



July 29, 2015

Victor J. Boschini  
Office of the Chancellor  
Texas Christian University  
Sadler Hall 4001  
2900 South University Drive  
Fort Worth, Texas 76129

**URGENT**

*Sent via U.S. Mail and Electronic Mail (v.boschini@tcu.edu)*

Dear Chancellor Boschini:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, academic freedom, due process, freedom of speech, and freedom of conscience on America's college campuses. Our website, [thefire.org](http://thefire.org), will give you a greater sense of our identity and activities.

FIRE is deeply concerned by the threat to freedom of expression at Texas Christian University (TCU) posed by the university's disciplinary action against student Harry Vincent on the basis that his social media commentary offended various individuals on the Internet. These disciplinary actions directly contradict TCU's promises of free expression and unacceptably chill speech in the TCU community, ultimately damaging the free flow of information and the robust, open debate that TCU claims to value. FIRE is further concerned by TCU's violation of fundamental procedural fairness; namely, that Vincent was instructed to apologize and recommend his own sanction prior to a determination of guilt. TCU must rectify these serious errors immediately by reversing the charges and sanctions against Vincent.

The following is our understanding of the facts; please inform us if you believe we are in error.

From approximately December 2014 through April 2015, Harry Vincent occasionally posted commentary on Facebook and Twitter related to current events, including the

unrest in Baltimore following the death of Freddie Gray, the threat of terrorism, and the spread of the “Islamic State.”

On or around April 28, 2015, an individual using the name Kelsey (who apparently resides in Maryland and is not a TCU student) created a post on her Tumblr social media page that contained screenshots of several of Vincent’s posts to Facebook and Twitter, labeling them “racist” and “disgusting.” Some of Vincent’s posts highlighted by Kelsey included:

“#Baltimore in 4 words: poor uneducated druggy hoodrats.”

“These hoodrat criminals in Baltimore need to be supped off and exiled to the sahara desert. Maybe then they’ll realize how much we provide for them (welfare, college tuition, Obama phone’s, medicare, etc.)”

“This is clearly not a religion of peace. Stop islam 2k15, enough is enough!  
@BarackObama needs to step up and take action”

“Almost as tan as a terrorist. Going to be thoroughly disappointed if I’m not racially profiled on my trip to gulf shores”

[All errors in original.]<sup>1</sup>

Kelsey further identified Vincent by name and urged her readers to contact TCU to report his speech:

His name is Harry Vincent, his twitter is @ClassyPatriot and IG @insta\_merican. He goes to Texas Christian University. You can email TCU and tell them that he’s shedding a bad light on their university.

Expose him.  
campuslife@tcu.edu  
817-257-7926

Shortly thereafter, Kelsey reported on her Tumblr page that she received a response to her email to TCU’s Campus Life Dean’s Office. TCU Associate Dean of Campus Life Glory Z. Robinson’s response read:

Kelsey, Thank you for providing this information – please know that the Campus Life Office will address this situation.

---

<sup>1</sup> Kelsey’s Tumblr post and included screenshots can be viewed in full at <http://19maybeless.tumblr.com/post/117631752966/this-asshole-has-been-posting-racist-and>. A copy has also been enclosed as Attachment A for ease of reference.

Readers of Kelsey’s Tumblr page soon commented that they had received similar responses to their own messages to TCU and expressed hope that Vincent would be punished by the university.<sup>2</sup> As far as FIRE is aware, none of the complaints regarding Vincent’s posts were submitted by members of the TCU community.

On April 29, Vincent received a letter from Robinson charging him with violations of two student conduct code violations. The letter read, in part:

The Campus Life — Dean’s Office has received information that alleges you were involved in an activity that violated the University’s Code of Student Conduct. Specifically, the alleged violation(s) include:

3.2.1 Infliction of Bodily or Emotional Harm  
3.2.13 Disorderly Conduct

Robinson’s letter further instructed Vincent to make an appointment for an “investigative” meeting by May 4. Robinson’s letter did not provide Vincent with any factual grounds for the charges against him.

Vincent met with Robinson on May 1 and elected to have the matter determined administratively by Robinson rather than proceed to a formal hearing before a disciplinary panel. During the meeting, Robinson informed Vincent for the first time that the charges were based on Vincent’s social media activity, but she did not provide him with specific details or incident reports—as requested by Vincent and his attorney—regarding the actual complaints received by TCU. At the conclusion of the May 1 meeting, Robinson instructed Vincent to write a letter of apology for his social media posts and detail the sanctions that he felt would be appropriate, to be returned to Robinson by May 6. Vincent complied with Robinson’s instructions.

On May 8, Robinson informed Vincent via letter that she had found him in violation of both of the aforementioned policies based on “the information collected at [the May 1] meeting, incident reports and [Vincent’s] written statements.” Robinson imposed a sanction of “Suspension in Abeyance” through August 15, 2016, and “Disciplinary Probation” through Vincent’s graduation from TCU. Under the terms of Vincent’s suspension, his “only permissible activities will be [his] classes and associated academic requirements.” Vincent is forbidden to reside on campus, participate in any co-curricular activities, or utilize any non-academic facilities on campus. Additionally, Robinson required Vincent to complete a course on “Issues in Diversity,” complete 60 hours of community service, and meet with Robinson on a regular basis.

On May 13, 2015, Vincent submitted a written appeal of Robinson’s findings and sanctions; a hearing before a TCU appeals panel was held on July 16. The same day, after

---

<sup>2</sup> Kelsey’s report of Robinson’s response to her email, as well as a reader’s report of the same have been enclosed as Attachment B.

approximately one or two hours of deliberation, the appeals panel upheld Robinson's determination and sanctions.

TCU is a private university and thus not legally bound by the First Amendment. Nevertheless, it is both morally and contractually bound to honor the explicit, repeated, and unequivocal promises of freedom of expression it has made to its students. For example, TCU's "University Judicial System" policy states:

Students shall be free to examine and discuss all questions of interest to them and to express opinions publicly and privately by orderly means.

The "Demonstration Guidelines" contained in TCU's student handbook explain why TCU has committed to upholding the principles of free speech on campus:

TCU recognizes the value of fostering discourse and encouraging the free exchange of ideas. Because the rights of free speech and peaceable assembly are fundamental to the democratic process, TCU firmly supports the rights of all members of the University community to express their views or to protest against actions and opinions with which they disagree.

TCU's heavy-handed and punitive overreaction in this matter is at odds with these principles and unacceptably chills the expressive rights of TCU students, which the university has pledged to protect. In order to uphold the principles it has committed to, TCU must immediately reverse the sanctions and charges against Harry Vincent.

The principle of freedom of speech does not exist to protect only non-controversial expression; it exists precisely to protect speech that some members of a community may find controversial or offensive. The Supreme Court of the United States stated in *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949) that speech "may indeed best serve its high purpose when it induces a condition of unrest . . . or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea." The Court reiterated this fundamental principle in *Snyder v. Phelps*, 131 S. Ct. 1207, 1220 (2011), proclaiming 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." Accordingly, the Supreme Court has explicitly held, in rulings spanning decades, that speech cannot be restricted simply because it offends people. See *Papish v. Board of Curators of the University of Missouri*, 410 U.S. 667, 670 (1973) ("[T]he mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of 'conventions of decency.'").

In discussing matters of societal importance, many of which are highly controversial, one would be hard-pressed to find an opinion that does not deeply offend *someone*. Indeed, often offensive, disrespectful, and charged speech can be singularly effective in disseminating a particular message—a fact noted by U.S. Magistrate Judge Wayne Brazil in

a ruling prohibiting the California State University System from imposing a “civility” requirement on students:

There also is an emotional dimension to the effectiveness of communication. Speakers, especially speakers on significant or controversial issues, often want their audience to understand how passionately they feel about their subject or message. . . . Civility connotes calmness, control, and deference or responsiveness to the circumstances, ideas, and feelings of others. . . . Given these common understandings, a regulation that mandates civility easily could be understood as permitting only those forms of interaction that produce as little friction as possible, forms that are thoroughly lubricated by restraint, moderation, respect, social convention, and reason. The First Amendment difficulty with this kind of mandate should be obvious: the requirement “to be civil to one another” and the directive to eschew behaviors that are not consistent with “good citizenship” reasonably can be understood as prohibiting the kind of communication that it is necessary to use to convey the full emotional power with which a speaker embraces her ideas or the intensity and richness of the feelings that attach her to her cause. . . . In sum, there is a substantial risk that the civility requirement will inhibit or deter use of the forms and means of communication that, to many speakers in circumstances of the greatest First Amendment sensitivity, will be the most valued and the most effective.

*College Republicans at San Francisco State University v. Reed*, 523 F. Supp. 2d 1005, 1018–20 (N.D. Cal. 2007).

At TCU, however, students are left without guidance as to what may or may not land them in trouble when expressing themselves, even on their personal social media accounts. Policy 3.2.1, which prohibits “Infliction of Bodily or Emotional Harm,” does not define “emotional harm,” “verbal harassment,” “bullying,” or “bias related incidents,” leaving the university with almost total discretion to define these terms as it sees fit, perhaps even on a case-by-case basis. This violation of TCU students’ free speech rights is inconsistent with the university’s stated commitment to the free exchange of ideas and discourse that are “fundamental to the democratic process.” TCU’s laudable promises of free expression protect Vincent’s right to express his views, no matter how offensive or disagreeable to some.

The threat to student expression is compounded yet further by the fact that none of the complainants in this matter appear to be members of the TCU community. If students must fear disciplinary action for offending any person, at any time, in any place, they will reasonably decide that it is safer to remain silent rather than discuss important issues, to the detriment of their own development and education as well as the TCU community. Such a result is untenable at an institution of higher education, and TCU makes a mockery of its promises by punishing Vincent at the behest of an offended Internet mob on vaguely defined grounds.

Furthermore, the charge of “Disorderly Conduct” is plainly inappropriate. This policy prohibits “conduct that is considered inappropriate and/or inconsistent with the University’s mission, vision, or core values.” Among the listed examples of such conduct are “contemptuous or disrespectful behavior . . . disrespectful online presence and/or any conduct that interferes with or obstructs University-authorized activities.” To the extent that TCU relies on the characterization of Vincent’s statement as “disrespectful” to support this charge, such reliance is at odds with both TCU’s promises of free speech, and the generally understood principle that speech is not disorderly simply because of “the effect of [a speaker’s] communication upon his hearers.” See *Cantwell v. Connecticut*, 310 U.S. 296, 308–09 (1940) (reversing a conviction for “breach of the peace” where the speaker merely offended others but did not cause any actual disorder).

The fact that some found Vincent’s statements offensive does not support TCU’s conclusion that his expression was disruptive to university operations, nor can his expression legitimately be characterized as disorderly in and of itself. While this policy may properly be applied to regulate *conduct* that is objectively disruptive or disorderly, it is wholly unsuitable for the regulation of *speech*—the overall effect of which depends on the subjective reaction of its audience. Punishing speech because of the subjective offense taken by listeners betrays TCU’s commitments to free expression, and such punishments have been rejected by the Supreme Court as unconstitutional. See, e.g., *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 134–35 (1992) (“Speech cannot be financially burdened, *any more than it can be punished or banned*, simply because it might offend a hostile mob.”) (emphasis added). Punishing student expression as “disorderly conduct” simply because it may upset others will chill student expression at TCU, leaving freedom of expression at the mercy of the most sensitive members of the university community—or indeed of *any* community, as Vincent’s case shows—no matter how unreasonable they may be. Such a chill is unacceptable at a university claiming to value freedom of expression, as TCU does.

Your university may not lay claim to the intellectual vitality that results from freedom of expression while simultaneously indicating to its students that expressing controversial opinions in any forum will be met with severe punishment should any individual—whether a member of the TCU community or society at large—take offense and complain to the university.

TCU’s treatment of Vincent also raises serious due process concerns.

Foremost, it is shocking and deeply offensive to the most basic sense of fairness that Robinson ordered Vincent to write an apology and propose a sanction prior to any determination of guilt, and that she then used that written statement as evidence *of* guilt. Indeed, TCU’s “Fair Play Rights for Students,” provided to Vincent with Robinson’s April 29 letter, expressly forbids precisely what TCU has done to Harry Vincent:

In all disciplinary proceedings, the student involved has the right:

[. . .]

6. To remain silent about any incident in which s/he is a suspect. No form of harassment shall be used by a university representative to coerce admissions of guilt.

Robinson's letter informing Vincent of the charges against him expressly stated that the May 1 meeting was to be investigatory, and even after Vincent elected to proceed with an administrative resolution rather than a disciplinary hearing, TCU's Code of Student Conduct contemplates that the Hearing Officer will conduct an investigation, after which a decision will be rendered:

5.1.4 . . . If a student elects the informal administrative process, the Hearing Officer will investigate the allegations, determine if the student has violated the Code, and advise the student of the outcome at a subsequent meeting.

That Robinson coerced Vincent into admitting guilt prior to any findings made against him is proven by Robinson's own words in her May 8 letter to Vincent, which stated that her finding of violation was based in part on "[Vincent's] written statement." It is wholly inappropriate and anathema to the fundamental fairness TCU promises its students that an administrator would wield coercive power to demand that a student plead guilty and suggest his own sentence, rather than abide by their duty to conduct a fair, thorough, and impartial investigation. Robinson's actions cannot stand in light of TCU's promises to its students.

In addition, TCU failed to adhere to other procedural protections it promises to students in the disciplinary process. Specifically, it did not provide Vincent any meaningful opportunity to present a defense and dispute the charges against him as guaranteed by TCU policy. TCU's "Fair Play Rights for Students" grant students the right to "have at least three school days in which to prepare a defense to refute the charges," and "to be given the opportunity to review a list of names of accusers and witnesses and a statement of facts they testified to, if the accused does not face his/her accusers." TCU Code of Student Conduct Section 5.1.5(d) further provides that in cases where a student elects to have a decision made administratively, "the accused student . . . may ask witnesses to speak to the Hearing Officer on the accused's behalf before the Hearing Officer determines the outcome of the complaint."

TCU, however, did not inform Vincent of any details of the specific complaints against him, despite him having requested the incident reports and complaints against him. Moreover, TCU effectively denied Vincent both the time promised to prepare his defense, and the ability to present such a defense by instructing Vincent to write a confession immediately after providing him only the basic underlying facts explaining the disciplinary charges against him. The severe abrogation of Vincent's procedural rights have rendered this disciplinary proceeding manifestly and profoundly unfair by any measure and raises

serious questions as to whether Vincent had been deemed guilty before even meeting with Glory Robinson. TCU must renounce these underhanded tactics and clarify to its students that they will be afforded the procedural protections promised by TCU policy.

FIRE is aware that, in light of recent events at other campuses across the country, your administration may be facing significant pressure to take swift and harsh action in response to any speech that can be interpreted as prejudiced or hateful. But that pressure cannot and must not lead to the subordination of TCU students' expressive rights, the principles of free speech essential to the university's mission, or students' right to fundamental fairness in disciplinary proceedings. **We urge you to rectify this grave mistake immediately and reverse the charges and sanctions against Harry Vincent.**

FIRE is committed to using all of the resources at our disposal to see this matter through to a just conclusion. We have enclosed with this letter as Attachment C a signed FERPA waiver from Harry Vincent, permitting you to fully discuss this case with FIRE.

We request a response to this letter by August 10, 2015.

Sincerely,



Ari Z. Cohn

Senior Program Officer, Legal and Public Advocacy

Encls.

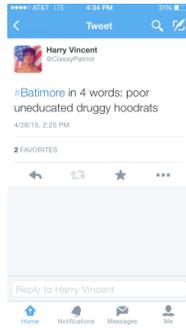
cc:

Glory Z. Robinson, Associate Dean of Students  
Kathryn Cavins-Tull, Vice Chancellor for Student Affairs  
Texas Christian University Board of Trustees

# **Attachment A**

*MAGIC SOAKIN MY SPINE*

i don't mind if you don't mind.  
kelsey /19 / md  
home message archive writing credit



A

This asshole has been posting racist and disgusting comments on Twitter/Facebook. When I confronted him about it, he refer me as an "Islamic shithead."

His name is Harry Vincent, his twitter is @ClassyPatriot and IG @insta\_merican. He goes to Texas Christian University. You email TCU and tell them that he's shedding a bad light on their university.

Expose him.

campuslife@tcu.edu

817-257-7926

2,102 notes · #expose racists #racism #drag him #baltimore #baltimore protests

1. lovedatdrumgirl reblogged this from queefahantas
2. koality-time reblogged this from the-nerdy-gretchen-wieners
3. koality-time likes this
4. the-nerdy-gretchen-wieners reblogged this from villainousandroglyne
5. cookieloverface reblogged this from 19maybeless and added:

Expose him we shall- I am a Muslim and I don't tolerate dat BS

6. doodlishis reblogged this from jazeth

7.  plainfactory likes this
8.  antiacademic reblogged this from 351402
9.  mothermustachegiraffe reblogged this from e-babe
10.  velvet--morning likes this
11.  lilycalvillo reblogged this from eresunaputa
12.  lilycalvillo likes this
13.  chelsbutter reblogged this from ja-ll
14.  manohh reblogged this from jazeth
15.  lifes-too-beautiful-to-forget reblogged this from laugh-like-no-one-is-there
16.  eternal likes this
17.  thequeenbeehaley reblogged this from geni-us
18.  geni-us reblogged this from laughbitches
19.  shadow2525 reblogged this from jazeth
20.  agent-carp likes this
21.  calmingtatas reblogged this from 6slut
22.  lauryndz likes this
23.  evrighthere reblogged this from ihateadamsandler
24.  snifflestation reblogged this from hotpockitz
25.  lunarianhippie reblogged this from intergalacticfuckery
26.  flameless-posts reblogged this from equine-dreams
27.  flameless-posts likes this
28.  equine-dreams reblogged this from rottingseams
29.  rottingseams reblogged this from pumpkinlaurel
30.  rottingseams likes this
31.  fxwer-chld likes this
32.  a-random-black-guy reblogged this from whatever
33.  a-random-black-guy likes this
34.  dezgetsfit reblogged this from ja-ll
35.  skeletonoutofthecloset reblogged this from cyberstripper
36.  satelliteantenna reblogged this from impossible-dreamss
37.  lost-bandit reblogged this from impossible-dreamss
38.  impossible-dreamss reblogged this from shadowjackl
39.  impossible-dreamss likes this
40.  laynestapher reblogged this from i-ate-your-mother
41.  iamsolomonthorne reblogged this from 6slut
42.  i-ate-your-mother reblogged this from riotgrrrlsdontery
43.  riotgrrrlsdontery reblogged this from harleyanncarter
44.  harleyanncarter likes this
45.  s-an-t-er-i-a likes this
46.  end-less-ly reblogged this from jazeth
47.  valarietoys likes this
48.  youtubesmites likes this
49.  pimp-daddyj reblogged this from dangerouslynerdy
50.  pimp-daddyj likes this
- 51.

Show more notes

# **Attachment B**

Kelsey,  
Thank you for providing this information – please know that the Campus Life Office will address this situation.

Thank you,  
Glory Z. Robinson  
Associate Dean of Campus Life

4000000

1 note - #DRAG #HIM

***MAGIC SOAKIN MY SPINE***

i don't mind if you don't mind.  
kelsey /19 / md  
*home message archive writing credit*

1. yoitslex likes this
2. 19maybeless posted this

**Anonymous asked: I got a reply too!! I hope there'll be consequences woo**

ya me too!!! I feel like there has to be since a lot of people emailed them and it will look bad if they don't do anything ya know

1 note

1. yoitslex likes this
2. 19maybeless posted this

***MAGIC SOAKIN MY SPINE***

i don't mind if you don't mind.  
kelsey /19 / md  
*home message archive writing credit*

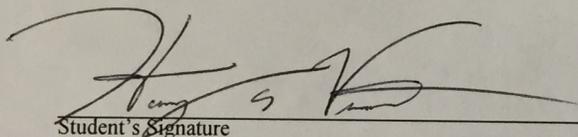
# **Attachment C**

I, Harry G Vincent, hereby waive any privacy rights or protections with regard to conversations about my current status and/or dispute with Texas Christian University and authorize a full discussion and disclosure of all matters pertaining to this situation to any staff member of the Foundation for Individual Rights in Education, Inc. (FIRE).

In waiving such protections, I am complying with the instruction to "Identify the party or class of parties to whom the disclosure may be made" as stated at [http://www.ed.gov/policy/gen/reg/ferpa/rights\\_pg18.html](http://www.ed.gov/policy/gen/reg/ferpa/rights_pg18.html) under the authority of 20 U.S.C. 1232g(b)(2)(A).

This specific waiver does not extend beyond the Foundation for Individual Rights in Education, Inc.

I also consent that FIRE may disclose information obtained with regard to this dispute, but only the information that I authorize.

  
Student's Signature

7 / 16 / 15  
Date