



January 16, 2020

President David A. Armstrong
St. Thomas University
16401 NW 37th Avenue
Miami Gardens, Florida 33054

Sent via U.S. Mail and Electronic Mail (darmstrong@stu.edu)

Dear President Armstrong:

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.

FIRE is concerned about the threat to due process and freedom of expression at St. Thomas University (STU) in light of the recent expulsion of graduate student Natalia Garceau. STU's expulsion of Garceau appears to have been precipitated by her complaints about STU's administration of its Leadership and Innovation Ed.D. program and does not appear to have followed the process for expulsion outlined in STU's Student Handbook.

I. STU Promises Due Process and Free Expression in its Student Handbook

STU is a private institution, and the U.S. Constitution does not compel it to follow specific due process mandates or recognize freedom of speech. Nevertheless, STU has made public commitments promising its students the protections of a specific process for disciplinary procedures.¹ If STU expelled Garceau without following the prescribed process for disciplinary actions, STU betrayed its commitment to basic fairness.

Further, STU promises its students the right to free expression on campus.² If Garceau was expelled in response to her complaints about the Ed.D. program, her expulsion is in contravention of this commitment to free expression.

¹ STUDENT HANDBOOK, ST. THOMAS UNIVERSITY, at 105–11

<https://www.stu.edu/Portals/students/Student%20Affairs/docs/handbookstudent.pdf>.

² *Id.* at 88.

These commitments to basic fairness and free expression represent not only a moral obligation, but a legal duty: Private colleges, including those with a religious background, are legally bound to uphold the promises they make to their students and faculty. *See, e.g., McAdams v. Marquette Univ.*, 2018 WI 88, ¶84 (2018) (private Catholic university breached its contract with a professor over a personal blog post because, by virtue of its adoption of the 1940 AAUP Statement of Principles on Academic Freedom, the blog post was “a contractually-disqualified basis for discipline”).

Section 9 of STU’s Student Handbook outlines disciplinary procedures.³ According to Section 9.6, once the university receives a complaint and determines that a violation of STU’s Community Standards may have occurred, a notification must be sent to the student alleged to have violated a rule.⁴ At that point, the student is granted the opportunity to propose three possible business days for a preliminary conference with the Chief Conduct Officer.⁵ The preliminary conference allows the accused student to seek information about the disciplinary procedure and to arrange for a hearing.⁶

After the preliminary conference, the accused student is to “receive notice of the date, time, and location of their hearing[.]”⁷ Section 9.5.2 specifies that three types of hearings are available: administrative hearings, judicial board hearings, and informal hearings.⁸ To select the type of hearing in a particular matter, “[t]he Office of Student Affairs will consider severity and frequency of the charge(s) and will determine the appropriate hearing format.”⁹ Presumably, the most severe cases—such as those that result in expulsion—are adjudicated in a judicial board hearing.

Regardless of the format of the hearing, the accused student is to be afforded “the opportunity to present information, to challenge or clarify information, and to submit questions for anyone involved in the proceedings who appears in person to provide information.”¹⁰ Written notification of the hearing results is due to the accused student within five business days.¹¹

Accused students may appeal the decisions and sanctions made during informal hearings, administrative hearings, and/or judicial board hearings to the Chief Student Affairs Officer.¹² This can be done by submitting an appeal in writing within 48 hours of receiving an “Outcome Letter.”¹³

³ *Id.* at 105–11.

⁴ *Id.* at 109.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 110.

⁸ *Id.* at 108.

⁹ *Id.*

¹⁰ *Id.* at 110.

¹¹ *Id.* at 111.

¹² *Id.*

¹³ *Id.*

II. FIRE's Concerns

FIRE is deeply concerned that STU failed to follow its own published disciplinary procedures in this case—procedures which Garceau had every reason to expect would govern any disciplinary charges or action initiated against her. We request that the university demonstrate that it followed its prescribed procedure in this matter by producing the documents requested in the enclosed FERPA waiver/request. We also specifically request that STU identify and provide FIRE with copies of the following: the complaint against Garceau, the notice sent to her, the charges against her, all documents presented to Garceau during the preliminary conference, and all other records related to the disciplinary proceedings against Garceau.

We are further concerned that the allegations against Garceau may not be substantiated and may contradict STU's stated commitment to free expression, and we invite STU to produce records that substantiate the veracity of the allegations and that the sanctions imposed are consistent with STU's free speech promises.

We request receipt of a response to this letter no later than the close of business on January 30, 2020.

Sincerely,



Lindsay Rank

Program Officer, Individual Rights Defense Program

Cc:

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Encl.

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