



October 28, 2021

Graham Piro
Program Officer, Individual Rights Defense Program
Foundation for Individual Rights in Education (FIRE)
510 Walnut Street, Suite 1250
Philadelphia, PA 19106

Re: Stefan Klaer Complaint Against Montana State University

Dear Mr. Piro,

I serve as the Associate Legal Counsel for Montana State University (“MSU” or “University”). Your October 25, 2021, letter regarding the complaint filed by MSU student Stefan Klaer regarding a flag he hung in his residence hall window was forwarded to my attention.

Montana State University is part of the Montana University System, which is the State of Montana acting in its higher education capacity. MSU’s campus in Bozeman is a diverse community of nearly 17,000 students and more than 3,200 faculty and staff. MSU is deeply committed to protecting the free speech rights of all members of its campus community. To that end, MSU has enacted a Freedom of Expression Policy, which recognizes that freedom of expression is integral both to our democracy and to the educational mission of the University. https://www.montana.edu/policy/freedom_expression/. MSU also offers First Amendment training and has created a resource page to better explain free speech rights, answer questions, suggest additional options for expressing views on campus, and identify additional resources on free speech issues for faculty, staff, and students. <https://www.montana.edu/freespeech/>.

Your letter references MSU’s Residence Hall Community Standards policy, which governs the conduct of students in MSU residence halls. The section on Decorations and Room Displays states, in pertinent part:

“Students are free to display posters and other things inside their rooms... Due to potential safety concerns and fire hazards, posters and/or decorations cannot be placed on the window. Hanging blankets, sheets, tapestry, etc., that physically or visually restricts or blocks access to the room is prohibited.”

<https://www.montana.edu/housing/halls/handbook.html>. MSU’s policy is a content and viewpoint neutral restriction that directly relates to health and safety concerns. In particular, it ensures that physical access to the room is not blocked or overly hindered in the case of an emergency. This includes not just what is placed directly on the window, but what is placed

**Office of
Legal Counsel**

216 Montana Hall
P.O. Box 172420
Bozeman, MT 59717-2420
www.montana.edu

Tel 406-994-4570
Fax 406-994-1893
jenniferglad@montana.edu

immediately in front of the window that could potentially limit or prevent access. It also ensures that only those window coverings provided by the University, which are appropriately fire rated, are utilized in University housing. Indeed, your October 25 letter explicitly recognized that MSU's "policy [is] a content-neutral limit on where displays may be placed, prohibiting placement 'on' a window blocking physical access to a room. The prohibition on blocking physical access serves the university's interest in maintaining student safety, in that it prevents obstructions that might present a hazard during an emergency."

The incident at issue here involved a student that was asked to remove a large flag from their dormitory room window. The flag was large, dark, and blocked approximately half of the window. Although it was not placed directly on the window itself, it was hung from the bottom of the University-provided window coverings, essentially serving as a replacement window covering. Such coverings violate MSU's policy prohibiting students from using their own window coverings or blocking access to a room due to safety concerns.

Your letter also purports to quote a message from a Resident Advisor stating that the flag needed to be removed not only for safety considerations, but also because it was "offensive." We thank you for bringing this to our attention. Per MSU's Residence Hall Community Standards policy, students may display posters and other decorations in their room, consistent with the policy. Regardless of whether some may consider the flag at issue here "offensive," the purpose of the policy and directive in this case is to protect the health and safety of students residing in the residence halls and not to regulate speech. Following this report, MSU will provide additional training to Resident Advisors and other staff in the coming weeks to ensure that they understand and are complying with University policies and procedures related to residence halls and freedom of expression.

If you have any further questions, please contact me at (406) 994-4570 or via email at JenniferGlad@Montana.edu.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Glad". The signature is written in a cursive, flowing style.

Jennifer Glad
Associate Legal Counsel