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December 12, 2023

VIA E-MAIL

Ms. Phyllis J. Vetter
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Phyllis,

I am aware of several disturbing developments concerning the University of Utah's suppression of the free speech rights of the Young Americans for Freedom ("YAF") organization.

First and foremost, we have been informed that the University has threatened to revoke YAF's status as an officially-recognized student organization. This threat is apparently based on pretextual claims that YAF breached highly-formalistic rules governing student bulletin boards and flyers. Given that the relevant rules were not clearly in place at the time of the alleged violations, that the rules have been selectively enforced against YAF—but not against student organizations holding leftwing viewpoints favored by the University—and that the University's action comes against a backdrop of hostile official statements aimed at YAF, we think that YAF is the target of illegal retaliation due to its members' speech and political views.

As you well know, in late October 2023, YAF began publicizing a film screening event planned for November 1, 2023 addressing a vital social and political issue: the increasing use of medical interventions to alter children's bodies in an effort to conform them to perceived internal "gender identities" that do not match their sex. As you know, the film screening did not proceed due to radical leftwing students who succeeded in shutting it down, with the assistance of University security personnel.

We appreciate that, after we wrote a letter to you on November 7, 2023 threatening legal action, the University took steps to provide adequate security for YAF events going forward. This helped ensure that YAF's second attempt to screen the film on November 28, 2023 was successful. However, between the initial November 1 embarrassment and the successful November 28 event, the University made public statements criticizing *not the students who had previously disrupted YAF's free speech rights*, but instead YAF itself. Specifically, in a November 3, 2023 article posted on the student information site "@theU," based on an interview with Associate Vice President and Dean of Students Jason Ramirez, the University took aim at

YAF’s efforts to publicize the November 1, 2023 event, characterizing its flyers as “obnoxious, divisive and simplistic.”¹ As an initial matter, Dean Ramirez’s statements likely conflicted with the principle that the University must remain neutral on social and political issues. *See, e.g.*, Utah System of Higher Ed. Resolution Establishing Expectations for Implementing Principles of Free Expression on Campus.² But more to the point, the article appears to show that University officials harbor bias against YAF.

In addition to the November 28 event mentioned above, on November 30, 2023, YAF hosted a talk by Chloe Cole, a public speaker and de-transitioner who provides a valuable perspective on transgender issues. YAF obtained approval for and posted flyers publicizing these events pursuant to the University’s Free Speech Policy. U. Utah Policy 1-007. At the time, the Free Speech Policy required that student flyers be pre-approved for posting, contain a date stamp and expiration date, and be placed only on approved bulletin boards and kiosks. *Id.* § V. Nowhere did the policy include any limits on the number of flyers that could be posted at any particular location. *Id.*

On November 30, 2023—the same day as the Chloe Cole event—the University amended its rules to add a requirement that “[o]nly one sign, notice, or poster affiliated with a specific event is permitted on a single bulletin board.” U. Utah Policy 1-007 Guideline 1-007B, adopted Nov. 30, 2023. Even though adopted on November 30, 2023, the policy was not put into effect at the University Union until December 1, 2023.³

Nevertheless, on November 30, 2023, Associate Dean for Student Engagement and Leadership Erica Andersen accused YAF of violating this new one-poster-per-bulletin-board policy. Dean Andersen did not specify any particular flyers, but simply stated she had “received reports [alleging YAF had] placed more than one poster advertising one event on one single bulletin board.” Based on this unverified allegation, Dean Andersen issued YAF a “final warning,” and threatened to revoke its status as an official student organization.

Any reasonable observer would conclude that the University’s attempt to ambush YAF for violating a stealth policy on the number of flyers per bulletin board is retaliatory. First,

¹ *See also*, <https://diversity.utah.edu/initiatives/statements/flyers-expressing-anti-trans-sentiments-and-advertising-for-film-watch-party/> (Oct. 27, 2023)(characterizing YAF’s speech as “anti-Trans” and the film screening as “harmful to the Trans community,” despite the fact that there is diversity of opinion among transgender persons and others as to the propriety of medically transitioning children and that open discussion of ideas is not intrinsically “harmful”).

² https://ushe.edu/wp-content/uploads/pdf/agendas/2023/20231130-121/Resolution_Establishing_Expectations_for_Implementing_Principles_of_Free_Expression_on_Campus.pdf (last visited Dec. 7, 2023).

³ <https://union.utah.edu/resources-spaces/services-desk/posting-flyers/> (citing “[n]ew procedures starting on postings stamped at the Union Services desk on 12/1/23 or later [including that o]nly one sign, notice, or poster affiliated with a specific event is permitted on a single bulletin board at any one time”)(emphasis added)(last visited Dec. 7, 2023).

YAF's conduct in November did not actually violate any extant rule on the posting of flyers. But even more important, it appears the University has *not* sought to enforce the new one-flyer-per-bulletin-board rule against favored groups or messages. For example, YAF members have observed violations of this new rule by groups such as the Vegan Club, the LGBT Resource Center, and others, without sanction. Finally, these acts took place against the backdrop of the University's dismissive and hostile remarks about YAF's speech both in the @theU article noted above and in other contexts.

Given these facts, we ask that you instruct University staff like Dean Anderson to refrain from retaliating against YAF for its free speech and expression, and that any record concerning alleged rule infractions by YAF related to these events be expunged. We again remind you that University staff who violate YAF's rights may be personally liable for such egregious violations, and for attorney fees under 42 U.S.C. § 1988.

Last, it goes without saying that any official action by the University of Utah to revoke YAF's status as a student organization would suffice to establish an injury-in-fact under Article III. We reserve all rights to pursue this matter against the University itself in federal court.

/s/ William E. Trachman
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