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G.P. "Bud" Peterson
Chancellor, University of Colorado at Boulder
914 Broadway
Boulder, CO 80309

February 29, 2008

RE: Karson Article on War Against Asians

Dear Chancellor Peterson,

The Asian Pacific American Bar Association (APABA) of Colorado, an organization of Asian Pacific American judges, attorneys, and law students in Colorado, is writing to express its deep concern regarding Max Karson's recent column in The Campus Press containing violent, threatening speech against Asian Americans.

In watching the developments of the past week, we are encouraged by CU's responses and actions to date, such as the decision to suspend the author from The Campus Press, acknowledge the editors' severe lapse in judgment, and hold open discussions on the issue. What has not yet been remedied, however, is the erroneous suggestion that the First Amendment of the United States Constitution somehow provides blind, blanket protection for incendiary and threatening hate speech at educational institutions. It does not.

As the United States Supreme Court has explained on a number of occasions, the protections of the First Amendment are "not absolute" and it is proper to bar words "which by their very utterance inflict injury or tend to incite an immediate breach of the peace." (See, e.g., *Chaplinsky v. State of New Hampshire*, 315 U.S. 568, 571-72 (1942)). Karson's article "If it's war the Asians want . . . It's war they'll get" is exactly the kind of threatening material unprotected by our Constitution.

As CU moves forward in drafting new policies to guide its student editors, those policies must incorporate not only common sense and good judgment, but also what our courts and legal system have already explained about the scope of the First Amendment. APABA's legal resources are available to assist CU in its efforts to move forward constructively, which is critical if CU wishes to mitigate the negative, long-term impacts that this type of incident can have on CU's funding and enrollment. As this incident has proven, the careless publication of violent and threatening hate speech is far from "free" in its cost to the community and CU's reputation, and APABA is eager to see real change in how CU teaches both itself, and its students, about the responsibilities attached to any freedom.

Sincerely,

Annie T. Kao, Esq.
President, APABA of Colorado

copy: Dean Paul Voakes, Vice Chancellor Sallye McKee