



October 10, 2018

Michael Best
University Counsel
Long Island University
700 Northern Boulevard
Brookville, New York 11548

Sent via U.S. Mail and Electronic Mail (Michael.Best@liu.edu)

Dear Mr. Best:

Thank you for your response to FIRE's August 31 letter. As you'll recall, FIRE was concerned by the mandatory meeting between Long Island University Post (LIU Post) Director of Student Engagement Ashley John and student Anand Venigalla, which concerned his social media posts and academic writing.

We remain concerned that summoning students to formal meetings to discuss protected expression will lead them to reasonably believe they are under investigation. As FIRE explained in our last letter, an investigation of constitutionally protected speech can itself violate the First Amendment.¹ While LIU Post asserts that any concern for Venigalla's "ability to express himself" is "misplaced," Venigalla does not feel the same way, and his reasonable concerns are not resolved by LIU Post's opacity.

Your response explains that Venigalla's meeting was intended as neither "an investigation nor a disciplinary hearing." This is a positive step, but it falls short of the transparency necessary to dispel well-founded concerns about freedom of expression at LIU Post.

¹ Although LIU Post is not legally bound by the First Amendment, its policies and decades of interpretative jurisprudence set the baseline for the rights a student should reasonably expect to enjoy when LIU Post promises that it will respect freedom of expression. For example, several appellate courts have held that government investigations into protected expression violate the First Amendment. *See, e.g., White v. Lee*, 227 F.3d 1214, 1228 (9th Cir. 2000) (holding that a government investigation into clearly protected expression chilled speech and therefore violated the First Amendment); *Levin v. Harleston*, 966 F.2d 85 (2d Cir. 1992) (upholding a trial court's finding that a university president's creation of a committee to investigate protected speech by a professor unconstitutionally chilled protected expression because it implied the possibility of disciplinary action); *Rakovich v. Wade*, 850 F.2d 1180, 1189 (7th Cir. 1988) ("an investigation conducted in retaliation for comments protected by the first amendment could be actionable . . .").

First, this characterization is at odds with the balance of your letter, which proffers the explanation that LIU Post had reason to believe that Venigalla “might have violent intentions” based on unidentified “statements,” and that the “nature of” those concerns rendered it “entirely appropriate and responsible” to require Venigalla to meet with administrators. If Venigalla’s mandatory meeting² with a student conduct administrator was not an “investigation,” then what was it?

Second, and similarly, if LIU Post had a serious concern that Venigalla presented a security risk, then why was this effort conducted by a student conduct administrator and not law enforcement?

Third, if administrators were motivated to question Venigalla based on unidentified “statements” reported to them, then why did their questions concern only his Facebook posts and reflection paper?

Fourth, and finally, your letter does not explain how administrators came to possess Venigalla’s reflection paper.

While FIRE appreciates your reassurance that Venigalla is not under investigation, your statement failed to address Venigalla’s understandable confusion about what expression might earn him another mandatory meeting with administrators, or whether the university, as a practice, calls students into meetings on the basis of controversial speech.

Public safety is not a talismanic incantation which excuses any incursion into students’ rights, including the right to expression unfettered from administrators’ interference. We do not discount the need for institutions of higher education to proactively address legitimate threats to their students’ safety. However, where their efforts conflict with students’ expressive rights, a commitment to freedom of expression requires institutions to be transparent in explaining the basis for their actions. LIU Post’s request that Venigalla simply trust that its actions were “entirely appropriate and responsible” is contrary to that commitment.

FIRE asks again that LIU Post explain whether it regularly calls students into meetings to explain their protected expression, the circumstances under which administrators initiated this meeting, and the circumstances under which administrators obtained and reviewed Venigalla’s November 2017 reflection paper, entitled “a short reflection on terrorism.”

FIRE thanks you for your time and attention to our concerns. We request a response to this letter by October 24, 2018.

² In an August 7 email, John warned Venigalla that it was “imperative” that they meet “as soon as possible.”

Sincerely,

A handwritten signature in cursive script that reads "Sarah McLaughlin". The signature is written in black ink and is positioned above the printed name and title.

Sarah McLaughlin
Senior Program Officer, Legal and Public Advocacy

cc:

Joanne Cavallo, Executive Assistant and Paralegal
Kimberly R. Cline, President