



July 22, 2021

Alan W. Cramb
Office of the President
Illinois Institute of Technology
IIT Tower
10 West 35th Street, Suite 1900
Chicago, Illinois 60616

Sent via U.S. and Electronic Mail (president@iit.edu)

Dear President Cramb:

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

FIRE writes today to echo the concerns raised by the Southeastern Legal Foundation in a letter sent to the Illinois Institute of Technology ("Illinois Tech") on June 1, 2021. We share the concern for the state of freedom of expression at Illinois Tech in light of its denial of recognition to prospective student group Turning Point USA ("TPUSA"). This viewpoint-based rejection is a form of censorship that violates Illinois Tech's commitments to its students' expressive rights. We call on Illinois Tech to require its student government to reassure students that its future recognition decisions will not be viewpoint-discriminatory and to adopt a policy prohibiting it from discriminating against the recognition or funding of student organizations based on their viewpoints.

I. Illinois Tech's Student Government Refused TPUSA Recognition Based on the Group's Viewpoint

The following is our understanding of the facts, which is based on public information. We appreciate that you may have additional information to offer and invite you to share it.

Illinois Tech recognizes more than 150 student organizations.¹ Recognized organizations may access institutional funding, reserve space for meetings or events, obtain a mailbox, access account management, receive advising support, and more.²

¹ *Get Involved*, ILL. INST. OF TECH., <https://www.iit.edu/campus-life/get-involved> (last visited July 8, 2021).

² ILL. INST. OF TECH., *STUDENT HANDBOOK 2020-2021*, at 96 (rev. June 10, 2021), <https://bit.ly/3eWZCQn>.

After applying for recognition with Illinois Tech’s Office of Campus Life, prospective student organizations must arrange a meeting with the Student Government Association and be “pre-approved during a Student Government Association Senate meeting.”³ The SGA has discretion of whether to recognize a student group based on whether it is “in the best interest of the student body.”⁴ After receiving pre-approval from the SGA, a student organization writes a constitution and completes a form, after which the Office of Campus Life decides whether to grant the group recognition.⁵

During the October 19, 2020, meeting of the SGA Senate, two students presented a proposal to start a chapter of the national organization Turning Point USA at Illinois Tech.⁶ According to Illinois Tech’s student newspaper, the students said the goal of the chapter “is to bring civil discourse and political debate to campus, and getting students to engage in ‘conversations they wouldn’t have otherwise,’ as proper political discussion is often one-sided and can lead to arguments and fights.”⁷ During the discussion period, several senators expressed concern about the national organization “due to problematic occurrences of systemic racism” and “controversies with several activists, speakers, and supporters of TPUSA.”⁸ The students who aimed to create the chapter explained that being associated with the national organization would benefit its speakers and funding.⁹ One hundred and twenty-one students had reportedly signed collection cards expressing interest in the chapter.¹⁰

The SGA Senate voted against recognition, marking the first time that the student senate withheld approval of a student organization during the fall 2020 semester.¹¹

In January 2021, the prospective TPUSA chapter presented a revised proposal and planned to bring a representative from the national organization to speak at the student senate meeting. After outcry from students and a petition against the group’s recognition, the prospective TPUSA chapter withdrew its proposal.¹²

In March, the students who had originally proposed the TPUSA chapter sought to form a chapter of Young Americans for Liberty (YAL). The students had been meeting weekly with Illinois Tech’s Director of Campus Life to “ensure that all concerns from other students

³ *Id.*

⁴ ILL. INST. OF TECH., STUDENT GOV’T ASS’N CONST. (rev. Apr. 21, 2020), *available at* https://drive.google.com/file/d/1BvsQH1lw7gogveVwlHzFbR1_Oh3U_OGc/view.

⁵ STUDENT HANDBOOK, *supra* note 2.

⁶ Sameer Sheikh & Ursula Hersh, *SGA Senate Meeting Recap (10/21/20)*, TECH NEWS (Oct. 26, 2020), <http://technewsiit.com/sga-senate-meeting-recap-102120>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Ben Zeisloft, *EXCLUSIVE: Illinois Tech students shut down conservative group before it even starts*, CAMPUS REFORM (Feb. 2, 2021), <https://www.campusreform.org/article?id=16753>.

¹¹ Sheikh & Hersh, *supra* note 6.

¹² Sameer Sheikh & Emma Stohlman, *SGA Senate Meeting Recap (1/27/2021)*, TECH NEWS (Oct. 26, 2020), <http://technewsiit.com/sga-senate-meeting-recap-1272021>.

regarding this organization would be taken care of, and that all policies would be followed closely.”¹³ The student senate approved the YAL chapter’s recognition proposal.¹⁴

II. Illinois Tech’s Denial of Recognition to the TPUSA Chapter Violates its Students’ Expressive Rights

Denying recognition to a student organization because of its views impermissibly burdens students’ ability to organize and express themselves—the very rights Illinois Tech’s accreditation requires the institute to guarantee to its students.

A. Illinois Tech Promises its Students Expressive Rights

As a private university, Illinois Tech is not obligated by the First Amendment to grant expressive rights to its students. However, Illinois Tech’s “Statement of Academic Integrity” states it “will continue its commitment to be a strong advocate for freedom of association and inquiry within our global community.”¹⁵ This commitment is consistent with its accreditor’s requirement that it be “committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning.”¹⁶ Because Illinois Tech makes these commitments, it is legally and morally bound to adhere to them.

B. Viewpoint-Based Denial of Recognition of Student Organizations Violates Freedom of Expressive Association

Refusal to grant recognition to a student organization based on speech—whether its own viewpoints or those of its allies—impairs the ability of students to engage in expressive association, an important right protected by a commitment to freedom of expression. Expressive rights carry “a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends”—a right “crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas.”¹⁷

This right extends to student organizations, fostering students’ ability to organize around causes or views in order to influence their institutions, communities, and country. In the “context of student clubs on college campuses, denying them official recognition without justification burdens the student club’s associational rights.”¹⁸ In *Healy v. James*, for example, the Supreme Court held that a college’s refusal to grant recognition to a chapter of

¹³ Sameer Sheikh, *SGA Senate Recap (3-3-21)*, TECH NEWS (Mar. 3, 2021), <http://technewsiit.com/sga-senate-recap-3-3-21>.

¹⁴ *Id.*

¹⁵ Statement of Academic Integrity, ILL. INST. OF TECH. (last visited July 8, 2021), <https://www.iit.edu/president/commitment-diversity-and-inclusion/statement-academic-integrity>.

¹⁶ HIGHER LEARNING COMM’N, CRITERIA FOR ACCREDITATION 3 (effective Sept. 2020), <https://www.hlcommission.org/Policies/criteria-and-core-components.html>.

¹⁷ *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000). Although the First Amendment does not itself compel Illinois Tech to grant freedom of expression, the decisions of courts interpreting the First Amendment’s guarantee of the “freedom of speech” provides a useful baseline for establishing what a reasonable student or faculty member would expect from a private institution that promises freedom of speech.

¹⁸ *Truth v. Kent Sch. Dist.*, No. C03-785P, 2004 U.S. Dist. LEXIS 33465, at *32 (W.D. Wash. Sep. 23, 2004).

Students for a Democratic Society—due to the national organization’s “published aims . . . which include disruption and violence”—violated the student members’ expressive rights.¹⁹ As the Supreme Court explained: “[D]enial of official recognition, without justification, to college organizations burdens or abridges” the “associational right” protected by the guarantee of freedom of expression.²⁰

C. Illinois Tech’s Denial of Recognition to TPUSA is Unjustified Under University Policy

Illinois Tech’s refusal to recognize a proposed chapter of TPUSA—thereby burdening its prospective members’ rights to expression and association—is premised on students’ disapproval of the views of its national organization, other chapters, and speakers. Yet the possibility that students may disagree with others’ opinions is precisely the risk that Illinois Tech undertakes when it promises its students freedom of expression. Indeed, even caustic disagreement is not so much a risk as it is the basis of academic freedom, liberal arts education, and democratic society.

This principle does not waver on the basis that the speech is offensive. The Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted on the basis that others find it to be offensive. This core First Amendment principle is why the authorities cannot outlaw burning the American flag,²¹ punish the wearing of a jacket emblazoned with the words “Fuck the Draft,”²² penalize cartoons depicting a pastor losing his virginity to his mother in an outhouse,²³ or disperse civil rights marchers out of fear that “muttering” and “grumbling” white onlookers might resort to violence.²⁴ In ruling that the First Amendment protects protesters holding insulting signs outside of soldiers’ funerals, the Court reiterated this fundamental principle, remarking that “[a]s a Nation we have chosen . . . to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”²⁵

Because the refusal here is based on opposition to the suspected viewpoint of the organization, it is a form of viewpoint discrimination, which is an “egregious form of content discrimination”²⁶ and “censorship in its purest form.”²⁷ Accordingly, Illinois Tech’s denial of recognition is unjustified in that it cannot be reconciled with its commitments to expressive rights. These commitments preclude Illinois Tech from delegating to its student government the authority to deny official recognition to student groups, and from standing by when that authority is exercised in a viewpoint-discriminatory manner. Ratifying censorship through

¹⁹ *Healy v. James*, 408 U.S. 169, 174–75, fn. 4, 187–88 (1972).

²⁰ *Id.* at 181.

²¹ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag was protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

²² *Cohen v. California*, 403 U.S. 15, 25 (1971).

²³ *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

²⁴ *Cox v. Louisiana*, 379 U.S. 536, 557 (1965).

²⁵ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

²⁶ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

²⁷ *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 62 (1983) (Brennan, J., dissenting).

inaction is flagrantly inconsistent with the college's promises to be a "strong advocate for freedom of association and inquiry within our global community."²⁸

III. Conclusion

As a college that purports to protect the expressive and associational rights of its students, Illinois Tech must ensure that its student government does not discriminate against student groups based on their viewpoint. Although the prospective members of TPUSA have instead started a YAL chapter, Illinois Tech has a responsibility to ensure that a similarly viewpoint-based denial of a student organization does not occur in the future. Thus, we urge Illinois Tech to implement a policy whereby recognition is granted or denied to student organizations in a viewpoint-neutral manner.

We request receipt of a response to this letter no later than the close of business on Thursday, August 5, 2021, confirming that Illinois Tech will not permit its student government to burden students' expressive and associational rights.

Sincerely,



Sabrina Conza
Program Analyst, Individual Rights Defense Program

Cc: Rachel Hirsh, Director of Campus Life
Ben Barber, Executive President, Student Government Association

²⁸ Statement of Academic Integrity, *supra* note 15.