



April 14, 2021

Duane A. Compton, PhD
Dean of the Medical School
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Hanover, New Hampshire 03755

Sent via Electronic Mail (duane.a.compton@dartmouth.edu)

Dear Dean Compton:

FIRE¹ appreciates your April 2, response to our concerns about the Geisel School’s pursuit of disciplinary sanctions against students accused of academic misconduct.² We write again today in light of the Geisel School’s adoption of a new Social Media Use Policy. That policy is irreconcilable with Dartmouth’s robust commitments to its students’ expressive rights and will chill Geisel students’ ability to speak freely about Dartmouth, including its handling of the academic misconduct controversy.

The new Geisel Social Media Use Policy³ requires, among other things, that students “be courteous, respectful, and considerate of others,” bans any posts that Geisel administrators subjectively deem “[i]nappropriate,” and threatens “disciplinary review” of any student whose posts are “[d]isparaging [to] other members of the Geisel [School] community.” Given that this policy—which tells students to “[r]emember that ‘anonymous’ posts may still be tracked to their original author”—follows swiftly on the heels of anonymous student criticism of Geisel School, it raises the appearance that it has been implemented in order to chill the speech of Geisel students who have voiced concerns that their rights are being violated.

Dartmouth makes clear, robust promises to its students that they enjoy—and Dartmouth will actively work to protect—rights to freedom of expression. Dartmouth has not only a moral

¹ The Foundation for Individual Rights in Education (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.

² Our concern on this issue remains, particularly in light of Monday’s report that students allege that they were coerced into falsely admitting to misconduct. Damien Fisher, *Dartmouth Med Students Say They Were Coerced*, NEW HAMPSHIRE J., (April 12, 2021), <https://nhjournal.com/dartmouth-med-students-say-they-were-coerced>.

³ Encl.

obligation, but a legal duty, to keep the promises it has made, as New Hampshire courts have held that private institutions' relationships with students are contractual in nature.⁴

Dartmouth's policy on Free Expression and Dissent⁵ states in no uncertain terms that students may speak freely, even to express disagreement or discuss controversial matters:

Freedom of expression and dissent is protected by College regulations. Dartmouth College prizes and defends the right of free speech and the freedom of the individual to make his or her own disclosures, while at the same time recognizing that such freedom exists in the context of the law and in responsibility for one's own actions. The exercise of these rights must not deny the same rights to any other individual. The College, therefore, both fosters and protects the rights of individuals to express dissent.

Other Dartmouth policies bolster this commitment to truly free expression. For example, the university's Information Technology Policy further guarantees that “[f]reedom of expression and an open environment within which to pursue scholarly inquiry and to share information are encouraged, supported, and protected at Dartmouth,” and that “[c]ensorship is not compatible with the goals of Dartmouth.”⁶

Dartmouth officials have also made public pronouncements regarding free expression. In August of 2017, Dartmouth President Philip J. Hanlon responded to a campus controversy by stating that “Dartmouth embraces free speech and open inquiry in all matters, and all on our campus enjoy the freedom to speak, write, listen and debate in pursuit of better learning and understanding.”⁷ Later that same year, Associate Vice President for Communications Diana Lawrence reiterated those sentiments, as quoted by FOX News:⁸

“Dartmouth is and will remain committed to robust debate, respectful dialogue, and discussion, with the understanding that such interactions will sometimes be difficult or disagreeable,” Lawrence said. “As an academic community, we are committed to free speech and open inquiry in all matters. Our students, faculty,

⁴ *Gill v. Franklin Pierce Law Ctr.*, 899 F. Supp. 850 (D.N.H. 1995) (a university's Academic Rules and Regulations governing students constituted a contract); *see also Gamble v. Univ. Sys. of N.H.*, 610 A.2d 357 (N.H. 1992) (students and university had contractual relationship with respect to tuition policies).

⁵ Policy Statement on Freedom of Expression and Dissent, Dartmouth Principles of Community, <https://students.dartmouth.edu/student-life/policy/principles-community>.

⁶ Policy Statement on Freedom of Expression, Dartmouth Information Technology Policy, <https://policies.dartmouth.edu/policy/dartmouth-information-technology-policy>.

⁷ Statement on Lecturer in History Mark Bray, Dartmouth Press Releases, https://www.dartmouth.edu/press-releases/bray_statement.html.

⁸ Caleb Parke, *Dartmouth College to host 'What's Up With White People?' event*, FOX NEWS, (Nov. 20, 2017), <https://www.foxnews.com/us/dartmouth-college-to-host-whats-up-with-white-people-event>.

and staff enjoy the freedom to speak, write, listen and challenge ideas in pursuit of better learning and understanding.”

The Social Media Use Policy is inconsistent with these firm commitments to expressive rights.

In particular, the policy’s prohibition against “[i]nappropriate” posts, including those that are not “courteous, respectful, and considerate,” imposes a civility policy on all communication undertaken by students online, whether or not that communication has any relationship to the college. Yet freedom of expression includes the right to be uncivil,⁹ and our Supreme Court has explained that the right protects “not only informed and responsible criticism, but” embraces “the freedom to speak foolishly and without moderation.”¹⁰ As one federal court has put it, the “desire to maintain a sedate academic environment does not justify limitations” on the right to express views “on political issues in vigorous, argumentative, unmeasured, and even distinctly unpleasant terms.”¹¹

We can think of no defensible reason for the college to require its students to be “courteous, respectful, and considerate” in communications having no relationship with the college. Yet even if it served such a purpose, it is impossible for any reasonable student to adequately predict what communication or exchange—viewed in or out of context—will be subjectively viewed as sufficiently “courteous, respectful, and considerate” by a future administrator. This policy will have—and has had¹²—a pronounced chilling effect on Geisel students’ online expression, hollowing out Dartmouth’s glowing promises purporting to protect students’ expressive rights.

Similarly, the provision against “disparaging” any other member of the Geisel “community” presents a broad risk to expressive rights in both its scope and the speech it governs. First, speech subjectively seen as “disparaging” to others—and pointed criticism will often be seen by its recipient as “disparaging”—is protected under general principles of freedom of expression.¹³ Second, the “community” shielded from criticism presumably includes administrative and community leaders, as well as those with more attenuated relationships with the community, such as alumni or donors.

⁹ See *Coll. Republicans at S.F. State Univ. v. Reed*, 523 F. Supp. 2d 1005, 1020 (N.D. Cal. 2007) (striking down university civility policy for “prohibiting the kind of communication that it is necessary to use to convey the full emotional power with which a speaker embraces her ideas or the intensity and richness of the feelings that attach her to her cause.”) Even to the extent that the college has an obligation to address harassment, its legal obligations do not impose a “general civility code.” *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 81 (1998).

¹⁰ *Baumgartner v. United States*, 322 U.S. 665, 674 (1944).

¹¹ *Rodriguez v. Maricopa Cty. Cmty. Coll. Dist.*, 605 F.3d 703, 708–09 (9th Cir. 2009) (cleaned up).

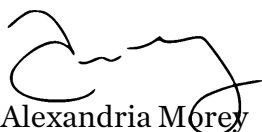
¹² @concernedstudent1797, INSTAGRAM (screenshots from recently-deleted account on file with author).

¹³ *Matal v. Tam*, 137 S. Ct. 1744, 1763 (2017) (striking down prohibition on “disparaging” trademarks, as it effectuated viewpoint discrimination); see also *Nissan Motor Co. v. Nissan Comput. Corp.*, 378 F.3d 1002, 1016 (9th Cir. 2004) (limit on “disparaging” links on a website was viewpoint discrimination because it “only prohibits *disparaging* remarks and *negative* commentary.”).

Further, the timing of the implementation of the new Geisel Social Media Use Policy—in the wake of the academic misconduct controversy, as students criticize Dartmouth’s actions—undoubtedly and understandably raises students’ concerns that the policy is intended to deter further criticism of the college’s administration. Nowhere in its constellation of promises of freedom of expression does Dartmouth suggest there is an exception for students who might focus their dissent on the college’s own handling of administrative matters.

Dartmouth is unequivocal in its commitment to students’ expressive rights. The college must immediately clarify that it will not punish students for exercising the free speech rights afforded by Dartmouth’s own policies and by which Dartmouth is contractually bound. Given the urgent nature of this matter, we request receipt of a response to this letter no later than the close of business on Friday, April 16, 2021, confirming that the Geisel School will not enforce its social media policy and will revise it to conform to Dartmouth’s institutional commitment to freedom of expression.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexandria Morey". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Alexandria Morey
Program Officer, Legal and Public Advocacy

Cc: Philip J. Hanlon, President, Dartmouth College

Geisel Social Media Use Policy

Summary of Purpose

This policy establishes professionalism standards for the use of social media as a student member of the Geisel UME community.

Scope and Applicability

This policy applies to all Geisel students engaged in the Undergraduate Medical Education program. It includes both institutional and personal social media accounts. There is a separate formal policy for faculty and staff as College employees.

Definitions

The term “social media” here is intentionally broad, and students should consider the implications of their online engagement before interacting in any internet public forum, including but not limited to Facebook, Instagram, Twitter, LinkedIn, YouTube, Reddit, blogs, comment sections of news sources, and similar online social media pleasure or networking sites.

Policy Statement

All students are responsible for their postings on the Internet and in all varieties of social media. In all communications, students are expected to be courteous, respectful, and considerate of others. Inappropriate postings, including photo or video content, on the Internet or social media will be considered lapses in the standards of professionalism expected of Geisel School of Medicine students. Students responsible for such postings are subject to the [Academic and Personal Conduct Policy](#) infraction procedure in the same manner as for any other unprofessional behavior that occurs outside the academic setting. Students who do not follow these expectations may face disciplinary actions including dismissal from the School of Medicine.

Procedure

Students are urged to consider the following before posting any comments, videos, pictures, or essays to the Internet or a social media site:

- Remember that “anonymous” posts may still be traced back to the original author. Therefore, it is suggested that posts or comments submitted for others to read should be posted with full identification of the writer.
- Where your connection to Geisel is apparent, make it clear that you are speaking for yourself and not on behalf of Geisel. A disclaimer, such as, "The views expressed on this [blog; website] are my own and do not reflect the views of my College or the School of Medicine" are required.
- Internet activities may be permanently linked to the author, such that all future employment may be hampered by inappropriate behavior on the Internet.
- Making postings “private” does not preclude others copying and pasting comments on public websites. “Private” postings that become public are still subject to the procedures described in the Geisel [Academic and Personal Conduct Policy](#).
- Do not share information in a way that may violate any laws or regulations (i.e. HIPAA). Disclosing information about patients without written permission of the patient and the School of Medicine, including photographs or potentially identifiable information is strictly prohibited. This rule also applies to deceased patients.
- Do not share confidential or proprietary information that may compromise Geisel's research efforts, business practices or security.

In addition to the above, the [Social Media Guidelines for Medical Students and Physicians](#), created by the American Medical Student Association, should be followed.

CONTENT GUIDELINES

If you identify yourself as a Geisel student member in your profile or bio, use the following language in your account description:

1. Views are my own.
2. Tweets are my own. (*Twitter only*)
3. The views and opinions expressed here are not necessarily those of Geisel School of Medicine, and they may not be used for advertising or product endorsement purposes. (*If word count limit allows*)

Misuse of Social Media may be reported to the administration through the [Professionalism Reporting Tool](#).

Repeated violations of content guidelines may cause the author to be blocked from both the Dartmouth College and DHMC medical campus social media sites, including Facebook, Twitter and Instagram.

Disparaging other members of the Geisel UME community will trigger disciplinary review.

Key Words

Social Media

Related Information

University Documents

None.

Other Documents

None.

Related Links

<https://geiselmed.dartmouth.edu/students/links/professionalism-reporting/> Policy Administration

Policy Number	UME-OSA-0022	Effective	4/5/2021
Authorized By	Associate Dean for Student Affairs	Written By	Director of Student Affairs
Approved By	UME Affairs Leadership Group	Date Approved	3/1/2021
Date Reviewed	12/4/2020	Date Revised	
Responsible Office	Geisel School of Medicine Office of Student Affairs	Responsible Administrator	Director of Student Affairs
Inform	Geisel Faculty, Students, Staff		

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Related Information

University Documents

None.

Other Documents

None.

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Authorized By	Associate Dean for Student Affairs	Written By	Director of Student Affairs
Approved By	SADME	Date Approved	
Date Reviewed		Date Revised	
Responsible Office	Geisel School of Medicine Office of Student Affairs	Responsible Administrator	Director of Student Affairs
Inform	Geisel Faculty, Students, Staff		

Policy Contact Information

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