



December 9, 2019

Brandon Wear-Grimm
Services and Activities Fee Committee
Central Washington University
400 East University Way
Ellensburg, Washington 98926

Sent via U.S. Mail and Electronic Mail (brandon.wear@cwu.edu)

Dear Mr. Wear-Grimm:

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

The Student Press Law Center (SPLC), founded in 1974, is the nation's only legal assistance agency devoted exclusively to supporting, defending, and educating high school and college journalists about the rights and responsibilities embodied in the First Amendment and supporting the student news media in covering important issues free from censorship. The Student Press Law Center is a non-partisan, nonprofit organization.

FIRE and SPLC are concerned about the state of freedom of expression, including freedom of the press, at Central Washington University (CWU) in light of recent discussion by the Services and Activities Fee Committee about withholding base funding for student media, including student newspaper *The Observer*. This proposed funding cut follows, and is connected to, allegations published by *The Observer* that various departments at CWU have required student journalists to submit interview questions for approval in advance of interviews, which the journalists argue restricts their ability to obtain candid responses and write articles free from administrative interference.¹ This new threat to student media base funding imperils the free press rights of student journalists at CWU.

¹ For a discussion of these allegations and relevant legal doctrine, see enclosed Letter from Lindsie Rank, Program Officer, Foundation for Individual Rights in Education, to Dr. James L. Gaudino, President, Central Washington University (Nov. 21, 2019).

I. CWU’s Services and Activities Fee Committee Discussed Defunding Student Media in Response to Allegations of Administrative Malfeasance.

The following is our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us. However, if the facts here are substantially accurate, the threat made to withhold student media base funding is inconsistent with CWU’s obligations under the First Amendment and Washington state law.² The Services and Activities Fee Committee is legally prohibited from cutting base funding for student media for viewpoint discriminatory or retaliatory reasons; accordingly, CWU must assure the public that it will not cut student media base funding and reaffirm its commitment to free expression, including a free press.

A. Student Media Raises Concerns about CWU’s Press Practices.

Student journalists at CWU have long been concerned by certain campus departments’ practice of requiring student journalists to submit interview questions to campus officials for prior review before granting university employees permission to participate in interviews.³ In April, student media leaders met with administrators to raise concerns about this practice.⁴ At that meeting, student media leaders agreed to provide context to interviewees, but not specific questions.⁵

When CWU Athletic Communications engaged in a similar practice, student media leaders met with representatives from Athletic Communications earlier this fall, according to *Observer* online editor Mariah Valles. At that meeting, student journalists raised concerns that current and former student-athletes had been asked not to participate in interviews with student media until Athletic Communications reviewed pre-approved interview questions. These allegations were well-documented.⁶

At the meeting with Athletic Communications, student journalists were provided screenshots of text messages between Assistant Director of Athletic Communications Caleb Dunlop and a former student-athlete. The texts showed that Dunlop had told the former student-athlete, “You can do as you please, but our issue with him is a simple one. We requested he send us his questions beforehand. He declined to do so, so we cancelled them.”⁷ However, senior sports reporter Austin Lane received a text message from the former student-athlete stating she “got

² RCW 28B.10.037 (commonly known as the “New Voices Act”).

³ Cassandra Hays, et al., *The Observer stands for a free and unregulated press*, THE OBSERVER, Nov. 6, 2019, <https://cwuobserver.com/13998/opinion/the-observer-stands-for-a-free-and-unregulated-press/>.

⁴ *Id.*

⁵ *Id.*

⁶ *See, e.g.*, text message from unnamed former student-athlete to Austin Lane (Oct. 10, 2019) (on file with author) (stating she “got a phone call today saying not to answer your questions. The athletic department wants you to send them your questions before anyone answers them.”); text message from Caleb Dunlop to Austin Lane (Oct. 7, 2019) (on file with author) (stating that the athletic department “reserve[s] the right to request the [interview] questions in advance”).

⁷ Text message from Caleb Dunlop to unnamed former student-athlete (Oct. 10, 2019) (on file with author).

a phone call today saying not to answer your questions.” This led student media leaders to believe Dunlop’s text message was followed-up by a phone call pressuring her to decline interviewing with *The Observer*.

B. The Observer Reports CWU Departments’ Practice of Requiring Submission of Interview Questions Before Approving Interviews with Student Media.

Because of continuing concerns about prior review of interview questions—despite the agreements student media leaders and CWU officials came to at their April meeting⁸— student journalists decided in November to publish an opinion piece criticizing the well-documented practice.⁹

After these allegations were published, students held an on-campus protest to voice concerns over these practices, prompting local media coverage of the controversy.¹⁰ Press, free speech, and similar organizations wrote letters to CWU expressing support for student media and sharing student journalists’ concerns about the practice of requiring pre-approval of interview questions.¹¹

C. Student Media Meets with CWU Leaders.

CWU student media leaders again met with administrators and student government members on November 18 to discuss how to improve relations between the university and its student publications. Per *Observer* online editor Mariah Valles, FIRE and SPLC understand that the meeting was beneficial in that officials and student editors discussed ways to build trust and a good working relationship. At the meeting, CWU officials shared that it is not CWU policy to

⁸ Hays, *supra* note 3.

⁹ See, e.g., e-mail from Wellness Center to Amy Morris, Staff Reporter, *The Observer* (Oct. 22, 2019) (on file with author) (stating that “[a]ll interview questions must be approved by the Associate Dean of Health and Wellness”); e-mail from Shawnte Elbert to Austin Lane, Senior Sports Reporter, *The Observer* (Apr. 11, 2019) (on file with author) (calling the requirement that student journalists submit interview questions for prior approval a “new standard of practice . . . in partnership with Public Affairs”); e-mail from Joe Bach to Alexa Murdoch, Reporter, *The Observer* (Apr. 30, 2019) (on file with author) (stating that “[w]e have been instructed to route all interview [sic] through the Deans office”); text message from Caleb Dunlop to Austin Lane (Oct. 7, 2019) (on file with author) (stating that the athletic department “reserve[s] the right to request the [interview] questions in advance”); text message from unnamed former student athlete to Austin Lane (Oct. 9, 2019) (on file with author) (stating she “got a phone call today saying not to answer your questions. The athletic department wants you to send them your questions before anyone answers them.”).

¹⁰ Janelle Retka, *CWU journalists protest school’s interview requirements*, YAKIMA HERALD, Nov. 8, 2019, https://www.yakimaherald.com/news/education/cwu-journalists-protest-school-s-interview-requirements/article_24a18e11-0c3b-5c9c-9a5c-8b0bc71f8f17.html.

¹¹ See, e.g., Letter from Lindsie Rank, *supra* note 1; letter from Mike Hiestand, Senior Legal Counsel, Student Press Law Center, to Mariah Valles, Online Editor, *The Observer* (Nov. 20, 2019) (on file with author); letter from Beth Slovic, President, Pacific Northwest Association of Journalism Educators, et al., to leaders at Central Washington University (Nov. 17, 2019) (on file with author); letter from Donald W. Meyers, Region 10 Coordinator, Society of Professional Journalists, to James L. Gaudino (Nov. 12, 2019) (on file with author); letter from the Board of Directors of the Society of Professional Journalists, Western Washington Professional Chapter, to James L. Gaudino (Nov. 18, 2019) (on file with author).

require interview questions to be reviewed before granting interviews, despite prior communication indicating the existence of such a policy.¹²

Since that meeting, CWU officials have gone on the record stating that “both parties agreed there was no censorship whatsoever.”¹³ Student media leaders, however, contest this characterization of the meeting¹⁴ and maintain that university officials have engaged in censorship by way of regulating interviews and interview questions, according to Valles.

Minutes were taken at the November 18 meeting, and CWU officials and student media leaders agreed that all parties would have the opportunity to approve them at the next meeting—currently scheduled for December 11—before they are made public, according to Valles. Thus, no official record yet exists of what was said at the November 18 meeting.

After the November 18 meeting, according to Valles, officials from Athletic Communications indicated they would not require student journalists to submit interview questions for prior approval again. Valles indicates that relations with Athletic Communications have vastly improved and are now overwhelmingly positive.

D. Student Member of CWU Board of Trustees Proposes Defunding Student Media.

CWU’s Services and Activities Fee Committee (the “Committee”), as required by statute,¹⁵ is charged with making recommendations to the CWU Board of Trustees about programs funded by Services and Activities Fees.¹⁶ During the public comment segment of the November 20, 2019 meeting of the Committee, Alex Harrington, student member of the CWU Board of Trustees, orally submitted the following proposal to the record:

WHEREAS student media deliberately and maliciously misrepresented the actions and statements of members of the Central Washington University community, including members of the university administration, the associated students of Central Washington University, and CWU alumni; and

¹² See, e.g., e-mail from Shawnte Elbert to Austin Lane (Apr. 11, 2019) (on file with author).

¹³ Janelle Retka, *CWU begins conversation over student media limits, censorship questions*, YAKIMA HERALD, Nov. 19, 2019, https://www.yakimaherald.com/news/education/cwu-begins-conversation-over-student-media-limits-censorship-questions/article_6ebfcd9e-333b-5b9a-82c1-5e341c3fa0b5.html.

¹⁴ *Id.*

¹⁵ RCW 28B.15.043–45.

¹⁶ Welcome to the Services and Activities Fees Committee, CENTRAL WASH. UNIV., <https://www.cwu.edu/services-activities/welcome-services-and-activities-fee-committee> (last viewed Dec. 5, 2019).

WHEREAS student media willfully provided misinformation to the student body, an action which is in direct opposition to their mission and purpose; and

WHEREAS student media has failed to adhere to agreements that were reached in meetings between itself and the Central Washington University administration; and

WHEREAS student media was a poor steward of student fees,

NOW THEREFORE be it resolved that the CWU Services and Activity Fee Committee will recommend to, effective immediately, cease base funding for student media, including Observer and Central News Watch.¹⁷

After this proposal was read, Joseph Bryant, Committee Advisor and Executive Director of Student Rights & Responsibilities, reminded the committee that it “cannot make any decisions based on the content that is presented by student media.”¹⁸ Bryant followed this by explaining that after previously consulting with an assistant attorney general, he had come to understand that there is a “very strong amount of protections for student media.”¹⁹

The discussion turned to considering whether the Committee should look into defunding student media and, if so, what reasons could be given for the probe.²⁰ Bryant instructed the committee that “ask[ing] for additional information and for how are those fees [given to student media are] being utilized and in what manner.”²¹ Later in the meeting, he explained that “if we were to do this [defund student media], we would need to do this to all funding areas that are similar, which would be all four student media, but any other base funding areas we receive that have similar type so funding or questions, that way we are not targeting or retaliating against an area.”²²

During the course of this conversation, Harrington was asked to clarify why he chose to describe the actions of student media as “malicious.”²³ He referenced the story for which student journalists tried to interview former student-athletes, saying that Athletic Communications had told former student-athletes that interviewing with student media was their “prerogative.”²⁴ Harrington described that student media met with Athletic Communications and were provided with documentation “that showed that Athletics did not

¹⁷ CWU S&A Committee Meetings Archive, *CWU S&A Committee Meeting 11.20.19*, YOUTUBE, Nov. 21, 2019, https://www.youtube.com/watch?v=MUZBITuB6_s.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

tell the [former] students to speak or not to speak to the student media.” Student media understood that Athletic Communications had not pressured former student-athletes to abstain from participating in interviews, Harrington said, but “went ahead and published that that did occur.”²⁵

At one point in the conversation, Parliamentarian Eric Bennett raised concerns with the discussion, saying:

I just really don’t want it to look like we’re retaliating against the students because they’re the student media, they then could perceive it in their own way, and I’ll just use the word for lack of a better term, to retaliate against us. And I don’t want the job that we do sitting on this committee to be sullied as a tit-for-tat, whether it is or not, response to something that, as I’ve seen in the past with *The Observer* and my own observations, my own value for *The Observer* is not very high. **But to be fair to them, I think that we are retaliating against them if we discuss this.** And I don’t want any problems for this committee.²⁶

Bennett later raised concerns that “this could be the censorship they’re talking about.”²⁷

A discussion ensued of ways the Committee might use its annual report process as pretext to defund or probe student media, with one member saying, “Maybe we use what we were talking about earlier as an avenue to go forward with them. Kill two birds with one stone.”²⁸ Later in the meeting, a member suggests “using . . . the [annual] report, that essentially the review we’re already planning on doing, of asking them these sets of questions, as well as their annual report. Financially, then potentially having the ability once we have that information of determining if we have any specific questions, to call them in.”

Apparently recognizing the media attention allegations of censorship have recently received at CWU, one member asks, “What if we waited until the new year and this is all forgotten about?” He later clarifies, “[C]an we give it three months or so, let it settle down . . .” before then considering the defunding of student media. With that suggestion, the Committee agreed to table the discussion until mid-January, after annual reports have been turned in.

²⁵ *Id.*

²⁶ *Id.* (emphasis added).

²⁷ *Id.*

²⁸ *Id.*

II. Official Threats to Student Media Funding Prompted by Concerns with Content Violate the First Amendment and Washington State Law.

The First Amendment is binding on public colleges like CWU. *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted); *see also DeJohn v. Temple Univ.*, 537 F.3d 301, 314 (3d Cir. 2008) (on public campuses, “free speech is of critical importance because it is the lifeblood of academic freedom”).

CWU is also bound by RCW 28B.10.037, which protects “the right to exercise freedom of speech and of the press in school-sponsored media” for Washington state college students.

A. Defunding student media due to its content would violate the First Amendment and state law.

Harrington seeks to defund CWU student media, including *The Observer*, because he alleges it “misrepresented the actions and statements of members of the Central Washington University community” by publishing allegations that CWU was engaged in censorship by its practice of requiring student journalists to seek pre-approval of interview questions.²⁹ This reasoning for proposing to defund student media, however, is at odds with decades of legal precedent governing the distribution of mandatory student fees.

It is well-established that public institutions of higher education cannot defund student media or other student organizations on the basis of viewpoint. *See Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217, 233 (2000) (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”); *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”); *see also Joyner v. Whiting*, 477 F.2d 456, 462 (4th Cir. 1973) (“[I]f a college has a student newspaper, its publication cannot be suppressed because college officials dislike its editorial comment.”).

The unwavering agreement of federal circuits regarding the free press rights of collegiate journalists led the U.S. Court of Appeals for the Second Circuit to note that “*all* the circuits that have considered the issue have determined that, at the very least, when a public university creates or subsidizes a student newspaper and imposes no *ex ante* restrictions on the content that the newspaper may contain, neither the school nor its officials may interfere

²⁹ *Id.*

with the viewpoints expressed in the publication without running afoul of the First Amendment.” *Husain v. Springer*, 494 F.3d 108, 124 (2d Cir. 2007) (emphasis in original).

Washington state law also protects the right of student journalists to be free from retaliation for the content of their publications by declaring that Washington collegiate journalists have the “right to exercise freedom of speech and of the press in school-sponsored media[.]” RCW 28B.10.037(1). The intent of this statute is to buttress student journalists’ free speech and First Amendment rights.³⁰ Therefore, this law also proscribes Washington public colleges from making a funding determination based upon the content of student publications.

Here, *The Observer* and other student media have found themselves in a dispute with CWU officials over the practice of certain departments requiring prior review of interview questions.³¹ *The Observer* reported on this dispute in an article that is unquestionably protected by the First Amendment and state law, describing the actions of CWU officials as “censorship.”³² Harrington apparently disagrees with this viewpoint.

By proposing to defund student media because of a disagreement over how *The Observer* characterized recent disputes with CWU officials—specifically by proposing to defund student media because *The Observer* described certain practices of CWU departments as “censorship”—Harrington has set the Committee on a dangerous path toward viewpoint-based discrimination.

B. Defunding student media in retaliation for protected content would violate the First Amendment and state law.

In addition to prohibiting viewpoint- and content-based discrimination in funding decisions, the First Amendment prohibits government actions taken in retaliation for constitutionally-protected expression, when those actions would “chill a person of ordinary firmness from continuing to engage in the protected activity[.]” *Koala v. Khosla*, 931 F.3d 887, 905 (9th Cir. 2019) (holding university liable for defunding student media outlets due to student newspaper content); *see also Stanley v. Magrath*, 719 F.2d 279, 282 (8th Cir. 1983) (“A public university may not constitutionally take adverse action against a student newspaper, such as withdrawing or reducing the paper’s funding, because it disapproves of the content of the paper.”). The U.S. Court of Appeals for the Ninth Circuit, the rulings of which are fully binding on CWU, has held that adverse funding decisions qualify as such adverse action that would cause a chilling effect. *Koala*, 931 F.3d at 905. Similarly, because these actions negatively affect the statutorily-protected free press rights of collegiate journalists, they also run afoul of state law. RCW 28B.10.037(1).

Here, Harrington—a member of the Board of Trustees—has expressed, in a meeting memorialized by a video posted to YouTube, his displeasure with *The Observer*’s coverage,

³⁰ 2018 Wa. ALS 125, 2018 Wa. Ch. 125, 2017 Wa. SB 5064.

³¹ Hays, *supra* note 3.

³² *Id.*

followed by a proposal that the Committee cut funding to student media at CWU. This proposal, if adopted, would be as clear an instance of retaliation for content critical of the university as it gets.

In fact, even a probe into *whether* student media should continue to receive base funding, when undertaken in response to specific content, runs afoul of the First Amendment. Several courts, including the Ninth Circuit, have held that government investigations into protected expression violate the First Amendment. *See, e.g., Sweezy v. New Hampshire*, 354 U.S. 234, 245–48 (1957) (finding that state investigations “are capable of encroaching upon the constitutional liberties of individuals” and have an “inhibiting effect in the flow of democratic expression”); *White v. Lee*, 227 F.3d 1214, 1228 (9th Cir. 2000) (holding that a government investigation into clearly protected expression chilled speech and therefore violated the First Amendment); *Levin v. Harleston*, 966 F.2d 85 (2d Cir. 1992) (upholding a finding that a university president’s creation of a committee to investigate protected speech by a professor unconstitutionally chilled protected expression because it implied the possibility of disciplinary action).

Thus, because the proposal to defund or call in members of the student media—including advisers and business managers—to determine whether student media outlets should be defunded was based upon distaste for allegations made by student journalists against CWU, the Committee cannot move forward with an investigation or defunding.

C. None of the pretextual reasons for defunding CWU student media would survive First Amendment scrutiny.

As the November 20 Committee meeting unfolded, pretext for unconstitutionally defunding or investigating student media also unfolded. But none of the pretextual reasons for defunding or investigating *The Observer* and other student publications considered during the November 20 meeting would render such a decision constitutional. The fact is that a proposal was made to the Committee to defund student media due to disagreement with, and in apparent retaliation against, recent content in *The Observer* accusing certain campus officials of censorial acts. Were the Committee to act upon this proposal, it would violate the First Amendment, regardless of the reasons the Committee might later cite.

i. Harrington’s apparent allegations of defamation are legally unsound and do not save any attempts at defunding student media.

Public institutions of higher education may take disciplinary action against students, including student journalists, who engage in illegal behavior, including defamation, because defamation is not protected by the First Amendment. Similarly, RCW 28B.10.037 contains a carve-out for defamatory expression, exempting such expression from its protection. RCW 28B.10.037(3)(a).

In his proposal to defund student media, Harrington alleged that student media “was aware that something was not the case and then published that it was the case,” calling such action “a

deliberate choice; a willful choice.”³³ He later referred to this alleged action as “malicious,” in an apparent attempt to mark the actions of *The Observer* and other student media as defamatory.³⁴ When asked for an example of this type of behavior by student media, Harrington recounted *The Observer*’s attempt to interview former student-athletes,³⁵ as discussed in Section I, above. However, as discussed above, screenshots provided to FIRE and SPLC by *The Observer* demonstrate the substantial truth of student media’s allegations regarding certain CWU departments requiring student journalists submit interview questions for prior approval. This included at least one instance in which it appears Athletic Communications requested a former student-athlete to abstain from interviewing with *The Observer* unless Athletic Communications had the chance to review interview questions in advance.

Because a case for defamation cannot be made if the expression is substantially true, *see New York Times Co. v. Sullivan*, 376 U.S. 254, 286 (1964), CWU student media’s allegations that officials have engaged in the problematic practice of requiring prior approval of interview questions are not defamatory. Therefore, coverage containing these allegations is not exempt from protection by the First Amendment and RCW 28B.10.037, and the Committee may not make funding decisions prompted by disagreement with this content or in retaliation for these allegations. Further, because *The Observer*’s reporting was based on undisputed documentary evidence, there could be no showing that the report was made with actual malice—the legal standard of fault required in cases of defamation against public officials—even if it could be shown to be false.

ii. Defunding or investigating all student media or all similarly-situated programs that receive base funding would not save the Committee from First Amendment scrutiny.

During the November 20 Committee meeting, Bryant said that the Committee must ensure it is “consistent,” and suggested that “if we were to do this [defund student media], we need to do this to all funding areas that are similar, which would be all four student media, but any other base funding areas we receive that have similar types of funding or questions[.]”³⁶

As the Ninth Circuit recently clarified in *Koala v. Khosla*—the facts of which bear striking resemblance to the matter at hand—applying a viewpoint-based and retaliatory funding decision so broadly as to include programs and organizations that are not the target of retaliation does not make such a decision legal. 931 F.3d at 901–02. In *Koala*, the Ninth Circuit held that a student publication alleged a First Amendment violation where the University of California San Diego (UCSD) defunded multiple student publications in apparent retaliation against the content of a single publication, *The Koala*. *Id.* at 905. Similar to the comments seen in the Committee meeting in this matter, officials at UCSD had made comments adverse to

³³ CWU S&A Committee Meetings Archive, *supra* note 19.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

The Koala shortly before the student publications were defunded. *Id.* at 906–07. The court held that this discussion sufficiently demonstrated a connection between *The Koala*'s content and the funding decision, even though a viewpoint-neutral reason for the funding decision was given and the university defunded more student publications than just *The Koala*. *Id.*

iii. Other pretextual reasons for defunding or investigating student media similarly do not allow the Committee to legally defund student media.

During the November 20 Committee meeting, a member suggested that the Committee could act after “this is all forgotten about.” But delaying a retaliatory funding decision in an effort to evade public notice does not make that funding decision less retaliatory. While it is true that proximity in time is often used as evidence that an adverse action was retaliatory, *see Koala*, 931 F.3d at 905, when officials such as yourselves are captured on video explicitly planning to take adverse action at a later date in a conscious effort to avoid allegations of retaliation, the relationship between any later official action and the earlier controversial content is obvious.

Similarly, using the annual report process as an entrée into defunding or investigating student media in light of disagreement with recent content also would not create a viable legal means for the Committee to take adverse action against CWU student media. During the meeting, a member of the Committee suggested investigating student media and considering defunding “essentially [as part of] the review we’re already planning on doing,” that is, the annual report process. Again, because the Committee discussed using the annual report process in the context of a viewpoint-based and retaliatory proposal to defund or investigate student media, its future use of this otherwise-regular process will inevitably be pretextual.

III. Conclusion

The Observer's opinion piece and CWU student media's further reporting on its allegation that CWU officials have engaged in the practice of requiring student journalists submit interview questions for prior review are fully protected by the First Amendment and by Washington state law. Having entertained a proposal to defund or investigate student media in response to this constitutionally- and statutorily-protected content, the Committee may not act adversely against CWU student media without casting doubt over the constitutionality of its decision. In other words, the Committee cannot investigate or defund CWU student media, because to do so would be to act in a viewpoint-discriminatory and retaliatory manner in contravention of constitutional and state law. This is true regardless of any creative reasons the Committee may conceive for its action, including meritless allegations that *The Observer*'s content was defamatory, that student publications have underperformed on annual reports, or that action is being taken against all similarly-situated programs.

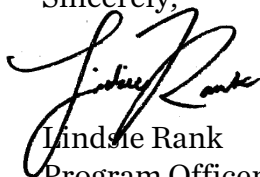
CWU, and specifically the Student Services and Activities Fee Committee, must reaffirm its commitment to upholding the First Amendment ideal of freedom of the press. It must publicly clarify that it will not retaliate against CWU student media or act in a viewpoint-

discriminatory fashion, and that no student organization or program—including student media—will risk defunding for engaging in protected expression.

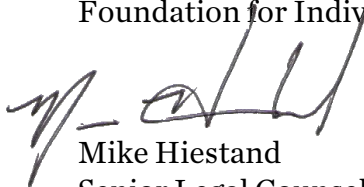
We request receipt of a response to this letter no later than the close of business on December 19, 2019.

We are committed to using all resources at our disposal to see this matter through to a just conclusion.

Sincerely,



Lindsie Rank
Program Officer, Individual Rights Defense Program
Foundation for Individual Rights in Education



Mike Hiestand
Senior Legal Counsel
Student Press Law Center

Cc:

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Enclosures: Letter from Lindsie Rank, Program Officer, Foundation for Individual Rights in Education, to Dr. James L. Gaudino, President, Central Washington University (Nov. 21, 2019)