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**RE: Unconstitutional Violation Of Ms. Daisy Prokopiuk's First Amendment Rights
To Freedom Of Speech, Free Exercise Of Religion, And Freedom Of Association**

Greetings Ms. DeVonish, Ms. Tyson, Dr. Dominique and Mr. Coley,

My name is Cameron Atkinson, and I represent Ms. Daisy Prokopiuk, a nursing student at Norwalk Community College. This letter concerns Norwalk Community College's treatment of Ms. Prokopiuk, which violates clearly established

First, Fourth, and Fourteenth Amendment law. As explained below, to avoid legal action, you must immediately remove Ms. Pokopiuk from her program warning, expunge her academic record of any discipline including the record of her program warning, and compensate her fairly for discriminating against her and for the opportunities that you have denied her.

Factual Background

Ms. Daisy Prokopiuk is a nursing student at Norwalk Community College. In October 2020, Ms. Prokopiuk was discussing clinical placements – placements that she is required to complete to graduate and obtain her nursing certification – with Ms. Tanisha Tyson by email. Tyson informed Prokopiuk that Norwalk Community College’s clinical partners would require her to provide a letter from her religious leader on that leader’s official letterhead describing her religious objection to taking a vaccine. Prokopiuk correctly informed Tyson that the law does not require a person to have a leader to practice their religion.

Tyson informed Prokopiuk that her own affirmation of her religious beliefs would be insufficient and that Norwalk Community College would not work with her to find a site that would accommodate her religious beliefs.

The ongoing conversation between Tyson and Prokopiuk carried over into January 2021. Ultimately, Tyson and her colleagues gave Prokopiuk an ultimatum: comply with the vaccine requirements or risk losing out on completing the clinical hours that she needs to graduate and obtaining her nursing certification from the state.

Around the same time, Prokopiuk made a post in a Facebook group asking if anyone had a recommendation for a doctor who had success in vouching for medical exemptions for vaccines. A woman claiming to be a registered nurse engaged Prokopiuk in a heated conversation over Facebook messenger, levying serious allegations of doctor shopping at her. The “registered nurse” then sent a selective account of their conversation to Norwalk Community College and blocked Prokopiuk on Facebook so she could not access their full conversation.

Norwalk Community College responded by placing Prokopiuk giving her a program warning. Prokopiuk demanded to see what her accuser provide Norwalk Community College in its entirety, and Norwalk Community College declined to provide her with that information.

The discipline imposed on Prokopiuk will follow her for as long as she attempts to pursue a career in nursing.

Analysis

Norwalk Community College is a public community college operating under the authority of a State of Connecticut regulatory body – the Board of Regents for

Higher Education, Connecticut State Colleges & Universities. As such, the First Amendment's protections for free speech, free exercise of religion, and freedom of association constrain its actions. *See, e.g., Healy v. James*, 408 U.S. 169, 180 (1972) ("state colleges and universities are not enclaves immune from the sweep of the First Amendment").

In other words, the First Amendment prohibits Norwalk Community College from treating students differently based on their speech, their religion, or their associations. The First Amendment's protections in these areas are also very well-established and very clearly delineated.

With respect to free speech, the United States Supreme Court has repeatedly held that actions based on a speech's content – "its message, its ideas, its subject matter, or its content..." are presumptively unconstitutional. *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218, 2226-27 (2015).

The free exercise of religion has also received strong protection from the U.S. Supreme Court and encompasses both the right to hold private religious beliefs and the right to engage or abstain from various actions that would violate an individual's religious beliefs. *Emp. Div., Dep't of Hum. Res. Of Or. V. Smith*, 494 U.S. 872 (1990).

The U.S. Supreme Court has also established strong protections for the individual freedom to associate with others for political, social, economic, religious, and cultural ends. *See Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984); *NAACP v. Alabama*, 357 U.S. 449 (1958). These protections presumptively bar state entities from interfering with an individual's associations or their efforts to create certain associations.

Ms. Prokopiuk has engaged in discussions with your personnel since she began her studies at Norwalk Community College about placements, which would respect and accommodate her religious beliefs. You and your academic partners have consistently denied Ms. Prokopiuk accommodations for her beliefs and told her that her beliefs are "a problem."

Ms. Prokopiuk's beliefs are not "a problem." They are constitutionally protected, and, as a public institution of higher learning, you and anyone that you partner with are legally obligated to respect them. Your refusal to accommodate Prokopiuk's religious beliefs and to require your partners to accommodate them as a condition of doing business with you violates clearly established First Amendment law.

Additionally, Ms. Prokopiuk's reasons for seeking a doctor are none of Norwalk Community College or its personnel's business under clearly established law. *See Planned Parenthood v. Casey*, 505 U.S. 833 (1992); *Roe v. Wade*, 410 U.S. 113 (1973); *Griswold v. Connecticut*, 381 U.S. 479 (1965). *Griswold*, *Roe*, and *Casey* unequivocally establish a person's right to privacy in her personal medical decisions. Pressuring Prokopiuk to reveal her reasons for seeking a doctor and then disciplining

her for her reasons constitutes unconstitutional state interference in Prokopiuk's personal medical decisions.

Finally, the primary decision-maker in disciplining Prokopiuk was Ms. Tyson, who had already told Prokopiuk that her religious beliefs were "a problem." Due process under the Fourteenth Amendment guaranteed Prokopiuk an impartial decision maker, which Tyson clearly wasn't. *Winnick v. Manning*, 460 F.2d 545, 548 ("While there remain many vexing questions as to what due process requires in school disciplinary proceedings, a fundamental requirement is that a hearing must be accorded before an impartial decision maker.").

Preservation of Evidence

Ms. Prokopiuk hereby notifies you of your obligation to preserve electronically stored information in anticipation of litigation under Federal Rule of Civil Procedure 37(e) and *Rizzuto v. Davidson Ladders, Inc.*, 280 Conn. 225 (2006). This obligation includes any evidence pertaining to possible claims that Ms. Prokopiuk may have against third parties unassociated with you. *Haber, Trustee for Murray Haber Revocable Trust v. Bankers Standards Insurance Co.*, 2019 WL 2305066 (CT Super. Ct. Apr. 30, 2019).

Thus, Ms. Prokopiuk hereby notifies you that she reserves all of her legal rights pertaining to pursuing litigation and respectfully requests that you adhere to your obligations under federal and Connecticut law by immediately placing a litigation hold on all e-mail accounts, document collections, social media accounts, and all other sources of information or communications (including electronically stored information) that reference in any way Ms. Daisy Prokopiuk.

Conclusion

Your actions toward Ms. Prokopiuk have violated her First Amendment rights to free speech, freedom to exercise her religion, and freedom of association. Your actions have invaded Ms. Prokopiuk's right to privacy under the First, Fourth, and Fourteenth Amendments. Finally, you have denied her due process by failing to provide her with an impartial decision maker.

Thus, we respectfully demand that you unconditionally and immediately remove her from program warning status and restore her to an academic status of good standing or its equivalent. We further respectfully demand that you completely, immediately, and unconditionally expunge her academic record of any record of the program warning or any other mark of discipline relating to this incident. Finally, we respectfully ask you to engage in good faith discussions with us to compensate Ms. Prokopiuk for violating her rights and for the opportunities that she has lost because of your actions.

I request that you provide me with a written response to this letter by April 30, 2021. Please be advised that Ms. Prokopiuk would prefer to settle this matter

amicably, but that she has authorized me to use any legal means necessary to protect her rights and interests.

Lastly, Ms. Prokopiuk has informed me that you may review her program warning at the end of the semester to determine if you will remove her from it. Because Ms. Prokopiuk is now represented by counsel, I respectfully demand notice and an opportunity to be present to advise Ms. Prokopiuk if you wish to speak to her about any matter even remotely pertaining to these circumstances.

Regards,



Cameron L. Atkinson, Esq.

CC:

Ernestine Y. Weaver, Esq.

General Counsel

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