



October 27, 2020

Office of the Inspector General
Department of the Interior
Attention: Intake Management Unit
1849 C Street NW – Mail Stop 4428
Washington, D.C. 20240

Sent via Facsimile (703-487-5402)

To Whom It May Concern:

Please find enclosed a complaint form concerning Haskell Indian Nations University and a violation of students' First Amendment rights.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

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



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

GENERAL
Hotline Complaint Form

If you suspect fraud, waste, abuse, misconduct, or mismanagement involving the U.S. Department of the Interior, please complete and submit this form by pressing the SUBMIT button below. If you are unable to submit this form directly online, you may select one of the alternative methods listed at the bottom of this form.

*By submitting this complaint, I understand I am **providing my name** and I agree that the **DOI OIG can disclose my name and other information I provide**, if necessary, to ensure my issues are addressed.*

Fields marked with * are required.

Your Contact Information

First Name *
Last Name *
Select Your Current Status

If select 'Tribal Member', please include Tribal Affiliation:

Title/Grade
Address
City
State
Zip Code
Phone number (xxx-xxx-xxxx) *
Email (xx@xx.xxx)

Complaint Information

1. Subject Information: *(Who committed the alleged misconduct/wrongdoing? What is the title/position held by the alleged wrongdoer? Please include names, addresses, and telephone numbers of all subjects. If providing information concerning contractor or grantee fraud, please provide the name of the primary contractor and/or subcontractor, type of contract, contract or grant numbers, date of award, and the name of any agency officials.)*

Dr. Ronald Graham
President
Haskell Indian Nations University
Office of the President
155 Indian Avenue
Lawrence, Kansas 66046-4800
(785) 749-8497

2. Victim Information: *(Please include names, addresses, and telephone numbers of all victims, to include Government entities. If the victim is a contractor or grantee, please provide the name of the primary contractor and/or subcontractor, type of contract, contract or grant numbers, date of the award, and the name of any agency officials.)*

Jared Nally
155 Indian Avenue
Lawrence, Kansas 66046-4800

Indian Leader Association
c/o Jared Nally
155 Indian Avenue
Lawrence, Kansas 66046-4800

3. Where did the wrongdoing occur? *(Please provide the bureau, office, or other location, and the city, state, and phone number.)*

Haskell Indian Nations University
155 Indian Avenue
Lawrence, Kansas 66046-4800
(785) 749-8497

4. When did the wrongdoing occur? *(Please provide times and dates.)*

October 16, 2020.

5. What exactly did the individual do wrong/how was the wrongdoing committed? *(Please provide specific and relevant details concerning the alleged misconduct/wrongdoing, to include any policies, regulations, and laws violated.)*

On October 16, 2020, Dr. Ronald Graham, the president of Haskell Indian Nations University ("HINU"), issued a written "Directive" to Jared Nally, an undergraduate student and Editor-in-Chief of the student newspaper, The Indian Leader. A copy of the "Directive" is enclosed. The "Directive" violated the First Amendment rights of Nally and the students who write, edit, and publish The Indian Leader and threatens the rights of all students at HINU.

President Graham's "Directive" cited a number of instances of expression protected by the First Amendment, including: (1) sending letters critical of HINU employees; (2) asking the Lawrence Police Department, a local law enforcement agency, for information concerning the death of a HINU employee in connection with a story for the newspaper; (3) recording a conversation with a HINU employee in conformity with Kansas law, which authorizes recordings made by a party to the conversation (State v. Roudybush, 686 P.2d 100, 107-108 (Kan. 1984)); and (5) Nally's raising concerns about HINU's response to the 2020 Census. President Graham indicated that Nally's expression has "brought yourself, The Indian Leader, [HINU], and me unwarranted attention," citing Graham's interaction with the local community, including the mayor and police department.

President Graham's "Directive" proceeded to assert that Nally's role as a student journalist was subordinate to his role as a student and "representative of our community." Graham warned Nally that he was to "treat fellow students, University staff, and University officials with appropriate respect" and that failure to do so would "result in disciplinary action." Graham's "Directive" then "directed" Nally to "comply" with an enumerated list of requirements.

President Graham's "Directive" violates the First Amendment rights of Nally and The Indian Leader. It also violates the 1989 settlement agreement approved by the Federal District Court for the District of Kansas in a lawsuit brought against the Department of the Interior by the student newspaper. (Order Approving Settlement Agreement, The Indian Leader Ass'n v. United States Dep't of the Interior, No. 89-4063-R (D. Kan. Sept. 18, 1989)). That settlement provides that "no officer" or "agent" of the university will "restrain, obstruct or prohibit the publication of The Indian Leader newspaper or otherwise inhibit the free expression of" the students who publish it. Id. at p. 1, § 3(b). Graham is aware of the specific requirements of the settlement, which he cites in his "Directive."

Graham's unlawful "Directive" has had and will continue to have an unlawful chilling effect on Nally and other student journalists at HINU. In addition, because Graham's "Directive" indicates that showing "appropriate respect" to university officials is a condition of the university's Code of Student Conduct, the "Directive" threatens the First Amendment rights of all students enrolled at HINU.

For further information, please see the October 26, 2020, letter from the Foundation for Individual Rights in Education (FIRE), the Student Press Law Center (SPLC), and the Native American Journalists Association (NAJA), attached.

6. What was the effect of the wrongdoing? *(Was there a loss to the government? Did anyone benefit/suffer from the wrongdoing?)*

Graham's conduct violates well-established First Amendment law and the terms of the 1989 settlement agreement. This conduct exposes Haskell Indian Nations University, the Bureau of Indian Education, and the Department of the Interior to liability.

Graham's conduct has had and will continue to have a chilling effect on the First Amendment rights of students, in particular Nally and other journalists affiliated with The Indian Leader.

7. Do you have firsthand knowledge of the wrongdoing? *(Please include when and how you gained this knowledge.)*

No, except to the extent that I have sent or received correspondence relating to this matter.

8. Who else might be aware of this wrongdoing and how does the individual know? *(Please provide names, addresses, and telephone numbers.)*

Jared Nally received the "directive" from Graham.

Jared Nally
155 Indian Avenue
[REDACTED]
Lawrence, Kansas 66046-4800
[REDACTED]

Tony Dearman, Director of the Bureau of Indian Education (BIE), was copied on President Graham's letter to Nally. His address and telephone number:

Tony Dearman
Department of the Interior
Bureau of Indian Education
1849 C Street NW, MS-3609-MIB
Washington D.C. 20240
Phone: 202-208-6123
Email: [REDACTED]

9. What do you believe would be an acceptable remedy to your concerns?

We request that the Department of the Interior conduct an investigation into these actions and issue a report finding that Graham's action violated the First Amendment and the 1989 settlement agreement.

We further request that the Department consider personnel action against Graham, including, at a minimum, a reprimand, in order to deter other university officials – whether at institutions operated by the federal or state governments – from violating the fundamental First Amendment rights of students.

We further request that the Department direct HINU's leadership to publicly reaffirm that neither its Code of Student Conduct nor any other HINU policy will require or be interpreted to violate the First Amendment rights of its students or faculty. In conformity with that reaffirmation, we request that the Department direct HINU to review and revise its Code of Student Conduct such that it is compliant with the First Amendment.

Finally, we request that the Department require HINU's senior leadership undertake training on the First Amendment as provided by the Student Press Law Center, FIRE, ACLU of Kansas, or another reputable organization with expertise in First Amendment requirements.

10. Has this allegation been previously reported to the OIG, or any other agency, to include, but not limited to, EEO, MSPB, OSC, or your bureau?

☐ No ☒ Yes

If yes, please provide the dates, who did the review, and the current status of the complaint.

Nally sent a letter to Tony Dearman, Director of the Bureau of Indian Education, on October 17, 2020. Dearman has assigned the matter to BIE's Human Resources department.

Additionally, FIRE intends to file a separate complaint with the United States Department of Education.

Attachments

If you have supporting documentation, please attach files here

No file chosen

*** ☒ By checking this box, I confirm that the DOI OIG can disclose my name and other information I provide, if necessary, to ensure my issues are addressed.**

***Enter Captcha (with number):** 

25 + 46 =

If you are unable to submit this form directly online, you may select one of the below alternative methods:

- **Telephone:** OIG Hotline's Toll-Free Number: 1-800-424-5081
- **Fax:** Complete and fax this form and any supporting documents to: 703-487-5402 (Attention: Intake Management Unit)
- **US Mail:** Complete and mail this form and any supporting documents to:
Office of Inspector General
Department of the Interior
1849 C Street NW - Mail Stop 4428
Washington, D.C. 20240



October 26, 2020

Dr. Ronald Graham
Haskell Indian Nations University
Office of the President
Navarre Hall
155 Indian Ave
Lawrence, Kansas 66046-4800

URGENT

Sent via Electronic Mail (ronald.graham@bie.edu)

Dear President Graham:

FIRE,¹ NAJA,² and the SPLC³ are concerned about the state of freedom of expression, including freedom of the press, at Haskell Indian Nations University (HINU) in light of your recent directive sent to Jared Nally, editor-in-chief of *The Indian Leader*, HINU's student newspaper. Your directive forbids Nally from carrying on normal journalistic activities, such as requesting information from government agencies, recording interviews, and criticizing members of the HINU community.

Your directive violates the First Amendment and HINU's obligations under a September 1989 settlement agreement with *The Indian Leader*. HINU must immediately rescind the directive,

¹ 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.

² The Native American Journalists Association (NAJA) serves and empowers Native journalists through programs and actions designed to enrich journalism and promote Native cultures. NAJA recognizes Native Americans as distinct peoples based on tradition and culture. In this spirit, NAJA educates and unifies its membership through journalism programs that promote diversity and defends challenges to free press, speech, and expression. NAJA is committed to increasing the representation of Native journalists in mainstream media. NAJA encourages both mainstream and tribal media to attain the highest standards of professionalism, ethics and responsibility.

³ Founded in 1974, the Student Press Law Center (SPLC) 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 SPLC is a nonpartisan, nonprofit organization.

restore the *Leader's* rights to university resources and access to its bank account, and clarify that HINU will not interfere in the affairs of the student newspaper or impede the free expression rights of individual students in the future.

I. HINU Threatens Student Journalist with Disciplinary Sanctions

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. Please find enclosed an executed waiver and request for FERPA records authorizing and requesting that you share Jared Nally's student file with FIRE.

A. *Nally raises questions about HINU's reporting of student data to the Census.*

In March, Nally began raising questions about how HINU reports student data to the U.S. Census Bureau.⁴ Nally was initially concerned that HINU had not submitted census data on behalf of its students.⁵ In addition to raising his personal concerns, Nally wrote an article for *The Leader* discussing HINU's institutional response to the Census on behalf of students.⁶

In late August, Nally discovered HINU had submitted student data to the Census but had not asked students to self-report racial or gender identities to be reported to the Census.⁷ At this point, Nally became concerned that HINU had engaged in discrimination against biracial students by reporting all students as "Native American," regardless of their personal identities.⁸

As part of his concerns about whether and how HINU had reported student census data, Nally lodged concerns about Tonia Salvini, HINU's Vice President of University Services, with the Community Police Review Board (CPRB) of the City of Lawrence, on which Salvini sits.⁹ Nally initially raised his concerns with the CPRB via public comments during CPRB meetings and lodged an official ethics complaint concerning Salvini on October 9.¹⁰

Also on October 9, Nally submitted a grievance to your office regarding his concerns about HINU's handling of the Census and reporting of student racial identities in the future.¹¹

⁴ Email from Nally to Ernie Wilson, Acting Supervisor: College Resident Assistant, HINU, and Tonia Salvini, Vice Pres. of Univ. Services, HINU (Mar. 24, 2020) (on file with author); *see also* letter from Nally to Salvini (Aug. 28, 2020) (on file with author).

⁵ *Id.*

⁶ Jared Nally, *2020 Census*, INDIAN LEADER, Apr. 13, 2020, <http://www.theindianleader.com/2020/04/13/2020-census>.

⁷ Letter from Nally, *supra* note 1.

⁸ *Id.*

⁹ *Id.*

¹⁰ Letter from Nally to CPRB (Oct. 9, 2020) (on file with author).

¹¹ Letter from Nally to Graham (Oct. 9, 2020) (on file with author).

B. Nally legally records an HINU administrator without her knowledge.

In July, when HINU announced its student fees would increase, Nally called financial aid coordinator Carlene Morris to inquire about his own financial aid situation and to gather more information about the change.¹² Nally recorded his conversation with Morris without seeking her permission, as is allowed under Kansas law.¹³ Nally later used this recording in an opinions article regarding the fee change.¹⁴

C. The Leader objects to an administratively-appointed faculty adviser.

In July, the *Leader's* faculty adviser, Rhonda LeValdo, informed the publication staff that because HINU's administration was requiring that faculty cease their roles as student organization advisers, she would no longer be able to serve as faculty adviser.¹⁵ In LeValdo's stead, your predecessor appointed Interim Dean of Humanities Joshua Falleaf to advise the student newspaper.¹⁶

Concerned that the appointment of an administrator as an adviser would imperil their right to engage as members of a free, independent student press, the *Leader's* officers unanimously voted to remove Falleaf as faculty adviser.¹⁷ While it is not clear the *Leader's* officers had the right to remove a faculty adviser at the time of the vote to remove Falleaf, the student officers were concerned that advisory oversight from an administrator would ultimately lead to violations of their First Amendment rights and the 1989 Agreement, which prohibits agents of the university from "inhibiting the free expression of members of" the *Leader*.¹⁸

On August 27, per its rights under the 1989 Agreement to alter its Plan of Operation,¹⁹ the *Leader* altered its Plan of Operation for the 2020-21 school year (the 2020-21 Plan), implementing a new procedure for HINU's appointment of faculty advisers.²⁰ The 2020-21

¹² See Jared Nally, *It's Not Just \$475*, INDIAN LEADER, July 10, 2020, <http://www.theindianleader.com/2020/07/10/its-not-just-475>.

¹³ See KAN. STAT. ANN. § 21-6101(a)(1).

¹⁴ Nally, *supra* note 12.

¹⁵ Email from Nally to Joshua Falleaf, Interim Dean of Humanities, HINU, Jul. 29, 2020 (on file with author); email from Jim Rains to Rhonda LeValdo and Nally (July 31, 2020) (on file with author).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*; Letter from Nally to Jim Rains, Acting Vice President of Academics, HINU (Aug. 3, 2020) (on file with author). See Settlement Agreement between HINU Indian Junior College of the Bureau of Indian Affairs and the Indian Leader Association (Sept. 19, 1989) (on file with author).

¹⁹ Settlement Agreement, *supra* note 18 ("HINU agrees that no officer, agent, instructor, or employee shall . . . refuse to approve a Plan of Operation for [the *Leader*] substantially similar to the attached Plan. . . . [N]othing in this Settlement Agreement is intended to prevent members of *The Indian Leader Association* from adopting a Plan of Operation . . . substantially dissimilar to the attached Plan").

²⁰ The Indian Leader Association 2020-2021 Plan of Operations, THE INDIAN LEADER ASSOCIATION, <http://www.theindianleader.com/wp-content/uploads/2020/09/2020-2021-Plan-of-Operations.pdf> (last visited Oct. 20, 2020).

Plan provides that the *Leader* will nominate advisers, which will then be appointed by HINU.²¹ Further, the 2020-21 Plan provides for removal of a faculty adviser by petition by a majority vote of the *Leader* officers.²²

D. Nally pursues a story by requesting information from local government.

In October, when a food service employee of HINU died, Nally began gathering information about her death in order to report it in the *Leader*.²³ As part of this investigation, Nally reached out to the local police for any information they might have regarding the death.²⁴ In his email to the Lawrence Police Department, Nally accurately identified himself as “a student writer for *The Indian Leader*.”²⁵ A copy of Nally’s email is enclosed for reference.

E. You send an October 16 “directive” to Nally.

On October 16, you sent Nally a written memo, styled as a “directive,” reciting a variety of grievances about his reporting and criticism of HINU administrators, and threatening him with “disciplinary action” for failing to show students, staff, and “officials” the “appropriate respect.”²⁶ A copy of your October 16 “directive” is enclosed.

In particular, the “directive” accuses Nally of:

- “routinely attack[ing] HINU employees” by writing letters and speaking in public;
- “demanding information” while holding himself out as editor of the *Leader*;
- advocating for the removal of Falleaf as the *Leader* adviser; and
- recording his call with Morris, which would “[i]n many states . . . be considered a felony[.]”²⁷

²¹ *Id.*

²² *Id.*

²³ See Jared Nally, *Curtis Worker Nia Schexnider Passes On*, THE INDIAN LEADER, Oct. 9, 2020, <http://www.theindianleader.com/2020/10/09/curtis-worker-nia-schexnider-passes-on>.

²⁴ Email from Nally to the Lawrence Police Department (Oct. 5, 2020) (on file with author).

²⁵ *Id.*

²⁶ Letter from Graham to Nally (Oct. 16, 2020) (on file with author).

²⁷ While this is an accurate statement regarding the law of *other states*, your directive failed to mention the fact that Kansas follows a one-party consent rule. That is, so long as a single party to a private conversation (here, Nally) consents to the recording thereof, the recording is absolutely legal and valid. KAN. STAT. ANN. § 21-6101(a)(1).

After warning Nally that disciplinary consequences could follow his non-compliance, your “directive” specifically instructs Nally that he “WILL” treat “all faculty members, staff, and students with the highest respect,” and:

You will NOT:

- Attack any student, faculty, or staff member with letters or in public, or any public forum, thus bringing unjustified liability to this campus or anyone on this campus,
- Make demands on any governmental agency – or anyone else from HINU – while claiming to represent *The Indian Leader*.
- Attempt countermanding decisions of HINU personnel assigned by me or anyone else to positions in an effort to replace them,
- Record anyone at HINU in your interview unless you advise them first and they grant you permission.

Around the same time as your “directive” to Nally, the *Leader* faced significant difficulty renewing its status as an officially recognized²⁸ organization for the 2020-21 school year. In years past, the *Leader* has completed an annual recognition process by submitting its annual Plan of Operations and minutes from its first meeting to the Student Bank. Following this submission, the Student Bank has typically provided a signature card to be completed by elected officers and students’ chosen faculty adviser.

Following its implementation of the 2020-21 Plan, on September 10, the *Leader* submitted this and its first meeting minutes to the Student Bank, which controls the disbursement of student funds to recognized student organizations.²⁹ Unlike in previous years, the *Leader* has not heard back from the Student Bank, despite multiple attempts to get in contact.³⁰ During this time, the *Leader* has also been unable to ascertain the balance of its account with the Student Bank³¹ and has yet to be formally assigned an adviser for the 2020-21 school year, despite its nomination of its previous adviser, LeValdo.

II. Your “Directive” Violates the First Amendment Rights of Nally and the *Leader*

It has long been settled law that the First Amendment is binding on public colleges like HINU. *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

²⁸ We understand that HINU refers to its official student organization recognition process as “sanctioning.” We refer to it as “recognition” throughout this correspondence, as most institutions of higher education do, for the sake of distinguishing between recognizing the *Leader* and HINU’s unlawful threats to impose disciplinary sanctions on its editor.

²⁹ Email from Nally to Jeri Sledd, Student Bank Manager, HINU (Sept. 10, 2020) (on file with author).

³⁰ *See id.*; email from Nally to Sledd (Oct. 19, 2020) (on file with author).

³¹ Oct. 19 email, *supra* note 30.

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). Indeed, the 1989 settlement agreement—which you concede is a binding agreement³²—obligates Haskell Indian Nations University in particular to protect the First Amendment rights of the student publishers of the *Leader*.

A. The actions identified in your “directive” are protected speech.

Your directive to Nally threatens to punish him for engaging in normal journalistic activity, violating the expressive rights of both Nally and the publication that he leads.

i. Criticism of university officials is constitutionally-protected speech.

Your first demand is that Nally abstain from “[a]ttack[ing] any student, faculty, or staff member . . . [in] any public forum.” Based on your description earlier in the “directive” of what constitutes an “attack”—namely, criticizing the actions of campus officials by lodging written and oral complaints—it is clear that your “directive” contemplates disciplinary action for a broad range of journalistic and expressive activity protected by the First Amendment.

Not only is criticism often a part of journalism, criticism of government officials—and, to be clear, as administrators of a public institution, HINU administrators are such officials—is at the core of the First Amendment’s protection. “[I]t is a prized American privilege to speak one’s mind, although not always with perfect good taste, on all public institutions.” *Bridges v. California*, 314 U.S. 252, 270 (1941). So central is this ability to criticize officials that the Supreme Court, affirming that “debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp **attacks** on government and public officials,” determined that a higher standard of fault applies to speech-related torts where a public official is the plaintiff. *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964) (emphasis added).

This right to criticize applies both to the press and to individuals. In other words, Nally retains a right to “attack”—as both you and the Supreme Court put it—HINU administrators both as a journalist, such as by writing a story for the *Leader*, and as an individual, such as by writing a letter to your superior or offering public comment at a government meeting. Because Nally’s right to criticize is protected by the First Amendment, you may not punish him for doing so. Your “directive” expressly threatens to do so.

The First Amendment right to criticize and engage with government officials, such as administrators at a public university or officials at the local police department, also protects Nally’s ability to “[m]ake demands on any governmental agency” and “[a]tttempt countermanding decisions of HINU personnel,” activities to which you expressed displeasure in your directive. These activities, in addition to being protected by the First Amendment

³² Letter from Graham, *supra* note 26.

rights of free speech and free press, are also protected by the “cognate right” to petition the government. *Thomas v. Collins*, 323 U.S. 516, 530 (1945).

This right includes actions that you refer to as “[a]ttempt[ing to] countermand[] decisions of HINU personnel”—that is, expressing displeasure in HINU’s choice of faculty adviser for the *Leader* and attempting to take action to secure a different adviser. “The right to petition allows citizens to express their ideas, hopes, and concerns to their government and their elected representatives[.]” *Borough of Duryea v. Guarnieri*, 564 U.S. 379, 388 (2011). This includes Nally and the *Leader*’s right to express concerns with their appointed adviser, and, in fact, to demand a different faculty adviser be appointed. Nothing in this right requires individuals to *only* express their ideas to government officials when their ideas align with those of the officials whom they contact.

This right also encompasses “request[ing] action by the government,” *id.* at 388–89, protecting Nally’s right to “[m]ake demands of” government agents. This shields Nally’s right to request information and records from HINU, the local police department, or any other government agency. Further, Nally and the *Leader*’s right to request records from government agencies is not only protected by the First Amendment but also by Kansas law. In Kansas, “[a]ll public records shall be open for inspection by any person,” with some exceptions. Kan. Stat. Ann. § 45-218(a). It necessarily follows that coupled with this right to inspect records is a corollary right to *request* their inspection.

ii. Kansas law allows recording of private conversations with the consent of only one party.

The First Amendment not only protects the spoken and written word, but encompasses the “act of making an audio or audiovisual recording” as a necessary “corollary of the right to disseminate the resulting recording.” *Am Civil Liberties Union of Ill. v. Alvarez*, 679 F.3d 583, 595–96 (7th Cir. 2012). “The right to publish or broadcast an audio or audiovisual recording would be insecure, or largely ineffective, if the antecedent act of making the recording is wholly unprotected.” *Id.* This includes the act of “nonconsensual audio recording.” *Id.* at 596–97. Accordingly, federal courts of appeal have long recognized a right to receive and record information, including a right to record matters of public interest. *See, e.g., Forcyde v. City of Seattle*, 55 F.3d 436, 439 (9th Cir. 1995) (discussing a “First Amendment right to film matters of public interest”); *Gilk v. Cunniffe*, 655 F.3d 78, 85 (1st Cir. 2011) (although “not unqualified, a citizen’s right to film government officials . . . in the discharge of their duties in a public duties in a public space is a basic, vital, and well-established liberty safeguarded by the First Amendment”).

The right to record government actors is perhaps at its highest importance when connected to the right of the press to gather information. *See Branzburg v. Hayes*, 408 U.S. 655, 681 (1972). The press, including the student press, serves as an important conduit in preserving the public’s right to know. Courts recognize that the press act as “surrogates for the public” in keeping a watchful eye on their communities, and especially on the actions of government

agents, such as those acting on behalf of public colleges and universities. *Richmond Newspapers v. Virginia*, 448 U.S. 555, 573 (1980).

While the right to record is qualified in some states by privacy statutes requiring the consent to record from all parties to a conversation,³³ the right is not so qualified in Kansas—a fact your “directive” implicitly recognizes by invoking the laws of *other* states as rendering such recordings potential felonies. Under the law of Kansas—the state in which HINU sits—it is a crime to record a telephone call “without the consent of the sender or receiver.” Kan. Stat. Ann. § 21-6101(a)(1).³⁴ In the situation with Morris, Nally initiated the telephone call and had the right to record it without Morris’ consent. Because his actions in recording HINU officials are protected by the First Amendment and Kansas law, you may not punish him for participating in legal newsgathering techniques.³⁵

B. Threatening retaliation against Nally or the Leader for their free expression violates the First Amendment.

It is well-established that public institutions of higher education “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.” *Stanley v. Magrath*, 719 F.2d 279, 282 (8th Cir. 1983); *see also Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 829–30 (1995). The United States Court of Appeals for the Second Circuit has expanded on this concept to explain:

[A]t a minimum, when a public university establishes a student media outlet and requires no initial restrictions on content, it may not censor, retaliate, or otherwise chill that outlet’s speech, or the speech of the student journalists who produce it, on the basis of content or viewpoints expressed through that outlet.

Husain v. Springer, 494 F.3d 108, 124 (2d Cir. 2007).

It is equally true that retaliation against *any actor*—whether an individual student or the campus paper—for participating in First Amendment-protected activity is unconstitutional. Where a government actor responds to protected speech with an “adverse action” that would “chill a person of ordinary firmness from continuing in the activity,” it has engaged in impermissible retaliation. *Revels v. Vincenz*, 382 F.3d 876 (8th Cir. 2004). This “well established” test does not require a “great” deal of discipline in order to be “actionable,” and the “objective” test asks “not whether the plaintiff herself was deterred” from speaking but

³³ For a state-by-state discussion of recording statutes, *see Reporters’ Recording Guide*, Reporters Committee for Freedom of the Press, <https://www.rcfp.org/reporters-recording-guide> (last visited Oct. 21, 2020).

³⁴ The Kansas Supreme Court has interpreted the state’s recording statute as enjoining “only interceptions without the consent of *either* the sender *or* the receiver.” *State v. Roudybush*, 235 Kan. 834, 842 (1984).

³⁵ Even assuming that HINU, a federally-operated institution, could impose a more restrictive standard, it has not done so and may not do so retroactively. Further, federal law permits a party to a call to record that call. 18 U.S.C. § 2511(2)(d).

whether a reasonable person may be so deterred. *Garcia v. City of Trenton*, 348 F.3d 726, 728–29 (8th Cir. 2003).

Here, HINU has taken two adverse actions: First, it has threatened disciplinary action against Nally if he continues to engage in your enumerated list of First Amendment-protected activities. Second, it has retaliated against the *Leader* by refusing to complete the normal recognition process, thereby denying the *Leader*’s access to its bank account and other resources. Each of these actions, individually, is enough to “chill a person of ordinary firmness” from continuing to engage in protected speech that HINU administrators find objectionable.

While Nally appears to be an exceptionally resilient individual and has continued to self-advocate despite HINU’s actions and threats, the chilling effect is nonetheless borne out here in the reasonable apprehension Nally feels about engaging in normal activities on behalf of the *Leader* in his role as its editor-in chief. For example, after receiving your directive, Nally was nervous to once again prod the Student Bank to ask about the *Leader*’s account balance, worried that doing so might result in discipline. This result is untenable and cannot be squared with HINU’s obligations as a public institution bound to uphold the First Amendment.

C. Threatening to punish a student journalist for engaging in journalistic activities violates the 1989 Agreement.

In the 1989 Agreement, HINU, then Haskell Indian Junior College of the Bureau of Indian Affairs, agreed to allow students to retain full editorial control over the *Leader*. This includes the right of the *Leader* to access its monies in its Student Bank account, as well as its right to engage in journalistic pursuits free from censorship.

While the 1989 Agreement does not explicitly forbid HINU from punishing students for their protected journalistic activities, it does forbid HINU from “otherwise inhibit[ing] the free expression of members of [the *Leader*] in violation of the First Amendment[.]”³⁶ As outlined here, your directive and HINU’s refusal to follow the usual sanctioning processes for the *Leader* violate the First Amendment, and thereby also violate the 1989 agreement.

III. HINU Must Rescind the “Directive” and Immediately Recognize the *Leader*

Your “directive” to Nally is an appalling and unequivocal departure from the First Amendment, betraying willful blindness to the basic concepts of constitutional rights. A public college administrator who violates clearly established law will not retain qualified immunity and can be held personally responsible for monetary damages for violating First Amendment rights under 42 U.S.C. § 1983. *See Harlow v. Fitzgerald*, 457 U.S. 800 (1982). Citing—in the course of violating students’ expressive rights—a settlement agreement

³⁶ Settlement Agreement, *supra* note 18.

obligating you to respect the First Amendment is a stark illustration of a “reckless or callous indifference to the federally protected rights of others.” *Smith v. Wade*, 461 U.S. 30, 56 (1983).

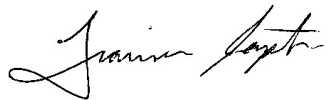
Given the urgent nature of this matter, we request receipt of a response to this letter no later than the close of business on November 2, 2020.

Sincerely,

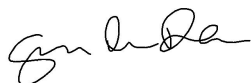


Lindsie Rank
Program Officer

Individual Rights Defense Program, Foundation for Individual Rights in Education



Francine Compton
President
Native American Journalists Association



Sommer Ingram Dean
Staff Attorney
Student Press Law Center

Encl.

Authorization and Waiver for Release of Personal Information and Request for FERPA Records

This is an authorization for the release of records and information, as well as a request for records, under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and its applicable regulations (particularly 34 CFR § 99.30).

I, Jared Eugene Nally, born on , do hereby authorize Haskell Indian Nations University (the “Institution”) to release to the Foundation for Individual Rights in Education (“FIRE”) any and all information concerning my current status, disciplinary records, or other student records maintained by the Institution, including records which are otherwise protected from disclosure under the Family Educational Rights and Privacy Act of 1974. I further authorize the Institution to engage FIRE’s staff members in a full discussion of all matters pertaining to my status as a student, disciplinary records, records maintained by the Institution, or my relationship with the Institution, and, in so doing, to fully disclose all relevant information. The purpose of this waiver is to provide information concerning a dispute in which I am involved.

I have reached or passed 18 years of age or I am attending an institution of postsecondary education.

In waiving such protections, I am complying with the instructions to specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom disclosure may be made, as provided by 34 CFR 99.30(b)(3) under the authority of 20 U.S.C. § 1232g(b)(2)(A).

Records requested under FERPA: I request access to and a copy of all documents defined as my “education records” under 34 CFR § 99.3, including without limitation:

- A complete copy of any files kept in my name in any and all university offices;
- any emails, notes, memoranda, video, audio, or other material maintained by any school employee in which I am personally identifiable;
- any and all phone, medical or other records in which I am personally identifiable; and
- the log of requests for and disclosures of my education records, as required by 34 CFR § 99.32(a).

Records requested under state public records law: To the extent the applicable public records law would require a faster response, a more comprehensive response, or production of copies of records:

- I request, pursuant to the applicable state public records law, copies of all records that would be available for my inspection under FERPA;
- To the extent the public records law allows disclosure of responsive records, I request that such records be produced in an electronic format, preferably by email.

Fees: I agree to pay any reasonable copying and postage fees of not more than \$20. If the cost would be greater than this amount, please notify me. Bear in mind, however, that FERPA prohibits the imposition of a fee to search or retrieve records (34 CFR § 99.11).

Request for Privilege Log: If any otherwise responsive documents are withheld on the basis that they are privileged or fall within a statutory exemption, please provide a privilege log setting forth (1) the subject matter of the document; (2) the person(s) who sent and received the document; (3) the date the document was created or sent; and (4) the basis on which it is the document is withheld.

Request for Redaction Log: If any portion of responsive documents must be redacted, please provide a written explanation for the redaction including a reference to the statutory exemption permitting such redaction. Additionally, please provide all segregable parts of redacted materials.

Per 34 CFR § 99.10(b), these records must be made available within **45 days**.

I request that the records be sent to me via email at [REDACTED] and to FOIA@thefire.org.

This authorization and waiver does not extend to or authorize the release of any information or records to any entity or person other than the Foundation for Individual Rights in Education, and I understand that I may withdraw this authorization in writing at any time. I further understand that my execution of this waiver and release does not, on its own or in connection with any other communications or activity, serve to establish an attorney-client relationship with FIRE.

I also hereby consent that FIRE may disclose information obtained as a result of this authorization and waiver, but only the information that I authorize.

DocuSigned by:

Jared Nally

81C2B4531DAF45F...

Student's Signature

10/23/2020

Date



HASKELL INDIAN NATIONS UNIVERSITY

Office of the President
155 Indian Avenue
Lawrence, Kansas 66046-4800
www.haskell.edu

Memorandum

Date: October 16, 2020

To: Jared Nally

From: Dr. Ronald Graham, President

Subject: **Directive**

Jared, I work directly with the Lawrence community at several different levels (i.e., the Mayor and City Manager's Office, Lawrence Police Department, the Chamber of Commerce, and the Rotary). My intention is to build relationships, identify training and internships, work with the community on their projects as a representative from Haskell, and create opportunities for Haskell students. Your name has been identified recently, and on more than one occasion, as someone who routinely attacks Haskell employees with letters; recently, you attacked a Haskell official during a community event. Further, you have been identified as calling the police department and demanding information regarding a deceased Haskell employee while representing yourself as an editor for *The Indian Leader*. Under no circumstances do you have the authority to contact the police department (or any other governmental agency) and demand anything on behalf of the University. Your behavior has discredited you and this university. You have compromised your credibility within the community and, more importantly, you have brought yourself, *The Indian Leader*, Haskell, and me unwarranted attention.

Earlier this summer, Josh Falleaf was assigned as the Faculty Advisor by Dr. Rains, the University's Acting Vice President of Academic Affairs, to advise *The Indian Leader* staff pursuant to University guidelines. You took it upon yourself to attempt to remove him from this position per your letter dated August 3, 2020. Mr. Falleaf was placed in an Acting Dean's position by me; however, he is first and foremost a Haskell Instructor. In that, he is appropriately qualified to serve as the University's appointed Faculty Advisor to *The Indian Leader*. Neither you nor any member of *The Indian Leader* staff has the authority to "vote out" the University-appointed Faculty Advisor; appointing the Faculty Advisor is the exclusive right of the University and it is in accordance with the 1989 court settlement. You are a student at this University; you are not entitled to reverse Executive-level decisions. Furthermore, you essentially called Dr. Rains a liar in your email (referring to Mr. Falleaf's assignment), which violates Student Conduct.

You also chose to talk to yet another university official, Ms. Carlene Morris, and to record her conversation with you surreptitiously – and without her permission. This action resulted in yet another complaint against you. In many states, this would be considered a felony. You invoked Kansas law to justify disrespectful behavior toward a university official. In the future, I strongly advise that you – out of respect, honesty, and journalistic codes of ethical conduct -- obtain permission from anyone from whom you seek to solicit information for your paper – especially information that is freely available to Haskell students.

I will remind you that you are a student first and foremost on this campus, and your conduct falls under the umbrella of the Student Conduct Code. Your role on *The Indian Leader* does not absolve you from your responsibilities as a Haskell student – and as a representative of our community. Henceforth, you will conduct yourself in accordance with the Haskell Student Code of Conduct -- now and in the future; and you will treat fellow students, University staff, and University officials with appropriate respect. Failure to do so, may result in disciplinary action.

Let me make myself clear. You are being directed, as a Haskell student. To comply with the following:

You will NOT:

- Attack any student, faculty, or staff member with letters or in public, or any public forum, thus bringing unjustified liability to this campus or anyone on this campus,
- Make demands on any governmental agency -- or anyone else from Haskell -- while claiming to represent *The Indian Leader*.
- Attempt countermanding decisions of Haskell personnel assigned by me or anyone else to positions in an effort to replace them,
- Record anyone at Haskell in your interviews unless you advise them first and they grant you permission.

You WILL:

- Treat all faculty members, staff, and students with the highest respect.
- Conduct yourself as a student under the umbrella of Code of Conduct.
- Understand that no one has the obligation to answer your questions or adhere to any timelines you may attempt to impose on them.

Lastly, Haskell is not obligated to report any census. If you wish to be counted differently, I strongly suggest that you do what many of us do: contact the US. Census Bureau and file an individual report.

Cc: BIE Legal

Tony Dearman
Director of BIE



Jared Nally

Media Inquiry - The Indian Leader

2 messages

Jared Nally

Mon, Oct 5, 9:13 AM

To: <lpdmedia@lkpd.org>

I'm reaching out the the Lawrence Police Department as a student writer for The Indian Leader, Haskell Indian Nations University's student newspaper. I'm wanting to get confirmation and information on the death of Neeoni Chex to provide our community with a proper death notice. She was a community pilar and I would appreciate any information you could provide.

She would have died sometime yesterday, October 4, before 4:00 PM CST. Please let me know if LPD can confirm her death, cause of death, and provide a funeral home if possible.

Thank You,
-Jared Nally, Editor-In-Chief

Patrick S. Compton <pscompton@lkpd.org>

Mon, Oct 5, 3:24 PM

To: Jared Nally

Jared,

Jared,

Thank you for inquiry.

My apologies, but we do not generally do police records searches by name. Do you have any other information on the location (Was it in Lawrence?), or circumstances of her death?

Best,

Patrick

Patrick Compton
Public Affairs
Lawrence, Kansas Police Department
4820 Bob Billings Parkway
Lawrence, KS 66049
(785) 830-7409
pscompton@lkpd.org
<https://www.facebook.com/LawrencePolice>
https://twitter.com/lawrenceks_pd
[Quoted text hidden]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FILED
U.S. DISTRICT COURT
DISTRICT OF KANSAS

SEP 19 11 44 AM '89

RALEIGH, MO.

BY ATLANTA, KS. DEPUTY

THE INDIAN LEADER ASSOCIATION, ET AL.,

Plaintiffs,

vs.

Case No. 89-4063-R

UNITED STATES DEPARTMENT OF THE INTERIOR,
ET AL.,

Defendants.

ORDER APPROVING SETTLEMENT AGREEMENT

NOW ON this 18th day of September 1989, the parties appear before the Court to announce a settlement of the claims of the Plaintiffs herein. The Plaintiffs appear through their attorney, Patrick R. Nichols; the Defendants appear through their attorney, David Cooper.

WHEREUPON, the parties announce to the Court that they have settled and resolved their differences, and entered into a settlement agreement in writing, which is appended hereto.

WHEREUPON, the Plaintiffs move orally to dismiss without prejudice all parties hereto, with the exception of Haskell Indian Junior College. The Court sustains said motion.

THEREUPON, the Court reviews the settlement agreement between the parties, guaranteeing the rights of free expression to the Indian Leader Association and the student journalist Plaintiffs, and find said agreement is valid, just and equitable. The Court approves the agreement.

Pursuant to paragraph 14 of the settlement agreement, the Plaintiffs move to dismiss the remaining party, Haskell Indian Junior College of the Bureau of Indian Affairs, subject to the provisions and terms of the settlement agreement. The Court sustains the motion and orders that the action be dismissed upon the terms of said motion.

The Court orders that hereafter the settlement agreement shall immediately bind the parties to all of its provisions and govern their conduct accordingly.

/s/ RICHARD D. ROGERS

Honorable Richard D. Rogers
United State District Judge

APPROVED:

Patrick R. Nichols

Patrick R. Nichols
Attorney at Law
700 Jackson, Suite 703
Topeka, Kansas 66603
(913) 357-4050
Ks. S. Ct. No. 09396
Attorney for Plaintiffs

David M. Cooper

David Cooper
Assistant United States Attorney
U.S. Department of Justice
444 S.E. Quincy
Topeka, Kansas 66603

SETTLEMENT AGREEMENT

This Settlement Agreement is made between the Indian Leader Association, Marcel Stevens, Laurey Chapman, Ardina Glenn, Cynthia Grant, Tina Melton, Harvey Ross, Cordell Whitetree and Catherine Williams and Haskell Indian Junior College of the Bureau of Indian Affairs of the United States Department of Interior to settle and compromise issues before the United States District Court for the District of Kansas in Indian Leader Association v. United States Department of the Interior, Case No. 89-4063-R (filed March 30, 1989).

1. Parties to Settlement Agreement. The parties to this Settlement Agreement are the plaintiff, Indian Leader Association, an unincorporated student association which publishes The Indian Leader (the "Association"), and plaintiffs Marcel Stevens, Laurey Chapman, Ardina Glenn, Cynthia Grant, Tina Melton, Harvey Ross, Cordell Whitetree and Catherine Williams, individually and in their capacities as editors, reporters and representatives of the Association ("Plaintiffs"), and defendant Haskell Indian Junior College of the Bureau of Indian Affairs of the United States Department of the Interior ("Haskell"), which enters into this Settlement Agreement through the agency of Jim Baker, Acting President of Haskell.

Nothing in this Settlement Agreement shall have any bearing on the academic standing of the named plaintiffs or any member of the Indian Leader Association. Nor shall this Settlement Agreement bear on the eligibility of a student to serve as an officer of the Indian Leader Association under the college's rules governing extracurricular activities.

2. Student Editorial Control. The parties agree that the members of the Association and the Editorial Board of The Indian Leader have the right to editorial control of the contents of The Indian Leader newspaper as described in the attached Plan of Operation of the Indian Leader Association ("Plan of Operation").

3. No Prior Restraint or Censorship. Haskell agrees that no officer, agent, instructor or employee of Haskell shall:

(a) censor, edit or modify the contents of The Indian Leader newspaper in violation of the First Amendment of the United States Constitution;

(b) restrain, obstruct or prohibit the publication of The Indian Leader newspaper or otherwise inhibit the free expression of members of the Association in violation of the First Amendment of the United States Constitution; however, nothing in this Settlement Agreement shall prevent Haskell, the BIA, the Department of the Interior, or Congress from withdrawing any federal funding for The Indian Leader, or from disposing of the printing press on

the Haskell campus pursuant to the provisions of the Federal Property and Administrative Services Act or other applicable law;

(c) suspend the publication of The Indian Leader newspaper ~~on the ground that a vacancy has arisen in the position of faculty adviser to the Indian Leader newspaper or the Association.~~

(d) refuse any written request for the disbursement of funds, reasonably related to the management or publication of The Indian Leader, from the Indian Leader Association Activity Fund, the Club Fund or any other Indian Leader Association account containing student monies in the Haskell Student Bank which is supported by a written resolution of the Editorial Board of The Indian Leader or the full membership of the Association finding "First Amendment Grounds for Funds Withdrawal by Students" as described in the attached Plan of Operation;

(e) refuse to approve a Plan of Operation for the Association substantially similar to the attached Plan of Operation, which is incorporated herein by reference and made an integral part hereof, and which shall be the Plan of Operation in effect for the 1989-1990 school year, or suspend the publication of The Indian Leader on the grounds that the Plan of Operation has not been approved; provided, that nothing in this Settlement Agreement shall prevent Haskell from establishing a journalism or communications department and incorporating The Indian Leader into the curriculum of such an academic program; that if such an academic program is established, Haskell and the members of The Indian Leader Association may revise the Plan of Operation of The Indian Leader Association to reflect incorporation of The Indian Leader under the curriculum of that program; provided further, that nothing in this Settlement Agreement is intended to prevent the members of The Indian Leader Association from adopting a Plan of Operation, or other organic operating charts or substantially dissimilar to the attached Plan of Operation; or

(f) have the right to excise any material from The Indian Leader on the grounds that it is either libelous or obscene.

4. Role of Faculty Adviser. The parties agree that the faculty adviser shall discharge his or her responsibilities consistent with the following guidelines:

(a) The faculty adviser to the Association may freely advise and instruct student editors and reporters in the subject of journalism and relevant professional standards, commend and critique the work product of student journalists, offer fiscal and technological guidance to the newspaper staff in business and production operations and provide whatever assistance to the newspaper and the student journalists the faculty adviser deems appropriate.

(b) A faculty adviser may make nonbinding recommendations to the student editors which they may, in their sole discretion, take into consideration in the free exercise of their independent editorial judgment.

(c) Although a faculty adviser of the Association may freely offer advice and assistance to student members of the Association, neither the faculty adviser nor any other Haskell officer or employee has the right to censor, edit or modify in any way the content of The Indian Leader.

(d) The faculty adviser is under an affirmative duty to facilitate the disbursement of such funds allocated to the Association as directed by the Editorial Board and the Association by majority vote, supported by written resolution, which are reasonably related to the management and publication of The Indian Leader.

(e) The faculty adviser shall, to the best of his or her ability, adhere to the ethical standards set forth in the attached Code of Ethics of College Media Advisers.

5. Responsibility of Student Journalists. Sole legal responsibility for the contents of The Indian Leader shall rest with the individual members of the Indian Leader Association as recognized in 25 C.F.R. § 42.3 (1988). No legal responsibility for the contents of The Indian Leader shall be imputed to Haskell or the faculty adviser, the Bureau of Indian Affairs or the United States Department of the Interior. Plaintiffs understand that they may be held personally accountable for the contents of The Indian Leader in a court of law, if those contents are libelous or obscene, or infringe copyrights or trademarks, or otherwise give rise to civil liability.

6. Newspaper Account in the Student Bank. Those monies which may be received or collected by Haskell on behalf of the Association, such as the Association's allocation of student activity fees, if any, shall be maintained in the Haskell Student Bank in strict compliance with the applicable rules contained in the Bureau of Indian Affairs Manual ("BIAM"), this section of the Settlement Agreement and the Plan of Operations. Such monies shall be:

(a) the subject of a separate accounting in the Haskell Student Bank and assigned a separate account number;

(b) the subject of a monthly account statement prepared by the Haskell Student Bank which shall be presented to the President of the Indian Leader Association; and

(c) disbursed in accordance with this Settlement Agreement and the attached Plan of Operations.

7. Off-Campus Bank Account. Those monies which are received, collected or raised off campus by the Association, without any intermediation by Haskell, may be deposited, at the election of the Association, in either the Student Bank account or in an off-campus account maintained at a local bank in Lawrence, Kansas. No disbursement from an off-campus bank account shall be made, however, without the signature of at least two officers of the Association on the draft drawn on such local bank. A copy of the monthly accounts of such off-campus bank account shall be published regularly in The Indian Leader. Nothing in this Settlement Agreement shall be read to prohibit Haskell from devising and implementing procedures for managing and accounting for on-campus revenue-raising activities of students.

8. Elections. As soon as possible following the execution of this Settlement Agreement, the President of the Association shall call a meeting of the membership of the Association for the purpose of electing the editors of The Indian Leader and the officers of the Association for the 1989-1990 academic year. This meeting shall be called within the first 30 days of the beginning of the fall 1989 semester at Haskell.

9. Control of Contributions for Subscriptions. Voluntary contributions made by individuals for subscriptions to The Indian Leader shall no longer be paid to the Haskell Indian Junior College Foundation and shall instead be paid directly to the Association Club Account in the Student Bank.

10. Waiver of Claims. This Settlement Agreement represents the final understanding between the parties concerning the resolution of the issues before the United States District Court for the District of Kansas in Indian Leader Association v. United States Department of Interior, Case No. 89-4063-R (filed March 30, 1989). All parties to this Settlement Agreement hereby release the others from any claims or causes of action, and the parties and their counsel agree not to initiate or cause to be initiated, any further proceedings between any of the parties or their counsel, or make any further requests regarding the facts of this case.

11. Covenant of Good Faith and Fair Dealing. The parties agree to interpret and implement this Settlement Agreement in good faith and with due regard for both the First Amendment rights of student journalists and the legitimate educational and administrative interests of Haskell. It is the central purpose of this Settlement Agreement to secure the regular publication of The Indian Leader free from any prior restraint or censorship. This Settlement Agreement is contingent upon the reciprocal performance of the specified obligations by all of the parties. In the event that any party acts in bad faith or breaches this Settlement Agreement, the aggrieved party shall be free to pursue appropriate legal remedies in a court of law. Nothing in this Settlement

Agreement shall be construed to restrict or limit the right of any of the parties to commence litigation if any party fails to comply with all of the terms and conditions of this Settlement Agreement.

~~12. Use of Printing Press.~~ The parties agree that the use of the federally authorized printing press at Haskell is subject to the Government Printing and Binding Regulations published by the Joint Committee on Printing of the U.S. Congress. See 44 U.S.C. §§ 103, 501, 502.

13. Recognition of Mutual Rights. Any and all rights and responsibilities under this Agreement are set forth in recognition of the mutual rights of the defendant Haskell, and the rights of the students to free speech, press and expression. The Agreement recognizes various rights of Haskell hereunder to alter the Plan of Operation in conjunction with the student journalists (3)(e), to reduce or eliminate funding (3)(b), and to dispose of or sell the printing presses under various provisions of this Agreement (12). These rights may not be exercised by Haskell in response to, or as a result of, articles, photographs or any other content of The Indian Leader. Further, such actions may not legitimately be performed under this Agreement as a form of prior restraint, or otherwise as intended to limit or restrict the free expression of ideas or rights to the students as recognized in this Agreement. Any exercise by Haskell of the rights noted in this paragraph shall be done following notice to The Indian Leader Association, stating the action to be taken and the reasons therefor. Such notice shall be delivered to the editor-in-chief and posted on the Student Activities bulletin board at least thirty (30) days prior to any such contemplated action.

14. Signature and Court Approval. This Agreement shall be signed by all the parties named in Section 1 of this Settlement Agreement or their duly authorized representatives. This Settlement Agreement shall be submitted to the Honorable Richard D. Rogers, Judge for the United States District Court for the District of Kansas, for final approval and shall not become effective until such final approval is obtained. After such final approval has been obtained, the Plaintiffs shall agree to the dismissal without prejudice of the action against all named defendants except Haskell. The Settlement Agreement shall then immediately bind the remaining parties to all of its provisions, and a judgment of dismissal of the action, subject to the terms of the Settlement Agreement, shall then be jointly submitted to the court by the remaining parties.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be executed by their duly authorized representatives on this _____ day of _____, 1989.

THE INDIAN LEADER ASSOCIATION

Marcel Stevens
MARCEL STEVENS
Managing Editor and President
The Indian Leader Association

Cynthia E. Grant
CYNTHIA GRANT
Student Journalist

Harvey Ross
HARVEY ROSS
Student Journalist

CordeLL A. Whitetree
CORDELL WHITETREE
Student Journalist

Dario F. Robertson
DARIO F. ROBERTSON
Counsel for Plaintiffs

Patrick R. Nichols
PATRICK R. NICHOLS
Counsel for Plaintiffs

HASKELL INDIAN JUNIOR COLLEGE

Jim W. Baker
JIM BAKER
Acting President
Haskell Indian Junior College

David M. Cooper
DAVID M. COOPER
Assistant U.S. Attorney
Counsel for the Defendant

THE INDIAN LEADER ASSOCIATION
Haskell Indian Junior College
Lawrence, Kansas 66046

PLAN OF OPERATION

I. NAME

The name of this organization is The Indian Leader Association and shall hereafter be referred to as the Association.

II. PURPOSE

The purpose of the Association is to produce The Indian Leader newspaper, an independent student publication, and the Haskell Yearbook. The Indian Leader newspaper will be produced and published approximately six times each semester and the Haskell Yearbook will be produced and published the spring semester of each school year. The Association will also maintain a separate account to accept funds and donations on behalf of the newspaper and for disbursing cash payments as incentives to students who contribute articles, photographs and illustrations to The Indian Leader.

The Indian Leader is a nationally distributed Native American newspaper edited and published by students at Haskell Indian Junior College for the purpose of promoting the free and informed debate and discussion of (1) topics of special interest to Haskell students and alumni, (2) issues of special importance to Native Americans generally and (3) all newsworthy topics and public issues of general interest to American citizens.

The Indian Leader is published by the students at Haskell Indian Junior College and the members of the Association in the exercise of their individual rights to free speech and freedom of the press guaranteed by the First Amendment of the United States Constitution. These fundamental First Amendment rights have been expressly recognized as rights which individual students enjoy who attend Bureau of Indian Affairs schools in Part 42 of Title 25 of the Code of Federal Regulations. Student Rights and Due Process Procedures, 25 C.F.R. § 42.3(e)-(f) (1988). These basic rights have also been reaffirmed in Part III of the Code of Student Rights and Responsibilities of Haskell Indian Junior College (1988).

The Indian Leader Association is committed to improving the ability of Native Americans to determine their own destiny by providing an open public forum in which all concerned citizens, regardless of race, creed, color, sex, religion or national origin, might freely discuss the important public issues of the day. The members of the Association believe that by providing such a public forum, readers and contributors alike will improve their understanding of the true meaning of leadership, citizenship and democracy in contemporary American society through an open, honest

and fair-minded exchange of views.

III. MEMBERSHIP AND OFFICERS OF THE ASSOCIATION

A. General

To qualify as a member of the Association, an individual must:

(a) be an enrolled student at Haskell Indian Junior College;

(b) submit a news story, essay, proposed editorial, poem, short story, photograph or any other journalistic or literary work, not including advertisements, letters to the editor and notices, for publication in The Indian Leader, or participate in the production or circulation of The Indian Leader or the Haskell Yearbook.

(c) receive written notice that the submission has been accepted for publication in The Indian Leader; and

(d) inform the Association, orally or in writing, of an intention to become a member of the Association.

The Editor-in-Chief shall be responsible for keeping a current list of Association members and publishing said list at least once per semester in The Indian Leader.

In the event that any member fails to attend three consecutive meetings of the Association, without excuse, that person may be removed from the membership rolls of the Association by majority vote.

B. Officers

The officers of the Association shall include a President, Vice President, Treasurer and Secretary. The person elected President of the Association shall also serve as Editor-in-Chief of The Indian Leader and the person elected Vice-President shall also serve as Executive Editor of The Indian Leader.

Officers must maintain "academic good standing," as defined on page 35 of the Haskell Bulletin, 1988-1990, in order to receive a salary as specified in Appendix I containing the 1989-1990 Budget for The Indian Leader. Decisions made at duly convened meetings of the Association are binding on members.

All officers of the Association shall have taken or shall be currently enrolled in at least one course in English or Journalism at Haskell Indian Junior College at the time his or her term of office shall commence in order to be eligible to hold such office.

The President shall be the Editor-in-Chief and shall be responsible for the general operation of the paper and the Association. The President shall pick up and distribute mail daily.

The Editor-in-Chief shall conduct regular and special meetings of student reporters, assign stories, edit manuscripts, oversee reporters and lay out The Indian Leader.

The Executive Editor shall assist the Editor-in-Chief in carrying out his or her assigned duties and shall succeed to the position of Editor-in-Chief in the event of a vacancy in that office prior to next regularly scheduled election.

The circulation manager shall (1) recommend to the printers the approximate number of issues of the newspaper to be published, (2) coordinate the distribution of issues on the day of publication, (3) maintain a current mailing list, (4) make additions, deletions, corrections and other appropriate changes in mailing list, (5) make labels or have labels made, (6) coordinate the process of labeling The Indian Leader for mailing, (7) keep a file of correspondence, and (8) make a weekly report, oral or written, to the Association.

Other positions in the Association shall be established upon the majority vote of the members of the Association. The Association shall make the guidelines and prescribe the duties of all new positions. Officers may be removed from office upon the vote of two-thirds of the members of the Association.

IV. PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Association in all cases to which they are applicable and in which they are not inconsistent with this Plan of Operation and any special rules of order the Association may adopt.

V. MEETINGS

Meetings of the Association shall be held weekly and will be open to all Haskell students and to the public.

At the beginning of each semester, the Association shall decide upon a day, time and place for such regular weekly meetings. Once the day, time and place has been decided by the Association and notice of such has been posted on the bulletin board at the Student Senate Building, no further notice shall be required for the Association to conduct business at such regular weekly meetings.

Any meeting of the Association not held on the day, time and

place of the regular weekly meeting may be properly convened only upon three days' prior written notice. Such notice shall be made to the Association by posting an announcement of the meeting on The Indian Leader Bulletin Board. This notice requirement shall apply to any meeting of the Association, other than regular meetings, ~~referenced in this Plan of Operation, including but not limited to~~ meetings mentioned in Sections III(B), VI and VIII(B) of this Plan of Operation.

A majority of the members of the Association shall constitute a quorum.

VI. EDITORIAL BOARD AND EDITORIAL CONTROL

The Editorial Board shall consist of the Association President and Editor-in-Chief, the Vice President and Executive Editor, Copy Editor, the Circulation Manager, and the Darkroom Manager. Other positions and members of the Editorial Board may be added by majority vote of either the Editorial Board or the members of the Association. A majority of the members of the Editorial Board shall constitute a quorum.

The Editorial Board shall have primary responsibility for and control of the editorial content of The Indian Leader. Day-to-day editorial decisions shall be made by the Editor-in-Chief, but any question of editorial policy may be put to the vote of the Board of Editors at any regular or special meeting of the Board of Editors.

In the event that the faculty adviser, any member of the Editorial Board or any member of the Association requests, prior to publication, a special review of any portion of an issue of The Indian Leader to determine whether it is libelous or obscene, the entire Editorial Board shall:

(a) carefully read and evaluate the identified material to determine whether it is libelous or obscene;

(b) seek the advice of the faculty adviser and, if possible, experts in the field of student press rights and the law of libel and obscenity, such as legal counsel and journalists designated by the Student Press Law Center in Washington, D.C., the Journalism Education Association or College Media Advisers; and

(c) consult, when appropriate, authoritative treatises for more detailed guidance in determining whether the identified material is libelous or obscene, such as:

(1) Louis E. Ingelhart, Freedom for the College Student Press (Westport, Conn.: Greenwood Press, 1985): 125-151 (on libel), 159-168 (on obscenity); and

(2) Student Press Law Center, Law of the Student Press

(Washington, D.C.: Student Press Law Center, 1985): 31-38 (on libel), 38-41 (on obscenity);

(d) make a final, independent determination of whether to publish the identified material; and

(e) report its determination to the faculty adviser within 24 hours following such decision.

Any student who has submitted an article for publication may withdraw that article prior to publication upon reasonable written notice to the Editor-in-Chief, provided that such withdrawal can be accomplished without a substantial delay in publication.

VII. FACULTY ADVISER

One or more faculty advisers may be appointed by Haskell Indian Junior College to assist students in the publication of The Indian Leader.

The faculty adviser to the Association may freely advise and instruct student editors and reporters in the subject of journalism and relevant professional standards, commend and critique the work product of student journalists, offer fiscal and technological guidance to the newspaper staff in business and productions operations and provide whatever assistance to the newspaper and the student journalists the faculty adviser deems appropriate.

A faculty adviser may make nonbinding recommendations to the student editors which they may, in their sole discretion, take into consideration in the free exercise of their independent editorial judgment.

Although a faculty adviser of the Association may freely offer advice and assistance to student members of the Association, neither the faculty adviser nor any other Haskell officer or employee has the right to censor, edit or modify in any way the content of The Indian Leader.

The faculty adviser is under an affirmative duty to facilitate the disbursement of such funds belonging to the Association as directed by the Editorial Board and the Association by majority vote, supported by written resolution, which are reasonably related to the management and publication of The Indian Leader.

The faculty adviser shall, to the best of his or her ability, adhere to the ethical standards set forth in the attached Code of Ethics of College Media Advisers.

The right of the Association to publish The Indian Leader shall not be conditioned upon the prior appointment of a faculty adviser by Haskell Indian Junior College. Consequently,

publication of The Indian Leader shall not be interrupted as a result of the inability or unwillingness of Haskell Indian Junior College to appoint a faculty adviser to work with the Association in the event of a vacancy in that position.

~~The faculty adviser has no power to refuse to facilitate the disbursement of funds reasonably related to the management and publication of The Indian Leader as determined by the Editorial Board or the Association by majority vote.~~

VIII. SALARIED POSITIONS OF THE INDIAN LEADER

A. Officers With Salaries

Salaried positions in the Association shall be those of President, Vice President, Copy Editor, Circulation Manager, Darkroom Manager. The Typesetter shall also receive a salary.

B. Assistant Officers

Assistant officers shall be elected by majority vote of the members of the Association at the beginning of the last semester prior to the graduation of each salaried officer of the Association. Such assistant officers shall serve as apprentices to the graduating officers for the purpose of receiving the necessary training and experience to assume the responsibilities of the graduating officer after commencement. The assistant officers shall assume the office and responsibilities of the graduating officers on the date of the next commencement at Haskell Indian Junior College following their appointment as assistant officers. Any office not so filled by an assistant officer shall be filled by majority vote of the members of the Association in a regular or special election.

IX. COMPENSATION AND AWARDS

Compensation and awards shall be as specified in this Section VIII.

Salaried positions shall be compensated according to the rates and amounts specified in Appendix I containing the 1989-90 Budget for The Indian Leader. Students holding salaried positions shall not be paid any other compensation specified in this section.

Student reporters shall be paid \$1.25 per column inch for articles published. Student photographers shall be paid \$5.00 for each photograph published. Student artists shall be paid an amount to be determined by majority vote of the Association for each published illustration or cartoon.

The amount and disbursement of monies for any type of contest sponsored by The Indian Leader must be approved by majority vote

of the Association.

X. ACCOUNTS

A. Activity Fund

Any funds allocated to The Indian Leader Association from the student activity fee, paid by each student of Haskell Indian Junior College each semester, shall be deposited in The Indian Leader Association Activity Fund in the Student Bank. Other monies received or collected by Haskell on behalf of the Association shall also be deposited in that Activity Fund.

Any officer, editor or any other member of the Association or any currently enrolled student or alumnus of Haskell Indian Junior College may, upon written request, examine the records of account of The Indian Leader Association Activity Fund in the Student Bank and may obtain a copy of any such records of account at his or her own expense.

A summary of the records of account shall be published annually in The Indian Leader.

In the absence of a finding by the Association of "First Amendment Grounds for Funds Withdrawal by Students" as described in the following paragraph, withdrawal from the Indian Leader Association Activity Fund shall be made by a faculty adviser, supported by signatures from a student member of the Editorial Board and the Association President.

In the event that the Association or the Editorial Board passes by 2/3 (two-thirds) vote a resolution finding "First Amendment Grounds for Funds Withdrawal by Students," withdrawal from the Indian Leader Association Activity Fund shall be made by President of Haskell Indian Junior College, if the request is reasonably related to the management or publication of The Indian Leader, supported by the signatures of the Association President and another member of the Editorial Board. "First Amendment Grounds for Funds Withdrawal by Students" exist whenever Haskell Indian Junior College has failed to appoint at least one faculty adviser to the Association or whenever the Association, by 2/3 (two-thirds) vote, reasonably determines that a faculty adviser (1) is in any way obstructing the publication of The Indian Leader, (2) refuses to comply with requests from the Association or the editorial board for disbursements reasonably related to the management or publication of The Indian Leader, or (3) attempts in any way to censor, edit or modify the content of The Indian Leader.

Each withdrawal from The Indian Leader Association Activity Fund must be approved by a majority vote of the Editorial Board or the Association and supported by written resolution. Each such resolution must explain the purpose of every withdrawal of funds.

Receipts shall be collected within five (5) days following the disbursement of all funds. A full written accounting of any monies withdrawn pursuant to a resolution finding "First Amendment Grounds for Funds Withdrawal by Students" shall be given to a faculty adviser or, if there is no faculty adviser, to the President of Haskell Indian Junior College within five (5) days following the withdrawal transaction.

Nothing herein binds the federal government (or Haskell) to spend federal appropriated funds to publish The Indian Leader.

B. Club Fund

Money raised by members may, at the election of the Association, be deposited into a Club Fund at the Student Bank or in an off-campus account at a local bank in Lawrence, Kansas. Such money may be withdrawn for (1) student entertainment, (2) contracting outside services and (3) such other uses benefiting the Association as the Editorial Board may, in its sole discretion, determine to be necessary or appropriate.

In the absence of a determination by the Association of "First Amendment Grounds for Funds Withdrawal by Students" as described in the following paragraph, withdrawal from a Club Fund maintained at the Student Bank shall be made by faculty adviser, supported by signatures from any two student officers of the Association.

In the event that the Association or the Editorial Board passes by majority vote a resolution finding "First Amendment Grounds for Funds Withdrawal by Students," withdrawal from the Club Fund shall be made by the President of Haskell Indian Junior College, supported by the signatures of the Association President and another officer of the Association. "First Amendment Grounds for Funds Withdrawal by Students" exist whenever Haskell Indian Junior College has failed to appoint at least one faculty adviser to the Association or whenever the Association, by majority vote, reasonably determines that a faculty adviser (1) is in any way obstructing the publication of The Indian Leader, (2) refuses to comply with requests from the Association or the editorial board for disbursements reasonably related to the management or publication of The Indian Leader, or (3) attempts in any way to censor, edit or modify the content of The Indian Leader.

Each withdrawal from the Club Fund must be approved by a majority vote of the Editorial Board or the Association and supported by written resolution. Each such resolution must explain the purpose of every withdrawal of funds. Receipts shall be collected following the disbursement of all funds. A full written accounting of any monies withdrawn pursuant to a resolution finding "First Amendment Grounds for Funds Withdrawal by Students" shall be given to a faculty adviser or, if there is no faculty adviser, to the President of Haskell Indian Junior College within five (5)

days following the withdrawal transaction.

C. Contributions for Mailed Subscriptions

~~The Indian Leader shall be distributed free of charge to anyone interested in receiving a copy. Any person wishing to receive a mailed subscription to The Indian Leader will be asked to make a \$5.00 contribution directly to The Indian Leader Association Activity Fund by check or money order. The next edition of the Haskell Bulletin shall be amended to provide for the payment of such \$5.00 contributions directly into The Indian Leader Association Activity Fund, rather than the Haskell Foundation, a tax exempt organization which has not direct relationship with and provides no funding to The Indian Leader Association.~~

D. Off-Campus Bank Account

Those monies which are received, collected or raised off campus by the Association, without any intermediation by Haskell, may be deposited, at the election of the Association, in either the Student Bank account or in an off-campus account maintained at a local bank in Lawrence, Kansas. No disbursement from an off-campus bank account shall be made, however, without the signature of at least two officers of the Association on the draft drawn on such local bank. A copy of the monthly accounts of such off-campus bank account shall be published regularly in The Indian Leader.

APPENDIX I

1989-90 BUDGET FOR THE INDIAN LEADER

Office
Key
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<u>Position</u>	<u>Salary</u>	<u>Times 12 Issues</u>
Editor-in-Chief	\$33.50	402.00
Executive Editor	33.50	402.00
Copy Editor	33.50	402.00
Circulation Manager	33.50	402.00
Darkroom Manager	33.50	402.00
Typesetter	33.50	402.00
Assistant Circulation	33.50	402.00
Assistant Darkroom	33.50	402.00
Assistant Typesetter	33.50	402.00
Freelance Compensation	500.00 (per sem.)	\$1,000.00 (x2 sem.)
Miscellaneous	300.00 (per sem.)	600.00 (x2 sem.)
Travel Expense	750.00 (per sem.)	1,500.00 (x2 sem.)
<u>TOTAL</u>	\$3,158.00 (per sem.)	\$6,718.00 (x2 sem.)

PLAN OF OPERATION APPROVAL

College Officials

Date Approved

Jimmy W. Baker
PRESIDENT

9/14/89
DATE

DIRECTOR OF STUDENT ACTIVITIES

DATE

Kindall D. McHenry
STUDENT SENATE PRESIDENT

9-15-89
DATE

James Lambert
SPONSOR

9/15/89
DATE

Organization Officers

Date Approved

Marcel Stevens
PRESIDENT

9-14-89
DATE

(POSITION VACANT)
VICE PRESIDENT

DATE

Harvey E. Lass J.
SECRETARY

15 Sept 89
DATE

Harvey E. Lass J.
TREASURER

15 Sept 89
DATE

October 17, 2020

Tony Dearman
Director of BIE
Bureau of Indian Education
1849 C Street NW
Washington, DC 20240

Reporting Behavior of Subordinate

Tony Dearman:

As you may be aware, Haskell Indian Nations University (HINU) President Ronald Graham issued a directive to me on Friday, October 16 which you were included as a copied recipient. I would like to report Ronald Graham for issuing this directive as a threat and intimidation with the intent to withdraw my student rights. The directive includes misleading narratives and baseless information for which I've been given sanctions that don't follow the Code of Student Conduct, violate my student rights, and appear to be a misuse of President Graham's authority.

I would first like to say this directive follows a grievance I submitted to President Graham on October 9th regarding how HINU has falsely collected and represented my racial identity, and an attempt to rectify my racial identity record and offer the same considerations for my peers. This grievance was not addressed in Graham's directive which appears to be a retaliatory email. Before I address Graham's directive, I would like to call attention to the current issue I'm engaged in with the HINU administration and say that I have attempted to resolve this issue with Graham, but will continue to fight for my right to my racial identity and will be following up with Sloan Farrell on this matter.

Graham's directive does not follow the Code of Student Conduct. I've received no letters from the Office of Student Rights for any violations or complaints referenced in Graham's directive. The president cannot operate outside of my rights as a student outlined in the Code of Student Conduct and cannot ignore the Code of Student Conduct processes needed to issue sanctions, nor may the sanctions violate my legal rights.

I feel the following sanctions infringe upon my constitutional rights afforded by the first amendment for freedom of speech and infringe upon lawful rights provided by state and federal laws.

You will NOT "Attack any student, faculty, or staff member with letters or in public, or any public forum, thus bringing unjustified liability to this campus or anyone of this campus."

This directive directly correlates to me exercising my freedom of speech to ask that the Lawrence Community Police Review Board to remove Tonia Salvini as a board member because she violates the ethics of the board by contributing to my racial discrimination. While HINU may see this as an "Attack" on Salvini's public persona, I have every right to critique her and hold her accountable as a public figure even if HINU does not like the things I have to say. I should not be receiving criticism based on HINU's distaste for how I self advocate. This is not an issue of defamation, libel, or slander—I've provided sufficient evidence to support my claims. This is an attack on my right to voice a dissenting opinion of a HINU administrator.

You will NOT: "Make demands on any governmental agency — or anyone else from Haskell — while claiming to represent The Indian Leader".

This directive comes from a false claim that I contacted the police department and "demand[ed] [information] on behalf of the University". The interaction described claims that I identified

myself on behalf on Haskell Indian Nations University which goes against my standard press greeting of, “My name is Jared Nally. I’m a student writer (or Editor-In-Chief for) the *The Indian Leader*, Haskell Indian Nations University’s student newspaper.” This is not a false introduction, but I welcome an open dialogue to how Indian Leader writers can identify themselves to avoid confusion. However, I do not want this sanction to impede on my ability to ask for information, and for the administration to color any request for information as a “demand”.

I did not “demand” information when I reached out to the police department about Nia Schexnider’s death, and it’s a disservice to myself and to her to color it as such when I wrote a tribute piece honoring her life and even provided funeral information to HINU who did not send any messaging out to students about her death nor funeral information. I fear, HINU’s ability to discolor any attempt to get information as “demanding” puts me at risk that asking any questions could be found as “demanding” and place me in violation of this sanction, and subject to disciplinary action.

I have a right to ask questions. I won’t do so pretending to represent HINU—I always represent *The Indian Leader*. This sanctions endangers my freedom of speech to ask questions.

You will NOT: “Attempt countermanding decisions of Haskell personnel assigned by me or anyone else in to positions in an effort to replace them.

This directive is related to my actions as Editor-In-Chief of The Indian Leader Association to refuse to allow Joshua Falleaf whose expressed negative views of *The Indian Leader* publication calling it a “gossip rag” on April 17th, 2020, to be assigned as faculty advisor. HINU administration cites their authority is provided to them by a legal settlement agreement, but the clause cited, “One or more faculty advisers may be appointed by Haskell Indian Junior College to assist students in the publication of *The Indian Leader*,” is not part of the settlement agreement, but is part of the Plan of Operations included as an appendix example referenced in the settlement agreement. The Plan of Operations is under The Indian Leader Association’s authority — It was voted on by the association to remove Falleaf from the position and later the Plan of Operations was completely amended to allow an explicit statement for the removal and reappointment of Faculty Advisors. This sanction restricts the Indian Leader Association’s rights to challenge the misuse of authority, and ability act in our own interest under our own Plan of Operations. This is a violation of freedom of speech where I am being criticized for asking for clarification, expressing the association’s needs, the association’s sovereignty, and the association’s own policy. This sanction is a broad attempt at complacency and exploitation which threatens all of those free speech rights.

You will NOT: “Record anyone at Haskell in your interviews unless you advise them first and they grant you permission.”

This is not how Single-Party Consent States work. I have every right to record my conversations without the explicit need to have permission granted. This is afforded to me through Kan. Stat. Ann. § 21-6101(4). It is blatant disrespect by the university to equate me to a felon for exercising a legal right in this state provides, and subsequently remove this right by assigning a sanction allowing disciplinary action if I exercise my right to record conversations in the future.

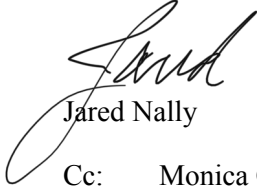
Related to this situation using the university’s own language, HINU has “attacked” me in emails and letters, saying I’m deceitful and disrespectful and infer that I am not honest, not credible, and don’t have journalistic integrity. This is a great example of freedom of speech, but showcases a double standard that a student isn’t allowed to exercise free speech and is subject to sanctions, but faculty and administration may do so without repercussions.

You WILL: “Understand no one has the obligation to answer your questions or adhere to any timelines you may attempt to impose on them.”

I completely understand that sentiment and agree. Timelines have been “imposed” to provide HINU with an understanding that their is (a) a limited amount of time to provide a statement before a story goes live to allow opportunity for HINU to provide a statement, or (b) has legal obligations like the recent October 25th which is a legal deadline for HINU to provide requested FERPA information and is done out of respect to allow HINU to avoid a FERPA violation which I will file if that timeline is failed to be met. I will continue to provides dates for the benefit of HINU, but understand it is entirely for their benefit, and not required.

My main take away from this directive is that HINU doesn’t want unflattering information released and this directive is meant to accomplish that through intimidation and bullying myself with unjustified sanctions that violate my rights. Mr. Dearman, I ask that you please review the directive and consider these violations. I’m more then willing to provide documentation and additional explanation to the brief backgrounds provided above. Please provide communication as to how the process moves forward with this complaint.

Sincerely,

A handwritten signature in black ink, appearing to read "Jared", with a long, sweeping underline that extends to the left and then loops back under the name.

Jared Nally

Cc: Monica Cooper, Human Resources Specialist



Jared Nally

Follow up to "Reporting Subordinate Ronald Graham"

Jared Nally

Sat, Oct 17, 8:22 PM

To: [REDACTED]@bie.edu>

Cc: [REDACTED]@bia.gov>

Tony Dearman:

I apologize I did not include this in my email " Reporting Subordinate Ronald Graham", I have finally been able to find the email attached to provide to you as an example of the inaccuracies and unfavorable coloring that President Graham has done to impose these sanctions.

In Graham's directive I am portrayed as demanding and incentive to the death of a respected HINU employee, and falsely accused of acting on behalf of the university. I hope I can offer this as a starting point to unravel the false narrative being told about me from the administration and work toward rectifying my rights being withheld because of this directive.

In the attachment you will find that I did not call the police department, I had sent an email that outlines our communication which was respectful, non-demanding, and not impersonating or representing HINU. It was upsetting to see myself portrayed as such and to see the rhetoric continue to unsavory and misrepresentative throughout Graham's directive. I am appalled that Graham used Nia Schexnider's death as a means to debase me, and create false allegations. I had a lot of respect for Nia, and believe I provided that in my tribute, and HINU has ruined all of that to use her death against me. HINU paid little respects to her death, they did not provide any death notice to students. A short notice was provided to faculty which promised to update them with funeral information. I provided funeral information to HINU the day before the funeral, but this information was not distributed. Weaponizing an employee's recent death is unsettling.

It is also unsettling that HINU demonstrates the ability to create false narratives to support their agenda, and silence my voice. I hope this provides incite as to why I'm adamant on retaining my rights that the vague and objective sanctions restrict, and concern with how HINU could misconstrue any situation where I exercise protected rights as a violation of these sanctions and afford them opportunities to exercise unjust

disciplinary action.

Thank you for your help again,

-Jared Nally

Note: Neeoni Chex's legal name is Nia Schexnider which I did not know at the time of writing the email

Media Inquiry - The Indian Leader.pdf