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Lawsuit update: Federal court clears way to the courthouse for Chicago State University professors

By [Marieke Tuthill Beck-Coon](#) October 5, 2017

Last Friday, a federal district court in Illinois [ruled](#) that two Chicago State University professors' [Stand Up For Speech](#) lawsuit may proceed to trial. Professors Phillip Beverly and Robert Bionaz filed the First Amendment lawsuit in July 2014 with FIRE's assistance after Chicago State officials tried to force the shutdown of the professors' blog. The way is now cleared for the plaintiffs' day in court after Judge Joan B. Gottschall of the U.S. District Court for the Northern District of Illinois denied the majority of defendants' motion for summary judgment.

We recently highlighted Beverly and Bionaz' struggles with Chicago State officials in a [video on campus whistleblowers](#). They were among several founders and contributors to the "CSU Faculty Voice," a blog authored by CSU faculty members that is often highly critical of the CSU administration's perceived corruption and incompetence. In late 2013 — shortly after posting a report that the Chicago State president's girlfriend falsified an application for employment to the university — Beverly received a cease-and-desist letter ordering him to take down the blog. The Voice, the letter said, "violates the University's values and policies requiring civility and professionalism of all University faculty members."

When Beverly and Bionaz refused to take it down, Chicago State officials tried other means of pressuring them. Evidence in the record suggests they unsuccessfully attempted to get trumped up harassment charges filed against Beverly. By May 2014, the university adopted a vaguely-worded "cyberbullying" policy applicable to the electronic communications of faculty and students and investigated Bionaz for a potential violation.

Beverly and Bionaz' suit challenges the cyberbullying policy and a computer usage policy requiring civility in electronic communications on First Amendment grounds. It also asserts that Chicago State officials (none of whom are still with the university) retaliated against them because of their blog. The defendants moved to dismiss the case for lack of standing and moved for summary judgment on all claims.

In its September 29 ruling, the court denied defendants' motion to dismiss — holding plaintiffs had standing to pursue their claims — and most of their motion for summary judgment, dismissing only a facial challenge to the cyberbullying policy. Judge Gottschall rejected Chicago State's attempt to dismiss the professors' retaliation claim and challenge to the computer usage policy. The court noted that the broadly-worded computer usage policy, which prohibits use of Chicago State's IT to for "embarrassing," "humiliating," or "harassing" communications, "appear[s] to encompass a substantial amount of constitutionally protected expression." As to the retaliation claim, the court rejected defendants' argument that their actions were insulated by qualified immunity. While defendants attempted to characterize First Amendment rights in the context of blogging as an uncertain area of law, the court firmly stated that their argument missed the point: "[T]he right at issue ... is plaintiffs' right to free expression without retaliation. That right is firmly established, and it is not contingent on whether plaintiffs' expression took place online or elsewhere."

The path is now cleared for Beverly and Bionaz to put their case before a jury and ask its members to decide that Chicago State officials deliberately tried to shut down their constitutionally protected speech. We are confident a jury will see the professors for the whistleblowers they are and the actions of the ex-officials as a cynical attempt to suppress dissent and transparency. We will keep you updated as the case progresses.

Schools: [Chicago State University](#)

Cases: [Chicago State University – Stand Up For Speech Lawsuit](#)

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