



September 18, 2025

Adam Hasner
Office of the President
Florida Atlantic University
Administration Bldg., Room 339
777 Glades Road
Boca Raton, Florida 33431

URGENT

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

Dear President Hasner:

FIRE, a nonpartisan nonprofit that defends free speech,¹ is alarmed by Florida Atlantic University's decision to place Professor Karen Leader on administrative leave pending an investigation for her X posts regarding political activist Charlie Kirk following his assassination.² Leader's posts never mentioned Kirk's death or murder. Rather, she reposted criticisms of Kirk³ and information "about who [he] was, including videos, quotes and articles ... to counter a rapidly emerging narrative insisting that Mr. Kirk was moderate."⁴ As a public university bound by the First Amendment,⁵ FAU must refrain from punishing protected political expression—even that which some view as poorly timed,

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

² Malcolm Shields, *Florida Atlantic University faculty member placed on leave following social media posts on Charlie Kirk's death*, WPBF (Sept. 15, 2025, 12:55 PM) <https://www.wpbfl.com/article/florida-atlantic-university-faculty-member-leave-following-comments-charlie-kirks-death/66089667>. The recitation of facts here reflects our understanding of the pertinent information. We appreciate that you may have additional information 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 See Libs of TikTok (@libsoftiktok), X (Sept. 13, 2025, 8:33 PM), <https://x.com/libsoftiktok/status/1967023804309504084> [<https://perma.cc/7DDD-69XS>].

⁴ Shields, *supra* note 2.

⁵ *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).

tasteless, inappropriate, or controversial. Accordingly, we urge FAU to end the investigation into Leader and restore her to her position.⁶

Popular expression rarely needs protecting; it is in moments of controversy that commitments to free speech are put to the test.⁷ The Supreme Court has long held that the First Amendment protects expression others may deem offensive, uncivil, or even hateful.⁸ This includes expressing vitriol about public figures and engaging in rhetorical hyperbole that may reference violence.⁹

The Supreme Court has made this clear in a context that involved speech that, with its explicit endorsement of potential violence, was far more extreme than any of Leader's comments about Kirk. In *Rankin v. McPherson*, a police department fired one of its employees who, after hearing that President Reagan had been shot, expressed contempt for his welfare policies by stating: "If they go for him again, I hope they get him."¹⁰ The Court held that the employee's firing was unconstitutional, noting that whether listeners found her statement of "inappropriate or controversial character" was "irrelevant" to its constitutional protection.¹¹ This type of harsh criticism is undoubtedly "core political speech," where free speech protection is "at its zenith."¹² While the employee's statements in *Rankin*, like the comments about Kirk that Leader posted, may be viewed as inappropriate, uncivil, and hateful, that does not justify "disciplin[ing] a college teacher for expressing controversial, even offensive, views."¹³

Additionally, comments about a prominent national political activist, whose assassination occurred at an event held on an American university campus, unquestionably deal with matters of public concern, which include speech that relates "to any matter of political, social, or other concern to the community[.]"¹⁴ Comments publicly made to a broad

⁶ FIRE has been made aware of two other FAU professors who have been suspended pending investigation for comments about Kirk. Katie Bente, *FAU confirms 3 professors on leave after posts about Charlie Kirk*, CBS12 (Sep. 17, 2025, 4:05 PM), <https://cbs12.com/news/local/florida-atlantic-university-fau-confirms-three-professors-on-leave-after-posts-about-charlie-kirk-florida>. Each professor's extramural speech falls under the protection of the First Amendment, even if others may have found it offensive, as detailed in the foregoing analysis.

⁷ Whether speech is protected by the First Amendment is "a legal, not moral, analysis." *Animal Legal Def. Fund v. Reynolds*, 353 F. Supp. 3d 812, 821 (S.D. Iowa 2019).

⁸ See *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning American flag is protected by 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"); see also *Cox v. Louisiana*, 379 U.S. 536, 557 (1965) (fears that "muttering" and "grumbling" white onlookers might resort to violence did not justify dispersal of civil rights marchers); *Cohen v. California*, 403 U.S. 15, 25 (1971); *Matal v. Tam*, 582 U.S. 218, 243-44 (2017).

⁹ *Watts v. United States*, 394 U.S. 705, 708 (1969) (draftee's statement that "[i]f they ever make me carry a rifle the first man I want to get in my sights is L. B. J." was First Amendment-protected rhetorical hyperbole).

¹⁰ 483 U.S. 378, 381 (1987).

¹¹ *Id.* at 387.

¹² *Buckley v. Am. Const. Found.*, 525 U.S. 182, 186-87 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414 (1988)).

¹³ *Vega v. Miller*, 273 F.3d 460, 467 (2d Cir. 2001).

¹⁴ *Snyder v. Phelps*, 562 U.S. 443, 453 (2011) (quoting *Connick v. Myers*, 461 U.S. 138, 146 (1983)).

audience,¹⁵ like Leader’s posts, about issues that are currently gripping the entire country cannot be grounds for investigation.¹⁶ Because faculty members do not surrender their “First Amendment rights to comment on matters of public interest by virtue of government employment,” Leader’s extramural online speech remains protected.¹⁷

To be sure, the fact that Leader’s posts are protected does not shield her from every consequence of her speech—including criticism by other students, faculty, or the broader community. Criticism is a form of “more speech,” the remedy that the First Amendment prefers over censorship.¹⁸ FAU’s obligations under the First Amendment thus limit the *types* of consequences that may be imposed, and investigating faculty for their protected expression clearly violates that commitment.

If FAU chooses to ignore its free speech obligations and punish protected faculty speech, it will open the door to censorship of countless views on campus and chill others from sharing their opinions.¹⁹ Both of these outcomes are unacceptable at an institution bound by the First Amendment.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on September 24, 2025, confirming FAU will end the investigation into Leader’s speech and restore her to her position.

Sincerely,



Marie McMullan
Program Officer, Campus Rights Advocacy

Cc: Joseph S. Van de Bogart, Vice President for Legal Affairs and General Counsel
Russell Ivy, Interim Provost and Vice President of Academic Affairs

Encl.

¹⁵ See *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 674 (6th Cir. 2001) (“The purpose of the free-speech clause ... is to protect the market in ideas, broadly understood as the public expression of ideas, narratives, concepts, imagery, opinions—scientific, political, or aesthetic—to an audience whom the speaker seeks to inform, edify, or entertain.”) (citing *Swank v. Smart*, 898 F.2d 1247, 1250–51 (7th Cir. 1990) (citation omitted)).

¹⁶ See also *Graziosi v. City of Greenville Miss.*, 775 F.3d 731, 737 (5th Cir. 2015) (citing *Garcetti v. Ceballos*, 547 U.S. 410, 419 (2006); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 572 (1968)) (Commentary by “public employees is welcome as they occupy trusted positions in society ... and are the members of a community most likely to have informed and definite opinions on matters of import to the community”) (cleaned up).

¹⁷ *Connick*, 461 U.S. at 140.

¹⁸ See *Whitney v. California*, 274 U.S. 357, 377 (Brandeis, J., concurring).

¹⁹ The First Amendment bars any “adverse government action against an individual in retaliation for the exercise of protected speech activities,” which “would chill a person of ordinary firmness from continuing to engage in that activity.” *Keenan v. Trejeda*, 290 F.3d 252, 258 (5th Cir. 2002).