



May 8, 2025

Randall Henry
Board of Trustees
Sterling College
125 West Cooper Avenue
Sterling, Kansas 67579

Sent via U.S. Mail and Electronic Mail (rhenry@sterling.edu)

Dear Chair Henry:

FIRE, a nonpartisan nonprofit that defends free speech,¹ writes to you and your fellow trustees today to draw your attention to Sterling College's severe violations of its policies promising faculty expressive rights on its campus. FIRE was disappointed not to have received a response from Sterling President Scott Rich to our enclosed April 3 letter articulating these violations of Professor Pete Kosek's expressive rights. We are further concerned that Sterling's clear disregard for its own written policies extends beyond Kosek to Professor Ken Troyer, who has been similarly punished for speaking to the media about his concerns with governance at Sterling. We reiterate our concerns for the state of free speech on Sterling's campus, as embodied by the college's treatment of Kosek and Troyer and urge the Board of Trustees to take action to ensure that Sterling lives up to its promise to protect free expression.

On February 25, after being summoned to a meeting with administrators, Professor Ken Troyer received a disciplinary warning regarding "the behavior [he] exhibited throughout Fall 2024," which the college alleged was "fundamentally inconsistent with the mission, vision, and/or values of the College."² The letter did not specify what behavior landed Troyer in trouble, nor did Sterling provide Troyer with any substantive opportunity to respond to the allegations that he had violated the faculty handbook. Instead, during the meeting, the administrators said Troyer's commentary to the media about governance issues at Sterling had prompted the disciplinary warning, which remains in Troyer's file. Troyer had spoken to two local media

¹ For more than 25 years, the Foundation for Individual Rights and Expression has defended freedom of expression and other individual rights on America's college campuses. You can learn more about our mission and activities at thefire.org.

² Letter from Dr. Ken Brown, Vice-President for Acad. Affairs, to Ken Troyer, professor (Feb. 25, 2025) (on file with author).

outlets in August of 2024 about governance issues, communication, and Sterling’s religious mission.³

Commendably, Sterling obliges its community members—including its “students, faculty members, administrators,” and, most pertinently, its “trustees”⁴—“to foster and defend intellectual honesty, freedom of inquiry and instruction, and free expression on and off campus.”⁵ Sterling’s faculty handbook also states that administrators “should respect the right of faculty members to criticize and seek revision of institutional regulations.”⁶ But Sterling’s administration has failed to live up to these obligations.

Troyer’s commentary falls squarely within his right as a Sterling faculty member to speak freely as a private citizen on matters of public concern.⁷ Troyer’s speech is unquestionably on a matter of public concern, which includes speech that “can be fairly considered as relating to any matter of political, social, or other concern to the community[.]”⁸ The issue of inclusion at the college, as well as the relationship between faculty representatives and college administration, is of obvious interest to the entire Sterling College community, as well as prospective students or faculty who may want to attend Sterling. And both outlets that Troyer spoke to have readerships that reach far beyond the four corners of Sterling’s campus.

Likewise, it is clear Troyer’s speech was made in his capacity as a private citizen. While his remarks certainly were informed by his job at Sterling, the “critical question” in determining whether the speech was that of an employee or private citizen is “whether the speech at issue is itself ordinarily within the scope of an employee’s duties, not whether it merely concerns those duties.”⁹ Had Troyer been a public relations staffer for the college who diverged from the institution’s official messaging, that would be one thing, but Sterling (like other colleges) does not employ its faculty for the purpose of speaking to the media about issues of institutional governance. Thus, free speech principles protect Troyer’s commentary to the media.

Faculty are not required to share their concerns only with administrators and otherwise remain silent about the policies and practices of their own educational institutions. In the

³ See, e.g., Branden Stitt, *Lack of communication, pushed beliefs shake confidence in Sterling College leadership*, 12 NEWS, (Aug. 23, 2024, 11:00 PM), <https://www.kwch.com/2024/08/24/lack-communication-pushed-beliefs-shake-confidence-sterling-college-leadership/>; Cuyler Dunn, *Sterling College faculty members vote ‘no confidence’ in president after repeated clashes*, KANSAS REFLECTOR, (Aug. 12, 2024, 9:00 AM), <https://kansasreflector.com/2024/08/12/sterling-college-faculty-members-vote-no-confidence-in-president-after-repeated-clashes/>.

⁴ *Faculty Handbook*, Code of Professional Ethics, STERLING COLL., 41, <https://www.sterling.edu/sites/default/files/SC%20Faculty%20Handbook%20-%202024-2025%20approved.pdf> [<https://perma.cc/MN56-C626>].

⁵ *Id.*

⁶ *Id.* at Article II.

⁷ *Connick v. Myers*, 461 U.S. 138, 140 (1983). Sterling’s promises regarding free expression “on and off campus” mean that faculty members can reasonably look to the Supreme Court’s jurisprudence regarding free speech rights for guidance as to what those promises mean.

⁸ *Snyder v. Phelps*, 562 U.S. 443, 453 (2011).

⁹ *Lane v. Franks*, 573 U.S. 288, 240 (2014).

seminal case addressing the protection of employee speech under the First Amendment—in which a schoolteacher criticized his administration in a public letter identifying himself as an employee—the Supreme Court of the United States explained:¹⁰

Teachers are, as a class, the members of a community most likely to have informed and definite opinions as to how funds allotted to the operation of the schools should be spent. Accordingly, it is essential that they be able to speak out freely on such questions without fear of retaliatory dismissal.

Sterling’s administration evidently aims to quash dissent amongst its faculty by distributing written warnings without offering a substantive process for faculty to defend themselves outside of a grievance process. This is especially egregious in light of Sterling’s promise in its faculty handbook that faculty will have “due process and faculty participating in all disciplinary procedures[.]”¹¹ To only afford faculty a chance at an insufficient grievance process as a method of appeal is to once again fail to live up to Sterling’s own promises. When an institution displays this much disdain for expressive rights in direct contravention of its written promises, the responsibility falls on the institution’s overseers to intervene and ensure the institution is living up to its commitments. Otherwise, those policies are worth nothing more than the paper on which they’re printed.

Sterling failed to respond to our previous letter articulating the violations of Kosek’s rights. We once again call upon President Rich to rescind the warnings against both Kosek and Troyer because their expression is clearly protected by Sterling’s policies. Failing that, we urge the Board of Trustees to rectify this matter. We request a substantive response to our concerns no later than Thursday, May 22.

Sincerely,



Graham Piro
Faculty Legal Defense Fund Fellow

Cc: Dr. Scott Rich, President
Angie Plett, Director of Human Resources
Dr. Ken Brown, Vice President for Academic Affairs
The Sterling College Board of Trustees

Encl.

¹⁰ *Pickering v. Bd. of Educ.*, 391 U.S. 563, 571-73 (1968).

¹¹ *Faculty Handbook*, *supra* note 4, at 42.



April 3, 2025

Scott Rich
Office of the President
Sterling College
125 West Cooper Avenue
Sterling, Kansas 67579

Sent via U.S. Mail and Electronic Mail (srich@sterling.edu)

Dear President Rich:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by Sterling College's disciplinary warning against Professor Pete Kosek and the resulting denial of his promotion.² Sterling College makes clear and commendable commitments to upholding free expression on campus. Free expression necessarily entails the right to voice opinions on matters affecting all Sterling faculty, as Kosek did. FIRE accordingly urges Sterling to rescind the letter of discipline against Kosek and refrain from taking adverse employment action against him because of this letter.

On August 21, 2024, following approximately a year of Kosek working to negotiate revisions to the employee handbook on behalf of the faculty, Kosek emailed his fellow faculty to address his concerns regarding the handbook's acknowledgement.³ He wrote that he had been informed if he did not sign the acknowledgement, he would "most likely be fired," saying "I believe there

¹ For more than 20 years, the Foundation for Individual Rights and Expression has defended freedom of expression and other individual rights on America's college campuses. You can learn more about our mission and activities at thefire.org.

² The recitation of facts here reflects our understanding of the pertinent information. We appreciate that you may have additional information to offer and invite you to share it with us. To these ends, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

³ According to Kosek, in 2023, employees received a revised version of the Employee Handbook that appeared to require employees to affirm Sterling College's stance on marriage, life, gender identity, and human sexuality. Kosek raised concerns on behalf of faculty who wanted the newly revised verbiage to be clarified. For example, he cited a provision stating that "marriage is designed to be the lifelong uniting of one man and one woman in a single, biblical, covenant union as delineated by Scripture." Kosek argued that faculty held concerns about the "allowance of divorce ... due to adultery, abandonment, and abuse" and if a personal decision regarding divorce, past or future, may lead to termination if determined to be an inconsistent with Sterling College's stance. See letter from Pete Kosek, professor, to Angie Plett, Director of Human Resources (Aug. 16, 2023) (on file with author).

are about 7 of us who are in the same boat, many of which are also on extended contract.”⁴ He added that he wanted to “reach out to all of the faculty so we can discuss things.”⁵

Two days later, on the morning of August 23, Kosek emailed Sterling administrators Angie Plett and Ken Brown, articulating his objections to signing the acknowledgement.⁶ He wrote that while he agreed with the entirety of the handbook and would abide by its terms, as required by his faculty contract, he objected to the administration’s lack of collaboration with faculty leadership when re-evaluating the handbook.⁷

After he sent that email, Plett informed Kosek that after discussing with legal counsel, “it was determined Sterling College does not need an employee to sign the Employee Handbook Acknowledgement now and going forward.”⁸ Plett added that all employees must abide by the handbook’s policies “whether they acknowledge it or not.”⁹ Kosek then replied all to his August 21 email to his faculty colleagues, clarifying that he had “been informed ... that Sterling College cannot require employees to sign the acknowledgement of the Employee Handbook.”¹⁰ He then paraphrased and attributed the following quote to Plett: “Sterling College does not need an employee to sign the Employee Handbook Acknowledgement now and going forward.”¹¹

In January 2025, Kosek emailed you to address a series of issues he had with your leadership.¹² Kosek believed that you were not being transparent enough about decision-making and were being disingenuous in your communications with the faculty.¹³ Specifically, he pointed to comments he believed misrepresented progress on a new campus science building as well as the confusion over the acknowledgement of the employee handbook.¹⁴ He did not receive a response to this email, and the situation appeared to subside.

⁴ Email from Kosek, to Amanda Burkhart, Andrew Drake, *et al.*, faculty members, (Aug. 21, 2024, 4:24 PM) (on file with author).

⁵ *Id.*

⁶ Email from Kosek to Plett and Ken Brown, Vice-President for Academic Affairs (Aug. 23, 2024, 8:07 AM) (on file with author).

⁷ *Id.*

⁸ Email from Plett to Kosek (Aug. 23, 2024, 2:48 PM) (on file with author). Plett wrote: “This morning we had a call with legal counsel and it was determined Sterling College does not need an employee to sign the Employee Handbook Acknowledgement now and going forward. Per legal counsel all employees must abide by the Employee Handbook policies and procedures whether they acknowledge it or not.”

⁹ *Id.*

¹⁰ Email from Kosek to Burkhart, Drake *et al.* (Aug. 23, 2024, 3:08 PM) (on file with author). Kosek excluded the second sentence of Plett’s email because he had already expressed to the administration that he understood that he would be required to abide by the handbook’s policies whether or not he signed it.

¹¹ *Id.*

¹² Email from Kosek to Scott Rich, President (Jan. 15, 2025, 4:06 PM) (on file with author).

¹³ *Id.*

¹⁴ *Id.*

But on February 21, the Board of Trustees denied Kosek's promotion from the rank of assistant professor to associate professor.¹⁵ Then, on February 25, Brown and Plett summoned Kosek to a meeting. During that meeting, the pair gave Kosek a disciplinary warning letter informing him that the "behavior" he "exhibited through Fall 2024" was "behavior that is fundamentally inconsistent with the mission, vision, and values of the College."¹⁶ That letter failed to specify what behavior they deemed objectionable. When Kosek asked for clarification, Plett told him that the emails he had sent misrepresented her by inaccurately paraphrasing her and were the source of the disciplinary warning.

The same day, Kosek filed a grievance against the Board of Trustees claiming that the decision to deny the promotion "was not based upon any of the supporting documentation to demonstrate [his] fulfillment of the required qualifications[.]"¹⁷ As of the writing of this memo, Kosek has not received notice of any specific charges against him in writing.

While Sterling College is a private, religious institution, it explicitly guarantees the right to freedom of inquiry and expression on its campus. It violates these stated commitments by punishing Kosek for speaking about the employee handbook to his fellow faculty members and to greater Sterling and local community.

According to Sterling's Faculty Handbook, membership in Sterling's academic community "imposes on students, faculty members, administrators, and trustees" the obligation "to foster and defend intellectual honesty, freedom of inquiry and instruction, and free expression on and off campus," and to "acknowledge the right of others to express differing opinions."¹⁸ The handbook elsewhere states that administrators "should respect the right of faculty members to criticize and seek revision of institutional regulations."¹⁹ This is precisely the practice in which Kosek was engaged.

Kosek's email falls squarely within Sterling faculty members' free speech right to speak as private citizens on matters of public concern.²⁰ As an initial matter, Kosek's email constitutes speech that "can be fairly considered as relating to any matter of political, social, or other concern to the community[.]"²¹ Kosek's email touched on a requirement that implicated the entirety of Sterling College's faculty, and as Kosek stated, he believed that at least seven other faculty members could be adversely affected by Sterling's enforcement of the signature requirement. As of 2023, Sterling enrolls 650 students and claims a student-to-faculty ratio of

¹⁵ Brown relayed this information to Kosek during their February 25 meeting.

¹⁶ Disciplinary Warning from Brown to Kosek (Feb. 25, 2025) (on file with author).

¹⁷ Pete Kosek, Grievance filed on Feb. 25, 2025 (on file with author).

¹⁸ *Faculty Handbook*, Code of Professional Ethics, STERLING COLL., <https://www.sterling.edu/sites/default/files/SC%20Faculty%20Handbook%20-%202024-2025%20approved.pdf> [<https://perma.cc/MN56-C626>].

¹⁹ *Id.* at art. II.

²⁰ *Connick v. Myers*, 461 U.S. 138, 140 (1983).

²¹ *Snyder v. Phelps*, 562 U.S. 443, 453 (2011).

11:1, suggesting it employs approximately 60 faculty members.²² This means that the signature requirement could have adversely affected nearly 12 percent of Sterling’s entire faculty. Had Kosek’s concerns regarding termination of faculty who refused to sign borne out, Sterling’s faculty composition would have significantly changed, as would Sterling’s educational offerings. This is undoubtedly of great concern to Sterling’s entire community, as well as prospective students and faculty members who look to join Sterling’s campus.

Faculty are not required to share their concerns only with administrators and otherwise remain silent about their own educational institutions’ policies and practices. In the seminal case addressing the protection of employee speech under the First Amendment—in which a schoolteacher criticized his administration in a public letter identifying himself as an employee—the Supreme Court of the United States explained:²³

Teachers are, as a class, the members of a community most likely to have informed and definite opinions as to how funds allotted to the operation of the schools should be spent. Accordingly, it is essential that they be able to speak out freely on such questions without fear of retaliatory dismissal.

Given Sterling administrators’ public roles as leaders in the campus community, Plett and Brown will necessarily receive criticism from various sources. This includes criticism from Sterling employees, whose informed commentary on the sufficiency of institutional policies is central to faculty governance rights. Restricting faculty criticism excludes a key perspective from this debate, and flies in the face of Sterling’s own stated commitment to respecting “the right of faculty members to criticize and seek revision of institutional regulations.”²⁴

Nor can the disciplinary warning against Kosek be squared either with Sterling’s written policies or the most basic principles of due process and fair procedure. Sterling’s faculty handbook promises “due process” in all disciplinary procedures, “including any placing of negative comments in a file[.]”²⁵ Any meaningful understanding of due process requires basic procedural safeguards to ensure fairness and impartiality in misconduct proceedings. An accused professor must have timely and adequate written notice of the charges against them, time to prepare a defense with access to relevant evidence, and a meaningful decision-making process and right to appeal. Such safeguards, routine at campuses across the country, are vital in providing legitimacy to proceedings and inspiring confidence among complainants, respondents, and members of the public that the results are fair.²⁶ Denying these basic rights to Kosek puts all Sterling faculty at risk, sending the message that discussions of faculty governance may be punished at an administrator’s whim.

²² *Quick facts*, STERLING COLL. (last visited Mar. 19, 2025). <https://www.sterling.edu/about/quick-facts> [<https://perma.cc/5V9X-QSKT>].

²³ *Pickering v. Bd. of Educ.*, 391 U.S. 563, 571-73 (1968).

²⁴ *Faculty Handbook*, *supra* note 18.

²⁵ *Id.* at “What faculty members expect from administrators regarding the ethics code[.]”.

²⁶ *Due Process on Campus*, FIRE, <https://www.thefire.org/research-learn/due-process-campus>.

While Sterling's clear institutional commitment to faculty expressive rights prohibits the college from taking any adverse official action against Kosek, it does not preclude the college from responding to Kosek's email. Official punishment is not the only way Sterling administrators could have responded to Kosek's emails—indeed, they corrected the information in Kosek's email. Such a response represented “more speech,” the remedy to expression that free speech principles prefer to censorship.²⁷

Sterling has made a laudable, principled commitment to freedom of inquiry and expression. It must refrain from punishing Professor Kosek for his protected speech. We request a substantive response to this letter no later than April 17, 2025, confirming that the letter of discipline will be rescinded and any adverse employment action resulting from this letter will be reversed.

Sincerely,



Graham Piro
Faculty Legal Defense Fund Fellow

Cc: Angie Plett, Director of Human Resources
Ken Brown, Vice President for Academic Affairs

Encl.

²⁷ *Whitney v. California*, 274 U.S. 357, 377 (1927).