



August 14, 2020

Tyler Page, Ph.D.
Director, Residential Life
Department of Residential Life
University of Missouri
0780 Defoe-Graham Hall
Columbia, Missouri 65211

URGENT

Sent via Electronic Mail (pagetj@missouri.edu)

Dear Dr. Page:

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 the University of Missouri have been directed not to speak to reporters pursuant to a "strict media policy."¹ A blanket prohibition against speaking to the media—as RAs granted anonymity by the *Columbia Missourian* interpreted this directive—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 We invite clarification or, if the report is accurate, demand that any such policy be rescinded.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.² No less an authority than the United States Supreme Court has applied the First Amendment to the University of Missouri in protecting an "indecent" student newspaper.³

¹ Galen Bacharier & Feiyu Su, *This is deliberate risk: MU residential assistants worry as move-in begins*, COLUMBIA MISSOURIAN, Aug. 12, 2020, https://www.columbiamissourian.com/news/covid19/this-is-deliberate-risk-mu-residential-assistants-worry-as-move-in-begins/article_f1515ae8-db1b-11ea-b468-2f1db73ee8c9.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 *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–670 (1973).

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.”⁴ Instead, they retain a right to speak as citizens on matters of public concern.⁵

A blanket 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[.]”⁶

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.⁷ Consequently, RAs have a First Amendment right to raise concerns about the university’s response to COVID-19.

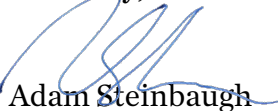
To be sure, the university may bar disclosure of individual students’ confidential information, and restrict RAs from purporting to speak on behalf of the university. However, a categorical prohibition against speaking to the media will not advance the university’s interests. Instead, it will backfire,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

Accordingly, we ask that the University of Missouri 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: William Stackman, Vice Chancellor for Student Affairs
Stephen J. Owens, General Counsel

⁴ *Connick v. Myers*, 461 U.S. 138, 140 (1983).

⁵ *Bradley v. James*, 479 F.3d 536, 538 (8th Cir. 2007).

⁶ *Snyder v. Phelps*, 562 U.S. 453 (2011).

⁷ *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).