



October 4, 2024

James T. Minor
Office of the Chancellor
Southern Illinois University Edwardsville
Rendleman Hall
1 Hairpin Drive
Edwardsville, Illinois 62026

Sent via U.S. Mail and Electronic Mail (chancellor@siue.edu)

Dear Chancellor Minor,

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by Southern Illinois University Edwardsville's practice of restricting University Housing employees from speaking to the media. This practice restricts these employees' right to speak with the media about matters of public importance in their personal capacities.² As an institution bound by the First Amendment to protect both freedom of the press and speech,³ SIUE may not censor student journalists or university employees, including student employees. The university must promptly clarify that Housing employees may speak to the media, including SIUE student reporters, as private citizens on matters of public concern.

Our concerns arise from an August 28 report in SIUE's student newspaper, *The Alestle*, alleging resident assistants are not allowed to speak with media outlets without approval from Director of University Housing Mallory Sidarous.⁴ Administrators also allegedly encouraged employees

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

² See generally *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968). Even insofar as SIUE's policies threaten subsequent punishment for speech rather than imposing a prior restraint, the university may not punish employees for speaking with journalists as individuals on matters of public concern.

³ *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).

⁴ Dylan Hembrough, *‘They control the narrative’: Housing employees speak out against restrictive media policy*, THE ALESTLE, (Aug. 28, 2024), https://www.alestlelive.com/news/article_f619e1fc-6551-11ef-b192-

to check with Housing administrators even when being “asked to talk from outside of their Housing position” and that employees “contacted by the media must notify their supervisors[.]”⁵

This directive and its attendant practices unconstitutionally chill the protected speech of university employees who may wish to speak with the media without an intermediary.

As a threshold matter, expressing an opinion on the policies and practices of a government body—even one by whom the speaker is employed—is not inherently speech on behalf of the employer. Instead, to be regulable, the employee speech must be *pursuant to* their job duties.⁶ Most Housing employees’ duties would not include representing the office publicly, so their speech would most certainly be as private citizens. While SIUE could require *official* Housing statements be released only by a select few administrators, it cannot claim jurisdiction to restrict all personal statements by its employees.

When the university requires employees receive approval before sharing these opinions, it imposes an unconstitutional prior restraint,⁷ “the most serious and the least tolerable infringement on” freedom of expression.⁸ These restraints present a risk so great that the “chief purpose” in adopting the First Amendment was to prevent their use.⁹ They are valid only in the most extreme circumstances,¹⁰ and courts analyzing prior restraints impose a “heavy presumption against [their] constitutional validity.”¹¹

The Supreme Court has struck down restraints that targeted indecent books,¹² pamphlets attacking a business owner,¹³ and even the release of classified documents.¹⁴ SIUE in turn violates its constitutional obligations by gagging employees’ speech as private citizens, as the governmental interest in protecting administrators from minor embarrassment does not come close to the level of that involved in the revelation of, for instance, classified documents exposing the failures of high-level Pentagon officials. Instead, Housing employees—particularly student employees who also live in campus residences—are the constituency most

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⁵ *Id.*

⁶ *Garcetti v. Ceballos*, 547 U.S. at 410, 421 (2006).

⁷ *Id.*

⁸ *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976).

⁹ *Near v. Minnesota*, 283 U.S. 697, 713 (1931).

¹⁰ *Id.* at 716.

¹¹ *N.Y. Times Co. v. United States*, 403 U.S. 713, 714 (1971).

¹² *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 59 (1971).

¹³ *Org. for a Better Austin v. Keefe*, 402 U.S. 415 (1971).

¹⁴ *N.Y. Times Co.*, 403 U.S. at 714.

likely to have informed opinions about housing at SIUE and should therefore be free to share their personal opinions with the press.¹⁵

SIUE's prior restraint practices also constitute an undue burden on student press by forcing student journalists to indirectly notify administrators of the subject matter of their work to secure permission. This could prevent student journalists, who wish to include the perspective of those closest to Housing matters from publishing their stories at all.

Courts have recognized that members of the press act as "surrogates for the public" in keeping a watchful eye on the operations of powerful institutions.¹⁶ As members of their campus communities, student journalists play an important part in informing the public of their universities' undertakings and ensuring transparency. SIUE's requirement that employees run comments through the director of housing—and the implicit threat of punishment if they do not—hamper student journalists' ability to serve as watchdogs.

Reporting from *The Aestle* illuminates the chilling effects of this practice. Housing employees have reported that they refrained from speaking to reporters about a ceiling collapse and other safety issues for fear of retribution.¹⁷ Students, parents, and Illinois taxpayers who have the right to know about these pressing issues cannot hear from those "most likely to have informed ... opinions" because the university is muzzling them.

As noted above, SIUE may require *official* statements published on behalf of the institution itself come only through an administrator, and may likewise *offer* to field journalists' interview requests. It cannot, however, maintain its current practices consistent with the First Amendment.

Given the ongoing chill to SIUE employees' expression, we request a substantive response to this letter no later than the close of business on October 18, 2024, confirming SIUE will honor its binding legal obligations to protect the expressive freedoms of its students employees and student journalists.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: Mallory Sidarous, Director of University Housing
Rony Die, Associate Vice Chancellor for Student Affairs

¹⁵ *Id.* at 572 ("Teachers are, as a class, the members of a community most likely to have informed and definite opinions as to how funds allotted to the operation of the schools should be spent.").

¹⁶ *Richmond Newspapers v. Virginia*, 448 U.S. 555, 573 (1980).

¹⁷ Hembrough, *supra* note 4.