



January 25, 2021

Dan Mogulof  
Office of Communications & Public Affairs  
University of California Berkeley  
2200 Bancroft Way  
Berkeley, California 94720

*Sent via Electronic Mail (dmogulof@berkeley.edu)*

Dear Mr. Mogulof:

FIRE appreciates your December 11, 2020, response to our letter of December 10, 2020, regarding our specific concerns with University of California, Berkeley's (UC Berkeley's) "Broadcast studios and services" page.<sup>1</sup>

We likewise recognize and appreciate UC Berkeley's reiteration of its commitment to a free press. In conducting a dialogue with you on this matter, we hope only to help UC Berkeley strengthen its commitment to free expression.

Our concerns arose from conversations with student journalists across the country, who often feel restricted by policies and procedures similar to those found on UC Berkeley's website. While these policies are usually not intended to curtail student journalists, they nonetheless have a propensity to chill student reporting. FIRE has not received a specific complaint from a student journalist about these policies at UC Berkeley, but because of our experience with issues caused by similar policies at neighboring universities, we aim to assist your institution in improving its policies and procedures before a complaint arises.

We understand that your "Broadcast studios and services" page is intended to be read as a list of resources and contacts, not as a policy. However, the language used on that page can be easily misunderstood to represent UC Berkeley policy. For example, this page references "required permission to conduct documentary, educational, and long-form news productions on campus."<sup>2</sup> This language—specifically, the use of the term *required*—indicates that it is mandatory, not merely aspirational or informative, and may reasonably be construed to

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<sup>1</sup> *Broadcast studios and services*, BERKELEY NEWS, UNIV. OF CAL., BERKELEY, <https://news.berkeley.edu/broadcast-studios-and-services> (last visited Dec. 8, 2020).

<sup>2</sup> *Id.*

communicate policy. Further, a student journalist reading this page may see that language and reasonably believe that the other suggestions on the page also represent policy requirements rather than helpful suggestions. We are especially concerned that student journalists may read your suggestion that reporters reach out “for assistance in arranging access to . . . expert faculty”<sup>3</sup> as a mandate.

Again, we understand that UC Berkeley does not intend this language to be read as compulsory. I’m sure you can similarly understand that, if read as a policy, the “Broadcast studios and services” page would purport to restrict student journalists’ access to campus in ways that other students do not appear similarly restricted. Thus, to the extent that this page communicates resources rather than policy, we recommend that UC Berkeley make that clear on the page itself. For example, the university may open the page with a statement regarding its commitment to expressive freedom and note that it offers the following, non-mandatory, resources.

We further understand that UC Berkeley does not intend to engage in viewpoint discrimination. Our concern regarding press policies at universities across the country is not strictly based on a concern about viewpoint discrimination.<sup>4</sup> Rather, our primary concern is that these policies often unnecessarily restrict student journalists, preventing them from quickly accessing news and introducing the possibility of censorship. We are grateful that UC Berkeley’s current administration is supportive of free expression and acts to avoid viewpoint- and content-based discrimination in approving requests to film on campus. However, we also recognize that university administrations change, and future administrators may not feel the same. A written policy clarifying that student journalists are not subject to these restrictions would serve as a prophylactic to censorship for generations to come.

We hope that UC Berkeley will take this opportunity to amend its media policies to clarify that its “Broadcast studios and services” page represents resources rather than requirements, and, to the extent this page represents policies, those policies do not apply to students who are journalists. As offered in our letters of November 10 and December 10, FIRE would be pleased to extend our support and assistance as UC Berkeley undergoes these policy revisions.

We request receipt of a response to this letter no later than the close of business on February 8, 2021.

Sincerely,



Lindsay Rank  
Program Officer, Individual Rights Defense Program

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<sup>3</sup> *Id.*

<sup>4</sup> However, it should be noted that policies that appear innocuous may invite viewpoint discrimination.