

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PEOPLE FOR THE ETHICAL TREATMENT
OF ANIMALS, INC.,

Plaintiff,

v.

MICHAEL K. YOUNG,

Defendant.

Civil Action No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff, by its counsel, makes its complaint against Defendant as follows:

1. Defendant Michael K. Young, the President of Texas A&M University (“TAMU”), has violated the First Amendment rights of Plaintiff People for the Ethical Treatment of Animals, Inc. (“PETA”), by deleting comments from TAMU social media pages that were consistent with PETA’s public awareness campaign criticizing TAMU for the practices of its canine muscular dystrophy laboratory, which PETA believes are cruel and inhumane. TAMU’s removal of this speech was viewpoint-based and unreasonable, which the First Amendment prohibits in both public and non-public forums, including the public comment sections of TAMU’s social media pages. Also, TAMU’s actions are content based and are not narrowly tailored, which the First Amendment prohibits in designated public forums, including, again, the public comment section of TAMU’s social media pages. PETA seeks prospective injunctive relief against Defendant Michael K. Young, in his official capacity as President of Texas A&M University.

Venue and Jurisdiction

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28

U.S.C. § 1343.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2). A substantial part of the events giving rise to this claim occurred in this District.

Parties

4. Plaintiff People for the Ethical Treatment of Animals, Inc. (“PETA”) is a Section 501(c)(3) animal-protection advocacy organization and charity located in Norfolk, Virginia. Founded in 1980, PETA is dedicated to protecting animals from abuse, neglect, and cruelty. It undertakes these efforts through public education, cruelty investigations, research, animal rescue, legislation, special events, celebrity involvement, protest campaigns, administrative petitions, and lawsuits to enforce laws enacted to protect animals.

5. Defendant Michael K. Young is the President of Texas A&M University (“TAMU”). Young has authority over all TAMU policies and practices, including those challenged here. Plaintiffs sue him in his official capacity. TAMU is a public research university located in College Station, Texas, and the second largest public university, by student enrollment, in the United States. TAMU is the only school to be designated a land, sea, and space grant University, reflecting an extensive record of scientific research funded through U.S. government grants and organizations.

Factual Allegations

Government’s Pervasive Use of Social Media

6. Billions of people use social media platforms to communicate with each other, engage with news content, and share information. The Pew Research Center found that seven in ten Americans use social media in this way.¹ In 2019, YouTube was the single most popular

¹Pew Research Center, *Social Media Fact Sheet* (survey conducted Jan. 3-10, 2018), <http://www.pewinternet.org/fact-sheet/social-media/>.

platform, with 73% of U.S. adults using it.² Facebook was the second-most popular platform, with 69% of U.S. adults using it in 2019.

7. Governments all over the country—indeed, all over the world—use various social media platforms to disseminate important information to the public, to foster public discussion, and to allow debate related to the policies of the day with each other and with their constituents, all in a rapid and freely accessible manner. In 2018, a United Nations study on the use of social media and other web-based tools for the delivery of government services and for public participation reported that 177 member states out of 193 (roughly 92%) include social media portals on their national websites.³

8. In the last decade, the political and public use of social media in the United States has increasingly factored into elections, the legislative process, and government services. Federal agencies and sub-agencies have registered thousands of social media profiles with the United States Digital Service,⁴ and many more active government profiles remain unregistered. Federal agencies frequently use social media to promote U.S. policy interests.

9. Members of Congress actively use social media to connect with their constituents. Every U.S. Senator and Representative in the 115th Congress had social media profiles in 2018.⁵ In a survey of members of Congress and their staff, the Congressional Management Foundation found that 76% of respondents felt that social media enabled more meaningful interactions with constituents; 70% found that social media made them more accountable to their constituents; and

²*Id.*

³Dep't of Econ. And Soc. Affairs, United Nations, *United Nations E-Government Survey 2018: Gearing E-Government to Support Transformation Towards Sustainable and Resilient Societies* 119, Fig. 5.29 (2018), https://publicadministration.un.org/Portals/1/Images/E-Government%20Survey%202018_FINAL%20for%20web.pdf.

⁴For a searchable database of registered federal government profiles, see <https://usdigitalregistry.digitalgov.gov/>.

⁵Jacob R. Straus, Cong. Research Serv., R45337, *Social Media Adoption by Members of Congress: Trends and Congressional Considerations* 3 Fig. 1 (2018), <https://fas.org/sgp/crs/misc/R45337.pdf>.

71% said that constituent comments directed to the representative on social media would influence an undecided lawmaker.⁶

10. State and local agencies and officials also use social media to communicate with their constituents. For example, Texas Governor Greg Abbott uses the official Texas Governor Facebook page to communicate with Texans on matters ranging from hurricane relief measures to the state government's response to the Covid-19 pandemic to the 2019 El Paso mass shooting.⁷ The City of Austin Government page on Facebook similarly posts regular updates about city issues. Recently, for example, the City of Austin Government page encouraged donations to the Ending Community Homelessness Coalition, warned of toxic algae on Lady Bird Lake, and shared a video of Austin Mayor Steve Adler's 2020 State of the City Address.⁸ And Houston Mayor Sylvester Turner regularly shares information regarding Covid-19 on his official YouTube page.⁹

11. Social media platforms used by governmental agencies and officials allow the public to communicate back to the agency and with each other. This allows individuals to directly respond to policies proposed by their elected representatives, including suggestions and criticisms, which enables greater citizen input in our representative democracy.

12. YouTube actively encourages this form of civic engagement through its "YouTube for Governments" platform, which encourages connections between individual YouTube users and their elected government officials.¹⁰

13. Facebook also actively encourages this form of civic engagement through its "Town Hall" feature, which allows users to find and contact their representatives through the

⁶Cong. Mgmt. Found., *#SocialCongress2015* (2015), http://www.congressfoundation.org/storage/documents/CMF_Pubs/cmf-social-congress-2015.pdf.

⁷See Office of the Governor Greg Abbott, @TexasGovernor, <https://www.facebook.com/TexasGovernor>.

⁸See City of Austin Government, @austintexasgov, <https://www.facebook.com/austintexasgov/>.

⁹See Mayor Sylvester Turner, Videos, YouTube, <https://www.youtube.com/channel/UC0Kn0kPLxNzl5LY8EML7aPA/videos>.

¹⁰*Launching YouTube for Government*, Google Public Policy Blog, (Oct. 2, 2014), <https://publicpolicy.googleblog.com/2014/10/launching-youtube-for-government.html>.

platform.¹¹

14. When government uses social media as discussed above, it creates public forums for private speech, in which people have First Amendment rights to speak. Government-operated social media platforms that allow the general public to comment on governmental posts, and thus communicate directly with the government and other members of the public, resemble the paradigmatic speakers' corner in a public park. *See Perry Education Assn. v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983) (identifying streets and parks as “quintessential public forums” for “assembly, communicating thoughts between citizens, and discussing public questions”). As the Supreme Court has recognized, “[w]hile in the past there may have been difficulty in identifying the most important places (in a spatial sense) for the exchange of views, today the answer is clear. It is cyberspace—the ‘vast democratic forums of the Internet’ in general, and social media in particular.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017) (quoting *Reno v. American Civil Liberties Union*, 521 U.S. 844, 868 (1977)).

YouTube

15. YouTube is a social media platform with over 2 billion active monthly users worldwide.¹²

16. The platform allows users to create an account called a “channel” using their name and photograph where they can communicate with others through posted videos. The platform also allows brands to create “brand accounts,” which can be connected to multiple channels.

17. Each channel can group videos into “playlists,” which are often organized by topic.

18. Users can “subscribe to” or “follow” a channel in order to stay updated with the

¹¹Sarah Perez, *Facebook Officially Launches Town Hall for Contacting Government Reps, Adds Local Election Reminders*, TechCrunch (Mar. 27, 2016), <https://techcrunch.com/2017/03/27/facebook-officially-launches-town-hall-for-contacting-government-reps-adds-local-election-reminders/>.

¹²*YouTube for Press*, YouTube, <https://www.youtube.com/about/press/>.

channel's latest content. Viewers can also access a channel's content by visiting the channel, without subscribing to it.

19. YouTube allows users to comments on posted videos by default, and to respond to others' comments on the videos as well. It is, however, possible for YouTube channels to disable commenting.

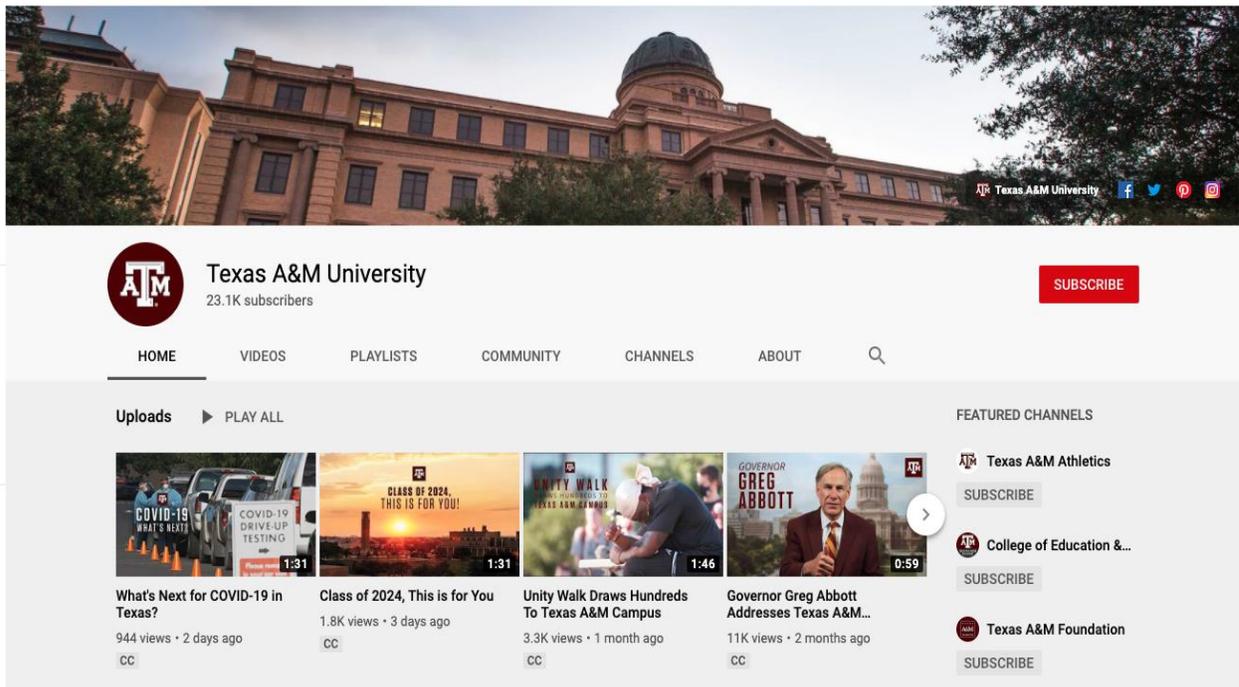
TAMU's YouTube Account

20. TAMU maintains a YouTube brand account: <https://www.youtube.com/TAMU>.

21. TAMU's brand account includes numerous channels, including the "Texas A&M University channel," with over 23,000 subscribers, "Texas A&M Athletics," with over 43,000 subscribers, and many more, including channels titled "Research @ Texas A&M," "Texas A&M Science," and "Texas A&M Liberal Arts."

22. The "Texas A&M University" channel has twelve different playlists, including playlists titled "News," "What's An Aggie?," and "Academics & Research."

23. This is the Texas A&M University homepage:



24. Many videos on the Texas A&M University channel have comments disabled. Some, however, allow comments.

25. On videos where comments are not disabled, TAMU has allowed the comment sections to exist generally as forums for the open expression of ideas without regard to political affiliation, issue area, or whether the topic contradicts TAMU policies. For example, on a video titled “Texas A&M – Core Values,” one commenter wrote, “Texas A&M values: Be a bully, be violent, be racist, be manipulative and nasty but with a southern smile, murder is might, create GODLESS leaders in the old southern framework and install them, lie, manipulate, lie some more, pretend you love Jesus and minorities.”

26. TAMU has, at times, allowed comments criticizing its canine laboratory. For example, on the video titled “Texas A&M – Core Values,” a commenter wrote, “Please shut down your canine MD lab! It is so cruel and unnecessary.”

Facebook

27. Facebook is a social media platform with over 2 billion users worldwide, including 184 million daily active users in the United States and Canada.

28. The platform allows users to create a “profile” under their name and photograph where they can curate their online presence by posting content on their “wall” (a virtual bulletin board), including text, photos, videos, and external links. Users are able to “friend” one another, which enables them to see and comment on each other’s posts and walls. They may do so in their “news feed,” the home-screen for all Facebook users that displays a timeline of posts and activity based on an algorithm that determines interest and relevancy for individual users.

29. Facebook also allows individuals and organizations to create their own “pages.” Pages offer different privacy, publishing, and content moderation functionality than individual user profiles. Generally speaking, pages are more public and less private. Using default settings,

any member of the public is able to view posts on an organization's page as well as comment on that page. Users may also "follow" a page, in order to receive notifications about activity on the page or see page posts in their news feed. Users can also "like" a page, which will be viewable on their own user profile and automatically follow the organization's page.

30. *Page privacy settings.* All pages on Facebook are public by default. To remove a page from public view, the administrator of the page must "unpublish" it. Organizations can put age and country restrictions on a page to limit who can view it. Organizations can also ban individual Facebook users from posting on, commenting on, and liking their page, but banning users will not prevent users from viewing the page.

31. *Page posting settings.* Organizations can post text, photo, and video content on their page, as well as links to outside content. Individual Facebook users may "comment" under posts created by the page administrators. Organizations can disable visitor post functionality or require manual administrator review and prior approval of every visitor post before it is viewable to the general public.

32. *Page moderation settings.* Organizations operating a Facebook page may filter out posts and comments submitted by visitors so that they do not appear publicly on the organization's page. There is a generalized profanity filter that organizations can elect to turn on. Page administrators can also establish a customized filter consisting of "blocked" words. If a blocked word appears in a visitor's post or comment, that content will be automatically and immediately hidden from the Page. An organization can manually "unhide" comments subject to the filter. Organizations can also manually hide or delete individual comments.

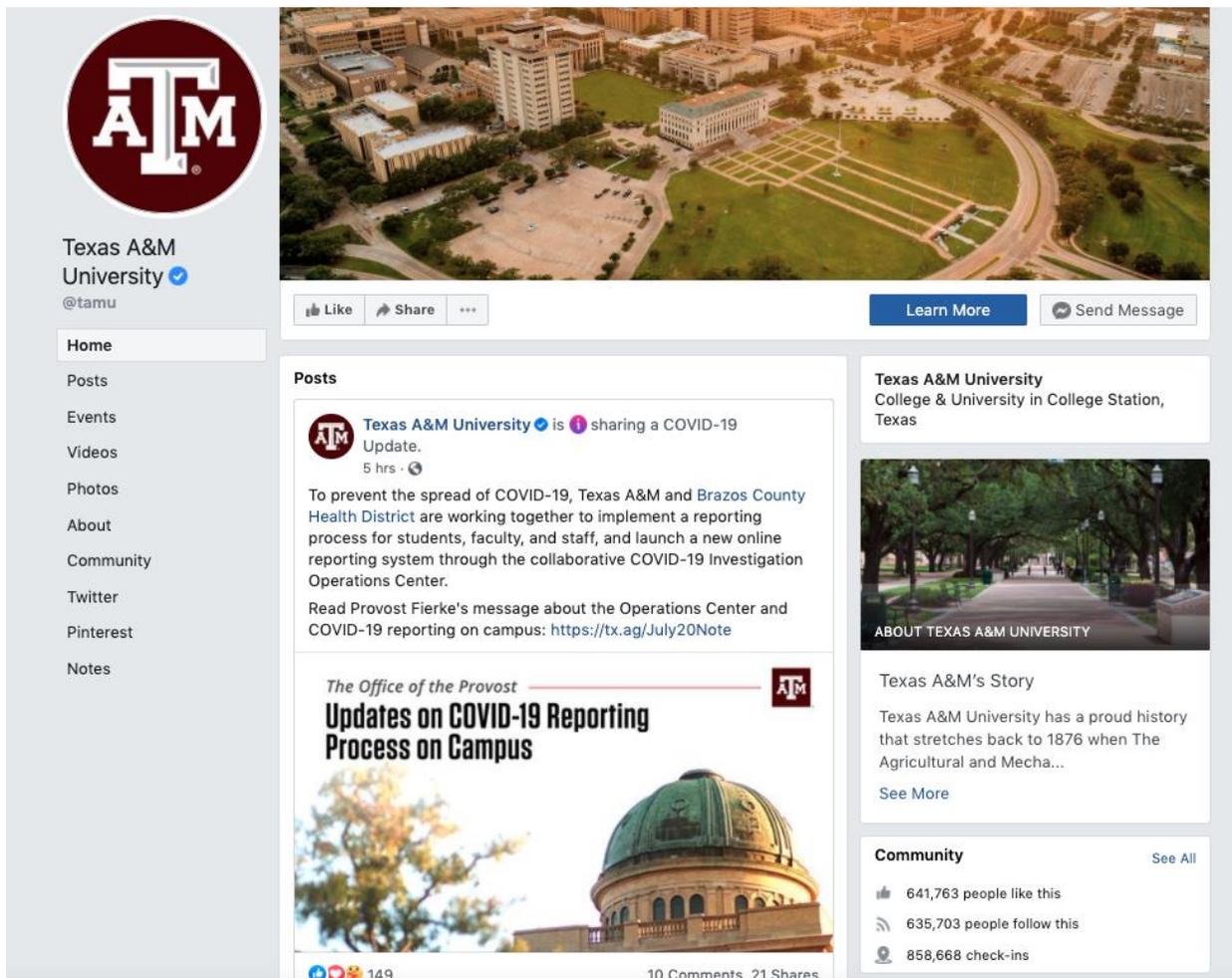
TAMU's Facebook Page

33. TAMU maintains a Facebook page: <https://www.facebook.com/tamu/> ("TAMU's Page" or "the Page"). TAMU's Page has over 635,000 followers and has received over 641,000

“likes” from Facebook users. TAMU regularly posts information about educational opportunities, research advances, and University athletics. It also posts profiles about students and other members of the TAMU community.

34. *Posting.* On TAMU’s Facebook Page, the University posts text and other media on TAMU’s wall. TAMU posts on a wide variety of University topics, including COVID updates, scientific advances discovered in the school’s research facilities, and facts about TAMU history.

35. This is the TAMU Home page:



36. *Commenting.* Guests have the ability to comment on all posts. Some posts receive hundreds of comments. A Facebook algorithm displays “top” comments based on relevance and

popularity, but users may choose to view them all. Users frequently engage with visitor posts by “reacting” to them (for example, by “liking” them), commenting on them, or sharing them to their own Facebook profile. The type and tone of comments varies widely. Many comments include substantive discussions about TAMU administration decisions and controversies. For example, recent visitor comments discuss TAMU’s decisions in response to the COVID pandemic, including TAMU’s policies regarding face masks, education, and admission testing requirements.

Texas A&M University ✓
June 24 at 9:53 AM · 🌐

Texas A&M will not require submission of ACT or SAT scores for freshman applicants for the 2021 admissions cycle.
Read more information about the decision: <https://tx.ag/TestOptional20>

1.7K 571 Comments 543 Shares

Like Comment Share

Most Relevant ▾

Dawn Tolliver This isn't wise. I understand test anxiety. I suffered severely from it. However, preparing for these test helped my study skills, gave me goals and tested my knowledge level. You have to be able to challenge, push and take tests. Facing challenges is ... [See More](#)
3w 12

6 Replies

Elaine Ybarra YES YES YES!!! My son took the SAT for the first time this year. He was 12 and in 7th grade. That's insane!!! But sadly needed to attempt to compete. I'm an Aggie Engineer working for a major energy company and I CAN NOT AFFORD the review courses ... [See More](#)
3w 1

37. TAMU generally allows the general public, including current students, prospective students, alumni, local businesses, and non-affiliated persons still interested in the University, to comment on a wide variety of topics. TAMU has allowed the comment sections on its Facebook Page to exist generally as forums for the open expression of ideas without regard to political affiliation, issue area, or whether the topic contradicts TAMU policies.

38. For example, TAMU recently shared a post supporting the right to participate in peaceful demonstrations.¹³ Comments on the post reflected a wide range of viewpoints. One individual, for example, commented, “Core Values Ags!,” and another wrote, “Proud to be an Aggie! Staying true to the Aggie spirit! True to each other as Aggies should be!” Others expressed different viewpoints. One individual commented, “Who are these twits that are buying into the domestic terrorist protests??!! NOT a college educated person - only ANTI-AMERICAN TWITS!!!,” while another referred to TAMU President Michael Young as “Bolshevik Young.”

TAMU College of Veterinary Medicine & Biomedical Sciences’ Facebook Page

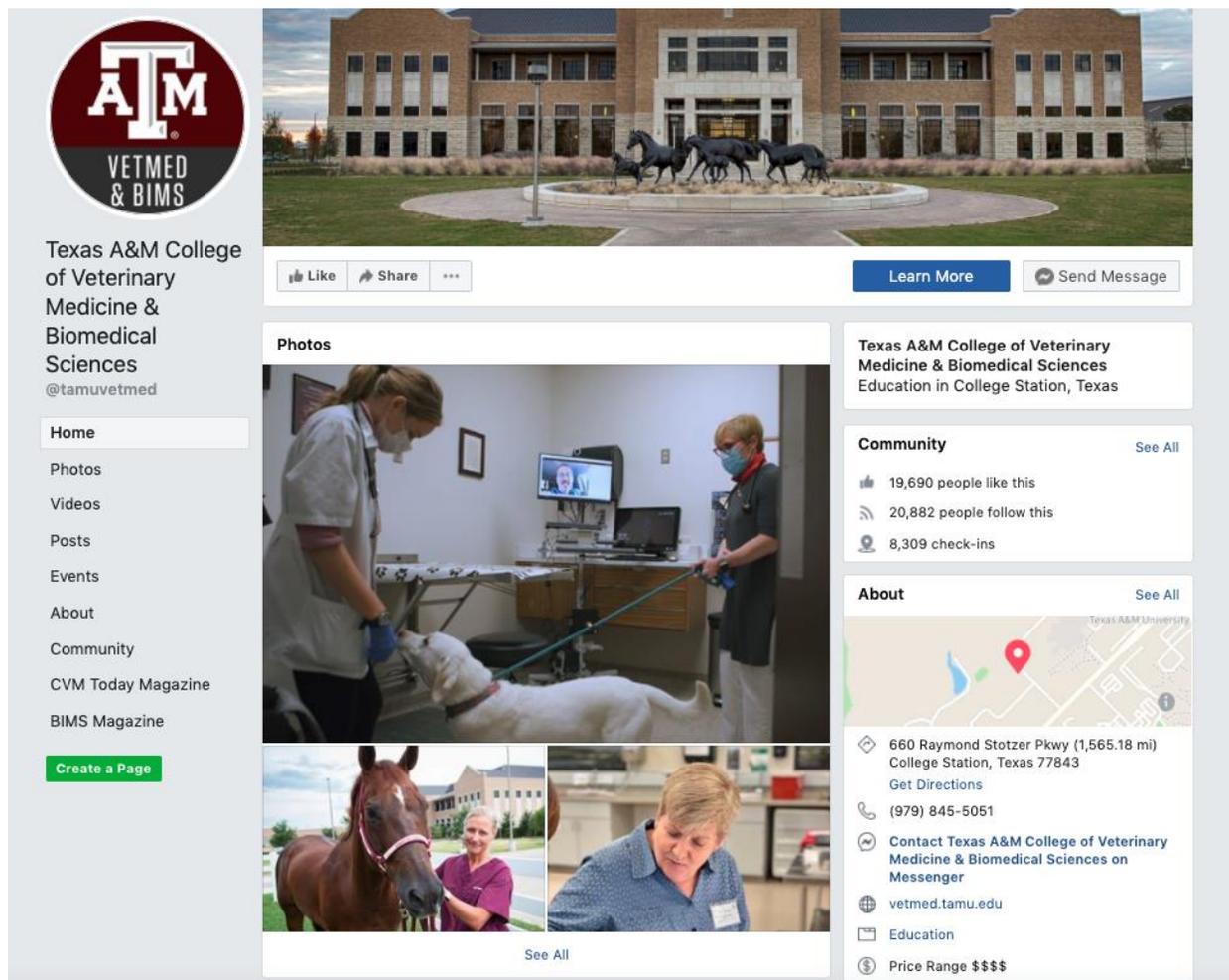
39. TAMU College of Veterinary Medicine & Biomedical Sciences maintains a separate Facebook page: <https://www.facebook.com/tamuvetmed> (the “Vetmed & BIMS Page”). The Vetmed & BIMS Page has over 20,800 followers and has received over 19,600 “likes” from Facebook users. Like the TAMU page, the Vetmed & BIMS Page regularly posts information about profiling members of the College of Veterinary Medicine & Biomedical Sciences community and extolling the achievements of the College of Veterinary Medicine & Biomedical Sciences.

40. *Posting.* Like on TAMU’s Facebook Page, the Vetmed & BIMS Page posts text and other media on its wall on a variety of topics related to the College of Veterinary Medicine &

¹³<https://www.facebook.com/notes/texas-am-university/participating-in-peaceful-demonstrations/10156725454381618/>.

Biomedical Sciences.

41. This is the Vetmed & BIMS Home Page:



42. *Commenting.* Like on the TAMU Page, guests on the Vetmed & BIMS Page have the ability to comment on all posts.

TAMU's Social Media Policies

43. TAMU has posted a social media policy on the University website.¹⁴ It states that TAMU may remove visitor-generated content that:

- violates the terms of service that governs the social media sites

¹⁴<https://www.tamus.edu/marcomm/socialmedia/public/>.

- contains personal identifying information or sensitive personal information, as defined in Tex. Code Bus & Com. Sec. 521.001 et. seq.
- contains offensive terms that target protected classes
- is threatening, harassing or discriminatory
- incites or promotes violence or illegal activities
- contains information that reasonably could compromise public safety
- advertises or promotes a non-affiliated commercial product or service, or any entity or individual
- promotes or endorses political campaigns or candidates
- violates a trademark, copyright or other law.¹⁵

44. TAMU has additionally posted a Facebook-specific policy on the University website.¹⁶ The Facebook policy states, “[W]e welcome your input via direct message and comments on posts. All viewpoints are welcome, and comments will not be removed based on the viewpoints expressed, provided the comments otherwise comply with this policy.”¹⁷ The Facebook policy requires that comments “must be directly related to the topic of the originated post from the page or may be removed.”¹⁸ In addition, the policy states that comments in any of the following categories may be removed:

- Encourage illegal activity.
- Violate the intellectual property rights of any other party, such as copyright or trademark infringement.

¹⁵*Id.*

¹⁶<https://www.tamu.edu/statements/facebook-usage-policy.html>. This policy was adopted after PETA brought a prior First Amendment lawsuit against TAMU for censoring comments on its social media pages. *See infra* ¶¶ 51-59.

¹⁷*Id.*

¹⁸*Id.*

- Compromise the safety or security of Texas A&M University community members, the public or public systems.
- Contain obscenities.
- Contain sexually or racially harassing content that is severe, pervasive, and objectively offensive.
- Present a grave and imminent threat.
- Incite imminent lawless action.
- Contain fighting words or true threats.
- Be fraudulent.
- Defame.
- Promote a business or commercial transaction.
- Promote a candidate campaigning for election.¹⁹

45. Both the TAMU Facebook Page and the Vetmed & BIMS Facebook Page provide links to the Facebook Usage Policy on the University website.

46. To Plaintiff's knowledge, TAMU does not have a YouTube-specific policy posted on the University website.

47. TAMU acknowledges that comments posted to its social media pages are communications to the University, and thus the state government. According to its social media policy, documents related to the TAMU's social media pages are subject to Texas's Public Information Act, Texas Government Code Chapter 552.

Social media sites may contain communications sent to or received by state employees, and such communications are therefore public records subject to State Records Retention requirements. These retention requirements apply regardless of

¹⁹*Id.*

the form of the record (digital text, photos, audio, or video, for example).²⁰

PETA's Advocacy Against TAMU's Canine Muscular Dystrophy Laboratory

48. At a TAMU laboratory, dogs, including golden retrievers, had been intentionally bred to have a canine version of muscular dystrophy since 2012. PETA received information from a whistleblower indicating that the dogs used in this TAMU laboratory suffer during painful experiments and procedures and are housed in barren kennels.²¹

49. In 2016, PETA began an advocacy campaign against TAMU's dog laboratory. This campaign has included letters to governmental officials and funding agencies, protests outside Board of Regents' meetings, and a video by political commentator Bill Maher.²² More than 500 physicians, 100 of whom treat children with muscular dystrophy, have called on TAMU to end these experiments.²³ Numerous individuals suffering from the disease have also spoken out against the use of dogs at TAMU.²⁴ Following a public advocacy campaign by PETA, TAMU announced it would stop breeding dogs to develop muscular dystrophy in September 2019.²⁵ According to public records obtained by PETA in May 2020, there are 29 dogs remaining in the TAMU laboratory.

50. Social media is a critical tool in PETA's advocacy campaigns. PETA helps students craft petitions to end TAMU's animal cruelty on Change.org, livestream protests over Twitter, and

²⁰*Id.*

²¹Cristina Corbin, *Breeding dogs to have muscular dystrophy for medical research sparks outcry*, Fox News (Oct. 31, 2017), <http://www.foxnews.com/us/2017/10/31/breeding-dogs-to-have-muscular-dystrophy-for-medical-research-sparks-outcry.html>.

²²*Bill Maher Goes Apolitical to Save Dogs in Distress at Texas A&M University*, PETA Blog, <https://www.peta.org/features/bill-maher-takes-on-tamu/>.

²³Zachary Toliver, *Doctors' Orders: 500 Physicians Call On TAMU to End Its Cruel Dog Lab*, PETA (Nov. 20, 2018), <https://www.peta.org/blog/500-doctors-tamu-end-cruel-dog-labs/>.

²⁴PETA, *Those Most Affected by MD Speak Out Against TAMU Dog Experiments*, <https://www.peta.org/features/speak-out-against-tamu/>.

²⁵Rebekah Allen, *Texas A&M researchers quietly bred sick dogs in hopes of finding human muscular dystrophy cure*, Dallas Morning News (Sept. 12, 2019), <https://www.dallasnews.com/news/education/2019/09/12/texas-am-researchers-quietly-bred-sick-dogs-in-hopes-of-finding-human-muscular-dystrophy-cure/>.

alert its Facebook followers of corporations that sponsor TAMU's dog lab.

TAMU's History of Blocking PETA's Comments on the TAMU Facebook Page

51. In December 2017, PETA noticed that content they attempted to post to the TAMU Facebook Page, as well as content "tagging" TAMU, failed to appear on TAMU's Facebook Page, as PETA's content had done in the past.

52. PETA staff used the standard visitor interface to test various posts on TAMU's Facebook Page and thus determine what content would result in the post being hidden from public view. One staffer was able to post the message: "TAMU rules! Go Aggies." However, using the same account, she was not able to post the message: "Shut the cruel Muscular Dystrophy dog lab down NOW! This is torture!" By testing individual words, she found that the word "torture" always resulted in TAMU's Facebook Page hiding her post.

53. Further tests by PETA staff, using the same method, found that posts containing any of several words closely associated with PETA's ongoing advocacy campaign against TAMU's dog laboratory would result in the post being automatically censored. Specifically, the tests revealed that a post containing a number of specific words would be automatically hidden from public view on the TAMU Facebook Page, including "PETA," "cruelty," "abuse," "lab," and "tests," among others.

54. PETA concluded that TAMU was using the automatic filter setting to exclude posts and comments containing the blocked words in order to prevent PETA and other critics of TAMU's dog laboratory from posting any information or opinions to the TAMU Facebook Page about their campaign to end canine muscular dystrophy experiments.

PETA's 2020 Settlement With TAMU

55. In 2018, PETA brought suit in this Court against TAMU alleging that TAMU had violated the First Amendment by engaging in viewpoint-based discrimination against speech

criticizing TAMU's dog laboratory, content-based discrimination against speech mentioning TAMU's dog laboratory, and speaker-based discrimination against PETA and other critics of TAMU's dog laboratory²⁶

56. That case was dismissed after the parties reached a settlement. The written settlement ("the Settlement Agreement") was filed with the Court on February 3, 2020. It is attached here as Exhibit A.

57. In the Settlement Agreement, TAMU agreed "[t]o not exercise viewpoint discrimination when administering its Facebook page, and in particular to not exercise viewpoint discrimination against PETA or PETA's supporters or members."

58. In the Settlement Agreement, TAMU further agreed "[t]o refrain from adding any settings in the future to block or filter, whether automatically or manually, PETA or its comments on TAMU's Facebook page."

59. In the Settlement Agreement, PETA "explicitly retain[ed] the right to bring a facial challenge to [TAMU's Facebook Usage Policy], and to bring an as-applied challenge to the manner that TAMU applies that policy." The parties also agreed that "PETA may bring an action to enforce the provisions of this Agreement."

TAMU's Ongoing Discrimination Against PETA's Speech on Facebook and YouTube

Vetmed & BIMS Facebook Page

60. On May 6, 2020, the Vetmed & BIMS Facebook Page streamed live video of the College of Veterinary Medicine & Biomedical Sciences' commencement ceremony.²⁷ The livestream lasted for one hour and twenty-five minutes. During that time, it had 11,000 views and

²⁶See *PETA v. TAMU*, Case No. 18-cv-01547 (S.D. Tex.).

²⁷<https://www.facebook.com/tamuvetmed/videos/528658751139172/>. Many colleges and universities shifted to online commencement ceremonies in light of the Covid-19 pandemic. See Ashley Carman, *This year's graduates have one thing in common: disappointing online ceremonies*, The Verge (May 8, 2020), <https://www.theverge.com/2020/5/8/21246487/college-high-school-graduation-virtual-ceremony-online-school>.

more than 200 comments, including approximately 80 comments from PETA employees and supporters.

61. Approximately 54 of the PETA employees and supporters' 80 comments were deleted. Deleted content included, for example, comments that said:

- “By now the graduating students should realize that TAMU’s experiments on dogs are cruel and pointless. There are humane and effective non-animal research methods. Spend your time on those, please.”
- “If you care about animals, class of 2020, please be the ones to shut down TAMU's abusive and deadly dog lab.”
- “TAMU needs to shut down its cruel dog labs! I hope these graduates will usher in a new, more compassionate era!”
- “I bet the dogs wish they could leave TAMU.”

62. Not all of the PETA employees and supporters' deleted comments were about the TAMU dog lab. A PETA employee also posted a comment saying, “TAMU - why are you deleting comments?” That comment was, itself, deleted.

63. Approximately 23 of the comments about dog labs were not deleted. Many of those comments were identical or nearly identical to comments that were deleted. Accordingly, it is PETA’s understanding and belief that the Vetmed & BIMS Page was not automatically blocking certain words, but rather that administrators were manually deleting comments.

TAMU Facebook Page

64. On May 8, 2020, the TAMU Facebook Page streamed live video of the University-wide graduation celebration.²⁸

²⁸<https://www.facebook.com/tamu/videos/232133008207259/>.

65. The livestream lasted for more than seven hours. During that time, it had more than 480,000 views and more than 4,700 comments, including approximately 413 comments from PETA employees.

66. Approximately 64 of the PETA employees' comments were deleted. Deleted content included, for example, comments that said:

- “Proud of the grads! Disgraced at the administration for supporting the MD dog laboratory on campus. PETA.org/TAMU.”
- “your tuition dollars could very well be funding this. Where is the student outrage that you are paying for golden retrievers to be bred with a disease and then tormented in experiments until they die or are killed.”
- “Happy for all those who are graduating and moving on. Sadly, the dogs used for cruel experiments in TAMU’s labs are not allowed to leave. <https://investigations.peta.org/french-dog-laboratory.../>”
- “Congrats, graduates. Now please help us in urging TAMU to stop their cruel experiments on animals!”

67. Approximately 349 of the PETA employees' comments about the dog lab were not deleted. Many of those comments were identical or nearly identical to comments that were deleted. Accordingly, it is PETA's understanding and belief that the TAMU Page was not automatically blocking certain words, but rather that administrators were manually deleting comments.

TAMU YouTube Channel

68. On May 8, 2020, the TAMU YouTube Channel also streamed live video of the University-wide graduation celebration.²⁹

²⁹<https://www.facebook.com/tamu/videos/232133008207259/>.

69. The livestream received more than 45,000 views.

70. At the time that the video was streamed, viewers were able to comment on it.

71. PETA employees and supporters commented approximately 70 times while the video was streaming. At least 19 of those comments were deleted. Deleted content included, for example, comments that said:

- “I wonder which graduate will help shut down the dog lab?”
- “Congrats to the Graduates! But when will TAMU stop cruelly experimenting on DOGS and send them all to homes?”
- “I hope the University will recognize that there is no better time than now to do the right thing and release the dogs used for cruel muscular dystrophy experiments to loving adoptive homes.”

72. The TAMU YouTube Channel subsequently deleted the video, as well as the accompanying comments.

Cause of Action

Deprivation of First Amendment Rights

73. Plaintiff repeats the allegations set forth above as if fully set forth herein.

74. Defendants’ deleting comments and censoring speech regarding PETA’s anti-cruelty campaign violates the First Amendment because:

- (a) it is viewpoint-based discrimination, and it is unreasonable, which is forbidden in all forums, both public and nonpublic;
- (b) it is content-based discrimination, including speaker-based discrimination against PETA, and it is not narrowly tailored to a compelling government purpose, which is forbidden in designated public forums, and the comments sections in the Vetmed & BIMS

Facebook Page, TAMU Facebook Page, and TAMU YouTube Page are designated public forums; and

- (c) it impedes PETA's ability to petition the government for redress of grievances.

Prayer for Relief

WHEREFORE, Plaintiff requests that this Court:

1. Declare that TAMU's censoring of PETA's speech on the Vetmed & BIMS Facebook Page, TAMU Facebook Page, and TAMU YouTube Page is unconstitutional;
2. Enter an injunction prohibiting TAMU from engaging in viewpoint discrimination on the Vetmed & BIMS Facebook Page, TAMU Facebook Page, and TAMU YouTube Page in the future;
3. Award PETA its costs, including reasonable attorney's fees, pursuant to 42 U.S.C. § 1998(b); and
4. Grant any additional relief as may be just and proper.

DATED: August 19, 2020

Respectfully submitted:

/s/ Christopher W. Rothfelder

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*Motions for admission *pro hac vice* forthcoming

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