

December 21, 2018

Via E-Mail

Zach Greenberg
Evan Cree Gee
Foundation for Individual Rights in Education
510 Walnut Street, Suite 1250
Philadelphia, PA 19106

Dear Mr. Greenberg and Mr. Gee:

Thank you for your December 7, 2018 letter. President Gee has asked that I provide you a response on behalf of West Virginia University. FIRE's letter does not contain a complete or accurate description of the facts associated with the University's *Reaching the Summit* program or the subsequent actions taken by five fraternities – Kappa Alpha Order, Theta Chi, Alpha Sigma Phi, Phi Sigma Kappa, and Sigma Chi – who voluntarily chose to disassociate from the University.

In the spring semester of 2018, the University received reports of drug and alcohol abuse, physical altercations, over occupancy at events, disorderly misconduct, sexual misconduct, and hazing. It was critical that we addressed these concerns immediately. As a result, in February, the University formed a working group to redefine Fraternity and Sorority Life on campus. This working group consisted of students, staff, faculty, alumni, and fraternity and sorority headquarters partners. The working group reviewed each chapter's academic and disciplinary histories anonymously. The committee made recommendations to me, the Dean of Students, and I subsequently accepted these recommendations.

Your letter indicates that this was a disciplinary process. That is not true. Rather, it was a recognition review process separate and apart from any student conduct process. Your letter also contends that the *Reaching the Summit* review did not provide appropriate due process to these organizations. Your letter claims that the University did not provide the fraternities adequate notice and an opportunity to be heard. Again, that is not true.

All fraternity and sorority organizations had adequate notice of the recommendations made to the Dean of Students. Chapter Presidents and their advisors were provided these results in June 2018. Additionally, each organization, upon request, was provided with the information presented to the working group, including spreadsheets detailing the underlying student conduct data that was presented in summary form to the working group. Each organization then had the opportunity to be heard through an appeals process to the University's Provost, which was detailed in communication sent via e-mail in July. An organization, through its appeal, had the opportunity to present its case. Two organizations choose to participate in this appeals process.

Next, your letter implies that the five fraternities were provided severe disciplinary sanctions through the *Reaching the Summit* program. That is not true. The *Reaching the Summit* working

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group did not recommend a permanent loss of recognition for Kappa Alpha Order, Sigma Chi, and Theta Chi.¹ Instead, the group recommended reasonable restrictions on these fraternities to assist in promoting a safe and meaningful experience for our students. These recommendations were:

| Fraternity | Reaching the Summit Recommendations |
|-------------------|---|
| Theta Chi | <ul style="list-style-type: none"> • Written warning concerning risky social behavior • Social Restrictions for Fall 2018, including restrict Invitation-List social events to 1 per semester for 2018-2019 academic year |
| Sigma Chi | <ul style="list-style-type: none"> • Restrict Invitation-List social events to 1 per semester for 2018-2019 academic year • Appropriate Social Media Workshop (facilitated by WVU staff/faculty) • Hazing Prevention Task Force Committee representation (1 student to serve) • Chapter to attend no less than 2 Hazing Prevention Week Programs • Mock Social Event facilitated by OFSL |
| Kappa Alpha Order | <ul style="list-style-type: none"> • Restrict Invitation-List social events to 1 per semester for 2018-2019 academic year • Sponsor an educational program on conflict resolution • Hazing Prevention Task Force Committee representation (1 student to serve) • Sponsor a “Be a Good Neighbor” campaign for the Cooperative Zone (Fraternity & Sorority housing) |

Although your letter primarily discusses due process, it fails to acknowledge that the University is legally permitted to impose reasonable requirements upon student organizations seeking to be recognized by a University without violating students’ constitutional rights. To be clear, and as an example, asking an organization to participate in a University-sponsored hazing prevention week is not an unreasonable restriction on a student organization. Nor is asking a student organization to develop a “Be a Good Neighbor” campaign or an educational program on conflict resolution, when they have had several altercations with their neighboring fraternity.

In short, these fraternities were provided adequate notice of the information reviewed by the working group and provided an opportunity to respond through the appeals process. Instead of

¹ The *Reaching the Summit* working group initially recommended that Sigma Chi and Kappa Alpha be placed upon an interim suspension and asked to put together an action plan to address problematic behavior for the working group to review. Both organizations put together an action plan, which was further reviewed by the working group. The working group then made the final recommendations for these two organizations reflected in the table.

abiding by these reasonable restrictions, these three fraternities chose to voluntarily disassociate from the University.

Alpha Sigma Phi received no recommendations from the *Reaching the Summit* working group. During the 2018 spring semester, that chapter was initially charged with an allegation of hazing through the University's student conduct process – a process that your letter implies, in your view, constitutes appropriate due process.

Through that student conduct process, Alpha Sigma Phi voluntarily agreed, in consultation with its national organization, to be found responsible for assault and battery. The fraternity then voluntarily agreed to several disciplinary sanctions. However, during the fall 2018 semester, the fraternity failed to uphold the agreement made through our student conduct process, and subsequently chose to voluntarily disassociate from the University. In short, your assertions regarding Alpha Sigma Phi are not in line with the facts.

The *Reaching the Summit* working group recommended that Phi Sigma Kappa be suspended from recognition for a period of three academic years. At that time, Phi Sigma Kappa had three pending disciplinary incidents to be investigated and adjudicated through the Office of Student Conduct. Specifically, it was charged with violations associated with an alcohol transport of an underage new member to the hospital, intimidation of a parking authority professional by throwing glass bottles and other objects at him and using racial slurs, and an altercation with another fraternity.

In subsequent conversations with the national organization for Phi Sigma Kappa following the *Reaching the Summit* program, the national organization stated that it would not recognize the *Reaching the Summit* recommendation. However, it said that it would recognize any determination made through the University's student conduct process. Despite several attempts to proceed through the student conduct process on these charges, Phi Sigma Kappa kept postponing scheduled meetings with the Office of Student Conduct necessary to adjudicate these matters. Instead of proceeding through our student conduct process, this fraternity ultimately chose to voluntarily disassociate from the University. In short, your assertions regarding this fraternity are not supported by the facts.

Additionally, the University does not understand your request that it “restore the fraternities to their prior statuses as registered student organizations.” These five fraternities have provided the University with no indication that they wish to rejoin the University community, and in doing so, abide by the University's reasonable policies and procedures, including its student conduct process. We do not understand why FIRE is requesting an action that these fraternities are not.

Lastly, your letter criticizes Dr. Matthew Richardson, the University's Director of Fraternity and Sorority Life. The statements that you attribute to Dr. Richardson was recorded during a student meeting earlier this year. It is our understanding that Dr. Richardson was attempting to explain to students that individuals have different due process rights than student organizations. In the course of making that point, Dr. Richardson did not convey that understanding. Regardless of what was said, the University's actions reflect appropriate organization due process considerations.

Regardless, any protections provided to student organizations are not the same as individual students facing suspension or expulsion from a public university given that due process is flexible. FIRE's website similarly indicates this point in your *Guide to Due Process and Campus Justice*, which provides:

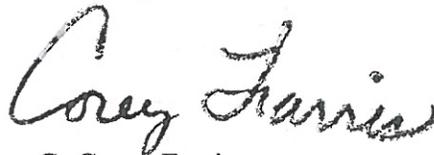
Although the Court offered few clues about exactly what steps must be followed in disciplinary proceedings for student groups, it did suggest that any adverse action taken against a group be based on substantial evidence and not mere speculation. Because due process is flexible, precisely what procedures are required depends on the particular circumstances.

FIRE's Guide to Due Process and Campus Justice – Full Text, https://www.thefire.org/first-amendment-library/special-collections/fire-guides/fires-guide-to-due-process-and-campus-justice/fires-guide-to-due-process-and-fair-procedure-on-campus-full-text/#_RefHeading_2548_2127946742 (last visited Dec. 20, 2018).

The University understands that student organizations facing disciplinary action are entitled to an appropriate process – that is why the Campus Conduct Code and Disciplinary Procedure for WVU has an entire section, Section 15, devoted to the student organization disciplinary process. But that process does not need to be exactly the same as individual students facing suspension or expulsion, and does not need to apply to non-disciplinary matters, such as the *Reaching the Summit* plan for excellence and recognition review.

I hope that the University's response has clarified the facts. Because your letter does contain incomplete or inaccurate facts, we respectfully ask that you correct the information that you publicly released before receiving the University's response.

Sincerely,

A handwritten signature in black ink that reads "Corey Farris". The signature is written in a cursive, slightly slanted style.

G. Corey Farris
Dean of Students
West Virginia University