FIRE
Foundation for Individual Rights and Expression

November 12, 2026

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Sent via Electronic Mail (ccrawford1@ualr.edu)

Dear Dean Crawford:

FIRE, a nonpartisan nonprofit that defends free speech,[1] is concerned by your negative assessments of William H. Bowen School of Law Professors Joshua Silverstein and Robert Steinbuch in their 2025 annual performance reviews based on their public opposition to your proposal to move the law school's part-time program online.[2] Even absent formal discipline or reprimand, characterizing protected expression as unprofessional and disrespectful in an official performance review will certainly chill faculty speech, particularly when those reviews may influence future employment decisions. We therefore urge you to remove the offending language from their reviews and confirm that neither professor will face adverse consequences for their protected expression.

In August 2024, you proposed converting Bowen's in-person part-time program to a hybrid or online model. In February 2025, Bowen faculty voted 19-3 to consider a non-residential option; Silverstein and Steinbuch cast two of the three dissenting votes.[3] On July 21, 2025, Silverstein posted on Facebook the arguments both for and against the proposal, while explaining his overall opposition.[4] In August, Steinbuch published columns in the local paper arguing that while asynchronous online instruction offers scheduling flexibility, "it does so at a cost to

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

[2] The recitation of facts here reflects our understanding of the pertinent information. We appreciate that you may have additional information and invite you to share it with us. To these ends, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

[3] *February Faculty Meeting Minutes*, UNIV. ARK. LITTLE ROCK WILLIAM H. BOWEN SCH. OF L. (Feb. 10, 2025) (on file with author).

[4] Joshua Silverstein, Post summarizing arguments on moving part-time program online, FACEBOOK, https://www.facebook.com/josh.silverstein.503/posts/pfbid0g5uay2NbTvw6D4WguxzZtEXVwQtiKtg1em9BmPbih9mqEN3xRrP9fZ261gQk3jfl [https://perma.cc/9DWS-SSA3]. Silverstein made several other posts opposing the proposal.

learning,"[5] and questioning the rationale for restructuring a program that was fully subscribed and maintained a waitlist "due to excess demand."[6] That same month, two law students published their own op-ed opposing the proposal.[7] Silverstein reviewed drafts and warned them that certain claims were incorrect,[8] while Steinbuch connected the students with the newspaper. The students thanked Silverstein and Steinbuch in the byline of the article. On August 28, you paused consideration of the proposal.[9]

In May and June 2026 respectively, you issued Steinbuch and Silverstein their 2025 annual performance reviews, giving them satisfactory ratings in teaching, research, and service.[10] Despite these ratings, you included critical comments about their above-mentioned conduct. You specifically faulted Silverstein and Steinbuch for failing to prevent or correct the incorrect statements made in the students' article, noting that the article cast Bowen in a negative light.[11] You also claimed that Steinbuch's assertion that the part-time program had an "excess demand" was harmful to his colleagues.[12] You generally characterized both Silverstein's and Steinbuch's conduct as disruptive and disrespectful, and encouraged them to model professionalism, civility, and collegiality.[13] Although you acknowledged Silverstein's and Steinbuch's right to engage in such conduct, you urged them to reflect on the negative consequences that their conduct may have on the institution and with colleagues.[14]

It is well settled that the First Amendment applies with full force on public university

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[5] Robert Steinbuch, *Ersatz education*, ARK. DEMOCRAT-GAZETTE (Aug. 8, 2025), https://www.arkansasonline.com/news/2025/aug/08/robert-steinbuch-ersatz-education/.

[6] Robert Steinbuch, *Just showing up*, ARK. DEMOCRAT-GAZETTE (Aug. 15, 2025), https://www.arkansasonline.com/news/2025/aug/15/robert-steinbuch-just-showing-up/.

[7] Nicholas Jaeger & Loren Wheatley, *Bowen Law School's silent shift*, ARK. DEMOCRAT-GAZETTE (Aug. 10, 2025), https://www.nwaonline.com/news/2025/aug/10/bowen-law-schools-silent-shift/.

[8] Word document containing Silverstein's comments on students' draft op-ed on file with author (despite Silverstein flagging as inaccurate the article's claim that budgetary concerns motivated the proposed transition to an online program, the students chose to retain it).

[9] Ryan Anderson, *Dean of UALR's Bowen law school urges pause in debate of online shift, says 'misinformation' has hurt proposal*, ARK. DEMOCRAT-GAZETTE (Aug. 31, 2025), https://www.arkansasonline.com/news/2025/aug/31/dean-of-ualrs-bowen-law-school-urges-pause-in/.

[10] Annual Faculty Activity Report 2025 from Colin Crawford, Dean, to Robert Steinbuch, professor (May 11, 2026) (on file with author); Annual Faculty Activity Report 2025 from Crawford, Dean, to Joshua Silverstein, professor (June 2, 2026) (on file with author).

[11] Annual Faculty Activity Report 2025 from Crawford, Dean, to Steinbuch, professor (May 11, 2026) (on file with author); Annual Faculty Activity Report 2025 from Crawford, Dean, to Silverstein, professor (June 2, 2026) (on file with author).

[12] Annual Faculty Activity Report 2025 from Crawford, Dean, to Steinbuch, professor (May 11, 2026) (on file with author); Annual Faculty Activity Report 2025 from Crawford, Dean, to Silverstein, professor (June 2, 2026) (on file with author).

[13] Annual Faculty Activity Report 2025 from Crawford, Dean, to Steinbuch, professor (May 11, 2026) (on file with author); Annual Faculty Activity Report 2025 from Crawford, Dean, to Silverstein, professor (June 2, 2026) (on file with author).

[14] Annual Faculty Activity Report 2025 from Crawford, Dean, to Steinbuch, professor (May 11, 2026) (on file with author); Annual Faculty Activity Report 2025 from Crawford, Dean, to Silverstein, professor (June 2, 2026) (on file with author).

campuses, including that of the University of Arkansas at Little Rock William H. Bowen School of Law.[15] Bowen emphasizes this in its own policy, which recognizes the right of faculty members to express ideas and opinions that are "controversial, unpopular, or that individuals may find unwelcome, uncollegial, disagreeable, or even deeply offensive,"[16] including dissent on "Law School and University governance and administration," "without fear of reprisal or censorship."[17] Yet, the comments you left in Silverstein's and Steinbuch's annual reviews will certainly deter them from exercising their free speech rights in the future amid fears that their employment may be negatively affected.

Telling Silverstein and Steinbuch to model professionalism, collegiality, and civility, and to be respectful, is an impermissibly vague directive that stifles dissent.[18] You provide no objective standards for determining what makes expression sufficiently "professional," "civil," "collegial," or "respectful," leaving the professors to guess what expressive conduct might subject them to adverse action. Such subjective expectations grant administrators unfettered discretion to punish speech they find disagreeable.

The American Association of University Professors has long criticized use of civility requirements as a pernicious threat to the First Amendment on campus:[19]

> [C]ollegiality may be confused with the expectation that a faculty member display "enthusiasm" or "dedication," evince "a constructive attitude" that will "foster harmony" or display an excessive deference to administrative or faculty decisions where these may require reasoned discussion. Such expectations are flatly contrary to elementary principles of academic freedom, which protect a faculty member's right to dissent from the judgments of colleagues and administrators.

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[15] *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).

[16] *Academic Freedom and Freedom of Expression Policy*, UNIV. ARK. LITTLE ROCK WILLIAM H. BOWEN SCH. OF L., § IV (Dec. 2025), https://ualr.edu/law/academics/academic-freedom-and-freedom-of-expression-policy/.

[17] *Id.* §§ IV.C, V.B.

[18] A directive is vague when it fails to give persons of ordinary intelligence a reasonable opportunity to know what is prohibited so they may act accordingly. *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

[19] *See On Collegiality as a Criterion for Faculty Evaluation*, AM. ASS'N. OF UNIV. PROFESSORS (2016), https://www.aaup.org/file/AAUP%20Collegiality%20report.pdf.

Courts have thus held that any conception of free expression in the public university setting must allow room for speech others subjectively feel is "uncivil," "disrespectful," or "unprofessional."[20]

Of course, Bowen may address expressive conduct that genuinely interferes with workplace discipline, employee duties, or institutional operations.[21] But it may not attempt to limit expressive conduct simply to maintain a sedate academic environment,[22] even if that conduct annoys colleagues or puts the university in a negative light. There has been no indication that Silverstein's and Steinbuch's conduct interfered with the ability of faculty members, or the institution, to fulfill their duties.[23]

Indeed, Bowen should welcome professors' public input, as "[t]eachers are ... the members of a community most likely to have informed and definite opinions" about the operation of their institutions and thus it is "essential that they be able to speak out freely on such questions ... ."[24] If faculty feel they cannot share their concerns, public debate is stifled, as key perspectives will be excluded.

As a final note, Silverstein and Steinbuch may not be held responsible for what the students wrote in their op-ed. Silverstein, in fact, flagged the factual error in their column. But the decision whether to correct it ultimately rested with the students. Neither professor was acting as a newspaper editor or journalism instructor, and offering input on a student op-ed does not make them responsible for its contents. The suggestion that professors should fact-check, approve, or prevent students from publishing criticism of their own institution is particularly troubling coming from a law school dean. Students are entitled to criticize their university, even when that criticism is unflattering or factually mistaken,[25] and professors should not face professional consequences merely for reviewing a draft of that criticism.

Your acknowledgment that you do not "challenge" Silverstein's and Steinbuch's right to engage in the conduct they did offers little reassurance when their protected conduct appears as a liability in official performance reviews. A professor contemplating a potential column, op-ed, or public statement should not have to calculate whether a criticism will carry professional consequences. A right that exists in principle but carries the implicit threat of such consequences in practice is a precarious right indeed.

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[20] *See Levin v. Harleston*, 966 F.2d 85, 89 (2d Cir. 1992) (a public university violated the First Amendment in launching an investigation into a faculty member's writings on race and intelligence, which administrators stated "ha[d] no place at [the college]" and constituted "conduct unbecoming of a member of the faculty").

[21] *Rankin v. McPherson*, 483 U.S. 378, 388 (1987); *see also Nichols v. Dancer*, 657 F.3d 929, 933 (9th Cir. 2011).

[22] *See Rodriguez v. Maricopa Cnty. Comm. Coll. Dist.*, 605 F.3d 703, 708–09 (9th Cir. 2009).

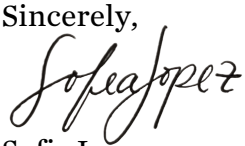
[23] While some faculty members invested effort and time in developing courses for the proposed program, it cannot be said that Silverstein and Steinbuch interfered in those faculty members' duties. The reality of shared governance is that proposals are routinely debated, delayed modified, or abandoned altogether.

[24] *Pickering v. Bd. of Educ.*, 391 U.S. 563, 572 (1968).

[25] Sharing incorrect information is protected by the First Amendment unless it meets all the elements of defamation. David L. Hudson, Jr., *Defamation Overview*, FIRE (Feb. 15, 2017), https://www.thefire.org/news/defamation-overview.

We request a substantive response no later than November 19, 2026, confirming that you have removed the offending language from Silverstein's and Steinbuch's 2025 annual reviews, and that neither will face discipline or any other adverse consequence for their speech.

Sincerely,



Sofia Lopez
Program Officer, Campus Rights Advocacy

Encl.