



November 27, 2024

Ed Seidel
Office of the President
University of Wyoming
206 Old Main
Laramie, Wyoming 82071

Sent via U.S. Mail and Electronic Mail (uwpres@UW.edu)

Dear President Seidel:

The Student Press Freedom Initiative at FIRE,¹ is concerned by the University of Wyoming student government's recent decision to recommend a 75 percent cut to the mandatory fee funding student media based at least in part on the content of the student newspaper *Branding Iron*. FIRE calls on your administration not to implement this cut and to ensure all student fee funding is allocated in a viewpoint-neutral manner.

On November 19, the Associated Students of the University of Wyoming, UW's student government, passed a resolution recommending university officials cut the student media fee by 75%.² The fee covers all student media, including *Branding Iron*, *Frontiers Magazine*, and the *Owen Wister Review*.³ The Tuition Allocation and Student Fee Review Committee (TASFRC) drafted the resolution and cited student media's "staffing problems," the quantity of advertising, and "the number of errors" in the media's content as reasons to slash the fee.⁴ At the November 19 meeting, TASFRC Chair Senator Saint denied the cut to the fee was retaliatory and said there was no "vendetta" against the student media.⁵ Saint argued TASFRC's primary

¹ The Foundation for Individual Rights and Expression (FIRE) is a nonpartisan nonprofit dedicated to defending freedom of speech and of the press on and off campus. You can learn more about our mission and activities at thefire.org. FIRE's Student Press Freedom Initiative (SPFI) defends free press on campus by advocating for the rights of student journalists at colleges and universities across the country.

² ASUW Student Government, Thirteenth Meeting of the 112th ASUW, FACEBOOK, Tuesday Nov. 12, 2024, <https://www.facebook.com/asuwstudentgov/videos/1096158738160248/> (video on file with author). The following is our understanding of the pertinent facts based on public information. We appreciate that you may have additional information and invite you to share it with us.

³ *Student Media*, UNIV. OF WYO., <https://www.UW.edu/studentmedia/index.html>, (last visited Nov. 26, 2024).

⁴ S.R. 3016, Addendum E, 112th Assoc. Students of the Univ. of Wyo. (2024) (on file with author).

⁵ ASUW Student Government, *supra* note 2.

concern was student media’s “high carryover account,”⁶ but the initial resolution he sponsored belied the committee’s animus towards the publications’ content. Another senator separately said many students “don’t like” student media and said this was a reason to cut the fee.⁷ A third senator described the *Branding Iron*’s content as “not up to par.”⁸ ASUW’s approved recommendation was sent to the UW administration’s central fee committee, which has final authority over the student media fee.⁹

As you know, the decisions and actions of a public university and its student government—including funding of student organizations—must comply with the First Amendment.¹⁰ The Supreme Court of the United States long ago made clear that public universities like UW may not place content- or viewpoint-based restrictions on the distribution of student activity fee funds.¹¹ UW’s authority to impose mandatory student fees—whether through a student government or otherwise—carries with it the obligation to ensure this content-neutral distribution.¹²

ASUW’s recommendation is neither viewpoint- nor content-neutral, as it explicitly cites impermissible rationale.¹³ For example, during the meeting, a senator tied his vote for cutting funding to his personal distaste for the issues *Branding Iron* staff chose to cover as well as his perception that other students believe the *Branding Iron* is poorly written.¹⁴ Furthermore, senators’ concerns with the number of articles and “errors” in the publication are clear references to the *Branding Iron*’s content. The clear viewpoint animus is further demonstrated by the general dislike for student media cited during the ASUW meeting, regardless of assertions that neither ASUW nor TASFRC have a “vendetta” against the *Branding Iron*. Even

⁶ ASUW Student Government, *supra* note 2. The “carryover account” references appropriated funds not spent over the course of the fiscal year. This is analogous to GASB 54’s “Unassigned Fund Balance.”

⁷ S.R. 3016, Addendum E, 112th Assoc. Students of the Univ. of Wyo. (2024) (on file with author).

⁸ ASUW Student Government, *supra* note 2.

⁹ See *Fee Book Review Memo for FY2024*, UNIV. OF WYO., 2 (Oct. 5, 2022), https://www.UW.edu/budget-finance/financial-affairs/_fafiles/docs/notifications/2022/10-05-2022-fee-book-review-memo-for-fy2024.pdf.

¹⁰ *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) (University of Alabama student government is a state actor when analyzing First Amendment challenge to student government campaign finance regulations); *Gay & Lesbian Students Ass’n v. Gohn*, 850 F.2d 361, 365-66 (8th Cir. 1988) (state university student government was a state actor for purposes of allocating funding to student groups).

¹¹ *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.”). Viewpoint discrimination is “an egregious form of content discrimination.” *Rosenberger*, 515 U.S. at 829.

¹² *Southworth*, 529 U.S. at 230.

¹³ *Id.*

¹⁴ ASUW Student Government, *supra* note 2.

decisions regarding student media staffing—the “biggest problem” TASFRC identified¹⁵—also fall within the exercise of editorial independence—an expressive right protected by the First Amendment.¹⁶ That ASUW recommended UW cut funding for *all* student media rather than just the *Branding Iron* also does not salvage the recommendation from the taint of viewpoint and content animus.¹⁷

Because ASUW impermissibly relied upon viewpoint- and content-based justifications for recommending cuts to the student media fee, UW may not adopt this recommendation, as to do so would violate the First Amendment. FIRE calls on your administration to reject the student government’s recommendation and work with ASUW to educate the organization about its constitutional responsibilities as an agent of UW. FIRE would be pleased to assist with the last of these if desired, free of charge in accordance with our charitable mission. We request a substantive response to this letter no later than the close of business on December 11, 2024.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: Alex Kean, Vice President, Budget & Finance Division
Kameron Murfitt, ASUW President
Gabe Saint, TASFRC Chair

¹⁵ TASFRC specifically cited a high turnover rate and the paper’s inability to remain fully staffed. S.R. 3016, Addendum E, 112th Assoc. Students of the Univ. of Wyo. (2024) (on file with author).

¹⁶ *Mia. Herald Publ’g Co. v. Tornillo*, 418 U.S. 241, 255–258 (1974) (quoting, in part, *Pittsburgh Press Co. v. Hum. Rels. Comm’n*, 413 U.S. 376, 391 (1973) (reaffirming “unequivocally the protection afforded to editorial judgment” under the First Amendment, which protects “the exercise of editorial control and judgement”).

¹⁷ See *Koala v. Khosla*, 931 at 899 (rejecting university’s argument that revoking funding to all publications in an effort to silence just one absolved it of liability for retaliation).