



May 2, 2025  
Russell Carey  
c/o Corporation Office  
Brown University  
Box 1887  
Providence, Rhode Island 02912

**URGENT**

*Sent via U.S. Mail and Electronic Mail (president@brown.edu)*

Dear Mr. Carey:

FIRE appreciates your response<sup>1</sup> to our letter dated April 23, 2025,<sup>2</sup> and the university's decision to drop the misrepresentation charge against Alex Shieh. However, this response and the subsequent disciplinary letter<sup>3</sup> do not substantively address our concerns regarding Brown's disciplinary charges.

As we explained in our previous letter, Brown has neither provided Shieh with sufficient notice of what portion of the policy he is alleged to have violated nor presented sufficient evidence that he violated *any* section of the policy.<sup>4</sup> This suggests Brown is not in fact "proceeding ... in complete accordance ... with ... appropriate procedural safeguards,"<sup>5</sup> and is continuing to deny Shieh appropriate due process.

Furthermore, less than 48 hours before the meeting, Brown added a new charge, alleging Shieh violated the university's trademark policy.<sup>6</sup> Despite your assertion that this case is not a free speech issue, Brown's effort to punish Shieh for using the word "Brown" in the name of his independent media outlet clearly infringes on his expressive freedoms and further violates

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<sup>1</sup> Email from Russell Carey, executive vice president, to Dominic Coletti, program officer, (Apr. 24, 2025, 6:40 AM) (on file with author).

<sup>2</sup> Enclosed.

<sup>3</sup> Letter from Kirsten Wolfe, Assoc. Dean and Ass't Dir. Of Student Conduct & Cmty. Standards to Alex Shieh, student, 1 (Apr. 30, 2025) (on file with author).

<sup>4</sup> Letter from Coletti to Christina Paxson, president, 4, (Apr. 30, 2025) <https://www.thefire.org/research-learn/fire-letter-brown-university-april-23-2025>

<sup>5</sup> Email from Carey, *supra* note 1.

<sup>6</sup> Letter from Wolfe, *supra* note 3.

Brown’s robust guarantees to protect free expression consistent with First Amendment principles.<sup>7</sup>

Brown’s trademark argument appears to be based on a flawed understanding of the relevant law and its own policy.<sup>8</sup> Moreover, its last-minute addition strongly suggests that Brown’s alleged concern about trademark infringement is no more than a smokescreen for Brown’s desire to punish Shieh for his expression.

As an initial matter, the university failed to register the “BROWN” wordmark for use with media publications.<sup>9</sup> Even if it alleges its registration of the wordmark for other product classes applies to Shieh’s use or that it has a common-law trademark, it could not, consistent with its expressive guarantees, sanction Shieh for using “Brown” in the name of *The Brown Spectator*. Courts have repeatedly held that the First Amendment protects the use of trademarked names for non-commercial purposes with no substantial likelihood of confusion.<sup>10</sup> Additionally, principles of free expression prohibit the enforcement of trademark interests in the context of online criticism like that published on the Bloat@Brown website.<sup>11</sup>

The university’s right to control the commercial use of its name and to guard against commercial confusion does not justify Brown’s charge against Shieh. *The Brown Spectator* is plainly noncommercial. The paper sells neither ads nor subscriptions on its website.<sup>12</sup> Indeed, its registration as a non-profit corporation strongly suggests that the outlet has no plans to engage in commercial activity.<sup>13</sup> Brown has also allowed other outlets to use “Brown” in a

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<sup>7</sup> *University Code of Conduct*, 3.1 We Respect Academic Freedom and the Freedom of Expression and Inquiry, BROWN UNIV., <https://policy.brown.edu/policy/code-conduct> [<https://perma.cc/6QAD-TVXB>] (“Brown University ... affirms that members of the community shall enjoy full freedom in their teaching, learning, and research. This includes freedom of religious belief; of speech; of press; of association and assembly; of political activity inside and outside the University; the right to petition the authorities, the public and the University; to invite speakers of their choice to the campus; and that students and faculty members as such should not be required to take any oath not required of other citizens.”); *see also* Letter from Coletti, *infra* p. 5.

<sup>8</sup> *See generally* *Brown Name Use, Trademark, and Licensing Policy*, BROWN, <https://policy.brown.edu/policy/name-use-trademark-and-licensing> [<https://perma.cc/PZW5-GF3S>].

<sup>9</sup> U.S. Trademark Application Serial No.76562350 (filed Dec. 1, 2003).

<sup>10</sup> *See Taubman Co. v. Webfeats*, 319 F. 3d 770, 775 (6th Cir. 2003) (“[A]ny expression embodying the use of a mark not ‘in connection with the sale ... or advertising of any goods or services,’ and not likely to cause confusion is ... necessarily protected by the First Amendment.”); *CPC Int’l, Inc. v. Skippy, Inc.*, 214 F. 3d 456, 462 (4th Cir. 2000) (“It is important that trademarks not be transformed from rights against unfair competition to rights to control language.”); *see also Checkpoint Systems, Inc. v. Check Point Software Tech., Inc.*, 269 F. 3d 270, 280 (outlining factors for likelihood-of-confusion analysis in non-competing goods cases).

<sup>11</sup> Letter from Coletti, *supra* note 4 at 1 n.3; *see Bally Total Fitness Holding Corp. v. Faber*, 29 F. Supp. 2d 1161, 1166 (C.D. Cal. 1998) (rejecting Lanham Act claim against “Bally Sucks” website on First Amendment grounds).

<sup>12</sup> *About*, BLOAT@BROWN, <https://bloat.brownspectator.com/about> (last accessed May 1, 2025).

<sup>13</sup> *See* Letter from Wolfe, *supra* note 3 at 22–26.

similar manner,<sup>14</sup> which is entirely understandable: the possibility of confusing views expressed by the reporters of an independent news outlet with those of Brown University as an institution are vanishingly slim. This selective enforcement is yet another in a long train of abuses Brown has inflicted upon Shieh,<sup>15</sup> all of which violate its expressive guarantees.<sup>16</sup>

Brown's own expressive promises bar it from punishing Shieh for his use of "Brown" in the registration for *The Brown Spectator*. Its late-breaking attempt to do so cannot be understood as anything other than pure retaliation.

Accordingly, we request that Brown drop the trademark charge and follow its own policies by providing sufficient notice of and evidence supporting the "violation of operational rules" charge, or else drop the investigation entirely at its May 2 hearing with Shieh.

Sincerely,



Dominic Coletti  
Program Officer, Campus Rights Advocacy

Cc: Christina Paxson, President  
Kirsten Wolfe, Associate Director of Student Conduct & Community Standards

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<sup>14</sup> For instance, *The Brown Daily Herald* continues to use the wordmark prominently despite having been registered as a non-profit outlet independent of the university for 50 years. *About*, THE BROWN DAILY HERALD, <https://www.browndailyherald.com/page/about> (last accessed May 1, 2025).

<sup>15</sup> Letter from Coletti, *supra* note 4 at. 3–5.

<sup>16</sup> See *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995) ("Viewpoint discrimination is ... an egregious form of content discrimination," and engaging therein violates the First Amendment).