



SOUTHEASTERN LEGAL FOUNDATION
Rebuilding the American Republic®

September 18, 2020

VIA EMAIL

Ms. Joanne Adamchak
Senior Associate General Counsel
University of South Florida
jadamcha@usf.edu

Re: Unconstitutional First Amendment Violations: Campus COVID-19 Policies

Dear Ms. Adamchak:

Thank you for your response to SLF's letters regarding the University's COVID-19 policies. We are glad to know the University is committed to balancing the rights of individuals in the community. However, your letter leaves some questions about the ways the University will enforce its policies.

You state in your letter that the University is committed to viewpoint neutrality regarding the use of spaces on campus. However, as SLF mentioned in its last letter, some student organizations were allowed to gather in protest while others have not been able to host socially distanced meetings. The issue is not that some students engaged in speech; SLF supports the rights of *all* students to do so. The issue is whether the University will respect the speech activities of all students, regardless of the format or views behind them. Any school policies that distinguish between activities—based either on the message or the type of activity—amount to viewpoint and content-based discrimination, respectively.

SLF understands that these times present serious challenges for Universities. However, policies must be both viewpoint and content-neutral. SLF requests further clarity about how the University plans to address different speech activities. The following are common ways students assemble and exercise their First Amendment rights. Please indicate how the University would handle each of the following situations, regardless of how the University becomes aware of these events:

1. A student organization tables on campus to gain new members.
2. Students host a rally in favor of a presidential candidate.
3. A student group hosts a 10-person meeting indoors, 6 feet apart, wearing masks.
4. A student group hosts a 10-person meeting outdoors, 6 feet apart, wearing masks.
5. A sports club hosts a practice or game outdoors.
6. A sports club hosts a practice or game indoors.

7. A student group meets off campus at a local coffee shop.
8. Students engage in a protest on campus.
9. Students engage in a counter-protest on campus.
10. Students engage in a protest off campus.
11. Students host an outdoor event to discuss COVID policies.
12. Students host an outdoor event to support local police.
13. Students post flyers to bring awareness to current events and issues.
14. Students poll other students about political issues.
15. Students bring speakers to campus.
16. Students post advertisements for their on-campus events.
17. Students post advertisements for their off-campus events.
18. A student organization gathers off campus to volunteer in the community.

Several Supreme Court Justices have affirmed the government's duty to uphold our Constitution during COVID, stating that "a public health emergency does not give Governors and other public officials *carte blanche* to disregard the Constitution for as long as the medical problem persists."¹ Even during these times of unrest and uncertainty, "the remedy to be applied is more speech, not enforced silence."² Students should not be encouraged to report their peers for violating campus COVID policies. Instead, they must be allowed and encouraged to exercise their own First Amendment rights to speak and assemble freely.

Yours in Freedom,



Kimberly S. Hermann
General Counsel
Southeastern Legal Foundation

¹ *Calvary Chapel Dayton Valley v. Sisolak*, 591 U.S. ____ (2020) (Alito, J., dissenting from Court's decision not to hear case seeking injunctive relief).

² *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).