October 23, 2015

The Honorable Bill Walker
Office of the Governor
State Capitol
P.O. Box 110001
Juneau, Alaska 99811

Sent via U.S. Mail and Electronic Mail (governor@gov.state.ak.us)

Dear Governor Walker:

My name is Greg Lukianoff. I am the President and Chief Executive Officer of the Foundation for Individual Rights in Education (FIRE), a nonpartisan, nonprofit educational foundation dedicated to preserving freedom of speech, legal equality, due process, and other rights essential to the health of our democratic republic. FIRE's Guarantee of Liberty program provides pro bono legal representation to students and faculty members whose rights have been violated.

I write today to express concern about the constitutionality of the recently passed Alaska law that bars state employees from using state computers to access "sexually explicit" material, with exceptions for employees whose jobs require such access.[1] Although the law's intent is laudable, it is unfortunately overbroad and violates the First Amendment rights of Alaska's state employees.

Let me be clear: FIRE's concern is not with the state's ability to prevent employees from accessing sexually explicit material on state computers. Indeed, as a public employer the state has a First Amendment right to do so. *See, e.g.*, *Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981) ("When government property is not dedicated to any expressive use, the government may impose restrictions on the speech that occurs there, so long as those restrictions are reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view").

According to the law's sponsor, the legislature's intent was to prevent employees from accessing sexually explicit material while at work. However, the law's exceptions for employees whose jobs require access to such material will likely result in the law's application to employees who have no work-related need to access sexually explicit material. Under the law, employees who have been employed for 25 years[1] or more will be exempt from the law's prohibition if they

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[1] *See McCauley v. University of the Virgin Islands*, 618 F.3d 232 (3d Cir. 2010); *DeJohn v. Temple University*, 537 F.3d 301 (3d Cir. 2008); *Dambrot v. Central Michigan University*, 55 F.3d 1177 (6th Cir. 1995); *University of Cincinnati Chapter of Young Americans for Liberty v. Williams*, 2012 U.S. Dist. LEXIS 80967 (S.D. Ohio Jun. 12, 2012); *Smith v. Tarrant County College District*, 694 F. Supp. 2d 610 (N.D. Tex. 2010); *College Republicans at San Francisco State University v. Reed*, 523 F. Supp. 2d 1005 (N.D. Cal. 2007); *Roberts v. Haragan*, 346 F.

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