



December 9, 2020

Chancellor Carol Christ
Office of the Chancellor
University of California, Berkeley
200 California Hall # 1500
Berkeley, California 94720-1500

Sent via Electronic Mail (chancellor@berkeley.edu)

Dear Chancellor Christ:

FIRE¹ is disappointed that we did not receive a response to our letter of November 10, 2020, expressing concern about the state of freedom of the press at the University of California, Berkeley.

We hoped our original letter would open the conversation and prompt UC Berkeley to review its policies. We write again to more specifically outline FIRE's concerns with UC Berkeley's press policies in hopes that the institution will take steps to address these potential threats to its student press.

For example, UC Berkeley's "Broadcast studios and services" policy requires media to seek permission from the Director of Broadcast Communications to "conduct documentary, educational, and long-form news productions on campus."² This is a content-based restriction on interviewing and filming students and faculty—activities squarely embraced by the First Amendment.³

¹ As you will recall from prior correspondence, 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 our nation's college campuses.

² *Broadcast studios and services*, BERKELEY NEWS, UNIV. OF CAL., BERKELEY, <https://news.berkeley.edu/broadcast-studios-and-services> (last visited Dec. 8, 2020).

³ *U.S. v. Sherman*, 581 F.2d 1358, 1361 (9th Cir. 1978) (the "Supreme Court has recognized that newsgathering is an activity protected by the First Amendment"); *Fordyce v. City of Seattle*, 55 F.3d 436, 439 (9th Cir. 1995) (right to film).

As discussed in our November 10 letter, policies that restrict the rights of student reporters to engage in expressive activities in open areas of campus run contrary to the First Amendment, by which UC Berkeley must abide as a public university.

Because this policy includes no exception for student journalists, it can be applied to restrict their newsgathering.⁴ While UC Berkeley may not intend to apply this policy to student journalists, the fact that its plain language reaches student journalists risks a chilling effect that is untenable at a public university.

FIRE has unfortunately seen this chilling effect play out at other institutions. We have spoken with numerous student reporters at colleges and universities across the nation who come to us with concerns about how their institutions' media policies might restrict their ability to gather news. While these policies are often not intended to apply to student reporters, the ambiguity and the fact that at least some institutions *do* actively apply such policies to the student press leaves student journalists reasonably concerned about the status of their rights.

We hope UC Berkeley will take this opportunity to explore ways that it might better balance its commitments to free expression, transparency, streamlined media relations, and its normal operations. As offered in our letter of November 10, FIRE would be pleased to extend our support and assistance as UC Berkeley undergoes these policy revisions.

We request a response to this letter no later than the close of business on December 23, 2020.

Sincerely,



Sabrina Conza
Program Analyst, Individual Rights Defense Program

⁴ As an organization dedicated to defending the rights of students and faculty on college campuses, FIRE takes no position regarding the application of such policies to professional journalists.