



August 7, 2020

Dr. Harvey Kesselman
Office of the President
Stockton University
101 Vera King Farris Drive
Galloway, New Jersey 08205-9441

URGENT

Sent via Electronic Mail (harvey.kesselman@stockton.edu)

Dear President Kesselman:

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

FIRE is concerned by the disciplinary charges leveled by Stockton University against doctoral student Robert Dailyda over his political Facebook post and choice of Zoom background during class. These charges violate Stockton University's obligations under the First Amendment and must be withdrawn.

I. Stockton Charges a Student Over His Facebook Post and Zoom Background

The following is our understanding of the pertinent facts. Please find enclosed an executed waiver authorizing you to share any additional information with FIRE.

Robert Dailyda is a doctoral student at Stockton. During Zoom-based classes, students commonly use custom backgrounds, including photos and other virtual images.

During a class on July 1, 2020, Dailyda used a photograph of President Donald Trump as his Zoom background. One student sent Dailyda a private chat via Zoom criticizing Dailyda's choice of background. There were no disruptions to the class or other feedback about Dailyda's choice of background during the class.

Later that day, several classmates criticized Dailyda's choice of background over a private GroupMe chat. The discussion did not take place during a class and, although "heated," did

not “become threatening.”¹ Dailyda removed himself from the chat in order to, as Stockton acknowledges, “avoid continued conflict.”²

Later that day, Dailyda posted on his personal Facebook page:

I have gotten to the point that I have to say something. I love this country. We are a diverse, yet assimilated population from all backgrounds. I believe all must have the same opportunities and I commit to make that a priority. Beyond that, I am done with the leftist agenda of BLM and the white self haters. I have seen it in action in my doctoral classes at Stockton and the general media. I’m not backing down. If we can’t get past this, ok, I’m ready to fight to the death for our county and against those that want to take it down. I believe there are also many like me.³

Dailyda commented on his own post: “I’m surprised how many people are quiet...maybe not...”⁴ Another person responded: “that’s what we do. (Quiet) but ...we aim with persision. Boom done. No drama.”⁵ Stockton’s complaint against Dailyda, discussed below, acknowledges that this comment was not written or responded to by Mr. Dailyda,” but avers that others were “concerned that Mr. Dailyda may have similar views and thoughts of violence.”⁶

On July 3, university police officers called Dailyda, stating that they received a report that he made threatening statements. Dailyda denied making any threatening statements. Referring to the Facebook post, he told the officers that he did not intend to threaten anyone. The officers took his statement and did not make any arrests or pursue charges.

On July 10, Dailyda met with Amy Jones and Stacey Rose of Stockton’s Care and Community Standards Office. Jones said students were offended by Dailyda’s Zoom image, GroupMe chat, and Facebook post. They asked him to explain his political views, Zoom background, and Facebook post. Dailyda explained that was disappointed with Stockton’s institutional endorsement of the Black Lives Matter movement,⁷ aspects of which he does not support.

On July 16, Stockton charged Dailyda with violating the following provisions of its Campus Conduct Code: Disruptive Behavior, Discrimination, Harassment, Hostile Environment, and

¹ Stockton Univ., *Care Report/Conduct Incident/Title IX* (July 22, 2020) (on file with author).

² *Id.*

³ *Id.* (reproducing Facebook post).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Stockton Univ., *Response to Recent Racist Incidents* (June 6, 2020), <https://stockton.edu/news/2020/response-to-racial-incidents-kesselman.html>.

Harm.⁸ On July 22, Dailyda received a campus conduct complaint, a copy of which is enclosed, detailing the allegations.⁹

At the pre-hearing interview on July 31, Rose listed potential sanctions for the disciplinary charges, including: “[s]uspension, \$50 fine, community service project, social justice workshop, and decision making workshop.”¹⁰ The letter indicates that Dailyda has until noon on Friday, August 7, to indicate whether he contests the charges.

II. Stockton Violates the First Amendment by Disciplining Dailyda for Political Speech

As a public institution bound by the First Amendment, Stockton may not punish its students for their political expression.

A. *Stockton is bound by the First Amendment*

It has long been settled law that the First Amendment is binding on public colleges like Stockton University.¹¹ Accordingly, the decisions and actions of a public university—including the pursuit of disciplinary sanctions,¹² recognition and funding of student organizations,¹³ interactions with student journalists,¹⁴ conduct of police officers,¹⁵ and maintenance of policies implicating student and faculty expression¹⁶—must be consistent with the First Amendment.

B. *Dailyda’s Expression is Protected by the First Amendment*

The First Amendment protects the expression of students at public universities, including non-disruptive expression during class that other students may find offensive or outrageous.

⁸ Letter from Craig Stambaugh, Assistant Vice President for Student Affairs, Engagement & Community Development, to Robert Dailyda (July 16, 2020) (on file with author).

⁹ Care Report/Conduct Incident/Title IX, supra note 1.

¹⁰ Email from Stacey Rose, Assistant Director of Care & Community Standards Office, to Robert Dailyda (July 31, 2020, 1:36 PM) (describing meeting) (on file with author).

¹¹ *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

¹² *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

¹³ *Bd. of Regents of the Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217, 221 (2000).

¹⁴ *Stanley v. Magrath*, 719 F.2d 279, 282 (8th Cir. 1983); see also *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829–30 (1995).

¹⁵ *Glik v. Cunniffe*, 655 F.3d 78, 79 (1st Cir. 2011).

¹⁶ *Dambrot v. Central Mich. Univ.*, 55 F.3d 1177 (6th Cir. 1995).

i. Dailyda’s silent display cannot be penalized as “disruptive.”

While a university has a critical interest in ensuring that classroom discussions are not substantially and materially disrupted, that interest does not justify punishing a student for non-disruptive expression, even when it occurs in the classroom context. The Supreme Court’s seminal pronouncement on the First Amendment rights of students, *Tinker v. Des Moines*, is instructive.¹⁷

There, high school students were punished for wearing black armbands to school to protest the Vietnam War.¹⁸ Other students had worn “symbols of political or controversial significance,” including “buttons relating to national political campaigns,” and “even . . . the Iron Cross, traditionally a symbol of Nazism,” but the high school’s administration had singled out the black armband for punishment.¹⁹ This violated the students’ First Amendment rights, as the “classroom is peculiarly the marketplace of ideas.”²⁰ Symbolic expression, the Court held, was protected by the First Amendment, and in the absence of a “material and substantial interference with schoolwork or discipline,” punishment of symbolic expression in the school context was “not constitutionally permissible.”²¹

Here, there is no indication that Dailyda’s symbolic political expression amounted to a “material and substantial” disruption of the class. Students engaged in “heated” discussion about the expression in a later conversation, but the fact that expression “caused discussion outside of the classrooms” is not disruption.²² Nor is the “silent, passive ‘witness of . . .’” expression sufficient to remove the expression from the First Amendment’s embrace. Indeed, the *Tinker* majority rejected the dissent’s complaint that the black armbands may have taken “the students’ minds off their classwork and diverted them to thoughts about the highly emotional subject of the Vietnam war.”²³ The complaint against Dailyda is void of any suggestion that his silent display caused any interruption to the class itself.

ii. The First Amendment protects offensive expression.

Although others may have found Dailyda’s display offensive, the Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted merely because some or even many find it to be offensive, hateful, or disrespectful. This core First Amendment principle is why the authorities cannot prohibit the burning of the American

¹⁷ 393 U.S. 503 (1969).

¹⁸ *Id.* at 504.

¹⁹ *Id.* at 510–11.

²⁰ *Id.* at 512 (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)).

²¹ *Id.* at 511.

²² *Id.* at 514.

²³ *Id.* at 518 (Black, J., dissenting).

flag,²⁴ prohibit the wearing of a jacket emblazoned with the words “Fuck the Draft,”²⁵ penalize a satirical advertisement depicting a pastor losing his virginity to his mother in an outhouse,²⁶ or disperse civil rights marchers out of fear that “muttering” and “grumbling” white onlookers might resort to violence.²⁷

In ruling that the First Amendment did not allow the government to punish signs outside of fallen soldiers’ funerals (including signs that read “Thank God for Dead Soldiers,” “Thank God for IEDs,” “Fags Doom Nations”), the Court reiterated this fundamental principle, remarking that “[a]s a Nation we have chosen . . . to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”²⁸

This principle does not waver in the context of public universities, whether the speech is a “sophomoric and offensive” skit depicting women and minorities in derogatory stereotypes or, as here, a “heated exchange of views” on race²⁹—including such debates in an academic journal.³⁰ To the contrary, “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”³¹

iii. Dailyda’s expression does not constitute discriminatory harassment.

Stockton may not justify disciplining of Dailyda on the basis that his expression constitutes discriminatory harassment because his expression does not rise to the exacting legal standard for this narrow category of unprotected conduct.

In *Davis v. Monroe County Board of Education*, the Supreme Court set forth a strict definition of student-on-student (or peer) harassment.³² In order for student conduct (including expression) to constitute actionable harassment, it must be (1) unwelcome, (2) discriminatory on the basis of gender or another protected status, and (3) “so severe, pervasive, and objectively offensive that it can be said to deprive the victim[] of access to the educational opportunities or benefits provided by the school.”³³

²⁴ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (holding that burning the American flag is protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

²⁵ *Cohen v. California*, 403 U.S. 15, 25 (1971).

²⁶ *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

²⁷ *Cox v. Louisiana*, 379 U.S. 536, 557 (1965).

²⁸ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

²⁹ See, e.g., *Rodriguez v. Maricopa County Community College District*, 605 F.3d 703, 705 (9th Cir. 2009) (faculty member’s use of system-wide listserv to send “racially-charged emails” was not unlawful, as the First Amendment “embraces such a heated exchange of views,” especially when they “concern sensitive topics like race, where the risk of conflict and insult is high.”).

³⁰ *Iota Xi Chapter of Sigma Chi Fraternity v. George Mason Univ.*, 993 F.2d 386, 388–392 (4th Cir. 1993).

³¹ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

³² 526 U.S. 629 (1999),

³³ *Id.* at 650.

In a July 28, 2003, “Dear Colleague” letter sent to college and university presidents nationwide, Assistant Secretary Gerald A. Reynolds of the Office for Civil Rights (OCR) of the U.S. Department of Education made clear that harassment “must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive.”³⁴ On April 29, 2014, Assistant Secretary Catherine E. Lhamon issued guidance again clarifying that “the laws and regulations [OCR] enforces protect students from prohibited discrimination and do not restrict the exercise of any expressive activities or speech protected under the U.S. Constitution,” and stating that “when a school works to prevent and redress discrimination, it must respect the free-speech rights of students, faculty, and other speakers.”³⁵

Here, the only evidence Stockton puts forth to justify its disciplinary charges is that several individuals found Dailyda’s expression “offensive, threatening, and concerning,” and felt “offended, disrespected, and taunted” because they found Dailyda’s language “to be angry, potentially violent, racist, and intolerant.” Under *Davis*, subjectively offensive expression, without more, does not rise to the level of discriminatory harassment, and thus remains protected by the First Amendment. Indeed, the alleged misconduct here is precisely the mere “expression of views, words, symbols or thoughts that some person finds offensive” that OCR has expressly stated is not sufficient to constitute discriminatory harassment.³⁶

iv. Dailyda’s expression does not constitute a true threat.

Beyond harassment, certain well-defined categories of speech are excluded from the protection of the First Amendment, including “true threats” and “incitement.” Dailyda’s expression is political speech that does not fall into either category, and thus remains protected by the First Amendment.

A “true threat” is a statement through which “the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.”³⁷ Incitement, a separate category of unprotected speech, encompasses speech “directed to inciting or producing imminent lawless action and . . . [is] likely to incite or produce such action.”³⁸

Political speech is afforded the highest protection under the First Amendment, and our system grants considerable deference to even threatening language posed in a political context, as the “language of the political arena . . . is often vituperative, abusive, and inexact. . . .”³⁹ This is not a new development. Political discourse has long been steeped in

³⁴ U.S. Dep’t of Educ., Dear Colleague Letter from Gerald A. Reynolds, Assistant Sec’y for Civil Rights (July 28, 2003), <https://www2.ed.gov/about/offices/list/ocr/firstamend.html>.

³⁵ U.S. Dep’t of Educ., Questions and Answers on Title IX and Sexual Violence 43–44 (Apr. 29, 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

³⁶ Dear Colleague Letter, *supra* note 35.

³⁷ *Virginia v. Black*, 538 U.S. 343, 359 (2003).

³⁸ *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

³⁹ *Watts v. United States*, 394 U.S. 705, 708 (1969).

themes of violence. Perhaps most famously, Thomas Jefferson—a principal author of what ultimately became the First Amendment⁴⁰—predicted that revolution and violence would be necessary to preserve liberty, writing: “The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is [its] natural manure.”⁴¹

Expansive interpretations of these exceptions would chill the right to political expression, which embraces “the right to criticize public men and measures—and that means not only informed and responsible criticism, but the freedom to speak foolishly and without moderation.”⁴² Because rhetoric tinged with violent themes often intersects with charged political expression, “extreme care” must be taken to ensure that an exacting standard be met, lest “highly charged political rhetoric lying at the core” of freedom of expression unreasonably be interpreted as unprotected “true threats” or “incitement.”⁴³

Here, Dailyda’s Facebook post is clearly political hyperbole meriting the highest level of First Amendment protection. His Facebook post does not demonstrate a serious intent to harm any particular person or group—as Dailyda stated multiple times to police officers and Stockton administrators. To the contrary, pledging to “fight to the death for” a cause is a common rhetorical expression underscoring the sincerity of the speaker’s loyalty. No reasonable person would read it as a serious expression of an intent to undertake violence.

v. Stockton may not punish Dailyda for another’s online expression.

Stockton’s complaint urges that one of the comments posted by another person was viewed as threatening, on the basis that Dailyda “may have similar views and thoughts of violence.” As Stockton acknowledges, Dailyda did not author or respond to this comment. Even if this were a true threat of violence, Stockton may not punish Dailyda for comments he has not made or even endorsed for at least two reasons.

First, our legal system does not tolerate guilt by association. “[G]uilt by association alone, without [establishing] that an individual’s association poses the threat feared . . . is an impermissible basis upon which to deny First Amendment rights.”⁴⁴

Second, Section 230 of the Communications Decency Act (CDA) prevents government actors from holding a person liable for content created by third parties.⁴⁵ Because Facebook allows users like Dailyda to create interactive discussion forums, Section 230 immunizes him from

⁴⁰ *Everson v. Bd. of Educ.*, 330 U.S. 1, 11 (1947).

⁴¹ Letter from Thomas Jefferson to William Stephens Smith, Nov. 13, 1787, available at <https://founders.archives.gov/documents/Jefferson/01-12-02-0348>. See also, e.g., the license plate and state motto of New Hampshire, pledging that residents will “live free or die” in defense of liberty. *Wooley v. Maynard*, 430 U.S. 705, 722, 97 S. Ct. 1428, 1439 (1977).

⁴² *Baumgartner v. United States*, 322 U.S. 665, 673–74 (1944).

⁴³ *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 926–27 (1982).

⁴⁴ *Healy v. James*, 408 U.S. 169, 186 (1972) (quoting, in part, *U.S. v. Robel*, 389 U.S. 258, 265 (1967)).

⁴⁵ 47 U.S.C. § 230 (“[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider”) (emphasis added).

government punishment for others' comments unless he "materially contribut[ed] to [their] alleged unlawfulness."⁴⁶ Dailyda, as Stockton acknowledges, did not respond to or create the comment at issue; his only conduct was to create a post to which someone else replied.

III. Stockton Must Rescind the Disciplinary Charges Filed Against Dailyda

The expression here is clearly protected. It did not disrupt any university activity, nor does it amount to an unprotected true threat or harassment. Dailyda received "heated" criticism from his fellow students outside of class—a form of "more speech," the remedy to offensive expression that the First Amendment prefers to censorship⁴⁷—but the university itself acknowledges that he sought to avoid conflict. Stockton may not permissibly use its disciplinary process to punish Dailyda for his protected political expression.

Given the urgent nature of this matter, we request receipt of a response to this letter no later than the close of business on Tuesday, August 11, confirming that Stockton has abandoned pursuit of the charges against Dailyda.

Sincerely,



Zachary Greenberg
Program Officer, Individual Rights Defense Program

Cc: Amy Jones, Director of Care and Community Standards
Stacey Rose, Assistant Director of Care and Community Standards
Craig Stambaugh, Assistant Vice President for Student Affairs, Engagement &
Community Development
Brian Kowalski, General Counsel

Encl.

⁴⁶ *Fair Hous. Council v. Roommates.com, LLC*, 521 F.3d 1157, 1168 (9th Cir. 2008).

⁴⁷ *Whitney v. California*, 274 U.S. 357, 377 (1927).

July 16, 2020

Robert Dailyda
Sent electronically to [REDACTED]

PERSONAL AND CONFIDENTIAL

Regarding Case Number: 2019367701

Dear Robert,

This letter is to advise you a complaint has been filed by Stockton University, for an alleged incident that occurred on/or around July 1, 2020. You are asked to carefully review the enclosed instructions regarding how you may choose to respond to the charge(s) at the Pre-Hearing Interview. Please respond to this letter within 3 business days, July 21, 2020, to schedule a Pre-Hearing Interview by contacting the Care & Community Standards Office. You will be meeting with Stacey Rose upon her return from furlough, at (609) 626-3585.

Based on the complaint submitted, you are facing the following potential violations of the Campus Conduct Code:

1. Violation 2 Section A - Disruptive Behavior: Obstruction or substantial disruption of University activities or operations such as teaching, research, administration, disciplinary procedures, public service functions, or other authorized non-University activities which occur on University premises.
2. Violation 3 Section A - Discrimination: Conduct that is severe, ongoing, pervasive, and/or prevents a member of the institution from engaging in University activities, or conduct that violates the University's policy prohibiting discrimination based on actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity, or other characteristics protected by law. An isolated incident, where extremely serious, may rise to the level of discrimination without a pervasive or otherwise ongoing element.
3. Violation 3 Section B - Harassment: Unwelcome conduct based on actual or perceived sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation, or other protected status. Unwelcome conduct should be reported to campus officials who will act to remedy and to resolve reported incidents on behalf of the victim and the community.
4. Violation 3 Section C - Hostile Environment: Severe, pervasive, persistent, and objectively offensive conduct that creates a hostile environment and limits, unreasonably interferes with, or denies the ability to participate in, or benefit from the University's educational or employment program or activities.
5. Violation 4 Section A - Harm: Action that intentionally or recklessly causes or threatens bodily harm, presents imminent danger, or endangers the health or safety of any person.
6. Violation 4 Section B - Bullying and Cyberbullying: Repeated and/or severe aggressive conduct that intimidates or intentionally harms or controls another person physically or emotionally, and is not protected by law.

You will be asked to enter a plea during your Pre-Hearing Interview after you have reviewed the Campus Hearing Board process with the Pre-Hearing Officer. Your plea options are:

1. Responsible or Responsible with Explanation and accept the recommended sanctions
2. Responsible or Responsible with Explanation and dispute the recommended sanctions
3. Not Responsible
4. No Plea

Please review the [Care and Community Standards website](#) prior to your Pre-Hearing Interview, if you require any additional information regarding the Campus Hearing Board Procedures. Please read through this entire document carefully, to ensure you receive all of the information attached.

Sincerely,

Craig Stambaugh
Assistant Vice President for Student Affairs, Engagement & Community Development



CAMPUS HEARING BOARD
OPTIONS FOR RESOLUTION OF CAMPUS HEARING BOARD CHARGES
INFORMATION SHEET

The Options for Resolution of Campus Hearing Board Charges is a process which gives students the opportunity to respond to charges.

1. **Schedule a Pre-Hearing Interview:** The student is required to schedule a Pre-Hearing Interview within three (3) business days of the distribution of the Notice of Charges from the Care & Community Standards Office.
2. **The Student will be asked to enter a plea for each code violation allegation during the Pre-Hearing Interview, after reviewing submitted materials, possible sanctions, and the Campus Hearing Board process.** The student can respond in one of the three ways to the charge(s): enter a plea of **Not Responsible, Responsible (with or without an explanation), or the student may choose not to enter a plea during the Pre-hearing Interview.**
 - a. By entering the plea Not Responsible, he/she does contest the validity of all or some of the charge(s) and requests a hearing.
 - b. By NOT entering a plea, he/she acknowledges that a hearing will be assigned.
 - c. By entering the plea Responsible the student does not contest the validity of the charge(s) and waives the disposition of his/her case to a Hearing Panel. The student agrees to the sanction(s) reviewed during the Pre-Hearing Interview.
 - i. Please note, the student can enter a Responsible plea and contest the sanctions. This would result in a sanctions only hearing.
3. **Assigned to a Campus Hearing Board:** If the student does not respond within three (3) business days from the distribution of the Notice of Charges, the case will be automatically assigned to the Campus Hearing Board for adjudication.

**Stockton University
Care Report/Conduct Incident/Title IX**

Submitted on July 22, 2020 at 2:51:44 pm EDT

Nature: **Code of Conduct Complaint (includes Title IX)**
Urgency: **Normal**
Incident Date and Time: **2020-07-01**
Incident Location: **Off Campus**

Reported by

Name: **Amy Jones Rozell**
Title: **Director, Care and Community Standards**
Email: [REDACTED]
Phone:
Address:

[UNAUTHENTICATED]

Involved Parties

Robert Dailyda (Z00316989)
Alleged

dailydar@go.stockton.edu

Questions

Do you consider this incident a violation of the University Code of Conduct?

Yes

Do you consider this incident a Bias incident? (an act – either verbal, written, physical, or psychological - that threatens or harms a person or group on the basis of actual or perceived race, religion, color, sex, age, sexual orientation, gender identity or expression, national origin, ancestry, disability, marital status, civil union status, domestic partnership status, atypical heredity or cellular blood trait, military service or veteran status, or other protected classes as required by law).

Yes

Description of the incident/concern

On July 1, 2020 the university was made aware of a post made by Mr. Robert (Bob) Dailyda to his personal Facebook account that at the time was open to the public. Several individuals stated that they found the post offensive, threatening, and concerning. This post came after an incident that occurred in class where Mr. Dailyda put up a virtual background picture of President Trump which caused several individuals in his cohort to feel offended, disrespected, and taunted. Mr. Dailyda and a few of his classmates discussed the virtual background event over a Group Me chat and although the discussion became heated, it did not become threatening, and Mr. Dailyda left the Group Me to avoid continued conflict.

Those that reported the Facebook post indicated that they felt the language to be angry, potentially violent, racist, and intolerant. Several individuals mentioned concern that the post specifically referenced Stockton's doctoral program/cohort.

The post on Facebook stated: "I have gotten to the point that I have to say something.

I love this country. We are a diverse, yet assimilated population from all backgrounds. I believe all must have the same opportunities and I commit to make that a priority. Beyond that, I am done with the leftist agenda of BLM and the white self haters. I have seen it in action in my doctoral classes at Stockton and the general media. I'm not backing down. If we can't get past this, ok, I'm ready to fight to the death for our county and against those that want to take it down. I believe there are also many like me."

This post generated comments, one which was of concern in response to Mr. Dailyda saying "I'm surprised how many people are quiet...maybe not...", this post stated "Bob Dailyda that's what we do. (Quiet) but ...we

aim with persision. Boom done. No drama." This response was not written or responded to by Mr. Dailyda but the reporting parties did mention the words sounded threatening and they were concerned that Mr. Dailyda may have similar views and thoughts of violence.

How would you prefer to receive follow-up?

Do not contact me

Pending IR #00011160

Submitted from [REDACTED] and routed to Stacey Rose (Assistant Director | Care & Community Standards Office). Processed by routing rule #5.

Copies to:

[REDACTED]

Stockton University
Care Report/Conduct Incident/Title IX

Submitted on July 22, 2020 at 2:51:44 pm EDT. Last modified July 22, 2020 at 2:54:00 pm EDT.

Nature: **Code of Conduct Complaint (includes Title IX)**
Urgency: **Normal**
Incident Date and Time: **2020-07-01**
Incident Location: **Off Campus**

Reported by

Name: **Amy Jones Rozell**
Title: **Director, Care and Community Standards**
Email: [REDACTED]
Phone:
Address:

Involved Parties

Robert Dailyda ([REDACTED])
Alleged

Questions

** Do you consider this incident a violation of the University Code of Conduct?

Yes

** Do you consider this incident a Bias incident? (an act – either verbal, written, physical, or psychological - that threatens or harms a person or group on the basis of actual or perceived race, religion, color, sex, age, sexual orientation, gender identity or expression, national origin, ancestry, disability, marital status, civil union status, domestic partnership status, atypical heredity or cellular blood trait, military service or veteran status, or other protected classes as required by law).

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and thoughts of violence.

** How would you prefer to receive follow-up?

Do not contact me

Pending IR #00011160

Submitted from [REDACTED] and routed to Stacey Rose (Assistant Director | Care & Community Standards Office)

Modified by Amy Rozell on July 22, 2020 at 2:54:00 pm EDT from [REDACTED]