

March 27, 2023

To: President Pamela Whitten; Executive Vice-President Rahul Shrivastav;
Executive Vice-President Andrew Klein Vice-President and General Counsel
Anthony Prather

The 376 signers of this letter are Indiana University faculty. Many of us have held leadership roles, including serving as officers on the faculty council.

Late last summer, during a state and national debate on access to abortion, the Indiana Attorney- General launched an investigation against Dr. Caitlin Bernard, a faculty member at the IU School of Medicine, who had legally provided an abortion to a minor. In response, seven elected faculty-council leaders from multiple campuses sent an email message to their constituents expressing concern about how these developments could harm IU. The message warned that the “health and wellbeing of members of the Indiana University community are threatened by” the “extraordinarily intrusive” new abortion law. It criticized the “unprofessional, irresponsible, and quite frankly hysterical ad hominem attacks directed at our colleague, by Indiana Attorney General Todd Rokita.” It expressed the fear that these events would make it harder to attract highly talented students and faculty to Indiana.

As elected faculty leaders, it was their right and obligation to address a matter that adversely affects the wellbeing of faculty and students, and to support a colleague who was being attacked for political reasons. As citizens, it was their First Amendment right to address a matter of public concern.

A few weeks later, the signatories received a letter from the university’s Chief Compliance Officer saying that he had determined that the email violated IU policy GR-01, Contact With State Officials, Federal Officials, and Political Campaigns, and other Political Activities, because “[t]he content of the email was not approved by any university official with the authority to authorize it.” He said it was improper for them to have used their titles as elected faculty leaders, and warned that some unspecified “formal disciplinary process” might be initiated in the future.

He was wrong on all counts. GR-01 clearly applies only to lobbying, contacts with government officials, or advocating for a party or candidate. The statement from the presidents to the faculty fit none of those categories. Nor was it improper for the faculty presidents to identify themselves as such. The policy says that “individual university titles (such as an academic title) may be utilized as an identifier or to lend personal credibility.” Nor does the Compliance officer have authority to determine if this policy has been violated. The policy says that “the Office of the Vice President for Government Relations ... holds the authority for the interpretation and implementation of this policy,” not the university’s chief compliance officer. Nor does the compliance office have the power to sanction faculty. Under ACA-33, any concerns about faculty violating university policies must be directed “to the principal administrator of the respondent’s unit or to the chief academic affairs officer of the respondent’s campus.”

IU also has a First Amendment Policy (UA-14) that says the university “is committed to protecting the rights of ... academic appointees ... to free speech and expressive activity, such as assembling and speaking in public areas of campus, as well as writing, publishing, and inviting speakers on any subject.” It pledges the university’s commitment “to the free and civil exchange of ideas and the principles of academic freedom.” Under policy ACA-32, “academic freedom includes the freedom to express views on matters having to do with the university and its policies, and on issues of public interest generally.” These policies -- and, indeed, the First Amendment itself -- were ignored.

Professor Steve Sanders, a nationally known scholar on academic freedom and the First Amendment has written a thoughtful and comprehensive account of this deeply troubling event (<https://medium.com/@stevesan/faculty-leaders-criticized-abortion-law-indiana-u-told-they-violated-policy-1f23591f10e5>). He worries that IU, like other universities that have been in the news, seems to be drifting away from the traditional principles of academic freedom and shared governance that once guided all levels of university administration. He urges faculty leaders and senior university administrators to engage in a shared dialogue about these principles, what went wrong in this situation, and how to prevent it from happening again.

We support Prof. Sanders’s call for meaningful discussions about ensuring that the university protects the academic freedom and First Amendment rights of its faculty, even if the exercise of those rights makes some administrators uncomfortable.

Sincerely,

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