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Thirteen Civil Liberties Organizations Unite to Fight Michigan State U on 'Spam' Conviction

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I sometimes like to think nothing surprises me anymore with regard to censorship on campus, but it seems as though every couple of weeks I see something that proves me wrong. [As I reported last week](#), Michigan State University charged student government leader Kara Spencer with "spamming" for sending an e-mail to a targeted group of faculty members. The e-mail, an extension of the efforts of a formal student-faculty committee of which Spencer was a member, detailed the committee's objection to MSU's decision to reduce the academic year by several days.

To my genuine surprise, on December 10 she was found guilty of violating school policy for her e-mail. MSU's decision is both outrageous and unsettling for many reasons. First of all, unlike the common understanding of "spam," Spencer's e-mail wasn't commercial speech -- instead, it dealt with a matter of concern for any student or faculty member. Fewer school days means students are paying the same (if not more) for less, while professors are expected to cover the same material in less time. Second, the e-mail wasn't sent to an indiscriminate list of recipients; rather, Spencer sent the e-mail to professors she thought might be most concerned and best able to speak about the issue. Finally, Spencer didn't even use her MSU account; she used her private Gmail account. Nonetheless, she was [found guilty](#) of spamming last week.

MSU's arbitrary limit on the number of people students can contact via e-mail about an issue of public concern, even from their own private accounts, is a serious threat to student and citizen activism. Realizing this, the civil liberties community quickly came together to join with my organization, the [Foundation for Individual Rights in Education \(FIRE\)](#), and the [Electronic Frontier Foundation \(EFF\)](#) to condemn the decision in an open letter to MSU President Lou Anna K. Simon. In less than 24 hours, we were able to put together a broad, diverse coalition. Here's who signed on:

[Alliance Defense Fund](#) [Center for Academic Freedom](#), [American Booksellers Foundation for Free Expression](#), [Center for Democracy & Technology](#), [Defending Dissent Foundation](#), [Feminists for Free Expression](#), [First Amendment Project](#), [National Coalition Against Censorship](#), [Online Policy Group](#), [People For the American Way Foundation](#), [Reporters Without Borders USA](#), and [the Woodhull Freedom Foundation](#).

Here is what we wrote:

Open Letter to Michigan State University President Lou Anna K. Simon We the undersigned write to express our profound concern about the state of free expression at Michigan State University (MSU) following MSU's recent ruling against student Kara Spencer.

As you know, MSU's Student-Faculty Judiciary has found Spencer guilty of violating the university's Network

Acceptable Use Policy and engaging in an "unauthorized" use of the MSU network. MSU has labeled her a "spammer" on the basis of an e-mail she sent to certain members of the faculty addressing and protesting controversial changes to MSU's Academic Calendar and Fall Welcome schedule. We maintain that it is unacceptable that Spencer has been disciplined, even in the form of a "warning," for sending a constitutionally protected message to public employees. We also maintain that labeling her a "spammer" is improper and should be reversed.

MSU's policy and actions demonstrate a deep misapprehension of the duties of a public college under both the First Amendment and the canons of academic freedom. We are troubled both by the "anti-spam" policy on its face and by its application here.

First, MSU's "anti-spam" policy is constitutionally suspect on its face. It is vague and allows the university unfettered discretion, requiring prior administrative approval before sending e-mails to more than approximately "20 -30" recipients. It also discriminates on the basis of content, prohibiting e-mail sent "for personal purposes, advertising or solicitations, or political statements or purposes."

Second, the policy's application in this instance is egregiously wrongheaded. Spencer is a student government leader. Her speech was in conjunction with a formal student-faculty committee's response to a significant change in the university calendar --a policy shift that, if enacted, would affect the entire MSU community. With the implicit approval of her committee, Spencer e-mailed a set of professors about a matter of campus concern. Her effort is directly analogous to writing fellow citizens exhorting them to voice opinions about impending regulatory decisions, or writing local government officials about a funding issue.

It is highly inappropriate for a public university to place arbitrary limits on both the content and quantity of such plainly political speech. Worse still, punishing a student for civic engagement teaches MSU students precisely the wrong lesson about their responsibilities as citizens in a democratic society. This decision violates Spencer's First Amendment rights, misinforms students about their rights, and chills the speech of any student who wishes to bring an issue of public concern before the MSU community using e-mail as a communications method.

We ask that you immediately overturn the guilty finding against Kara Spencer. We further suggest that you rewrite the current Network Acceptable Use Policy to eliminate its constitutional infirmities. We would be pleased to assist you in this process.

I hope this letter sends a strong message to MSU that the civil liberties community has no intention of sitting by while MSU redefines responsible political involvement as lowly spam. I hope MSU considers the full implications of what such a standard would mean if it were applied in society as a whole--not to mention what message the guilty finding sends to its students. Most of all, I hope that President Simon will overturn the finding immediately and review MSU's draconian spam policy. Given how stubborn the school has been in the face of national pressure (and international attention: the case has been covered in [Italy](#), [Japan](#), and [Denmark](#)), I am somewhat doubtful MSU will have any epiphanies. But, nonetheless, I still hope for that rarest of all surprises in civil liberties work: the pleasant surprise.



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