

October 6, 2017

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Assistant General Counsel

but fails to note whether these actions are simply “discouraged” or if they would lead to disciplinary action.

Students should be able to easily discern if the Social Networking policy is meant to provide a recommendation for best practices or if they could face punishment for violating those practices. Currently, the “Discipline” section of the policy only states that students will face punishment for violating HIPAA or FERPA policies pertaining to social media, but it is silent on broader concerns about “professionalism.” CMSRU could greatly improve the policy by adding a disclaimer noting that students’ free speech rights will not be abridged, and that the policy only intends to punish speech found in violation of federal or state law. FIRE would be pleased to offer model language CMSRU could adopt to clarify its policy.

The provided examples deserve a closer review as well. In one example, “[a] CMSRU medical student writes in her blog, naming an attending physician who did minimal teaching and recommending that other students not take clinical electives with that physician.” The policy warns that this is “inappropriate,” noting that “[l]egitimate critique of an educational activity is appropriate, so long as professionalism is maintained. There are more effective and less public mechanisms for relaying this type of information.” CMSRU should revise this policy so that an explanation of what constitutes a “legitimate critique” is defined, and so that students are not barred from “public” discussion of CMSRU’s faculty or facilities.


A policy or regulation is said to be unconstitutionally vague when it does not “give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.” *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972). Students encountering this policy are likely to be confused and uncertain as to whether their “critique” may or may not be considered “legitimate,” and—

These changes would address FIRE's remaining concerns with CMSRU's Social Networking policy and, by making these revisions, CMSRU could show that it takes seriously its students' First Amendment rights.

Thank you for your attention to these concerns. FIRE would be pleased to work with your office to revise these policies to meet First Amendment standards, as well as any other policies currently maintained by Cooper Medical School of Rowan University that may affect student speech.

We request a response to this letter by October 20, 2017.

Sincerely,



Sarah McLaughlin
Senior Program Officer, Individual Rights Defense Program

Encl.