



May 23, 2025

Dr. Douglas A. Girod  
Office of the Chancellor  
230 Strong Hall  
1450 Jayhawk Blvd.  
Lawrence, Kansas 66045

*Sent via U.S. Mail and Electronic Mail (kuchancellor@ku.edu)*

Dear Chancellor Girod:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned by the University of Kansas’s restrictive residence hall signage policy and sweeping rules governing media communications. We are especially concerned that KU—a public university bound by the First Amendment<sup>2</sup>—is using these rules to silence protected speech and punish community members for speaking their minds.<sup>3</sup> We call on KU to revise its signage and media communications policies and drop all charges arising out of these unconstitutional restrictions.

**I. KU Sanctions Community Members for Alleged Media, Signage Policy Violations**

In early February 2025, the KU Housing & Residence Life Department announced that Grace Pearson Scholarship Hall would no longer offer gender-inclusive housing assignments (GIA).<sup>4</sup> Anthony Alvarez, a proctor (i.e., resident assistant) at GP Hall, publicly attended and supported protests against this policy change and, on February 27, spoke to NPR affiliate KCUR about the

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<sup>1</sup> For more than 25 years, the Foundation for Individual Rights and Expression has defended freedom of expression and other individual rights on America’s college campuses. You can learn more about our mission and activities at [thefire.org](http://thefire.org).

<sup>2</sup> *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 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).

<sup>3</sup> The following reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

<sup>4</sup> Anthony Alvarez, *How getting fired for protesting made me think about power*, THE UNIVERSITY DAILY KANSAN (last visited May 23, 2025), [https://www.kansan.com/opinion/how-getting-fired-for-protesting-made-me-think-about-power/article\\_00ac0307-bfcf-4831-a677-c4b85c76a50d.html](https://www.kansan.com/opinion/how-getting-fired-for-protesting-made-me-think-about-power/article_00ac0307-bfcf-4831-a677-c4b85c76a50d.html).

GIA-related changes, discussing his personal experiences at GP Hall.<sup>5</sup> On March 13, 2025, he was placed on probation for speaking with the media instead of forwarding media requests to his supervisor. According to KU Housing assistant director Emily Chellgren, Alvarez spoke directly with the media “despite knowing job expectations prohibited [him] from doing so.”<sup>6</sup>

The following day, Alvarez was terminated after security footage showed him assisting residents in hanging a protest banner in violation of university posting and signage policies.<sup>7</sup>

In protest of the university’s GIA-related policy changes, GP Hall residents adorned their windows with messages like “GP for GIA” and “Keep Inclusivity Affordable.” The below picture shows some of these postings, which were reportedly affixed to residential windows in February and early March:<sup>8</sup>



KU Housing requested the removal of these decorations, citing the following residential housing policy provision: “Decorations hung on windows should generally be directed to the

<sup>5</sup> Bek Shackelford-Nwanganga, *KU students protest housing changes they say will harm trans and nonbinary residents*, KCUR (last visited May 23, 2025), <https://www.kcur.org/education/2025-02-27/ku-students-protest-housing-changes-they-say-will-harm-trans-and-nonbinary-residents>.

<sup>6</sup> Maya Smith, *University of Kansas students protest the firing of proctor who spoke about housing policy change*, KAN. REFLECTOR (last visited May 23, 2025), <https://kansasreflector.com/2025/04/03/university-of-kansas-students-protest-the-firing-of-proctor-who-spoke-about-housing-policy-change/>.

<sup>7</sup> *Posting of Materials and Sidewalk Chalking*, UNIV. OF KAN., <https://services.ku.edu/TDClient/818/Portal/KB/ArticleDet?ID=20715> [<https://perma.cc/XE4A-Y6ZJ>] (“Posting in areas other than designated bulletin boards is prohibited. Prohibited areas include, but are not limited to, walls, doors, windows, chairs, utility poles, bus stops, newspaper distribution boxes, vehicle windshields, trash cans, and other similar surfaces”).

<sup>8</sup> Shackelford-Nwanganga, *supra* note 5.

interior of the room. Window decorations may not include personal identifying information of any person. Profanity or references to genitalia are prohibited.”<sup>9</sup>

Multiple students chose not to comply with the removal order, and in response, the school sent out the following email to alleged violators of the policy in late March:<sup>10</sup>

You allegedly have signs posted within your personal space windows facing outward. A letter was sent on March 4, 2025 outlining relevant University policy and notifying the signs were expected to be removed by March 6, 2025. Student Housing reported the signs are allegedly still present on March 25, 2025.

*The University Daily Kansan* reports that conduct charges have been filed against the emailed students.<sup>11</sup> As a result of these charges, the policy violations appear on students’ permanent conduct records, and affected students who commit other housing policy violations in the future are more likely to receive more significant sanctions.<sup>12</sup>

## **II. KU’s Residence Hall Signage Policy Violates its First Amendment Obligations**

It has long been settled law that the First Amendment binds public universities like KU such that its actions and decisions—including the maintenance of policies implicating student expression<sup>13</sup>—must not restrict student expressive freedoms.<sup>14</sup>

KU may establish “reasonable time, place, and manner” restrictions on expressive activity,<sup>15</sup> but its rules must be content- and viewpoint-neutral, narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels for communication.<sup>16</sup> KU’s restrictions on window decorations are not narrowly tailored to serve a significant university interest, and are too broad and vague to survive constitutional scrutiny. KU must revise this policy and drop charges resulting from alleged policy violations.

### ***A. Signage policy is not narrowly tailored to serve a significant university interest.***

KU’s residence hall requirement that “[d]ecorations hung on windows should generally be directed to the interior of the room”<sup>17</sup> is not narrowly tailored to serve a significant university

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<sup>9</sup> *Housing & Residence Life Handbook*, Personalization of Contracted Space, UNIV. OF KAN. HOUSING & RESIDENCE LIFE, <https://housing.ku.edu/handbook> [<https://perma.cc/6VSG-XT4Z>].

<sup>10</sup> Logan Pierson, *Firing of GP proctor continues conversation regarding First Amendment*, THE UNIVERSITY DAILY KANSAN, [https://www.kansan.com/news/firing-of-gp-proctor-continues-conversation-regarding-first-amendment/article\\_f44fc659-6ab7-48dd-9957-71ffcdcd5970.html](https://www.kansan.com/news/firing-of-gp-proctor-continues-conversation-regarding-first-amendment/article_f44fc659-6ab7-48dd-9957-71ffcdcd5970.html) [<https://perma.cc/GQ3T-PTGA>].

<sup>11</sup> *Id.*

<sup>12</sup> Email conversation between Ross Marchand, FIRE Program Counsel, and Kris Long, former KU student (May 22, 2025; 3:34 P.M.).

<sup>13</sup> *Dambrot v. Cent. Mich. Univ.*, 55 F.3d 1177 (6th Cir. 1995).

<sup>14</sup> *Healy*, 408 U.S. at 180.

<sup>15</sup> *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

<sup>16</sup> *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984).

<sup>17</sup> *Housing & Residence Life Handbook*, *supra* note 9.

interest. The university may have an interest in ensuring that posters or signs do not cover the entirety of windows based on fire safety/emergency services response concerns. But requiring decorations hung on windows to “be directed to the interior of the room” cannot serve this interest, as it does nothing to advance safety. Instead, it restricts residents’ ability to convey messages to the outdoors while leaving few other avenues for expression. Any (unstated) university interest in safety here is undercut by the policy’s allowance of inward-facing posters of the same dimensions. This policy fails to advance a significant government interest, which means its harsh restriction on speech cannot stand.

KU should revise this policy language to make clear that materials—facing outward or inward—are only forbidden to the extent they compromise the ability to safely open or close windows or doors or some other legitimate university interest.

***B. Signage policy is overly broad and vague.***

KU’s residence hall policy provision that “[w]indow decorations may not include personal identifying information of any person”<sup>18</sup>—and additional prohibitions on “profanity” and “references to genitalia”—are impermissibly overbroad and vague.

A law or regulation is overly broad when “a substantial number of its applications are unconstitutional, judged in relation to the statute’s plainly legitimate sweep.”<sup>19</sup> Here, a wide array of policy applications would restrict protected speech. For example, hanging a sign reading “Billy’s Room” would violate the policy because it identifies an individual—the occupant of the room. Additionally, all “profanity” is proscribed, even though profanity, such as curse words and vulgar terminology, is protected speech unless it meets the exceedingly narrow legal definition of obscenity.<sup>20</sup> Similarly, most “references to genitalia” are constitutionally protected speech unless they fulfill the legal definition of obscenity.<sup>21</sup>

Additionally, rules are impermissibly vague when they fail to “give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.”<sup>22</sup> While one administrator may interpret “references to genitalia” to include only extreme depictions of human genitals that approximate or meet the legal definition of “obscenity,” another administrator could have a wide-ranging interpretation that includes cat pictures.

This policy provision is far too vague and broad to pass constitutional muster. KU should revise its policy to clarify that only speech that violates either the law or lawful university policies is prohibited.

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<sup>18</sup> *Id.*

<sup>19</sup> *United States v. Stevens*, 559 U.S. 460, 473 (2010).

<sup>20</sup> The Supreme Court has stated that obscene content—which is unprotected by the First Amendment—is limited to materials that meet all of the following factors: (a) whether “the average person, applying contemporary community standards” would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. *Miller v. California*, 413 U.S. 15, 24 (1973).

<sup>21</sup> *Id.*

<sup>22</sup> *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

### **III. Policy Restricting Media Communications Imposes Impermissible Prior Restraint**

KU Housing’s media policy<sup>23</sup> requiring that proctors get advance approval from administrators before speaking with reporters regulates speech far removed from official, job-related duties and constitutes a prior restraint—a restriction on protected speech before it happens.<sup>24</sup> This practice restricts these employees’ right to speak with the media in their personal capacities about matters of public importance.<sup>25</sup>

KU is permitted to regulate its own official messaging and statements, including employee statements ostensibly made on the university’s behalf. However, expressing an opinion on the policies and practices of a government body—even one that employs the speaker—is not inherently speech on behalf of the employer. Rather, to be regulable, the employee speech must be *pursuant to* their job duties.<sup>26</sup> Yet KU’s policy does not distinguish between speech that is part of a job at KU and personal private speech about KU. Indeed, Alvarez’s discussion with the media about his personal experiences as a GP Hall resident almost certainly falls within the latter category, unless KU wishes to authorize proctors to speak about their personal experiences in residence halls with the official imprimatur of the university. His speech is therefore protected under the First Amendment.

Prior restraints on protected speech, such as the discussion Alvarez had with reporters, are heavily disfavored by the Supreme Court as being among “the most serious and least tolerable” infringements of free speech.<sup>27</sup> Courts have long held that prior restraints are permissible only in the most severe circumstances, such as a demonstrated threat to national security.

KU Housing’s public relations concerns simply cannot meet this bar and fail to satisfy the “heavy burden”<sup>28</sup> of providing a reason why proctors must obtain permission to speak with reporters in a non-official context. While the university certainly has an interest in ensuring the integrity of its institutional voice, this understandable aim is already accomplished through other pre-existing policies.

Most obviously, KU’s “Media Guidelines and Practices” stipulate: “Administrators, faculty and staff have the choice of whether to respond to a reporter on any topic; in all situations, individuals should make clear to a reporter when they are volunteering personal opinions and when they are speaking on behalf of units over which they have administrative authority.”<sup>29</sup> KU Housing should end its impermissible prior restraint on proctor speech and instead enforce this far-more-sensible media policy.

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<sup>23</sup> *University of Kansas students protest*, *supra* note 6.

<sup>24</sup> *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 556 (1976).

<sup>25</sup> *See generally Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968).

<sup>26</sup> *Garcetti v. Ceballos*, 547 U.S. at 410, 421 (2006).

<sup>27</sup> *Neb. Press Ass’n*, 427 U.S. at 559.

<sup>28</sup> *N.Y. Times Co. v. United States*, 403 U.S. 713, 714 (1971).

<sup>29</sup> *Media Guidelines and Practices*, UNIV. OF KANSAS, <https://services.ku.edu/TDClient/818/Portal/KB/ArticleDet?ID=21456> [<https://perma.cc/E45F-PJBR>].

#### **IV. Conclusion**

FIRE urges KU to revise its residence hall signage policy to clarify that window decorations can be outward-facing as well as inward-facing. Additionally, KU should clarify that decorations are subject only to viewpoint-neutral rules and will only be removed if they violate university policy or the law. In line with these revisions, KU must drop all conduct violation charges related to the current version of the policy. Finally, KU must clarify that community members will not be sanctioned for speaking to the media in a non-official capacity and drop all related conduct charges.

FIRE would be pleased to assist KU in revising its policies free of charge—in accordance with our charitable mission. We respectfully request a substantive response to this letter no later than close of business on June 9, 2025.

Sincerely,

A handwritten signature in black ink, appearing to read "Ross Marchand", written over a horizontal line.

Ross Marchand  
Program Counsel, Policy Reform and Campus Rights Advocacy