

April 24, 2023

President Tony Allen
Delaware State University
1200 N DuPont Highway
Dover, DE 19901

Re: Gender-Based Violence on Delaware State University's
Campus

Dear President Allen,



Delaware

100 W. 10th Street, Suite 706
Wilmington, DE, 19801
302-654-5326
www.aclu-de.org

Kathleen Epler
President

Mike Brickner
Executive Director

Dwayne J. Bensing
Legal Director

Thank you for your recent action to rescind the Non-Disclosure Agreements that students signed when joining DSU's Safe Space Coalition. As we outlined in our letter to you, we believe they posed a significant threat to student free speech and the important work the campus is undergoing to transform the culture around sexual assault and harassment. While your actions were an important step to bring more transparency into the work of the Safe Space Coalition, we understand that rescinding the NDAs does not address the underlying issues that caused the coalition to form. It is in that spirit that we write this letter encouraging you to continue to protect student free speech, foster student engagement, and implement the changes that DSU students have asked for over the past several months.

Protect student free speech

Students have been the driving force behind the conversation around gender-based violence at DSU, and that is due to their ability to speak openly without fear of punishment or retaliation. Unfortunately, over the past few weeks since the NDA issue became public, we have heard from DSU students who have raised concerns about administrators or other officials at the university who have implicitly or explicitly discouraged students speaking out on these issues. It is inappropriate for university employees to pressure students to not speak publicly about their views on the response to sexual assault and harassment. Students have an absolute right to express their beliefs about important social and political issues that are occurring on their campus, no matter

if those opinions cause DSU embarrassment or discomfort. While it may be difficult for administrators to hear public criticism of their actions or inaction, it is far preferable than continuing a culture of silence around sexual assault and harassment that results in little to no change.

Regardless of whether DSU administrators approve of what students say or believe that airing their concerns publicly is a good tactic, they must not discourage students from exercising their First Amendment right to free speech, assembly, and petition.

Implement students' reforms

DSU students have spent the past several months urging university officials to take concrete actions on addressing sexual assault and harassment on campus. We join with their calls for reform. On April 25, DSU will host a public conference on sexual assault awareness and violence prevention, which would be an ideal time to announce tangible movement and/or commitments to these reforms.

1. *Revised standards and practices for effective response to sexual assault.*
 - a. Students have been clear that current practices do not adequately respond to instances of sexual assault. DSU could implement multiple changes, including in how the Title IX coordinator and campus law enforcement follow up with students, how investigations are handled, and the process for pursuing administrative and/or criminal charges when an incident occurs.
2. *Public reporting of how sexual assault cases were handled as well as oversight by a community body with at least 50% student representation, so that administration and campus law enforcement can be held accountable for poor responses.*
 - a. While DSU is already required to report this data to state and federal agencies, the information is rarely seen or discussed on campus. As part of DSU's commitment to engaging students on these issues, it should

conduct regular public dialogues with students about the current state of campus safety, what is working well and what needs to be improved. In addition, university officials should be required to report to a body, even one that may already be in existence, that has at least 50% student representation. This body can review how DSU responds to and prevents sexual assault and harassment and provide oversight and recommendations on how procedures may improve.

3. *Continued education and training for campus law enforcement, administrators, faculty, and students on how to respond to sexual assault and harassment.*
 - a. According to Delaware State University's public filings with the Delaware Department of Justice, the amount of time provided for trainings fell significantly in 2022 from 45-60 minutes to 20-30 minutes. The descriptions of the trainings also indicate that the 2021 version covered far more topics than the 2022 version. Additionally, while the numbers of faculty and staff who received training increased between 2021 and 2022, the number and proportion of first-year students who received training decreased (from 65% in 2021 to only 44% in 2022).¹ Training should be universal amongst students, faculty, and staff, and should be a part of regular campus dialogue. The report does not reflect what, if any, training campus law enforcement specifically received and whether that training was trauma-informed and culturally competent.
4. *Increased diversity among campus law enforcement officers, particularly more women.*
 - a. Women, trans, and non-binary people are much more likely to be survivors of sexual assault and

¹ Available at: <https://attorneygeneral.delaware.gov/wp-content/uploads/sites/50/2022/03/DOJ-2021-Campus-Sexual-Assault-Report.pdf> and <https://attorneygeneral.delaware.gov/wp-content/uploads/sites/50/2023/01/Final-2022-Campus-Sexual-Assault-Report-DOJ-11.28.2022.pdf>

harassment, which is why it is important that law enforcement is culturally competent and able to work effectively with survivors. While the gender of an investigator is not the only factor in whether a survivor feels comfortable and develops trust with the officer, there should be options for survivors to be able to request an investigator that they may identify. If a survivor feels uncomfortable, unheard, or unable to make an authentic connection, it may impact their trust in the process, their ability to fully share their story, and their desire to move forward with administrative and/or criminal charges.

5. *Increased mental health services including more peer student counselors and the addition of licensed therapists on campus.*
 - a. Trauma-informed mental health care is imperative for survivors of sexual assault and harassment. DSU must commit to adding more licensed therapists on campus who have the skills and capacity to work directly with survivors. In addition, many students may prefer to work with peer counselors, who may be more approachable or relatable. Investing in growing the number of peer student counselors, as well as improving their training, would significantly expand DSU's ability to provide care to survivors.
6. *A comprehensive review to ensure that DSU is in full compliance with all Title IX requirements after new regulations are released in 2023.*
 - a. The federal government is expected to release new Title IX regulations as soon as May 2023. It is critical that DSU work immediately to evaluate its current practices and ensure it is in full compliance with the new regulations. Review of DSU's current system should include student stakeholders and the ability for the public to comment on any proposed changes. The status and findings of this review and any changes DSU makes to its current Title IX system must be shared with the DSU student

- body and larger community.
7. *Invest in staff and specific programming devoted to preventing sexual assault and harassment.*
 - a. While DSU has a Title IX Coordinator, this is the bare minimum for any public college or university. Given the growing concerns over sexual assault and harassment on campus, DSU must invest in additional staff who will be charged with implementing programming and interventions to prevent sexual assault and harassment.
 8. *University budget transparency—particularly for the campus law enforcement budget.*
 - a. Students would like to be better informed about how university funds are being spent on sexual assault and harassment prevention and response. In particular, students report that very little information is known about the law enforcement budget and whether there are funds devoted to sexual assault, if officers are provided with training on trauma-informed responses to crime, and what resources are used towards crime prevention.

We are truly thankful that DSU is addressing the issues of sexual assault and harassment, but we hope that the university will commit to these specific reforms at its April 25 conference. In addition, we urge officials to respect the free speech rights of students and ensure it is not pressuring students to silence themselves in order for officials to escape public criticism.

Sincerely,

Mike Brickner
Executive Director, ACLU of Delaware

Helen Salita
Campaign Manager, ACLU of Delaware