



August 31, 2020

Christa George, Pharm.D., CDE, BCACP
Associate Professor of Clinical Pharmacy and Translational Science
The University of Tennessee Health Science Center
College of Pharmacy
881 Madison Avenue, Suite 215
Memphis, TN 38163

URGENT

Sent via Electronic Mail (cgeorge1@uthsc.edu)

Dr. George:

My name is Greg H. Greubel. I am a staff attorney with the Foundation for Individual Rights in Education (FIRE), 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.

I am writing concerning Kimberly Diei and your August 27, 2020, email about Ms. Diei's social media posts.¹ We understand that you are the Chair of the University of Tennessee Health Science Center College of Pharmacy's ("UTHSC-COP") Professional Conduct Committee, and you have informed Ms. Diei that the Committee received a complaint about her social media posts. We also understand that the Committee is going to hold a meeting tomorrow to review the complaint. According to Ms. Diei, the social media posts in question were posts on her personal social media platforms. She did not use any of UTHSC-COP's resources to distribute the messages, and she did not identify UTHSC-COP in any of the posts.

We understand that your Committee will determine whether Ms. Diei's social media posts violate UTHSC-COP's Student Code of Conduct. FIRE strongly urges UTHSC-COP to drop its investigation into Ms. Diei's social media posts immediately because any adverse action taken against Ms. Diei as a result of her social media posts would violate the First Amendment.

¹ FIRE does not currently represent Ms. Diei; however, we have spoken to her about the facts in this matter.

The First Amendment is binding on public institutions such as UTHSC-COP. *See Healy v. James*, 408 U.S. 169, 180 (1972). As of the date of this letter, UTHSC-COP has not charged Ms. Diei with any specific violation of the Student Code of Conduct. However, it appears that UTHSC-COP intends to discipline her because her social media posts contained explicit comments. Any discipline by UTHSC-COP for these comments would be unconstitutional because explicit comments are protected speech. *See, e.g., Cohen v. California*, 403 U.S. 15 (1971) (overturning a conviction premised upon the use of “vulgar, profane, or indecent language” in wearing a jacket emblazoned with the words “Fuck the Draft” in a courthouse hallway, and observing that “one man’s vulgarity is another’s lyric”); *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (“If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit . . . expression . . . simply because” it is “offensive or disagreeable.”); *Papish v. Board of Curators of the University of Missouri*, 410 U.S. 667, 670 (1973) (noting that speech “on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”).

Like all students in the UTHSC-COP Class of 2023, Ms. Diei has worked very hard to be in a doctorate program at an outstanding university. Ms. Diei is a dedicated student who simply wanted to express herself on social media. UTHSC-COP should not, and cannot lawfully, discipline her for her explicit out of class expression.

UTHSC-COP still has the opportunity to make the correct and lawful decision to not discipline Ms. Diei because of her protected speech. We urge UTHSC-COP not to take adverse action against Ms. Diei. If UTHSC-COP ignores our warning, however, FIRE is prepared to use all of the resources at our disposal to ensure a just outcome that meets UTHSC-COP’s obligations under the First Amendment.

Best regards,



Greg Harold Greubel
Staff Attorney

Cc:
Jennifer Schoelles, Pharm.D. (jwill315@uthsc.edu)