



May 24, 2017

Father John P. Fitzgibbons, S.J. Office of the President Regis University
3333 Regis Boulevard B-4 Denver, Colorado 80221-1099

Sent via U.S. Mail and Electronic Mail (president@regis.edu)

## Dear President Fitzgibbons:

As you know from our March 22 and April 14 letters, the Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses. Regis' May 5 response to FIRE's letters failed to address our concerns about the university's response to student Alexander Beck's "Social Justice Bake Sale" event, and instead raised new concerns about Regis' commitment to freedom of expression.

FIRE is disappointed to yet again have cause to write to Regis University regarding Beck. Regis must immediately cease investigating Beck for alleged violations of the university's "discrimination" and "harassment" policies. Regis must reassure its students that they will not face investigation or punishment for engaging in activism on campus—or admit that it does not truly value freedom of expression.

The following is our understanding of the facts; please inform us if you believe we are in error.

FIRE's March 22 letter concerned Dean of Students Diane McSheehy's unilateral decision to shut down student Beck's March 16 tabling event after Beck had received permission for the event from Event Coordinator Chelsie Bowmar. Beck's demonstration took the form of a bake sale, offs ord1 0.0 -1.16 TD

On May 2, Equal Opportunity & Title IX Compliance Coordinator Michelle Spradling issued Beck a notice informing him that he was under investigation for alleged violations of Regis'

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Any intentional or persistent act that is intimidating, hostile, or coercive, or any intentional or reckless interference with the legitimate right(s) of another member of the University community to pursue their business, residential, employment or educational activities with the University, without unreasonable disruption or interference. Examples of proscribed harassment may include, but are not limited to: publicizing false, defamatory or private information about another with an intent to

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in *Davis*. This standard is what students would reasonably expect a university to adhere to in determining whether speech is protected or unprotected, when the university holds itself out as, and commits itself to, protecting students' expressive rights.

Two comments allegedly made by Beck to students who voluntarily chose to seek out his tabling event and engage with him cannot be said to be so severe, pervasive, and objectively offensive as to have prevented these students from obtaining an educational opportunity or benefit. There is no indication that Beck's comments were intended to or had the effect of deterring anyone from attending class or participating in university life.

The comments Beck is alleged to have made do not even meet the standard set by Regis' own policy, which defines harassment as "intimidating, hostile, or coercive, or any intentional or reckless interference with the legitimate right(s) of another member of the University community to pursue their business, residential, employment or educational activities with the University, without unreasonable disruption or interference." While some may have been offended by Beck's comments, Regis cannot reasonably argue that they were so "intimidating, hostile, or coercive" as to constitute a "reckless interference" with the "legitimate right(s) of the University community to pursue their . . . educational activities."

Again, as stated above and in FIRE's past letters, Regis is both morally and contractually bound to honor the free speech promises it makes to students. However, a May 5 letter to FIRE from Vice President and General Counsel Erika Hollis suggests that Regis does not believe its treatment of Beck contradicts the free speech values professed by the university:

Regis University is a private Jesuit, Catholic University. Accordingly, the University is not subject [to] the [F]irst [A]mendment protections you cite in your letter. Rather each student, electing to attend Regis University, agrees to abide by the University Standard of Conduct.

The Standard of Conduct includes embracing and honoring the traditions of honesty, freedom of expression and open inquiry. Students are also required to abide by the university's rules related to becoming a recognized student organization[], holding protests and tabling events.

In addition, the Standard of Conduct, expects each student to tolerate and respect the different backgrounds, religious traditions, personalities and beliefs of the students, faculty and staff that make up the Regis community. Similarly, the university prohibits any Regis University community member, including students, from discriminating on the basis of race, color, national origin, sex, disability, age, religion, veteran status, marital status, pregnancy, parental status, gender identity, sexual orientation, genetic information or any other legally protected status.

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Hollis' response can be summarized as: "Regis students have free speech until the university decides they don't." But freedom of expression is something students either do or do not possess—there is no in-between. Your actions with regards to Beck suggest the latter: that Regis University intends to allow students to express themselves only