



## **EXCLUSIVE: NINE conservative orgs go all-in against UT-Austin's 'unconstitutional' speech codes**

Adam Sabes

August 23, 2019

Nine conservative and libertarian organizations have filed amicus briefs supporting Speech First's lawsuit against the University of Texas-Austin, which alleges that the school's speech codes are unconstitutional.

At the same time, Speech First, a free speech nonprofit, is appealing a decision by a federal judge who dismissed its lawsuit against the University of Texas-Austin in June, claiming that the organization did not prove that students were being investigated for speech they made. Speech First is appealing the decision to the United States Court of Appeals for the Fifth Circuit.

The Foundation for Individual Rights in Education, American Council of Trustees and Alumni, Independent Women's Forum, Southeastern Legal Foundation, Alliance Defending Freedom, Pacific Legal Foundation, CATO Institute, The Goldwater Institute, and The Texas Public Policy Foundation all filed amicus briefs supporting the lawsuit against UT-Austin, according to documents obtained exclusively by *Campus Reform*.

In Alliance Defending Freedom's amicus brief, the organization blasted Judge Lee Yeakel for dismissing Speech First's lawsuit on the basis that the students did not sign onto the lawsuit and identify themselves.

"The court punished [the students] for not publicly signing their names to the ideas they seek to share less publicly. That is not the law," ADF's brief stated. "The University objected to the students' desire to remain anonymous and, while rightly overruling this objection, the District Court found that the students' anonymity contributed to Plaintiff's lack of standing."

FIRE accused Yeakel of putting too much faith in university officials when he said that Speech First did not provide evidence that shows a "credible threat of prosecution or self-censorship that is objectively reasonable."

"In doing so, the district court gave undue weight to university officials' assurances that they respect their students' constitutional rights and testimony from an official that the University has not disciplined students for the content of their speech," FIRE's brief stated.

The Goldwater Institute, CATO, and The Texas Public Policy Foundation similarly stated that students "self-censor" out of fear of retaliation for their beliefs.

"It is therefore not unreasonable for members of Speech First to self-censor for fear of incurring similar discipline from the University," the organizations said, while going on to list incidents where conservative students were punished for their beliefs.

The free speech nonprofit sued UT-Austin in December 2018, alleging that four of its policies are not constitutional, including its “ban on ‘verbal harassment,’” its ‘Acceptable Use Policy’s Bans on ‘Incivility,’ ‘Rudeness,’ and ‘Harassment,’” “The Residence Hall Manual’s Bans on ‘Incivility’ and ‘Harassment,’” and its “Bias incidents” policy.

In an earlier press release, as *Campus Reform* reported, Speech First claimed that the school’s bias response team has investigated more than 100 “expressions of bias” since 2017, ranging from “derogatory” comments on Facebook, to “creat[ing] a hostile or offensive classroom.”

In the appeal, Speech First challenges Yeakel in his assertion that UT-Austin has “no history of enforcing its policies against protected speech,” calling that claim “irrelevant.”

“As just explained, no such history is required because the objective chill stems from the text of the policies themselves,” the appeal states.