



November 19, 2025

Prabhas V. Moghe
Office of the President
The University of Texas at Dallas
800 West Campbell Road
Richardson, Texas 75080-3021

URGENT

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

Dear President Moghe:

FIRE's Student Press Freedom Initiative¹ is deeply concerned by the University of Texas at Dallas's discipline of former *Mercury* editor-in-chief Gregorio Olivares Gutierrez. UT Dallas has equated Gutierrez's editorial suggestions and the inclusion of a disclaimer with a letter to the editor with discriminatory harassment. Established precedent confirms that neither Gutierrez's comments nor editorial decisions come close to the Supreme Court's high standard for harassment, and thus they remain protected by the First Amendment. Punishing Gutierrez for his editorial decisions further demonstrates UT Dallas's continued disregard for its constitutional obligation to protect free expression on its campus. UT Dallas must rescind his deferred suspension and clear Gutierrez's record of this matter.

On July 30, 2024, President of UT Dallas Hillel Jade Steinberg submitted a letter to the editor to *The Mercury* about antisemitism on campus following the October 7, 2023 Hamas attack on Israel and the Israeli-Palestinian conflict.² *The Mercury* Staff Handbook provides that "*The Mercury* may edit letters for spelling, grammar and style, to make them free from libel or to fit the aforementioned word limit while preserving the intent of the author."³ Gutierrez, one of the editorial board members who provided feedback and comments to Steinberg, suggested

¹ As you may recall from prior correspondence, FIRE is a nonpartisan nonprofit that defends free speech. You can learn more about our mission and activities at thefire.org. FIRE's Student Press Freedom Initiative (SPFI) defends free press on campus by advocating for the rights of student journalists at colleges and universities across the country.

² Email from Jade Steinberg, student, to Maria Shaikh, student (July 30, 2024, 3:49 PM) (on file with author). 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 *The Mercury Staff Handbook*, Letters to the Editor, *THE MERCURY*, 14 (on file with author). See also Final Report from Felicia Chism, Equal Opportunity Specialist II, to Gregorio Olivares Gutierrez, student, 38 (April 29, 2025) (on file with author).

how the submission “[c]ould be improved” and “strengthen[ed].”⁴ One of Gutierrez’s comments addressed concerns about Steinberg’s sourcing:⁵

Mercury and student media policy prohibits the publication of defamation through libel or slander. As it currently stands, this LTTE makes broad and severe assertions (i.e., *The Mercury* and [Students for Justice in Palestine] have both used antisemitism and one-sided stances to contribute to a dangerous environment for Jewish students); however, no actual evidence is provided regarding instances or sets of actions which have led to this.

Steinberg accepted edits made by the editorial board but did not address all the sourcing issues Gutierrez mentioned.⁶

Further, *The Mercury* Policy Compendium provides “[c]orrections and fact-checking may be added as notes before a piece.”⁷ Gutierrez “observed that [Steinberg’s] letter lacked a substantial number of credible sources,” and added a disclaimer with the piece once it was published:⁸

Disclaimer: The information presented within this letter to the editor is the opinion of the author and should not be treated as news. On June 12, a UN commission found Israel guilty of “crimes against humanity of extermination, gender persecution targeting Palestinian men and boys, murder, forcible transfer, and torture and inhuman and cruel treatment.” The presentation of opinion as fact within this article, despite repeated requests to address the issue, does not meet the journalistic standards of *The Mercury*.

This disclaimer refers in part to Steinberg’s statement: “These groups [*The Mercury*, Students for Justice in Palestine and other campus groups] claim Israel is committing a genocide, when facts say otherwise.”⁹ Gutierrez shared how the Society of Professional Journalists’ Code of Ethics guided the *Mercury* editorial board’s decision to include the disclaimer.¹⁰ They found Steinberg’s draft presented the situation “in a manner incongruous with the most recent

⁴ Comments on file with author.

⁵ *Id.* (“A wide variety of individuals both on and off campus read *Mercury* articles, which includes LTTEs, so it is always best practice to provide sourcing and attribution to any and all information where possible.”).

⁶ Final Report, *supra* note 3 at 41.

⁷ *Id.* at 42.

⁸ *Id.*

⁹ Jade Steinberg, *Letter to the Editor: Campus antisemitism*, *THE MERCURY* (Aug. 19, 2024), <https://utdmercury.com/31116/opinion/letter-to-the-editor-campus-antisemitism/> [<https://perma.cc/57H4-GVKA>].

¹⁰ Email from Gutierrez to Helen Roth, student (Aug. 22, 2025, 5:54 PM) (on file with author). *See also* Helen Roth, *Letter to the Editor: In response to the editor’s disclaimer on Aug. 19 LTTE*, *THE MERCURY* (Sept. 3, 2024), <https://utdmercury.com/31402/opinion/letter-to-the-editor-in-response-to-the-editors-disclaimer-on-aug-19-ltte/> [<https://perma.cc/9HGJ-TLPU>]. Roth consented to her correspondence, including Gutierrez’s reply in which he stated the reason for the disclaimer, being attached to her letter to the editor.

findings from humanitarian experts and intergovernmental bodies” and decided to provide “additional context regarding the UN’s findings.”¹¹

The day after his letter to the editor was published, Steinberg filed an incident report with the Office of Institutional Compliance.¹² Steinberg reported to the OIC that he was “‘mostly’ able to maintain [his] academic routine” and “‘most of [his] classes were unaffected” by the editorial process.¹³ The only negative effect cited in the summary of Steinberg’s report was one example of being afraid to raise his hand to answer a question.¹⁴ Still, OIC found that “the editorial process and addition of a disclaimer to Complainant’s LTTE deviated from standard practices, [and] the addition of a disclaimer to an opinion piece was an unprecedented action.”¹⁵ The OIC found Gutierrez’s acts were “subjectively and objectively offensive” and “severe and pervasive” such that they were discriminatory harassment.¹⁶ On November 12, Gutierrez received a letter from Assistant Director of Community Standards and Conduct Daeshawn Lyles informing Gutierrez that he was on deferred suspension from the date of receipt through November 12, 2027.¹⁷

The First Amendment applies with full force to UT Dallas’s actions¹⁸ and mandates UT Dallas must refrain from encroaching on students’ expressive rights—including in the pursuit of disciplinary sanctions.¹⁹ UT Dallas has failed to live up to this constitutional obligation through misapplying discriminatory harassment to punish Gutierrez for First Amendment-protected commentary and editorial decisions.

The Supreme Court has made clear that student expression may constitute actionable discriminatory harassment—and thus lose its protected status—*only* where it is (1) unwelcome, (2) discriminatory on the basis of a protected status, and (3) “so severe, pervasive, and objectively offensive, and that so undermines and detracts from the victims’ education experience, that the victim-students are effectively denied equal access to an institution’s resources and opportunities.”²⁰

Gutierrez’s comments and the inclusion of the disclaimer fall well short of this standard. To begin with, *The Mercury* was under no obligation to print Steinberg’s letter to the editor at all. That Gutierrez did so, even with the disclaimer, shows a willingness to print and engage with

¹¹ Email from Gutierrez to Roth, *supra* note 10.

¹² Final Report, *supra* note 3 at 6.

¹³ *Id.* at 11.

¹⁴ *Id.*

¹⁵ *Id.* at 53.

¹⁶ *Id.*

¹⁷ Letter from Daeshawn Lyles, Assistant Director of Community Standards and Conduct, to Gutierrez (Nov. 10, 2025) (on file with author).

¹⁸ *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).

¹⁹ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

²⁰ *Davis v. Monroe Cnty. Bd. of Ed.*, 526 U.S. 629, 651 (1999).

diverging viewpoints that is entirely incongruous with his supposed discriminatory intent. Nor can printing the disclaimer, combined with Gutierrez’s request to Steinberg for further factual information, be said to be “severe, pervasive, and objectively offensive.” To give some perspective, in *Davis*, the harasser made vulgar statements to the other student for a five-month period as well as engaging in unwanted touching.²¹ One factual disclaimer and a routine round of edits bears no resemblance to this behavior.

Moreover, a recent decision from a federal appellate court highlights how far off UT Dallas’s claims about Gutierrez’s actions are from actual discriminatory harassment. In *Stand with US Center for Legal Justice v. Massachusetts Institute of Technology*, the First Circuit Court of Appeals held that months of pro-Palestinian protests, antisemitic posters, and social media posts did not arise to actionable discriminatory harassment under the *Davis* standard.²² If such protracted and intense expression cannot be considered antisemitic discriminatory harassment under the law, Gutierrez’s comments and disclaimer certainly cannot.

Finally, UT Dallas cannot establish that the paper’s editorial process was sufficient to deprive a reasonable person of the university’s opportunities or benefits. Indeed, Steinberg reported to OIC that he was “‘mostly’ able to maintain [his] academic routine” and that “most of [his] classes were unaffected” by the editorial process.²³ These facts simply do not indicate that Steinberg experienced a “concrete, negative effect” on his “ability to receive an education.”²⁴ Rather, the allegations raised against Gutierrez allege nothing more than a letter to the editor submitter was upset that said editor *edited* his letter to align with the paper’s standards.

Regardless of whether some may find the inclusion of the disclaimer and request for sources offensive, the Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted on the basis that others find it to be offensive or hateful.²⁵ This principle applies with particular force to universities, and the content decisions of the student press on their campuses. Take, for example, a student newspaper’s front-page publication of a “political cartoon ... depicting policemen raping the Statue of Liberty and the Goddess of Justice” and use of a vulgar headline (“Motherfucker Acquitted”), as considered by the Supreme Court in *Papish v. Board of Curators of the University of Missouri* more than half a century ago.²⁶ These words and images—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest. Yet, “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”²⁷ Here, UT Dallas has expressly ignored the Supreme

²¹ *Id.* at 653.

²² 2025 WL 2962665, at *2–6, 12 (Oct. 21, 2025).

²³ Final Report, *supra* note 3 at 11.

²⁴ *Davis*, 526 U.S. at 654 (emphasis added); *see also Nungesser v. Columbia Univ.*, 169 F.Supp. 3d 353, 368 (S.D.N.Y. 2016) (“Examples of such negative effects include a drop in grades, missing school, being forced to transfer schools, or mental health issues requiring therapy or medicine.”).

²⁵ *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”); *see also Matal v. Tam*, 582 U.S. 218, 246 (2017) (refusing to establish a limitation on speech viewed as “hateful” or demeaning “on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground”).

²⁶ 410 U.S. 667, 667–68 (1973).

²⁷ *Papish*, 410 U.S. at 667–68 (1973).

Court's clear mandate that a state university is forbidden from shutting off the dissemination of ideas simply because it offends others. Just as the University of Missouri was barred from punishing Papish merely because others found the contents of the paper she distributed offensive, UT Dallas is barred from punishing Gutierrez for editorial decisions that may have offended Steinberg.

The editorial comments Gutierrez provided to Steinberg and the disclaimer attached to the piece fall squarely within Gutierrez's expressive rights, and FIRE is deeply concerned that UT Dallas would be so cavalier in punishing a student for First Amendment protected activity. It is not lost upon us at FIRE that this punishment comes in the wake of prolonged attacks against the student press at UT Dallas,²⁸ including specific instances of violating Gutierrez's First Amendment rights.²⁹ This troubling trend must come to an end. Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on November 26, confirming UT Dallas will rescind Gutierrez's suspension and clear his record of anything relating to this matter.

Sincerely,



Marie McMullan
Student Press Counsel, Campus Rights Advocacy

Cc: Gene Fitch Jr., Vice President for Student Affairs
Shaq Massey, Office of Community Standards and Conduct Director
Sanaz Okhovat, Chief Compliance Officer

Encl.

²⁸ See Amanda Nordstrom, *FIRE statement on UT-Dallas student newspaper distribution*, FIRE (Aug. 29, 2025), <https://www.thefire.org/news/fire-statement-ut-dallas-student-newspaper-distribution>. See also Dominic Coletti, *FIRE to University of Texas at Dallas: Stop censoring the student press*, FIRE (Jan. 21, 2025), <https://www.thefire.org/news/fire-university-texas-dallas-stop-censoring-student-press>.

²⁹ See Letter from Dominic Coletti, FIRE Student Press Program Officer, and Jonathan Gaston-Falk, Student Press Law Center Staff Attorney, to Richard Benson, UT Dallas President (Nov. 12, 2024), <https://www.thefire.org/research-learn/fire-splc-letter-university-texas-dallas-november-12-2024>.