



May 5, 2025

John Fry
Office of the President
Temple University
Second Floor, Sullivan Hall
1330 Polett Walk
Philadelphia, Pennsylvania 19122

URGENT

Sent via Next Day Delivery and Electronic Mail (president@temple.edu)

Dear President Fry:

FIRE¹ is concerned about your public announcement that a Temple University student has been placed on interim suspension pending an investigation into an incident where a “Fuck the Jews” bottle service sign was ordered and displayed at a Philadelphia bar.² You said that anti-Semitism “has no place at Temple,” “acts of hatred and discrimination against any person or persons are not tolerated at this university,” and any “additional students who are found to be involved will face strict disciplinary action.”³ But as a public university bound by the First Amendment,⁴ Temple may not discipline students for or investigate instances of clearly protected speech.⁵ We urge Temple to promptly cease any investigation into the sign, rescind the suspension on the student, and publicly announce an end to the investigation.

¹ As you may recall from prior correspondence, the Foundation for Individual Rights and Expression defends freedom of speech on America’s university campuses. You can learn more about our mission and activities at thefire.org.

² John Fry, *Antisemitic Incident Last Night*, TEMPLE UNIV. (May 4, 2025), <https://news.temple.edu/announcements/2025-05-04/antisemitic-incident-last-night>; Amanda Musa, *Temple University student suspended after an antisemitic sign is posted at a Philadelphia sports bar*, CNN (May 5, 2025, 3:13 AM), <https://www.cnn.com/2025/05/05/us/temple-student-suspended-antisemitic-sign-barstool-portnoy>. Our understanding of the pertinent facts is based on publicly available information. We recognize you may have additional information to provide and invite you to share it with us.

³ Fry, *supra* note 2.

⁴ *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).

⁵ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

The Supreme Court has repeatedly, consistently, and clearly held that speech may not be punished on the basis that others find it to be offensive or hateful.⁶ In ruling that the First Amendment protects even protesters holding purposefully derogatory signs outside of soldiers' funerals, the Court reiterated this fundamental principle, remarking that “[a]s a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”⁷ Courts have found protected expression in “offensive and sophomoric” skits depicting women and minorities in derogatory stereotypes,⁸ “racially-charged emails” to a college listserv,⁹ and student organizations that the public viewed as “shocking and offensive.”¹⁰ A sign reading “Fuck the Jews” may well be offensive and hurtful to many, but it cannot form the basis for university discipline.

Nor may Temple investigate this incident or punish the student on the basis that the sign, without more, may have constituted unprotected harassment. In *Davis v. Monroe County Board of Education*, the Supreme Court set forth a strict definition of discriminatory harassment in the educational context.¹¹ For conduct (including expression) to constitute actionable harassment, it must be (1) unwelcome, (2) discriminatory on the basis of gender or another protected status, and (3) “so severe, pervasive, and objectively offensive that it can be said to deprive the victim[] of access to the educational opportunities or benefits provided by the school.”¹²

Ordering a sign with hateful speech and having it displayed does not meet this stringent standard. Even if one grants without further argument that a court might deem the sign’s message “objectively offensive,” no one has suggested that the punished student did anything other than order the sign to be displayed on a single, off-campus occasion, which means the student’s behavior fails to meet the required components of “sever[ity]” and “pervasive[ness].” Nor may Temple realistically construe the single, off-campus display of the sign as sufficient to deprive another student of Temple’s educational opportunities or benefits.

Temple also failed to afford the suspended student due process. The university summarily suspended the student pending an investigation without a showing that the student presented any kind of threat to Temple’s campus. This cannot be reconciled with even the most basic principles of fair procedure, including the right to an initial hearing *before* punishment.¹³

⁶ *E.g.*, *Matal v. Tam*, 582 U.S. 218, 245 (2017) (refusing to uphold a limitation on speech viewed as “hateful” or demeaning “on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground” even under a relaxed standard of scrutiny); *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

⁷ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

⁸ *Iota Xi Ch. of Sigma Chi Fraternity v. George Mason Univ.*, 993 F.2d 386, 388–392 (4th Cir. 1993).

⁹ *Rodriguez v. Maricopa Cnty. Comm. Coll. Dist.*, 605 F.3d 703, 705 (9th Cir. 2009) (the First Amendment “embraces such a heated exchange of views” at a public college, especially when they “concern sensitive topics like race, where the risk of conflict and insult is high”).

¹⁰ *Gay Students Org. of Univ. of N.H. v. Bonner*, 509 F.2d 652, 661 (1st Cir. 1974).

¹¹ 526 U.S. 629 (1999).

¹² *Id.* at 650.

¹³ *Goss v. Lopez*, 419 U.S. 565, 581–82 (1975) (school violated due process principles when it suspended a student without first gathering facts related specifically to the student, confronting the student with the facts, and giving the student an opportunity to explain). Temporarily suspending the student pending an

Temple must immediately rescind the student's interim suspension. If the university felt compelled to reassure students it was aware of the sign, it could have noted just that, performed a private preliminary review of the situation to confirm the expression was protected and did not reach the *Davis* standard, and, assuming there was no more to the allegation, proceeded no further. This, of course, does not shield the student from every consequence of their expression—including criticism by students, faculty, and the broader community. Criticism is a form of “more speech,” the remedy to offensive expression our nation prefers to censorship.¹⁴ Nor is Temple barred from offering support to students who were offended by the sign's message. However, the First Amendment strictly limits government actors like Temple University from punishing speakers merely for offending others.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on May 8, 2025, confirming Temple has ended any investigation into the display of the sign and rescinded the suspension of the student. We further request confirmation that, moving forward, Temple will refrain from announcing investigations or discipline into protected expression.

Sincerely,



Haley Gluhanich
Senior Program Counsel, Campus Rights Advocacy

investigation is a disproportionate response to the sign the student ordered. Interim suspensions should be reserved for situations in which the student's presence would constitute a continuing danger to himself, other individuals or property, or would seriously imperil the operation of the university, none of which is seemingly present here.

¹⁴ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).