



FIRE

Foundation for Individual
Rights and Expression

June 16, 2022

Andrea E. Chapdelaine
Office of the President
Hood College
401 Rosemont Avenue
Frederick, Maryland 21701

Sent via U.S. Mail and Electronic Mail (chapdelaine@hood.edu)

Dear President Chapdelaine:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech, expression, conscience, and other individual rights on campus, is concerned by reports that Hood College fired professor Simone Kolysh for their¹ views in support of black people and the LGBT community, and against conservatism.² If these reports are true, we respectfully submit that, while Kolysh's speech received considerable attention after being posted by the "Libs of TikTok" account on Twitter, the college must reverse course, as expressing controversial views is not a valid basis to punish a professor.

The following is our understanding of the pertinent facts, based on public information, though we appreciate you may have additional information and invite you to share it with us. On May 4, 2022, the popular conservative Twitter account Libs of TikTok re-posted a TikTok video originally posted by Simone Kolysh, an Assistant Professor of Sociology at Hood College.³ In the two-minute video, Kolysh discussed their identity as an "immigrant lesbian" and stated they have "always been clear about who the enemy is and which systems need to be dismantled," with conservatives later identified as the enemy.⁴ Kolysh added that the "anti-

¹ Kolysh prefers to be referred to by they/them pronouns.

² Chrissy Clark, *Hood College Prof Who Called Conservatives 'The Enemy' Alleges Termination Over Viral Video*, DAILY CALLER (June 13, 2022), <https://dailycaller.com/2022/06/13/hood-college-prof-conservatives-enemy-termination>.

³ Simone Kolysh, HOOD COLL., <https://www.hood.edu/academics/faculty/simone-kolysh> [<https://perma.cc/G487-MQEA>].

⁴ Libs of TikTok (@libsoftiktok), TWITTER (May 4, 2022, 7:55 PM), <https://twitter.com/libsoftiktok/status/1522002104058978304>.

trans, anti-LGBTQ, anti-women legislation galvanizes . . . Gen Xers in a way we've never seen before" and said conservatives will "lose the war."⁵

Libs of TikTok's tweet elicited thousands of retweets and likes as well as comments calling for Kolysh to be fired. In a now-deleted tweet, Kolysh later said "Today I got fired from my tenure track job because some students said I spoke 'about Black people too much' and 'spread lesbianism' and the administration was like, 'cool, legit' and for my TikTok where I said I hate conservatives for roe v wade. Know I am well. ❤️"⁶

While some people may find Kolysh's TikTok video offensive, Hood College has enshrined in its policies the laudable commitment that it "endorses full academic freedom."⁷ The college commits that "[a]cademic freedom and freedom of expression are essential to an academic community" and that "faculty may write about and discuss freely any subject of intellectual inquiry and shall not be subject to censorship, discipline, or intimidation."⁸ Based on this strong commitment, faculty would reasonably believe that they have expressive rights commensurate with those guaranteed by the First Amendment.

Given Hood College's clear and strong commitments to faculty free expression, it may not punish or fire faculty members like Kolysh for expressing their views, regardless of the speech's content or the negative attention the college received. The "bedrock principle underlying" freedom of expression is that speech may not be limited "simply because society finds the idea itself offensive or disagreeable[.]"⁹ It is this counter-majoritarian principle that protects "insulting, and even outrageous, speech in order to provide adequate breathing space" to public debate,¹⁰ recognizing that those with authority "cannot make principled distinctions" in determining what speech is sufficiently offensive to suppress.¹¹

This principle of abstention is particularly important in higher education, where the exchange of views may sometimes be caustic, provocative, or inflammatory. Consider, for example, a student newspaper's use of a vulgar headline ("Motherfucker Acquitted") and a front-page "political cartoon . . . depicting policemen raping the Statue of Liberty and the Goddess of Justice."¹² These words and images—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest. Yet, as the

⁵ *Id.*

⁶ Screenshot on file with author.

⁷ Faculty Code, HOOD COLL. (rev. Nov. 2015), <https://www.hood.edu/sites/default/files/Provost/Faculty%20Code%20November%202015.pdf> [<https://perma.cc/6YGZ-845T>]. This commitment obligates Hood College to refrain from imposing "institutional censorship or discipline" on faculty when they speak "as citizens." See *Mayberry v. Dees*, 663 F.2d 502, 520 (4th Cir. 1981) (treating faculty manual as contract between professor and university); see also *McAdams v. Marquette Univ.*, 914 N.W.2d 708, 737 (Wis. 2018) (private Jesuit university breached its contract with a professor over a personal blog post because, by virtue of its adoption of the 1940 Statement of Principles on Academic Freedom and Tenure, the blog post was "a contractually-disqualified basis for discipline").

⁸ Faculty Code at 37.

⁹ *Snyder v. Phelps*, 562 U.S. 443, 458 (2011) (citing *Texas v. Johnson*, 491 U.S. 397, 414 (1989)).

¹⁰ *Boos v. Barry*, 485 U.S. 312, 322 (1988) (cleaned up).

¹¹ *Cohen v. California*, 403 U.S. 15, 25 (1971).

¹² *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

Supreme Court held, “the mere dissemination of ideas,” however “offensive” to others, “may not be shut off in the name alone of ‘conventions of decency.’”¹³ That is particularly important where, as here, the speech involves legislative actions and political opinions—core political speech at the very heart of expressive freedom, where its protection is “at its zenith.”¹⁴

This calculus does not change when some or many express deep disagreement with the speech at issue. Freedom of expression “embraces [the] heated exchange of views” in this context, and the “desire to maintain a sedate academic environment does not justify limitations on a teacher’s freedom to express himself on political issues in vigorous, argumentative, unmeasured, and even distinctly unpleasant terms.”¹⁵ Freedom of expression thus protects both Kolysh’s tweets and the criticism that followed. Academic freedom relies on this exchange of ideas, however sharp and uncomfortable the exchange may sometimes become. That process of criticism and debate is one of “more speech”¹⁶ and open discussion, the remedy preferred over the “authoritative selection” of views in academia.¹⁷

If the reports that Kolysh was fired based on viewpoint are accurate, Hood College must immediately return Kolysh to the classroom and publicly reaffirm to faculty that the college will honor its commitments to faculty expressive and academic freedom rights.

Given the urgent nature of this matter, we request receipt of a response to this letter no later than the close of business on Thursday, June 23, 2022.

Sincerely,



Sabrina Conza
Program Officer, Individual Rights Defense Program

¹³ *Id.*

¹⁴ *Buckley v. Am. Const. Law Found.*, 525 U.S. 182, 186–87 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414 (1988)).

¹⁵ *Id.*

¹⁶ *Whitney v. California*, 274 U.S. 357, 377 (1927).

¹⁷ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).