



FIRE

Foundation for Individual
Rights and Expression

March 16, 2023

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

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

Dear Dean Smith:

FIRE appreciates your quick reply to our March 7 letter expressing concern that protesters would be restricted to free speech zones during an event featuring Ilya Shapiro scheduled for later that evening. Unfortunately, your response has not alleviated our concerns, and further public reporting has actually heightened our concerns about the state of free expression at the University of Denver Sturm College of Law.

Although you claim protesters were not “corralled” or “forced” anywhere, Shapiro reports that protesters were indeed “shunted to designated free speech zones” in accordance with administrators’ mandate before the event.¹ As we wrote last week, because DU “recognizes the right to freedom of expression and the free interchange of ideas, including the right to peaceful and orderly protests and demonstrations,”² it cannot place limits on the open, outdoor areas of campus where non-disruptive protests can occur.³ Whatever word one chooses to describe it—“corralling,” “forcing,” or “designating,”—DU cannot further limit protest or prevent students from expressing themselves in open, outdoor areas of campus.

Shapiro additionally reports that after pushback from DU community members, the Federalist Society student organizers were called into numerous meetings with administrators—

¹ Ilya Shapiro, *I Got To Speak At Denver Law, But Such A Ruckus*, CENTERCLIP, <https://www.centerclip.com/play/?c=7a8024ad-125a-4d6f-9736-041dc5fef4c2> (last visited Mar. 15, 2023).

² *Honor Code*, UNIV. OF DENVER, https://www.law.du.edu/sites/default/files/2022-01/University%20of%20Denver%20Honor%20Code_January%202022.pdf [<https://perma.cc/5SZ8-4YWZ>].

³ *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).

including a weekend meeting before the event with the university's Vice Chancellor.⁴ Given the intense criticism from students who objected to Shapiro's speaking invitation, we are concerned that DU unduly chilled the event organizers' speech by repeatedly requiring them to meet with administrators. While DU may ask students to meet to plan security measures for an event, repeatedly burdening students with meetings simply because their invited speaker holds controversial views will discourage them from inviting speakers of their choosing in the future. Creating additional hurdles for speech it disfavors is not acceptable at an institution that purports to protect students' expressive rights.

We certainly appreciate that you may have additional information or context about this situation and invite you to share it with us. But if these reports are accurate, then it appears DU violated the expressive rights of both the event's student organizers and protesters, and it must immediately correct course. We request a response by Thursday, March 30, 2023, providing more information about this situation and committing that DU will respect students' expressive rights in the future.

Sincerely,



Sabrina Conza
Program Officer, Campus Rights Advocacy

Cc: Jeremy Haefner, Chancellor

⁴ Shapiro, *supra* note 1.