FIRE
Foundation for Individual Rights and Expression

September 19, 2025

Richard Williams
Office of the President
Missouri State University
Office of the President
901 S. National Ave.
Springfield, MO 65897

URGENT

Sent via U.S. Mail and Electronic Mail (President@MissouriState.edu)

Dear President Williams:

FIRE, a nonpartisan nonprofit that defends freedom of speech,[1] writes to encourage your institution to stand with free expression and resist demands to punish faculty and students for their comments regarding the recent death of political activist Charlie Kirk. While many may be offended by criticism of Kirk in the wake of his assassination, such comments are nonetheless protected. Missouri State University's obligations under the First Amendment bar it from investigating or punishing protected political expression—even that which some may view as poorly timed, tasteless, inappropriate, or controversial.[2]

Popular expression rarely needs protecting; it is in moments of controversy that institutional commitments to the principles of free expression are put to the test.[3] The Supreme Court has long held that free speech principles protect expression others may deem offensive, uncivil, or

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

[2] *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).

[3] 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).

even hateful.[4] This includes expressing vitriol about public figures and engaging in rhetorical hyperbole that may reference violence.[5]

The Supreme Court has made this point clear in a context quite similar to the current situation regarding Kirk's assassination. In *Rankin v. McPherson*, a police department fired one of its employees who, after hearing that President Reagan had been shot, said: "If they go for him again, I hope they get him."[6] 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.[7] Likewise, while the comments made today about Kirk may be viewed as inappropriate, uncivil, and hateful, that does not justify "discipline … for expressing controversial, even offensive, views."[8]

Additionally, comments about the death of a prominent national political activist, whose assassination occurred during an event held on an American college 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[.]"[9] Even if the comments could be considered harsh criticism, it is undoubtedly "core political speech," where free speech protection is "at its zenith."[10] Thus, comments that violate no law and are publicly made to a broad audience[11] about issues that are currently gripping the entire country and the front page of every newspaper cannot be grounds for institutional censure.[12]

A university must never reward "community outrage," however ugly or overwhelming, by curtailing free speech principles, because the value of its faculty's and students' freedom to

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[4] *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); *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

[5] *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).

[6] 483 U.S. 378, 381 (1987).

[7] *Id.* at 387.

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

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

[10] "'Core political speech' involves 'interactive communication concerning political change.'" *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999) (quoting *Meyer v. Grant*, 4886 U.S. 414 (1988)).

[11] *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)).

[12] *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; *Pickering v. Bd. of Educ.*, 391 U.S. 563, 572) (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).

engage in the exchange of ideas is not outweighed by a segment of the public's subjective feelings.[13]

The speech here is clearly protected. This principle does not shield faculty or students from every consequence of their speech—including criticism by other faculty, students, or the broader community. Criticism is a form of the "more speech" remedy that an institution bound by the First Amendment must favor over censorship.[14] Missouri State University's obligations under the First Amendment thus limit the *types* of consequences that can be imposed, and disciplining faculty or students for their protected expression clearly violates that obligation.

If Missouri State University chooses to ignore its free speech obligations and punish protected speech, it will open the door to censorship of a limitless array of views on campus, while chilling other faculty and students from sharing their opinions.[15] Both of these outcomes are unacceptable for an institution bound by the First Amendment. We must not respond to calls for censorship with more censorship.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on September 26, confirming Missouri State University will commit to protecting the free speech rights of all its faculty and students, regardless of viewpoint.

Sincerely,

Charlotte Arneson
Program Counsel, Campus Rights Advocacy

Cc:

[13] *See Levin v. Harleston*, 966 F.2d 85, 88 (2d Cir. 1992); *Noto v. United States,* 367 U.S. 290, 298 (1961) (Abstract teaching of the moral necessity of violence "is not the same as preparing a group for violent action ... There must be some substantial direct or circumstantial evidence of a call to violence now or in the future").

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

[15] Free speech principles bar 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).