



DIABLO VALLEY COLLEGE

Lindsie Rank
Foundation for Individual Rights in Education
510 Walnut St.
Philadelphia, PA 19106

Re: Response to Correspondence Dated November 4 and 20, 2019

Dear Ms. Rank:

This letter responds to your November 4, 2019 letter to me, and your November 20, 2019 letter addressed to Chancellor Fred Wood, concerning Fernando Gallo, who served as a part-time adjunct professor at Diablo Valley College (DVC) as recently as Spring 2019.

DVC denies the allegation that it retaliated against the student newspaper and Mr. Gallo for recent *DVC Inquirer* articles critical of the college administration.

First, let me address Mr. Gallo, who was a part-time adjunct faculty member, not an associate professor of journalism. This is an important distinction because adjunct faculty members are hired with the understanding that there is no guarantee of continuing employment from semester to semester. Our decision to not continue his employment with us had nothing to do with any articles written and printed in the *DVC Inquirer*. To respect the privacy of our employees, DVC does not comment on the reasons for its employment actions.

In addition, the assertion that the college retaliated against the newspaper advisor based on the content of the *Inquirer's* articles is illogical. The role of a newspaper advisor and instructor is to provide students with the skills and tools to think critically and to report accurately regarding issues and topics, not to provide the content of those articles. To assume that the content of the *Inquirer* was scripted by the faculty advisor, does not respect the integrity and work of the student reporters.

Education Code section 76120 requires the Governing Board of a community college district to adopt policies relating to students' exercise of free expression on campus. As your letter correctly stated, DVC "answered this call" by setting forth its "Freedom of Expression Policy," which clarifies that "[s]tudents have the right to exercise free expression" on campus. However, since DVC's decision to reassign Mr. Gallo's courses was not retaliatory toward either Mr. Gallo or DVC's students, DVC did not violate its own policies regarding freedom of expression.

Second, DVC denies any allegations that it violated or acted contrary to Education Code sections that promote First Amendment rights. In particular, Education Code section 66301, otherwise known as the "Leonard Law," prohibits the Governing Board of a community college district from retaliating against an employee solely for acting to protect a student engaged in conduct that would be protected from governmental restriction. Contrary to your letter, there was no violation of the Leonard Law because DVC did not take any retaliatory action against Mr. Gallo. Further, we believe there was no irregularity in the way that his courses were reassigned, and the timing of

DVC's decision not to rehire Mr. Gallo was appropriate within the regular practice and assignment of part-time faculty.

Finally, any comments regarding DVC's lack of commitment to student journalism and freedom of speech are wrong. The college has enjoyed and valued the student newspaper voice for decades, and we hold the program in high regard as it continues to win state and national awards for its excellence.

In order to provide the journalism program stability, DVC hired a part-time adjunct faculty member on an overload in August to teach newspaper courses and to advise the college newspaper for the *entire* academic year, something we could not do with Mr. Gallo since he had a previous overload. State law prohibits assigning a part-time faculty member more than two overloads within a three-year period. In addition, we have begun the process to hire a permanent faculty member for the department starting the 2020-21 academic year whose responsibilities will include advising the college newspaper. To facilitate this process, the college has asked nationally recognized author, Micky Huff, a full-time faculty member and strong advocate of academic freedom, to lead the journalism program revitalization process and journalism full-time tenure track faculty hiring process.

DVC and the Contra Costa Community College District proudly go on record to support freedom of speech. Journalism is important work and a career that our nation needs now more than ever. When executed fairly, accurately and independently, it allows a society, even our college, to see itself when we do good things and when we make mistakes. We welcome that check to ensure the truth is told.

Please do not hesitate to contact me if you have any further questions or concerns.

Sincerely,



Susan Lamb, President
Diablo Valley College