



FIRE

Foundation for Individual
Rights and Expression

July 28, 2022

Taliajah Vann
Student Body and Undergraduate Student Government President
University of North Carolina at Chapel Hill
Suite 3109 Frank Porter Graham Student Union
Chapel Hill, North Carolina 27514

Sent via U.S. Mail and Electronic Mail (sgapresident@unc.edu)

Dear President Vann:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech, expression, and conscience, and other individual rights on campus, is concerned that the executive branch of the University of North Carolina at Chapel Hill's student government has purported to ban funding pro-life student advocacy groups. FIRE calls on your administration to reverse this ban and commit to upholding the First Amendment by distributing funds in a viewpoint-neutral manner going forward.

The UNC student government, representing the student body, allocates the student activity fee funds to campus groups.¹ On July 6, 2022, the UNC Undergraduate Student Government (USG) Executive Branch issued an executive order stating it will not “contract or expend funds to any individual, business, or organization which actively advocates to further limit by law access to reproductive healthcare, including, though not limited to, contraception and induced abortions.”²

It has long been settled law the decisions and actions of a public university and its student government—including funding of student organizations—must comply with the First Amendment,³ which forbids USG from imposing content- or viewpoint-based restrictions on

¹ Univ. of N.C. Student Government, *Student Constitution* (rev. Feb. 2, 2021), https://senate.unc.edu/wp-content/uploads/sites/14573/2021/09/UNC-Constitution_Feb-2021.pdf [<https://perma.cc/V7A8-F2XN>]. The following is our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

² Univ of N.C. Student Government Executive Branch (@unc_executivebranch), INSTAGRAM (July 6, 2022), <https://www.instagram.com/p/CftuW5uutJl>.

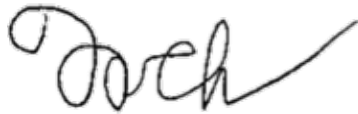
³ *Bd. of Regents of the Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217, 221 (2000); *Koala v. Khosla*, 931 F.3d 887, 894 n.1 (9th Cir. 2019) (assuming action by student government regarding student newspaper funding was state action because it was an “exercise of authorities concerning student affairs by delegations” of power from the university); *Ala. Student Party v. Student Gov't Ass'n of Univ. of Ala.*, 867 F.2d 1344, 1349 (11th Cir. 1989) (finding that the University of Alabama student government is a state actor when analyzing First

the distribution of student activity fee funds to student groups.⁴ UNC’s authority to impose mandatory student fees—whether through a student government or otherwise—carries with it the burden to ensure the viewpoint-neutral distribution of the funds to student groups.⁵

By refusing to “expend funds to any . . . organization which actively advocates to further limit by law access to reproductive healthcare,” USG plainly restricts funding to student groups based on their mission, expression, and advocacy—in violation of the First Amendment. While UNC, its student government, and individual student leaders may advocate for their own viewpoints on contested political issues, they may not condition campus group funding on adherence to those viewpoints.

FIRE calls on your administration to promptly rescind this executive order and commit to distributing the university’s student activity fee in a viewpoint-neutral manner. We request receipt of a response to this letter no later than the close of business on August 11, 2022.

Sincerely,



Zachary Greenberg
Senior Program Officer, Campus Rights Advocacy

Cc: Kevin M. Guskiewicz, Chancellor
Charles Marshall Vice Chancellor and General Counsel
Austin Snyder, Student Government Executive Secretary
Daniel Kim, Undergraduate Student Government Secretary

Amendment challenge to student government campaign finance regulations); *Gay & Lesbian Students Ass’n v. Gohn*, 850 F.2d 361, 365-66 (8th Cir. 1988) (holding that state university student government was a state actor for purposes of allocating funding to student groups); *Denton v. Thrasher*, No. 4:20-cv-425-AW-MAF, at 9* (N. D. Fla. Oct. 8, 2020) (holding that the Florida State University student government is a state actor bound by the First Amendment).

⁴ *Southworth*, 529 U.S. at 233 (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”).

⁵ *Id.* The USG Constitution reflects this viewpoint-neutrality requirement, stating that each branch “shall not discriminate in matters of policy or financial allocation on the basis of . . . creed, political ideology, political affiliation, [or] political party.” *Student Constitution*, *supra* note 1.