do so with impunity. In so doing he also arguably calls into question the diversity statement and policy on intolerance that appear on the University website. The diversity statement announces that in pursuing the aims of inclusion and diversity "much remains to be done beyond compliance with the law and explicit language about equal opportunity" and continues on to proclaim that pursuit of these aims "requires vigorous, systematic, consistent, and enduring actions in all University domains." By adopting an overly narrow construal of the "Bake Sale" and its impact on other members of the University community President Jackson has missed an important opportunity to take precisely such an action.

I believe strongly that the "Bake Sale" violated the University's stated policy on intolerance as detailed in the Dean of Student's "Handbook on Student Discipline" (available at http://www.rochester.edu/student-srvcs/DOS_policies.html - see especially pages 35-36) which explicitly exempts, among other things, various "acts of intolerance" from the class of activities subject to protection as free expression. Whether the College Republicans in fact violated this policy clearly is a judgement that can be made only after careful inquiry by the responsible College officials. And any such inquiry, of course, rightly must be conducted in a fair, judicious, dispassionate manner away from the public eye. While I have not myself registered an official complaint about the "Bake Sale" and do not intend to do so, I hope that if such an assessment has

not already been concluded, it now is well under way. That, however, has never been my primary concern. For, regardless of its outcome, an appropriate *administrative* response to this event, though extremely important, hardly is adequate. What is needed, most importantly, is for members of the University community to vigorously and publicly re-affirm those principles and commitments without which free expression is hollow. That is what I asked President Jackson to do. And that is why I have here criticized the College Republicans and their "Bake Sale." This event is a direct, calculated attack not just on the "minorities" whose legitimate presence on campus the College Republicans call into question, but to everyone - regardless of race, ethnicity, or gender - who is committed to free inquiry and expression under necessary conditions of inclusiveness and diversity. The College Republicans desperately hope to undermine those conditions. I invite you to join me in deflating their hopes. Speak out for diversity. Defend inclusiveness. Decry bigotry and intolerance. Do so publicly. It is, after all, your community they threaten.