

Attention: President Chui L. Tsang  
Santa Monica College  
1900 Pico Blvd.  
Santa Monica, California 90405

From: Des Manttari, SMC Student  
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Re: Written Request for Immediate Removal of Wrongful Suspension

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

June 29, 2006

Dear Mr. Tsang:

I am writing to you in the spirit of compromise and in good faith to avoid the inevitability of costly litigation against the school due to my immediate and wrongful suspension by Santa Monica Community College. By copy of this letter, I ask that you drop the suspension and remove the enrollment hold on my records so that I may register for classes in the Fall 2006 semester. Despite emailing you on or about June 23, 2006, I have yet to receive any response.

On or about May 23, 2006, I was served via email with a two-year suspension from Robert Adams. I was not allowed to attend my ET14 web design course (which I had maintained a grade of A) nor was I allowed on campus without police escort. In internal memos provided to me from the school, the suspension did not officially begin until May 30, 2006, but the school deliberately concealed this fact from me. I was injured in that I was unable to obtain favorable witnesses or to finish my course. I ultimately received a D for my ET14 class due to my inability to attend the final. According to California Law, as Superintendent and President of the school, you were required to confirm or deny the suspension within 24 hours. This did not occur and the suspension decision was never sent to me via certified or registered mail, as is also required by law. As such, my due process rights were violated.

Additionally, I have repeatedly written (via email) to both Vice President of Planning and Development Robert Sammis and Assistant Dean of Judicial Affairs Judith Penchansky, requesting answers to my legitimate questions, including the names of the appeal committee members, evidence relied upon in my case, the documents sent to the Office of Judicial Affairs in my support, as well as my student records and disciplinary records. To date, I have not received a response. As you are well aware, I am entitled to an impartial hearing, a timely appeal hearing, and my student records. The time for the hearing under California Law has elapsed.

Despite requesting my records in writing since August 2005 and inspection of such, my authorized representative and I have been denied such records as well as an opportunity for inspection. Despite denying me a right as set forth in FERPA and the California Education code to inspect such records, other students have been afforded

such a right. This is clearly a violation of my rights to access to information about me.

Ms. Penchansky has not even maintained a thin veil of impartiality or fairness in my suspension. When she requested to meet with me last August, she instantly cancelled the meeting under the guise that she needed an attorney since I was then represented by counsel. Although she made this contention to delay meeting me, she never bothered to reschedule a meeting until May of this year, an almost ten month delay. Suddenly, she expected me to drop everything and rush instantly to her office. She stated that Attorney Robert Sammis would be present. When I asked for a short extension of time to schedule my attorney, and provided several dates to fit her schedule as a courtesy to her, she did not bother to respond and wrote Mr. Sammis that she would suspend me. This seems to be a double standard as well as a violation of my rights regarding legal representation.

On or about June 6, 2005, Ms. Penchansky exonerated me of two of the alleged charges against me. She stated in writing that nothing would appear in my academic records. Yet, almost a year later, Ms. Penchansky instantly suspends me on these very same charges that I had been exonerated. This is a clear violation of my Constitutional rights.

To make matters worse, Professor Keeshen indicated on more than one occasion that he was blackmailed by the school to write falsified statements against me on fear of job loss and a hostile work environment if he did not comply. At all relevant times, the school knew or should have known, that he was coerced into writing these statements and that they were patently false and unfounded. Curiously, Professor Keeshen's first false statement against me came precisely at the time I was seeking SMC's compliance with the California Public Records Act and SMC was misusing its campus police against me and other students to prohibit disclosure of vital records in the custody of the school.

Additionally, I was suspended for taking alleged photographs at AET. First, there was no written policy preventing a student from taking photographs in the AET computer lab or elsewhere on campus. The law in fact makes clear that videotapes and photographs are permissible and protected under the First Amendment. Mr. Sammis informed SMC student Jeff Higley that SMC had no policy prohibiting such photography. At the time I took any photographs, there was no material disruption of the AET computer lab. I was denied access to the computer lab under a thin veil in Spring 2005 and campus police force was used against me to prevent me from finishing my course work in my AET class (which dealt with an important project on Holocaust Awareness), my work as Professor Keeshen's teaching assistant, and cancer research for Professor Keeshen which he had authorized.

Yet, despite Ms. Penchansky's attempts to discipline me, AET allowed non-AET students and non-students in general to repeatedly use the AET computer lab, some who even used the lab not for academic pursuits, but for commercial purposes. As a student, I had every right to document via a photograph of these individuals sitting at these computers while I was being denied access. This was hard evidence for any grievances and defense I would take up with the school and performed in good faith. Clearly, the school can neither deny me this right nor suspend me as a result.

I have also been suspended for attempting to exercise my rights under the California Public Records Act (CPRA) to view public records of the school that should be available during normal business hours. The CPRA is not only set forth in the California Government Code, but also codified in the California Constitution. At all times, I was respectful of SMC's staff. However, SMC sought to prevent me and other students from viewing public records through the improper use of police threats and interrogation. This is a clear violation of my Constitutional rights.

Curiously, despite the fact that other students were present with me and attempted to exercise their rights, the school has only sought to retaliate against me with disciplinary measures, including the wrongful suspension. If any disruption occurred, it was through SMC's attempts to thwart disclosure of vital public records and through SMC's misuse of campus police. Since SMC has caused its own disruption, if any occurred, I should not be penalized as a result.

Additionally, SMC caused its own disruption through SMC student Thomas J. Baker's misuse of campus police when he attempted, wrongfully and in violation of school policy, to discriminate against me by not allowing me to participate in the SMC Game Club on or about March 24, 2006. There was no disruption of the meeting, as the meeting had never been called to order. In fact, Mr. Baker used profanity against me when I asked the meeting to be called to order. Additionally, SMC violated its own school policies by allowing students to meet for the purpose of holding a meeting without faculty supervision. SMC further violated its own policies by allowing both Mr. Baker and the SMCPD to interrogate me against my will and without probable cause. At the time, I was a legitimate member of the SMC Game Club, approved by Mr. Baker.

Mr. Baker's complaints against me to SMC come with unclean hands. In internal documentation, including alleged emails provided to me by SMC, Mr. Baker even admits that he had no authority to prevent me from participating in the club and went so far as to seek others to wrongly document falsified evidence against me. Mr. Baker's statement to the SMCPD is inconsistent with other written statements about the event, which he himself signed under penalty of perjury. Mr. Baker's statements are filled with hearsay and false accusations and character assassinations. The same is true of the statements provided by SMC students Mario Alarcon and Jeremy Meyer. None of these individuals are impartial or factual. If you take the time to do a bit of research, you would find that Mr. Baker is an employee of Mr. Meyer and that Mr. Alarcon is a co-owner of a website with Mr. Baker.

Additionally, AET Professor Jim Keeshen, Jeremy Meyer, and Mario Alarcon were all at one time staff writers for my online news media outlet Phoenix Genesis. Mr. Baker, Mr. Alarcon, and Mr. Meyer now all run competing online news media services. Mr. Baker and Mr. Alarcon have conveniently stocked their online business with either most of the SMC Game Club, including two more of my former staff writers. To further tortuously interfere with my business, Ms. Penchansky sought to drag me into a meeting during the E3 Expo, when my staff and I were covering important media events and interviews and meeting with legitimate video game businesses. By SMC's actions, by and through its employees and students, SMC is allowing Mr. Baker, Mr. Meyer, and Mr. Alarcon to tortuously interfere with my business relations to secure an economic advantage over me. All have gone out of their way to write fabricated statements against me to this end. This is a clear violation of SMC's ethical standards governing academic honesty.

Of course neither Ms. Penchansky nor Ms. Deyna Hearn addressed my complaints regarding this matter. Ms. Penchansky has done no investigation whatsoever, but has gone out of her way to actively help Mr. Baker destroy both my reputation and my business. She has never written any investigation or made any finding of facts. Based on these false allegations by these less than impartial parties, I was suspended. As the California Education Code makes clear, the school cannot suspend or otherwise discipline a student for matters outside the school.

The California Education Code also applies equally well regarding my being suspended for sending an email to Professor Jim Keeshen on or about March 15, 2006. This email was a good faith attempt to resolve several grievances with him without the necessity of litigation or filing a formal complaint with the school. However, Ms. Penchansky suspended me for "willful and blatant misuse of email." Mr. Keeshen was not academically honest when he wrote in his ET2 course syllabus on eCompanion that he directed the Family Guy pilot. The credits for the pilot clearly show without a doubt that Seth MacFarlane was the writer, creator, and director of the Family Guy pilot. Asking Professor Keeshen to remove a factually inaccurate statement is only consistent with SMC's policy of academic honesty, but is also consistent with keeping with SMC's regulations regarding taking credit for another's copyrighted work.

Additionally, my email also discussed in relevant part an official announcement Professor Keeshen made in his ET 18 course in which he stated wrongly and maliciously that autism is a "mental disease." Mr. Keeshen at this time also made several threats to his students, including having them kicked out of school and suffering other "consequences." At the time he made this statement, at least one student in his class was on the autistic spectrum. I was down the hall in my ET 14 web design course. I was later informed of his statements by at least two of his students who found them offensive. I wrote to many autism advocacy groups who were rather disturbed by his comments. They suggested I ask for an apology. I did just that in my March 15, 2006 email.

How asking for an apology can be grounds for suspension defies the imagination as well as the free speech clauses of the United States Constitution. There seems to be a double standard at SMC whereby Professor Keeshen can say and do as he pleases; yet I am not afforded the same rights to freedom of expression. Even Mr. Sammis stated on or about April 21, 2006 that the school did not endorse what Mr. Keeshen stated on March 1, 2006 and that they would not support him if he were sued for such.

Mr. Keeshen also comes to SMC as an accuser against me with unclean hands. Not only has he made a number of patently false accusations against me, he has done so with malice for retaliation for various grievances I have addressed to him and the school, many of which I have covered in detail on my SAVE SMC blog. As such, he is neither impartial nor honest. Mr. Keeshen conveniently cries "harassment" due to the fact that he is outside his comfort zone of my addressing legitimate grievances, most of which have gone unheard by the school. This is not the legal definition of harassment, but a vague accusation against me to justify wrongful suspension.

In fact, I have not been provided with any legitimate allegations whatsoever. SMC has merely thrown together a list of vague, ambiguous, and overbroad boilerplate summaries followed by equally vague student conduct code violations. None of these summaries or alleged student code violations are substantiated by facts. Most of the

"evidence" provided by Mr. Sammis and Ms. Penchansky is manufactured and untimely. Many statements are undated, unsigned, hearsay, false, and groundless. Many of these same statements are not even original documents. As such, they should be instantly removed from my SMC disciplinary files. I was never afforded an opportunity to due process to challenge any of these statements against me or to confront or question my accusers.

If you further examine your student conduct code, you will find that much of it is in violation of Constitutional law. Many provisions of your student conduct code not only directly contradict the SMC Student Bill of Rights, but also are merely prohibited speech codes. To criminalize and censor a student's freedom of speech, both on campus and off campus in my SAVE SMC blog, is to have a chilling effect to everyone's rights at SMC, whether administrator, faculty, staff, or student. SMC's free speech area is yet another example of violating our First Amendment rights protected under the United States Constitution. Despite having multiple satellite campuses, our manner, time, and physical limitations on speech are limited to one small area on main campus.

As you should be aware, public schools are obliged to protect the speech of its students, even if such speech causes a person to become uncomfortable, angry, annoyed, or offended. Such intellectual debate should not be quelled even if it is critical of the school. SMC as a public community college cannot restrict a student's freedoms as the school is allegedly a "marketplace of ideas" where opposing viewpoints should be heard. However, at SMC there exists a double standard whereby anyone else can feel free to use profanity or vulgarity against me, yet I cannot ask a simple question to anyone without being harassed, intimidated, and subjected to police interrogation. If SMC has any issues with "disruption" (a patently vague term in and of itself), it was caused by SMC's own misuse of such police and censoring of free speech.

If you take the time to research Supreme Court decisions, you will see that schools rarely, if ever, win a challenge to a student's freedom of speech and press nor do they win against violations of a student's due process rights. Not only are there many lawyers eager to set precedents in this matter, many non-profit foundations are equally vigilant to step up to the plate to defend students in the federal court system and to expose these abuses through the media. Clearly, if SMC wishes to pursue this wrongful suspension against me, they would not win on either the merits of the case nor would they win given the overwhelming documentation of the repeated violation of my due process rights, equal protection under the law, and other rights that have been violated.

Mr. Tsang, SMC has written that you were the champion of First Amendment Rights at your former school. If you wish to maintain that position at SMC, then I humbly and respectfully ask now in writing to stand up for my rights as a student at SMC and intervene in your capacity as president and superintendent to immediately dismiss this wrongful suspension against me and to exonerate me of all these false charges. We can all work together to improve the school or we can waste valuable time, resources, and finances in violating our students' rights. I leave that decision in your hands. I am more than happy to meet with you in person if you would like to further discuss this matter in order to reach a swift and amicable resolution.

I look forward to your prompt response and thank you for your time.

Very Truly Yours,

Des Manttari

Editor-in-Chief,  
Phoenix Genesis

cc: U.S. Department of Education, Office of Civil Rights  
Foundation for Individual Rights in Education  
ACLU of Southern California