



March 17, 2022

Heidi Macpherson  
Office of the President  
College at Brockport, State University of New York  
350 New Campus Drive  
Brockport, New York 14420

**URGENT**

*Sent via U.S. Mail and Electronic Mail ([president@brockport.edu](mailto:president@brockport.edu))*

Dear Dr. Macpherson:

The Foundation for Individual Rights in Education<sup>1</sup> is concerned by SUNY Brockport's defunding of an appearance by faculty-invited speaker Jalil Muntaqim in response to public backlash based on his 1970s conviction for killing two police officers. While many—including elected officials—have publicly objected to Muntaqim's appearance, SUNY Brockport is bound by the First Amendment and may not infringe the right of faculty to invite speakers to campus, or that of members of the campus community to hear them, including by defunding speaking appearances.

The following is our understanding of the pertinent facts, which is based on public information. We appreciate that you may have additional information and invite you to share it with us. Muntaqim, previously known as Anthony Bottom, is a former Black Panther and Black Liberation Army member convicted of killing two police officers in the 1970s. He is slated to speak at SUNY Brockport on April 9 about, as stated in the event description, "his time with the Black Panthers and serving nearly 50 years as a political prisoner."<sup>2</sup>

On March 14, New York Senate Minority Leader Rob Ortt urged you to rescind Muntaqim's invitation.<sup>3</sup> On March 15, U.S. Congressman and New York gubernatorial candidate Lee Zeldin published a statement asserting that SUNY Brockport "must immediately rescind this

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<sup>1</sup> FIRE is a nonpartisan nonprofit dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

<sup>2</sup> History of Black Resistance, U.S. Political Prisoners & Genocide: A Conversation with Jalil Muntaqim, EVENTS CALENDAR, SUNY BROCKPORT, <https://today.brockport.edu/calendar/event/7292-history-of-black-resistance-us-political-prisoners> (last visited Mar. 17, 2022).

<sup>3</sup> Rob Ortt (@SenatorOrtt), TWITTER (Mar. 14, 2022), <https://twitter.com/senatorortt/status/1503474129365782531?s=21>.

invitation and detail the taxpayer funding associated with this scheduled appearance.”<sup>4</sup> In the days since, numerous other elected officials and members of the public have criticized the event, including the labeling of Muntaqim as a “political prisoner.”<sup>5</sup>

On March 15, you released a statement that SUNY Brockport “respects and values” faculty academic freedom.<sup>6</sup> You said:<sup>7</sup>

SUNY Brockport has routinely held speaking events involving controversial speakers from various background and viewpoints, and will continue to do so. These conversations are uncomfortable. They are meant to be. They’re about gaining a new perspective.

Yesterday, on March 16, Chief Diversity Officer Damita Davis announced that the Promoting Excellence in Diversity Grant Committee, which originally approved a grant to fund Muntaqim’s speaking appearance, had rescinded it.<sup>8</sup>

However, as a public university, SUNY Brockport is bound by the First Amendment,<sup>9</sup> which prohibits the institution from defunding speaking appearances based on the speaker’s viewpoint or criminal past.<sup>10</sup> Even more to the point, the Supreme Court has directly upheld the rights of students and faculty to hear—in person—from speakers with criminal ties. In *Kleindienst v. Mandel*, the Court said with respect to a foreign academic with alleged Communist ties, that it was “loath” to hold that the ability of students and faculty to hear from the speaker by telephone was sufficient to override their interest in the “particular form

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<sup>4</sup> Congressman Lee Zeldin Statement on Convicted Cop Killer Speaking at SUNY Brockport as Former “Political Prisoner,” ZELDIN FOR GOVERNOR (Mar. 15, 2022), <https://zeldinfornewyork.com/2022/03/15/convicted-cop-killer-speaking-at-suny-brockport-as-former-political-prisoner>.

<sup>5</sup> See Tom O’Mara (@SenatorOMara), TWITTER (Mar. 16, 2022), <https://twitter.com/SenatorOMara/status/1504078433986482179>; Assemblyman Josh Jensen (@JoshJensen134), TWITTER (Mar. 15, 2022), <https://twitter.com/JoshJensen134/status/1503739521300586496>; New York GOP (@NewYorkGOP), TWITTER (Mar. 16, 2022), <https://twitter.com/NewYorkGOP/status/1504261521106522115>.

<sup>6</sup> Nikki Rudd, *Fact Check: Convicted cop-killer to speak at SUNY Brockport?*, WHEC (Mar. 14, 2022), <https://www.whec.com/news/fact-check-convicted-cop-killer-to-speak-at-suny-brockport/6418491>.

<sup>7</sup> *Id.*

<sup>8</sup> Associated Press, *SUNY Brockport pulls grant for talk by man convicted in cop deaths amid backlash, but rescinds speaker’s pay*, WHAM (Mar. 17, 2022), [https://www.wktv.com/news/education/suny-brockport-pulls-grant-for-talk-by-man-convicted-in-cop-deaths-amid-backlash/article\\_77668928-a5fa-11ec-8bef-7bc11ae25133.html](https://www.wktv.com/news/education/suny-brockport-pulls-grant-for-talk-by-man-convicted-in-cop-deaths-amid-backlash/article_77668928-a5fa-11ec-8bef-7bc11ae25133.html).

<sup>9</sup> *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

<sup>10</sup> *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995); *Bd. of Regents of the Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217, 221 (2000).

of access” to face-to-face discussions.<sup>11</sup> Defunding Muntaqim’s talk sharply increases the risk SUNY Brockport students and faculty will not get to hear from him, face-to-face.

As you have correctly recognized, faculty enjoy the right to academic freedom—which the Supreme Court has labeled as of “special concern to the First Amendment.”<sup>12</sup> The American Association of University Professors has likewise said that “the freedom to hear is an essential condition of a university community and an inseparable part of academic freedom,” and “the right to examine issues and seek truth is prejudiced to the extent that the university is open to some but not to others whom members of the university also judge desirable to hear.”<sup>13</sup>

Here, the timing of the PED Grant Committee’s repeal of funding for Muntaqim’s speaking appearance—coming within hours of strong and increasing objections from the public about Muntaqim—appears to be impermissibly viewpoint- and/or speaker-based.

We want to be clear: If the PED Grant Committee had invited Muntaqim to campus, it would be the Committee’s decision to revoke the event’s funding. However, only the faculty member who invited Muntaqim to speak has the right to disinvite him or revoke the event’s funding, regardless of from where within the university the funding came.

The Committee claims “new information” emerged that led to defunding the event. If that information is not Muntaqim’s viewpoint or past that somehow has newly come to the Committee’s attention, we are happy to hear more. But if that information is viewpoint discriminatory or simply a speaker-based restriction, as currently appears the case, the university must provide the same funding for the event as it previously committed. Otherwise, by removing the funding, the university is unconstitutionally burdening both a faculty member’s invitation to a speaker, and the opportunity of the speaker’s prospective audience to hear from him. This is a clear violation of the First Amendment.

Universities must be places where students and faculty can discuss—and hear from—people whose acts or views may be controversial or unlawful. And students and faculty must remain free to invite speakers, whether they agree with them or not, without fear of censorship or punishment by an administrator, bureaucrat, or politician. The First Amendment extends a right not only to speak, but also to hear or receive information, and these rights make no exception for people who have engaged in misdeeds, criminal activity, or membership in blacklisted organizations. As a public institution, SUNY Brockport’s allegiances must lie with the First Amendment rather than with detractors who would see those rights infringed.

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<sup>11</sup> 408 U.S. 753, 784 (1972).

<sup>12</sup> *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

<sup>13</sup> Fifty- Third Annual Meeting, AAUP Bulletin 53 at 133– 35 (June 1967), see <https://www.aaup.org/report/academic-freedom-and-outside-speakers#1>.

Given the urgent nature of this matter, we request receipt of a response to this letter no later than the close of business on Monday, March 21, 2022, confirming SUNY Brockport will ensure restoration of funding for the Muntaqim event

Sincerely,

A handwritten signature in black ink, appearing to read 'Sabrina Conza', with a stylized flourish at the end.

Sabrina Conza  
Program Officer, Individual Rights Defense Program

Cc: Damita Davis, Chief Diversity Officer