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FAIRBANKS

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February 4, 2014

FIRE  
Foundation for Individual Rights in Education  
601 Walnut Street, Suite 510  
Philadelphia, PA 19106

Re: FIRE's January 15, 2014 Letter Regarding Freedom of Expression at UAF

Mr. Creeley,

Thank you for your recent letter regarding a recent UAF Title IX discrimination investigation. UAF applauds your ongoing commitment to protecting the freedom of expression and freedom of the press on college campuses. As you noted in your letter, we in Alaska also have a longstanding commitment to defending free speech rights on our campuses.

As you are likely aware, college campuses—including UAF—are highly regulated environments where competing interests collide. Your letter focused on one such collision, where UAF received a good faith complaint of harassment against its student newspaper, the *Sun Star*.

As your letter notes, and deserves further emphasis, UAF's Office of Diversity and Equal Opportunity (UAF DE&O) refused to act on that complaint against the *Sun Star* because of the very First Amendment issues raised in your letter. However, the complainant then made a second complaint under Title IX against both DE&O for failing to investigate the first complaint and against the *Sun Star* for a second article. Because the Title IX complaint presented a prima facie case under that law, UAF commenced an investigation.<sup>1</sup>

As you note in your letter, UAF's Title IX investigation report, written by Jennifer McDonnell, found that the *Sun Star* did not violate Title IX and that DE&O's refusal to investigate the initial complaint amounted to harassment. That report mandated Title IX investigations and only "investigation" into this matter.

UAF's governing Board of Regents' Policy and University Regulation grant complainants a right of appeal. In this case, Mr. Perry Stover performed a document review of the initial report and gave each of the original parties an opportunity to provide him with further comments. That was the extent of Mr. Stover's review and investigation.

<sup>1</sup> See United States Department of Education, Office of Civil Rights, April 4, 2013 Dear Colleague Letter at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

*Naturally Inspiring.*

UAF is an AA/EO employer and educational institution.

Star "investigated" by him. He came to the

investigation, submitting his report on January 25, 2014. Specifically, Mr. Grayson found that

The bottom line is that Title IX allows a

SOME BEING WILLING OFFENSIVE BUT TO SOCIETY particularly in a public University and press is involved. In my opinion, the two Sun-Star articles fall well within that

DE&O employees correctly understood and applied applicable law to this case.

After reviewing Mr. Grayson's report, I adopted his

his decision to the complainant and respondent.

Board of Regents' Policy and University Regulation allows for a discretionary review by the University of Alaska President. 04.02.020.E.8. At this time, UAF does not know whether either the complainant or respondent will seek discretionary review.

UAF is committed to both the letter and the spirit of the First Amendment, and the free exchange of ideas is essential to our work as a university. UAF is simultaneously committed to ensuring that Title IX is administered in a way that respects the First Amendment. These two commitments are sometimes at odds, and I appreciate your insight and ongoing work on this issue.

Sincerely,

  
Brian Rogers  
Chancellor