



June 3, 2025

Roberta Cordano
Office of the President
College Hall 208
800 Florida Avenue NE
Washington, D.C. 20002

Sent via U.S. Mail and Electronic Mail (president@gallaudet.edu)

Dear President Cordano:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by Gallaudet University's successful filing of a trademark infringement complaint with the social media company Meta to remove an Instagram account with the handle "@sjpgallaudet."² This misapplication of trademark law jeopardizes community members' freedom of speech, which Gallaudet commits to upholding.³ FIRE is further concerned that additional statements in the letter regarding purported "hate speech" on campus chill student expression. We urge Gallaudet to retract its trademark infringement complaint and allow @sjpgallaudet to regain its account, clarify the university's trademark policies, and acknowledge that speech some might find uncomfortable is protected by free speech principles.

I. Gallaudet Issues "Community Statement" on "Hate Speech" and Purported Trademark Infringement

On May 22, Gallaudet released a "community statement ... affirming our values and addressing recent concerns."⁴ The statement reads, in relevant part:⁵

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

² (@sjpgallaudet), INSTAGRAM, <https://instagram.com/sjpgallaudet> (last accessed June 3, 2025).

³ *Expressive Activities and Assembly*, GALLAUDET UNIV., <https://gallaudet.edu/operations/administration-and-operation-manual/125-expressive-activities-and-assembly/> [<https://perma.cc/N7Z9-ZFCW>] ("Gallaudet University has an obligation to maintain conditions under which the work of the University can go forward freely, in accordance with the highest standards of quality, institutional integrity, and freedom of expression, with full recognition by all concerned of the rights and privileges, as well as responsibilities, of those who comprise the University community.").

⁴ The following reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

⁵ *Community Statement: Affirming Our Values and Addressing Recent Concerns*, GALLAUDET UNIV., <https://www.youtube.com/watch?v=02j9k3m2fwM> [<https://perma.cc/7NPJ-F7FN>].

In the weeks leading up to Commencement, we unfortunately experienced acts of vandalism involving stickers with the phrase ‘from the river to the sea.’ This phrase is widely perceived to be a call for the elimination of the State of Israel and has long been associated with rhetoric that promotes violence and hatred toward Jewish people. It can only be interpreted as antisemitic and is considered hate speech. Antisemitism has no place at Gallaudet. These acts of vandalism are not protected speech, and individuals found responsible will be held accountable under university policy. ... There is a clear difference between challenging conversation and hate.

The statement also discussed alleged trademark infringement against the university’s name by a campus-based Students for Justice in Palestine chapter, which is not currently recognized as an official student organization:⁶

We also want to address a source of confusion. A social media account with the handle @sjpgallaudet uses the university’s name in its profile. This account does not represent a university-sanctioned student organization. The use of “Gallaudet” in this context is unauthorized, and the university filed a trademark infringement complaint. The social media handle has now been removed.

FIRE has confirmed that the account has been removed from Instagram.⁷

II. Gallaudet’s Statement about “Hate Speech,” Related Punishments Chill Expression

While the university may condemn acts of vandalism (e.g., placing stickers outside of designated posting areas), Gallaudet’s focus on the content of the mentioned stickers is an affront to its stated free speech principles. Branding a political or ideological phrase “hate speech” that “has no place at Gallaudet,” and promising punishment without specifying whether the content or vandalism (or both) is being punished—actions directly contrary to Gallaudet’s stated policies⁸—will unjustly force community members to refrain from honestly expressing their own opinions for fear of reprisal. The mere display or utterance of the phrase “from the river to the sea,” when not part of a course of conduct amounting to harassment, is an exercise of core, protected political speech.⁹

In applying the principles of free speech as embodied in the First Amendment, the Supreme Court has repeatedly, consistently, and clearly held that the government may not restrict expression on the basis that others are scared by it or take offense to it. This core principle of expressive freedom is why the authorities cannot outlaw burning the American flag,¹⁰ punish wearing a jacket

⁶ *Id.*

⁷ (@sjpgallaudet), INSTAGRAM, <https://instagram.com/sjpgallaudet> (last accessed June 3, 2025).

⁸ *Expressive Activities and Assembly*, *supra* note 3.

⁹ See Aaron Terr and Matthew Harwood, *Why (most) calls for genocide are protected speech*, FIRE (Dec. 8, 2023), <https://www.thefire.org/news/why-most-calls-genocide-are-protected-speech>.

¹⁰ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag was protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

emblazoned with “Fuck the Draft,”¹¹ penalize cartoons depicting a pastor losing his virginity to his mother in an outhouse,¹² or disperse civil rights marchers out of fear that “muttering” and “grumbling” white onlookers might resort to violence.¹³

In ruling that free speech standards protect even protesters holding insulting 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.”¹⁴ Given that Gallaudet commits itself to maintaining the “highest standards of ... freedom of expression,”¹⁵ it must recognize that this principle extends to a wide variety of political and ideological speech, including language some or many at Gallaudet may find “hateful.” **In accord with its commitment to free expression, the university should let students speak their minds, making clear that it will not punish postings based on content unless the content violates university policy or the law.**

III. Gallaudet’s Trademark Complaint Misconstrues Trademark Law, Violates Free Speech Principles

In its trademark complaint to Meta over the @sjpgallaudet account, Gallaudet appears to be misconstruing trademark law to contravene students’ ability to express themselves. Courts have repeatedly held that the First Amendment protects the use of trademarked names for non-commercial purposes where there is no substantial likelihood of confusion.¹⁶

The university’s right to control the commercial use of its name and to guard against commercial confusion does not justify its decision to file a trademark complaint and demand that Instagram remove @sjpgallaudet. Given that the SJP chapter is a noncommercial advocacy group, its use of the word “Gallaudet” is arguably the only way its name could communicate the group’s location and focus. The university produced no evidence that the chapter sold any goods or services, let alone used the name “Gallaudet” in any commercial manner. Furthermore, the prospect of anyone visiting Gallaudet SJP’s Instagram page and confusing the group with the university is vanishingly slim. Before its removal, the page even prominently featured a post stating, in bold and prominent lettering, “Gallaudet University Shuts Down Students for Justice [in Palestine].”¹⁷

Contra the university’s “community statement,” the Instagram page was not a likely “source for confusion,”¹⁸ but rather an unofficial student group looking to identify itself for expressive

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

¹² *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

¹³ *Cox v. Louisiana*, 379 U.S. 536, 557 (1965).

¹⁴ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

¹⁵ *Expressive Activities and Assembly*, *supra* note 3.

¹⁶ *See Taubman Co. v. Webfeats*, 319 F. 3d 770, 775 (6th Cir. 2003) (“[A]ny expression embodying the use of a mark not ‘in connection with the sale ... or advertising of any goods or services,’ and not likely to cause confusion is ... necessarily protected by the First Amendment.”); *CPC Int’l, Inc. v. Skippy, Inc.*, 214 F. 3d 456, 462 (4th Cir. 2000) (“It is important that trademarks not be transformed from rights against unfair competition to rights to control language.”); *see also Checkpoint Systems, Inc. v. Check Point Software Tech., Inc.*, 269 F. 3d 270, 280 (outlining factors for likelihood-of-confusion analysis in non-competing goods cases).

¹⁷ On April 25, the Instagram account with the handle “queenofpalestine” shared the above-mentioned Instagram content originally posted by the account with the handle “sjpgallaudet.” *See* <https://www.instagram.com/p/DI4ZqqDS5uk/?igsh=MTJxcnhtbnF0dTJkOQ%3D%3D>.

¹⁸ *Community Statement: Affirming Our Values and Addressing Recent Concerns*, *supra* note 5.

purposes. Gallaudet eliminated the group's expressive ability by petitioning Meta to take down the account without justification.

Gallaudet should therefore not only withdraw its complaint to Meta but also clarify its existing policies. Gallaudet's "Visual Identity Guide,"¹⁹ "Brand Guidelines,"²⁰ and "Intellectual Property" policy²¹ all fail to clarify under which circumstances Gallaudet's name can be used. The university should make clear in at least one of these policies that individuals and groups are permitted to use Gallaudet's name as an identifier, so long as they are not purporting to speak for or represent the university.

IV. Conclusion

We call on Gallaudet to withdraw its trademark infringement complaint against Gallaudet SJP and clarify that the university's name can be used without permission in non-official contexts. FIRE also urges the university to make clear that speech will not be punished unless it clearly runs afoul of the law or is unprotected under Gallaudet's written policies.

FIRE would be pleased to assist Gallaudet in revising its policies, free of charge and in accordance with our charitable mission. We respectfully request a substantive response to this letter no later than close of business on June 17, 2025.

Sincerely,



Ross Marchand
Program Counsel, Policy Reform and Campus Rights Advocacy

¹⁹ *Visual Identity Guide*, GALLAUDET UNIV., https://gallaudet.edu/wp-content/uploads/gcloud/gal-media/Documents/University-Communications/Gallaudet_Visual_Identity_Guide.pdf [<https://perma.cc/PJE5-C4RW>].

²⁰ *Brand Guidelines*, GALLAUDET UNIV., <https://gallaudet.edu/brand/#brand> [<https://perma.cc/9US4-DM8Y>].

²¹ *Intellectual Property*, GALLAUDET UNIV., <https://gallaudet.edu/operations/administration-and-operation-manual/109-intellectual-property/> [<https://perma.cc/GDC4-6BXK>].