



# FIRE

Foundation for Individual  
Rights and Expression

March 7, 2023

Bruce Smith  
Sturm College of Law  
University of Denver  
Office 215C, Frank H. Ricketson Law Bldg.  
2255 E. Evans Avenue  
Denver, Colorado 80208

**URGENT**

*Sent via Electronic Mail (bsmith@law.du.edu)*

Dear Dean Smith:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned by reports that the University of Denver Sturm College of Law has “designated two areas for peaceful protest” on campus during a controversial speaking event featuring Ilya Shapiro taking place tonight.<sup>2</sup> While we appreciate that the university must ensure tonight’s protests do not substantially disrupt the event, the university’s statement that it will ensure protests remain “within the designated locations” infringes on protesters’ rights to freely express themselves, which are protected by the university’s commitment to free expression.

Given that DU “recognizes the right to freedom of expression and the free interchange of ideas, including the right to peaceful and orderly protests and demonstrations,” the university is obligated to protect the speaker’s expression, allow counter-speech like peaceful protests, and also ensure the safety of those on campus.<sup>3</sup> FIRE commends DU for making clear that it will prevent any disruption of Shapiro’s speech, but it also must protect protesters’ right to express

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<sup>1</sup> For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America’s college campuses. You can learn more about our recently expanded mission and activities at [thefire.org](http://thefire.org).

<sup>2</sup> NLG @ DU (@NLGatDenverLaw), Twitter (Mar. 3, 2023, 8:01 PM), <https://twitter.com/NLGatDenverLaw/status/1631822077589356544>.

<sup>3</sup> *Bible Believers v. Wayne Cty., Mich.*, 805 F. 3d 228, 252 (6th Cir. 2015). See also Zach Greenberg, *Rejecting the ‘heckler’s veto,’* FIRE (June 14, 2017), <https://www.thefire.org/news/rejecting-hecklers-veto>. While DU is a private institution not bound by the First Amendment, its free expression promises will lead students to reasonably believe that they can express themselves in line with the protections under First Amendment standards.

themselves. DU's statement said, "[r]epresentatives of the Sturm College of Law and the University will be available to provide guidance and to make sure that any protests remain peaceful and within the designated locations." From our reading, it appears DU will prevent protesters from not only going beyond the designated locations to places that would interfere with the event but also to other non-interfering public space on campus. This is concerning, as such a requirement would infringe on the expressive rights of protesters even if they don't interfere with the event.

To be clear, the university's policies prohibit it from corralling protesters into designated "free speech zones," thereby limiting the open, outdoor areas of campus where protesters can express themselves on campus.<sup>4</sup> Instead, you must arrange adequate security to ensure tonight's event goes on as planned and that students can protest the event nearby without undue restriction.

To these ends, we call on Sturm College of Law to publicly clarify that non-disruptive protesters will not be forced into designated free speech zones. Given the very urgent nature of this matter, we request a response to that effect by close of business today.

Sincerely,



Sabrina Conza  
Program Officer, Campus Rights Advocacy

Cc: Jeremy Haefner, Chancellor

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<sup>4</sup> *Shaw v. Burke*, No. 17-cv-2386, 2018 U.S. Dist. LEXIS 7584, at \*26 (C.D. Cal. Jan. 17, 2018) (University policies closing off large areas of campus to student expression fail to leave open ample alternative channels of communication because the fact that students are able to express themselves in one area does not remedy the fact that they are unable to express themselves in other areas.) Additionally, FIRE has coordinated a number of successful lawsuits challenging similar limits on demonstration and expressive activity to small areas of campus.