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# SPEECH FIRST

## United States Supreme Court Vacated Fourth Circuit Decision in The Battle For Free Speech On College Campuses

**Washington, D.C. (March 4, 2023)** – Today, the United States Supreme Court granted cert and ruled to vacate the Fourth Circuit’s decision in *Speech First v. Sands*. SCOTUS then remanded the case back to the Fourth Circuit with instructions to dismiss *Speech First*’s claims as moot. Virginia Tech decided to remove its Bias Response Team (BRT) policy after *Speech First* appealed to SCOTUS and argued that by removing the policy, the case is now moot. This decision was made by Virginia Tech after almost two years of defending the BRT policy as constitutionally sound.

Twenty-one organizations, including The Manhattan Institute, Parents Defending Education, and Alliance for Defending Freedom, had filed amicus briefs in support of *Speech First*’s petition to SCOTUS.

*Speech First*, a nonprofit membership association working to combat restrictions on free speech and other civil rights at colleges and universities across America, had filed a [petition for writ of certiorari](#) with the U.S. Supreme Court in August, 2023 regarding Virginia Tech University’s Bias Response Team (BRT); and today the Supreme Court vacated the Fourth Circuit’s decision with instructions to dismiss.

Justice Clarence Thomas wrote a dissenting opinion with Justice Samuel Alito joining. They cited other cases where universities have attempted to evade judicial review by changing policies to moot the case. They pointed out that *Speech First* and other orgs have prevailed in those instances regardless of the attempts to moot. Justice Thomas further laid out the reasons why BRTs are such a concerning issue that warrants judicial review and why we need a national resolution.

Justice Thomas concludes his dissent with:

*"This petition presents a high-stakes issue for our Nation’s system of higher education. Until we resolve it, there will be a patchwork of First Amendment rights on college campuses: Students in part of the country may pursue challenges to their universities’ policies, while students in other parts have no recourse and are potentially pressured to avoid controversial speech to escape their universities’ scrutiny and condemnation. We should grant certiorari to resolve this issue."*

BRTs are procedures or committees at colleges and universities that encourage students to anonymously report their peers for alleged utterances or actions that might fall under an overly broad or vague definition of “bias”. [BRTs actively chill student speech](#) through fear and intimidation of being reported anytime and anywhere. They weaponize administrative policies to go after peers who express

opposing ideas and create a campus climate of self-censorship. Speech First has undertaken a number of [legal actions](#) against colleges and universities on this issue, winning in three Circuit Courts (Fifth, Sixth, and Eleventh).

Speech First Executive Director, Cherise Trump, had this to say: “While we are disappointed with the Supreme Court’s decision today, Speech First will continue to fight for campus free speech and we will continue to challenge policies like Bias Response Teams (BRTs) that actively chill student speech. We are glad however, that our litigation ended the BRT at Virginia Tech, and their students are closer to being on a campus where they can express their views without fear of reprisal. I agree with the dissenting opinion that these policies are deeply concerning for the state of free speech on college campuses, they aren’t going away anytime soon, and as long as we don’t have a national resolution on this issue, the First Amendment violations that arise from the existence of BRTs will be subject to patchwork First Amendment protections. There is simply no bigger mechanism on college campuses that serves to silence, deter, and chill student speech. The battle for campus free speech is bigger than ever before and we will continue to defend our students’ right to free speech across the country.”

To schedule an engagement with Speech First, please contact Michael Hensley at [michael@athospr.com](mailto:michael@athospr.com) and [info@athospr.com](mailto:info@athospr.com).

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