



# FIRE

Foundation for Individual  
Rights and Expression

November 4, 2022

John R. Porter  
c/o Amanda Hyde, Administrative Assistant  
President's Office  
Lindenwood University  
209 S. Kingshighway Street  
Saint Charles, Missouri 63301

**URGENT**

*Sent via U.S. Mail and Electronic Mail (ahyde@lindenwood.edu)*

Dear President Porter:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned by the Lindenwood University student government's decision to deny recognition to a Turning Point USA chapter, seemingly over objections to the group's perceived viewpoint. Given the university's strong promises of free expression, LU must ensure its student government makes recognition decisions based on viewpoint-neutral criteria.

LU student Cullen Dittmar applied for recognition for a prospective TPUSA chapter, but the student government voted to deny recognition, providing as justification only that it based the denial on "information [Dittmar] provided via [his] presentation and brief question and answer portion" of the student government meeting.<sup>2</sup> An anonymous student, however, told *Campus Reform* that the main reason the student government denied the club recognition was that recognizing it could "cause arguments outside of the room."<sup>3</sup>

To be clear, denying a student organization recognition based on potential controversy or the viewpoint of the group or its members burdens students' ability to organize and express

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<sup>1</sup> For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at [thefire.org](http://thefire.org).

<sup>2</sup> Simon Fedak, *Student alleges TPUSA chapter denied by 'biased' student government*, *CAMPUS REFORM* (Oct. 20, 2022), <https://campusreform.org/article?id=20445>. The recitation of facts here reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

<sup>3</sup> *Id.*

themselves—the very rights LU guarantees its students. As a private university, LU is not directly bound by the First Amendment to do this, but it has voluntarily made commensurate promises to recognize and protect its students’ freedom of expression. Accordingly, LU is morally and contractually bound to honor these commitments, and its governing bodies may not deprive students of the right to express themselves.<sup>4</sup>

Specifically, LU commits that it “values freedom of expression and the open exchange of ideas and, in particular, values the expression of controversial ideas and differing views.”<sup>5</sup> Additionally, LU’s Student Handbook states, “freedom of thought and word within the confines of higher education is central to effective education of the whole person.”<sup>6</sup> LU cannot allow its student government to undermine these commitments. Thus, if the anonymous student’s recounting of facts is accurate, LU has violated its strong promises of free expression by allowing its student government to deny TPUSA recognition based on perceived controversy and viewpoint.

The First Amendment and decades of jurisprudence interpreting its promise of viewpoint-neutrality inform students’ reasonable expectations of their speech rights at a private institution that, like LU, promises freedom of expression. These rights carry “a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends”—a right “crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas.”<sup>7</sup>

This important principle is what protects students’ ability to organize around causes or views—including through university-recognized student organizations—in order to influence their institutions, communities, and country. As the Supreme Court declared in *Healy v. James*, “denial of official recognition, without justification, to college organizations burdens or abridges” students’ associational rights.<sup>8</sup> In that case, the Court held that a college’s refusal to recognize a chapter of Students for a Democratic Society—due to its “published aims . . . which include disruption and violence”—violated the student members’ expressive rights.<sup>9</sup>

At LU, denial of recognition has material consequences, as only recognized student organizations may request funding, access campus services and equipment, use university

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<sup>4</sup> *Corso v. Creighton University*, 731 F.2d 529, 531 (8th Cir. 1984) (holding that disciplinary procedures found in the student handbook are enforced as a contract between students and their university).

<sup>5</sup> *Bias & Incident Reporting*, LINDENWOOD UNIV., <https://www.lindenwood.edu/diversity-equity-and-inclusion/bias-incident-reporting> (last visited Nov. 2, 2022).

<sup>6</sup> *Academic Freedom*, 2022-23 STUDENT HANDBOOK, LINDENWOOD UNIV., <https://www.lindenwood.edu/files/resources/student-handbook.pdf> (last visited Nov. 2, 2022).

<sup>7</sup> *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000) (quoting, in part, *Roberts v. United States Jaycees*, 468 U.S. 609, 622 (1984)).

<sup>8</sup> 408 U.S. 169, 181 (1972).

<sup>9</sup> *Id.* at 174-75, fn. 4, 187-88.

facilities for free, and more.<sup>10</sup> Thus, denying organizations recognition places them at a marked disadvantage.

The student government’s denial of recognition to TPUSA appears to be based on the potential that some will be offended, as well as negative perception of the student group’s views. Yet, the “bedrock principle” underlying free speech is that it may not be restricted “simply because society finds the idea itself offensive or disagreeable.”<sup>11</sup> Likewise, a commitment to free speech presupposes that some on campus may take offense to an expressed viewpoint. It is this counter-majoritarian principle that protects “insulting, and even outrageous, speech in order to provide adequate breathing space” for public debate,<sup>12</sup> recognizing those with authority—in this situation, student government officials—“cannot make principled distinctions” in determining what speech is sufficiently offensive to suppress.<sup>13</sup>

This principle is of particular import in higher education, where the exchange of views may sometimes be caustic, provocative, or inflammatory. Consider, for example, a student newspaper’s use of a vulgar headline (“Motherfucker Acquitted”) and a “political cartoon . . . depicting policemen raping the Statue of Liberty and the Goddess of Justice.”<sup>14</sup> These words and images—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest. Yet, as the Supreme Court held, “the mere dissemination of ideas,” however “offensive” to others, “may not be shut off in the name alone of ‘conventions of decency.’”<sup>15</sup>

The possibility that some may object to TPUSA’s recognition, even vehemently so, is not a valid reason to prevent recognition; instead, it is precisely what LU anticipates when it promises students freedom of expression. As such, disagreement with a student organization’s perceived viewpoint is not a legitimate basis for denying recognition.

LU cannot allow the student government to use its administratively delegated authority to infringe students’ expressive and association rights in violation of the university’s strong affirmative commitments to free expression. LU must right this wrong by training its student government on how it can both exercise its authority and comply with the university’s commitments.

Doing so promptly is vital, as FIRE understands that Dittmar will apply for recognition for a College Republicans club given that LU’s student government refused to recognize TPUSA. LU must ensure that its student government reviews the group—and all groups—in a viewpoint-

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<sup>10</sup> *Student Organization Recognition Policy*, LINDENWOOD UNIV., <https://www.lindenwood.edu/policies/list/student-organization-recognition-policy> (last visited Nov. 2, 2022).

<sup>11</sup> *Snyder v. Phelps*, 562 U.S. 443, 458 (2011) (citing *Texas v. Johnson*, 491 U.S. 397, 414 (1989)).

<sup>12</sup> *Boos v. Barry*, 485 U.S. 312, 322 (1988) (cleaned up).

<sup>13</sup> *Cohen v. California*, 403 U.S. 15, 25 (1971).

<sup>14</sup> *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

<sup>15</sup> *Id.*

neutral manner and grants recognition so long as the group complies with proper procedures and meets the university's viewpoint-neutral requirements.

We request receipt of a response to this letter no later than the close of business on Friday, November 18, 2022, reaffirming LU's free expression promises and confirming that it will ensure student organization recognition is done in a viewpoint-neutral manner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sabrina Conza', written in a cursive style.

Sabrina Conza  
Program Officer, Campus Rights Advocacy

Cc: Yovani Lopez, Student Government President