



August 14, 2020

Steve Waller
Assistant Vice President for Residential Life
Louisiana State University
107 Grace King Hall
Baton Rouge, Louisiana 70803-0106

URGENT

Sent via Electronic Mail (swaller@lsu.edu)

Dear Mr. Waller:

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 by a report that students serving as Resident Assistants at Louisiana State University have been forbidden from speaking to reporters, including those from LSU's student newspaper, *The Reville*.¹ If this report is accurate, a blanket prohibition against speaking to the media violates students' fundamental First Amendment rights. We invite clarification or, if the report is accurate, demand that any such policy be rescinded.

It has long been settled law that the First Amendment is binding on public universities like LSU.² Students who take employment roles at the university do not "relinquish First Amendment rights to comment on matters of public interest by virtue of government employment."³ Instead, they retain a right to speak as citizens on matters of public concern.⁴

¹ Mark Ballard, *Is LSU ready to house 7,000 incoming students on campus? A former RA doesn't think so*, THE ADVOCATE, Aug. 11, 2020, https://www.theadvocate.com/baton_rouge/news/education/article_35606f96-dc23-11ea-b194-4bc31fd3ddec.html.

² *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 to the contrary, 'the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.'" (internal citation omitted).

³ *Connick v. Myers*, 461 U.S. 138, 140 (1983).

⁴ *Modica v. Taylor*, 465 F.3d 174, 180 (5th Cir. 2006).

A categorical prohibition against speaking to the media trammels that right because it bars RAs from speaking to reporters about any issue. That includes matters of profound public concern—that is, any subject which “can be fairly considered as relating to any matter of political, social, or other concern to the community[.]”⁵

The COVID-19 pandemic is of critical public concern, particularly to arriving students uncertain whether they will complete this semester on campus. It is also understandably important to the RAs, concerned about the safety of a campus that is not only their workplace, but their home. Even if a person speaks about their employer, their speech may be protected so long as it addresses matters of public concern.⁶ Consequently, RAs have a First Amendment right to raise concerns about the university’s response to COVID-19.

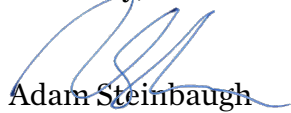
To be sure, the university may bar disclosure of individual students’ confidential information, and restrict RAs from purporting to speak on behalf of the university. However, a blanket prohibition against speaking to the media will not advance the university’s interests. Instead, it will backfire, engendering anxiety among students and parents about the university’s transparency and safety.

Accordingly, we ask that Louisiana State University immediately:

- (1) Share any training materials or documents setting forth any policy or expectations concerning interactions between RAs and the media; and
- (2) Clarify that RAs will not be punished for speaking as private citizens on matters of public concern, provided that they do not reveal information made confidential by law.

We request receipt of a response to this letter by Wednesday, August 19, 2020.

Sincerely,



Adam Steinbaugh
Director, Individual Rights Defense Program

Cc: Winston G. DeCuir, Jr., Vice President of Legal Affairs and General Counsel

⁵ *Snyder v. Phelps*, 562 U.S. 453 (2011).

⁶ *Pickering v. Bd. of Educ.*, 391 U.S. 563, 576–78 (1968) (appendix reproducing teacher’s letter to a local newspaper criticizing his employer, explaining that he teaches at the high school).