



September 11, 2020

James E. Ryan
Office of the President
University of Virginia
Madison Hall
P.O. Box 400224
Charlottesville, Virginia 22904-4224

Sent via Electronic Mail (president@virginia.edu)

Dear President Ryan:

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 appreciates that the University of Virginia (UVA) remains one of the few institutions in the country whose policies earn a "green light" rating from FIRE. We are, however, concerned by a report that students serving as Resident Assistants (RAs) have been forbidden from speaking to reporters, including those with UVA's student newspaper, *The Cavalier Daily*.¹ This frustration was echoed in a letter sent anonymously by RAs to the Housing and Residence Life department.² If these reports are accurate, this blanket prohibition against speaking to the media violates students' First Amendment rights. We invite clarification or, if the reports are accurate, demand that any such policy be immediately rescinded.

It has long been settled law that the First Amendment is binding on public universities like UVA.³ Students who take employment roles at the university do not "relinquish First

¹ Jacquelyn Kim, 'A quintessential example of trying to operate business as usual': RAs call upon the University to address urgent safety concerns and provide necessary resources amid pandemic, THE CAVALIER DAILY, Sept. 7, 2020, <https://www.cavalierdaily.com/article/2020/09/a-quintessential-example-of-trying-to-operate-business-as-usual-ras-call-upon-the-university-to-address-urgent-safety-concerns-and-provide-necessary-resources-amid-pandemic>.

² Letter to UVA Housing and Residence Life from anonymous RAs, *available at* https://docs.google.com/document/d/105-BM14US86B0tSfU_2AnETogObAvPgnoxDKfs11g1U.

³ *Healy v. James*, 408 U.S. 169, 180 (1972) ("[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on

Amendment rights to comment on matters of public interest by virtue of government employment.”⁴ Instead, they retain a right to speak as citizens on matters of public concern.⁵

A categorical prohibition against speaking to the media trammels that right because it bars RAs from speaking to reporters about any issue. That includes matters of profound public concern—that is, any subject which “can be fairly considered as relating to any matter of political, social, or other concern to the community[.]”⁶

The COVID-19 pandemic is of critical public concern, particularly to arriving students uncertain whether they will complete this semester on campus. It is also understandably important to the RAs, concerned about the safety of a campus that is not only their workplace, but their home. Even if a person speaks about their employer, their speech may be protected so long as it addresses matters of public concern.⁷ Consequently, RAs have a First Amendment right to raise concerns about the university’s response to COVID-19.

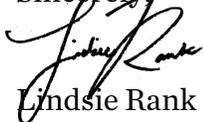
To be sure, the university may bar disclosure of individual students’ confidential information, and may restrict RAs from purporting to speak on behalf of the university. However, a blanket prohibition against speaking to the media will not advance the university’s interests. Instead, it will backfire, engendering anxiety among students and parents about the university’s transparency and safety.

Accordingly, we ask that University of Virginia immediately:

- (1) Share any training materials or documents setting forth any policy or expectations concerning interactions between RAs and the media; and
- (2) Clarify that RAs will not be punished for speaking as private citizens on matters of public concern, provided that they do not purport to speak on behalf of UVA or reveal information made confidential by law.

We respectfully request receipt of a response to this letter by Friday, September 18, 2020.

Sincerely,



Lindsay Rank
Program Officer, Individual Rights Defense Program

college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

⁴ *Connick v. Myers*, 461 U.S. 138, 140 (1983).

⁵ *Modica v. Taylor*, 465 F.3d 174, 180 (5th Cir. 2006).

⁶ *Snyder v. Phelps*, 562 U.S. 453 (2011).

⁷ *Pickering v. Bd. of Educ.*, 391 U.S. 563, 576–78 (1968) (appendix reproducing teacher’s letter to a local newspaper criticizing his employer, explaining that he teaches at the high school).