



October 13, 2026

Tiffany Sanderson
President
Lake Area Technical College
P.O. Box 730
Watertown, South Dakota 57201

Sent via U.S. Mail and Electronic Mail (tiffany.sanderson@lakeareatech.edu)

Dear President Sanderson:

The Foundation for Individual Rights and Expression (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.¹

FIRE is concerned about the state of freedom of expression at Lake Area Technical College (LATC) in light of its social media policy within LATC's practical nursing program handbook. As a public college bound by the First Amendment, LATC must align its policy language with the First Amendment to protect the right of its students to speak freely, including through online expression.²

I. LATC's Social Media Policy Requires Professionalism; Bans Criticism

LATC's social media policy, within the practical nursing program handbook, is excerpted below in relevant part:

Students in the LATC nursing program are advised that they are expected to practice professionalism in their use of social media. They should refrain from utilizing social media as a means to comment about LATC, the LATC nursing program, LATC faculty, or

¹ For more than 25 years, FIRE has defended free expression and other individual rights on America's college campuses. You can learn more about our mission and activities at fire.org.

² *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).

program content. Inappropriate use of social media MAY result in disciplinary action.

II. LATC's policy imposes a content-based restriction on student speech.

Government regulation of speech is content based "if a law applies to particular speech because of the topic discussed or the idea or message expressed."³ LATC's policy does exactly that. It does not regulate the time, place, or manner of students' online expression; it directs students to refrain from using social media "to comment about LATC, the LATC nursing program, LATC faculty, or program content." Whether a student's post violates the policy can be determined only by reading it and asking what it is about. Content-based restrictions are presumptively unconstitutional and survive only if the government proves they are narrowly tailored to serve a compelling interest.⁴

The policy's chosen subject, LATC itself, makes it more troubling. Although the policy on its face reaches praise as well as criticism, a rule barring students from discussing the public institution that governs them will, in practice, fall hardest on dissent, and "[v]iewpoint discrimination is . . . an egregious form of content discrimination."⁵ LATC has no legitimate interest, let alone a compelling one, in insulating itself, its faculty, or its curriculum from public discussion by the students best positioned to evaluate them. Nor is the policy tailored to any interest LATC could legitimately assert. If LATC's concern is protecting patient confidentiality, preventing true threats, or addressing harassment of classmates, it may adopt a policy aimed at those narrow categories. Instead, the policy reaches every comment about LATC, on every platform, at any time.

The result is no different under the standards courts apply to student expression. A public college's latitude to regulate student speech is diminished when that speech occurs off campus,⁶ and absent a genuine pedagogical purpose, the First Amendment permits restricting such speech only where it causes "substantial disruption of or material interference with school activities."⁷ LATC's policy makes no reference to disruption.

III. The First Amendment Protects Unprofessional Speech

LATC's nursing program social media policy prohibiting unprofessional speech is overbroad as it applies to speech expressly protected under the First Amendment and decades of case law. A policy regulating speech is unconstitutionally overbroad "if it sweeps within its ambit a substantial amount of protected speech along with that which it may legitimately regulate."⁸ The First Amendment "generally prevents government from

³ *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

⁴ *Id.* at 163, 171; *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992).

⁵ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

⁶ *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 189–90 (2021).

⁷ *Ward v. Polite*, 667 F.3d 727, 734 (6th Cir. 2012) (quoting *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 514 (1969)); see also *Diei v. Boyd*, 116 F.4th 637 (6th Cir. 2024).

⁸ *Doe v. University of Michigan*, 721 F. Supp. 852, 864 (E.D. Mich. 1989) (citing *Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973)).

proscribing speech . . . or even expressive conduct,”⁹ unless it falls within certain well-defined categories, including obscenity, defamation, fraud, incitement, and speech integral to criminal conduct.¹⁰

Under these rulings and other long-established precedents, LATC’s policy threatens a great deal of protected speech that an administrator could deem unprofessional, including social and political commentary that lies at the core of the First Amendment. Consider the range of ordinary expressions the policy reaches. A student who posts that their clinical site was so short-staffed that residents waited hours for help; a student who tells prospective applicants whether she felt prepared for the NCLEX; a student who writes candidly about burnout to encourage classmates to seek support; students who urge legislators to support, or oppose, mandatory nurse-staffing ratios; and a student who shares a meme about the tedium of care plans could each be deemed unprofessional by an administrator who disapproves of the message. Each is protected by the First Amendment.

LATC’s social media policy fails to provide reasonable and objective standards for determining what content will be permitted. The policy provides that students in the LATC nursing program are expected to practice professionalism in their use of social media. This requirement is unconstitutionally vague, as it does not provide others with a “reasonable opportunity to know what is prohibited, so that [they] may act accordingly.”¹¹ As a result, the policy vests unfettered discretion in LATC administrators to determine what speech is or is not permitted. Granting government officials such broad discretion “opens the way to arbitrary suppression of particular points of view,” in violation of the First Amendment.¹²

The Eighth Circuit, in *Keefe*,¹³ held that a college may require compliance with established professional, viewpoint neutral standards when the requirement is reasonably related to legitimate pedagogical concerns. However, the college in that case enforced a specific, adopted professional code (the ANA Code of Ethics) against posts it found were threatening and harassing classmates. LATC’s policy instead imposes an undefined professionalism standard and restricts any comment about the college, its faculty, or course content. That goes well beyond anything *Keefe* approved.

Courts that have permitted professional programs to discipline student speech have done so where the restriction genuinely reflects established professional norms and gives students fair notice of what is prohibited.¹⁴ As the Sixth Circuit explained, even where an interest in teaching professionalism may sometimes justify limits on student speech, “the interest evaporates entirely if the College’s professionalism regulations bear little resemblance to those of the profession.”¹⁵ No recognized standard of the nursing profession

⁹ 505 U.S. 377, 382 (1992).

¹⁰ See *United States v. Stevens*, 559 U.S. 460, 468–69 (2010).

¹¹ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

¹² *Crowder v. Hous. Auth. of Atlanta*, 990 F.2d 586, 591 (11th Cir. 1993).

¹³ *Keefe v. Adams*, 840 F.3d 523 (8th Cir. 2016).

¹⁴ *Diei v. Boyd*, 116 F.4th 637 (6th Cir. 2024).

¹⁵ *Id.*

forbids nurses from commenting on, let alone criticizing, the institutions where they train or work.

IV. The First Amendment Protects the Right to Criticize.

Under LATC's policy, students' online expression may be burdened if used to comment about LATC, the LATC nursing program, LATC faculty, or program content. The First Amendment's protection is at its peak when speech addresses public institutions and officials; the core political speech our First Amendment right serves to protect. "[I]t is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions."¹⁶

The Supreme Court has rightly recognized that "debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials[.]"¹⁷ These rights serve not only the individual speaker's interest in airing their views, but also the public's interest in learning about the conduct of public institutions and their agents. Freedom of expression necessarily protects "not only informed and responsible criticism" but also "the freedom to speak foolishly and without moderation," particularly in criticizing "public men and measures."¹⁸ Because LATC is a public institution, students' comments about it are entitled to First Amendment protection.

Read literally, the policy restricts not only criticism but any comment about LATC, its faculty, or its coursework, including a student's post thanking a favorite instructor or celebrating a classmate's pinning ceremony. The restriction is especially misplaced in a nursing program. LATC's graduates will care for South Dakotans in hospitals, clinics, and long-term care facilities across the state, and the American Nurses Association's own Code of Ethics calls on nurses to advocate for the health and safety of their patients.¹⁹ A student taught that raising concerns online will be punished as "unprofessional" may carry that lesson into practice. Whether students believe LATC stands in the way of good patient care or deserves recognition for its excellence, they have the right to say so without fear of discipline.

V. Conclusion

LATC's practical nursing program social media policy violates core First Amendment principles and undermines LATC students' freedom of expression. We call on LATC to cease enforcement of the social media policy in the practical nursing program handbook as well as modify or remove the policy in future editions to comply with the First Amendment and to ensure students' constitutionally protected rights to free speech are no longer infringed.

¹⁶ *Bridges v. California*, 314 U.S. 252, 270 (1941).

¹⁷ *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

¹⁸ *Baumgartner v. United States*, 322 U.S. 665, 673-74 (1944).

¹⁹ American Nurses Ass'n, *Code of Ethics for Nurses with Interpretive Statements*, Provision 3.

We would be pleased to work with LATC to evaluate and revise this policy, or any other institutional policy or practice, to ensure compliance with the First Amendment and better protect students' rights to free expression while meeting LATC's needs.

We request receipt of a response to this letter no later than the close of business on October 27th, 2026.

Sincerely,

A handwritten signature in blue ink that reads "Noah Young". The signature is fluid and cursive, with the first name "Noah" and last name "Young" clearly distinguishable.

Noah Young
Program Counsel, Policy Reform

cc: Cam Corey, Vice President, Lake Area Technical College