



FIRE

Foundation for Individual
Rights and Expression

September 18, 2023

Amanuel Gebru
Office of the President
Los Angeles City College
855 North Vermont Avenue
Los Angeles, California 90029

Sent via U.S. Mail and Electronic Mail (GebruA@laccd.edu)

Dear President Gebru:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ writes to welcome you to your new role as president of Los Angeles City College. We also write to share concerns about the state of the student press at LACC after learning that college administrators have interfered with student journalists' ability to freely gather news on campus. This interference, whether conducted in practice or codified in LACC policy, violates the First Amendment rights of the student press.

As you may know, earlier this year LACC administrators faced allegations of demonstrating a pattern of disrespect towards student journalists' right to gather news at LACC facilities.² On two separate occasions, administrators removed student journalists from campus buildings while the journalists were taking photographs on assignment for *The Collegian*, LACC's student paper.³ Student journalists allege similar mistreatment from administrators dating to 2015.⁴ FIRE wrote then-president Mary Gallagher on June 1, asking her to reassure student

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² The following description reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us. *See, e.g.,* Michelle McCree, *Music Chair Out of Tune With Free Speech*, COLLEGIAN (May 10, 2023), https://www.lacitycollege.edu/sites/lacc.edu/files/2023-05/Collegian_spring_2023_Issue4.pdf; Melissa Gomez, *At L.A. City College, student reporters decry censorship at public, on-campus events*, L.A. TIMES (May 24, 2023, 5:00 AM), <https://www.latimes.com/california/story/2023-05-24/l-a-city-college-student-journalists-face-censorship>.

³ Gomez, *supra* note 2.

⁴ *Id.*

journalists that LACC would honor their expressive rights.⁵ Gallagher did not respond to FIRE's letter before leaving office.

On August 8, *Collegian* adviser Rhonda Guess notified FIRE of a proposed policy dictating campus filming and photography requirements applying to all members of the media, including student journalists and "anyone who takes actions to broadcast . . . to a wider audience, including posting on social media."⁶ The draft policy, authored by LACC Public Relations Manager Shaena Engle, states in part that:⁷

Filming and photographing for public consumption of any kind anywhere within LACC and events on the LACC campus is allowed at the discretion of LACC's Media Relations Department. Most filming and photography require advance permission. LACC reserves the right to refuse or revoke permission to film or photograph for any reason . . . Filming, interviews and photography of students, alumni and attendees of events require a photography and video release and agreement from parties being filmed, interviewed or photographed.

The policy also prohibits:

- Filming and photography on campus for commercial purposes other than for campus marketing.
- Any filming or photography in areas marked with signs indicating no photography or filming.
- Filming and photography on campus about subjects not directly related to LACC.
- Filming and photography outside of normal business hours, Monday – Friday, 8am to 5pm, and when offices are closed.
- Filming in libraries, classrooms and laboratories without prior permission from LACC Media Relations.⁸

These overly restrictive requirements violate LACC's constitutional duty as a public institution to protect students' expressive and free press rights.⁹ The right of the press to gather information is well-established and includes the right to publish lawfully obtained information, including videos or photography in circumstances which there is no reasonable

⁵ We have enclosed a copy of this letter for your convenience.

⁶ Shaena Engle, *Media Guidelines for Press DRAFT DRAFT DRAFT* (August 2023) (on file with the author).

⁷ *Id.*

⁸ *Id.*

⁹ *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).

expectation of privacy.¹⁰ The First Amendment not only protects the spoken and written word but also encompasses “the right to photograph and record matters of public interest,”¹¹ including on public property (like many areas of LACC’s campus) and/or the actions of public officials (like LACC administrators).¹²

The proposed media policy violates this right by requiring college officials’ pre-approval for virtually all photography and filming on campus. Courts have criticized this kind of prior review—which carries the potential of prior restraint on the student media, where the government can prevent expression before it happens—as the “most serious and least tolerable infringement” of free speech.¹³ Such restrictions on expressive rights are justifiable only in the most extenuating circumstances, such as a demonstrated threat to national security.¹⁴

To function as an independent newspaper, *The Collegian* must be able to make editorial decisions, including when and how to gather information, without outside oversight. A policy requiring *Collegian* reporters—and, broadly speaking, citizen journalists—to submit to Engle essentially all plans to film or photograph on campus hampers a student reporter’s ability to quickly and efficiently use one of the traditional information-gathering tools in a journalist’s toolbox.¹⁵ In addition to burdening student speech, this prior review also burdens student press rights by inserting the LACC administration directly into *The Collegian*’s editorial process.

The proposed policy also impermissibly risks prior restraint by inherently granting administrators—namely, Engle alone—the authority to grant or deny student journalists permission to photograph or film on campus. As the administrator overseeing these requests, Engle can invoke this policy to limit coverage critical of the college. While LACC may have some legitimate privacy-related reasons for limiting photography or filming in certain campus spaces where students, faculty, or staff have expectations of privacy, it cannot justify the blanket restrictions proposed.

¹⁰ See, e.g., *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972).

¹¹ *Askins v. U.S. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018); see also *Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184, 1203 (9th Cir. 2018) (“We easily dispose of [the] claim that the act of creating an audiovisual recording is not speech protected by the First Amendment. This argument is akin to saying that even though a book is protected by the First Amendment, the process of writing the book is not. Audiovisual recordings are protected by the First Amendment as recognized “organ[s] of public opinion” and as a “significant medium for the communication of ideas.” (internal citation omitted)).

¹² *Askins*, 899 F.3d at 1044.

¹³ *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976); see also *Burch v. Barker*, 861 F.2d 1149, 1159 (9th Cir. 1988); *Watchtower Bible & Tract Soc’y of N.Y., Inc. v. Vill. of Stratton*, 536 U.S. 150, 165–66 (2002) (“It is offensive—not only to the values protected by the First Amendment, but to the very notion of a free society—that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so.”); *N.Y. Times Co. v. United States*, 403 U.S. 713, 714 (1971) (*per curiam*) (“Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.”) (cleaned up); *Lovell v. Griffin*, 303 U.S. 444, 451 (1938) (striking down an ordinance requiring city manager review of literature before distribution).

¹⁴ See *N.Y. Times Co.*, 403 U.S. at 714; *Near v. Minnesota*, 283 U.S. 697 (1931).

¹⁵ Note that, under the policy’s definition, restrictive activity could include a student simply video-calling friends.

As you begin your tenure as LACC president, FIRE urges you to evaluate the college's troubling history with the student press and to pledge not to repeat these missteps moving forward. We request a substantive response to this letter no later than the close of business on October 2, 2023, affirming that LACC will respect the rights of the student press and decline to move forward with the proposed policy. We would be happy to discuss ways the college can fulfill its First Amendment obligations while advancing its other important goals.

Sincerely,



Anne Marie Tamburro
Program Officer, Campus Rights Advocacy

Cc: Shaena Engle, Public Relations Manager

Encl.



FIRE

Foundation for Individual
Rights and Expression

June 1, 2023

Mary Gallagher
Office of the President
Los Angeles City College
855 North Vermont Avenue
Los Angeles, California 90029

Sent via U.S. Mail and Electronic Mail (gallagmp@lacitycollege.edu)

Dear President Gallagher:

The Student Press Freedom Initiative at the Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by Los Angeles City College's treatment of student journalists from *The Collegian* and the paper's adviser. Interfering with student press rights and potentially investigating the paper's adviser for defending the journalism program and *The Collegian* violates LACC's First Amendment obligations.

Our concerns arise from student journalist Juan Mendoza's May 2, 2023 attendance at a concert in the Herb Alpert Music Hall to photograph and cover the event for *The Collegian*.² While Mendoza prepared his camera, Christine Park, chair of LACC's Department of Music, confronted him and, though LACC advertised the concert as "free and open to the public,"³ said "What are you doing here? You are not allowed. No cameras are permitted. This is a private event."⁴ When Mendoza explained that he was a student journalist from *The Collegian*, Park responded that she didn't care and ordered him to leave. She did not give Mendoza the opportunity to put his camera away and stay without photographing the event.

Our concerns are further driven by *Collegian* reporter Louis White's May 19 visit to LACC's music building to photograph the space while on assignment for the paper. Prior to taking

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² Michelle McCree, *Music Chair Out of Tune With Free Speech*, COLLEGIAN (May 10, 2023), https://www.lacitycollege.edu/sites/lacc.edu/files/2023-05/Collegian_spring_2023_Issue4.pdf.

³ *Herb Alpert Music Center: Faculty & Staff Concert in Honor of Dr. Mary Gallagher*, LOS ANGELES CITY COLL., <https://www.lacitycollege.edu/campus-life/events/2023/5/2/herb-alpert-music-center-faculty-staff-concert-honor-dr-mary-gallagher> [<https://perma.cc/JE3S-8QA2>].

⁴ McCree, *supra* note 2.

photos, White contacted the LACC Sheriff's Office to confirm the music building is open to the public. Nonetheless, building staff, claiming to feel "unsafe and threatened," reported White, resulting in three sheriffs' deputies attempting to eject him from the premises, even though he was photographing only its common areas open to the public.

These recent events are emblematic of a pattern of LACC mistreating student journalists. In 2021, LACC Athletic Director Rob McKinley ejected *Collegian* journalists from the locker room while they gathered material for a story, citing privacy concerns. Later, McKinley banned reporters from accessing the public soccer field.⁵ When asked by a *Collegian* reporter to explain, McKinley said he "[doesn't] like [the journalist]" and questioned the content of prior *Collegian* stories about the soccer team.⁶ In 2015, Park expelled a student journalist from a different music department event.⁷ And in 2009, LACC's hostility toward *The Collegian's* reporting and staff led it to cut 40% of the paper's funding.⁸ This history understandably fuels concerns from *Collegian* staff members and adviser Rhonda Guess that administrators have unconstitutionally restricted *Collegian* reporters' access to spaces on LACC's campus in retaliation for the paper's content.

Guess fears she may now face retaliation herself. Last November, Guess emailed you and the LACC academic vice president alleging the dean "attacked" the journalism program in her program review. Neither you nor the academic vice president responded until last week, when you asked Guess to meet on May 30 to discuss the emails and a particular issue of *The Collegian*. This meeting has since been rescheduled for June 5. You have not specified additional details about what the meeting will entail or if it is investigatory in nature. It is notable that this meeting to address months-old criticism comes amidst tensions between LACC administrators and *The Collegian*, during which time Guess has publicly supported the paper and criticized the college.⁹

⁵ Melissa Gomez, *At L.A. City College, student reporters decry censorship at public, on-campus events*, L.A. TIMES (May 24, 2022, 5:00 AM), <https://www.latimes.com/california/story/2023-05-24/1-a-city-college-student-journalists-face-censorship>.

⁶ *Id.*

⁷ *Id.*

⁸ Adam Kissel, *FIRE and Student Press Law Center Address Threats to Freedom of the Press at Los Angeles City College*, FIRE (Jan. 18, 2010) <https://www.thefire.org/news/fire-and-student-press-law-center-address-threats-freedom-press-los-angeles-city-college>.

⁹ Gomez, *supra* note 5.

When a public college like LACC appears to take retaliatory action against the student press¹⁰ and faculty advisers,¹¹ it violates its binding First Amendment obligations.¹² The question is not whether formal punishment is meted out, but whether the institution’s actions in response to protected First Amendment activity “would chill or silence a person of ordinary firmness from future First Amendment activities.”¹³ Likewise, the Supreme Court has made clear that “singl[ing] out” journalists for disparate treatment violates fundamental principles of freedom of expression.¹⁴ The Court has observed that journalists must have access to public proceedings to play their vital role of facilitating government transparency by allowing for informed public discussion of government affairs.¹⁵ Student journalists at *The Collegian* facilitate institutional transparency and informed community discussion of campus events.

The Supreme Court’s ruling in *Globe Newspaper Co. v. Superior Ct.* is instructive. There, the Court held journalists may be denied access to spaces traditionally open to the public only if the denial is “necessitated” by a “compelling” interest and is “narrowly tailored to serve that interest.”¹⁶ LACC cannot articulate a compelling interest in each situation where administrators barred or attempted to remove student journalists from a space. When asking Mendoza to leave the concert, Park justified this order by stating the event was private, but advertisements of the event noting it was open to the public make Park’s privacy assertion clearly incorrect.¹⁷ Even if LACC had a valid privacy interest in prohibiting Mendoza from photographing the concert—which it did not, as the event was public¹⁸—forcing him to leave entirely instead of asking him to put his camera away is not tailored to serve that interest.

Similarly, college employees sought to justify attempting to remove White from the music building in part by claiming the building was private. This is not true, considering it is open to LACC students and faculty. The staff’s other interest in removing White—that he allegedly made them feel “unsafe and threatened”—is meritless as well. While campus safety is

¹⁰ See e.g. *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973) (public universities cannot punish students journalists solely because they published offensive or indecent speech); *Stanley v. Magrath*, 719 F.2d 279, 282 (8th Cir. 1983) (public universities cannot alter a student paper’s funding mechanism in reaction to objections to the paper’s content); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829–30 (1995) (public universities cannot deny funds to a student paper based on the paper’s viewpoint); *Glik v. Cuniff*, 655 F.3d 78, 79 (1st Cir. 2011) (journalists’ right to openly record law enforcement, including campus police, in public spaces, is well-established and they cannot be punished for exercising it).

¹¹ *Dambrot v. Central Mich. Univ.*, 55 F.3d 1177 (6th Cir. 1995).

¹² *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).

¹³ *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

¹⁴ *Minneapolis Star & Tribune Co. v. Minn. Comm’r of Revenue*, 460 U.S. 575, 582 (1983).

¹⁵ *Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 606–07 (1982).

¹⁶ *Id.*

¹⁷ *Herb Alpert Music Center: Faculty & Staff Concert in Honor of Dr. Mary Gallagher*, LOS ANGELES CITY COLL., <https://www.lacitycollege.edu/campus-life/events/2023/5/2/herb-alpert-music-center-faculty-staff-concert-honor-dr-mary-gallagher> [https://perma.cc/JE3S-8QA2].

¹⁸ *Id.*

ordinarily a strong interest of the college, a student entering a public building on campus for reporting purposes poses no threat. This justification falls far short of compelling basis to remove him from a public space while engaged in protected journalistic activity. And while the music building staff members did not substantiate the claim that they felt unsafe and threatened by White's presence, making White leave the building after he obviated any fear that his presence posed a threat would not be narrowly tailored to serve even valid safety interests.

With respect to *The Collegian's* advisor, while Guess has limited details about the nature of the meeting to which she was summoned, its context and timing suggests a retaliatory investigation of her speech. Such action would violate the expressive rights LACC is bound to uphold not only by the Constitution, but by California's Leonard Law, which prohibits public California colleges from retaliating against their employees for protecting students engaged in constitutionally protected expression, including student press activities.¹⁹

Censoring the student press has implications far beyond the newsroom, depriving the entire campus community and members of the public crucial campus-related information and, ultimately, weakening transparency and trust in institutions of higher education. A corollary of the right to free speech is the public's right to know, and student media is an important conduit for this right to know about what happens on America's college campuses. Courts have recognized that the media, whether on or off campus, act as "surrogates for the public" in keeping a watchful eye on the operations of government actors, including those on public campuses, and restraining institutional abuses of power.²⁰

LACC's fraught history with *The Collegian* and recent violations of the rights of its staff and potentially its advisor cast doubt upon the college's transparency on decisions and events that affect its entire community. The unique role of colleges as "peculiarly the 'marketplace of ideas'"²¹ cannot be squared with burdens on the rights of student journalists and faculty.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on Monday, June 5, 2023, confirming that LACC will reassure student journalists and faculty that they are free to exercise their expressive rights without unlawful interference from college officials, and dropping any improper investigation of Guess, to the extent one is ongoing.

Sincerely,



Anne Marie Tamburro
Program Officer, Campus Rights Advocacy

Cc: Francisco C. Rodríguez, PhD., Chancellor, Los Angeles Community College District
David Vela, President, Board of Trustees, Los Angeles Community College District

¹⁹ Calif. Educ. Code § 66301(f).

²⁰ *Richmond Newspapers v. Virginia*, 448 U.S. 555, 573 (1980).

²¹ *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 603 (1967).