FIRE
Foundation for Individual Rights and Expression

May 15, 2026

Safa R. Zaki
Office of the President
Bowdoin College
5700 College Station
Brunswick, Maine 04011

URGENT

Sent via Next-Day Delivery and Electronic Mail (zaki@bowdoin.edu)

Dear President Zaki:

FIRE[1] is appalled that the latest charges Bowdoin College has leveled against Finley Rhys consist almost wholly of speech protected by Bowdoin's expressive guarantees.[2] As we have repeatedly explained,[3] Bowdoin's own commitments mean that it may not investigate, let alone charge, Rhys with rule violations consisting solely of protected expression. Further, Bowdoin's insistence on using fabricated policies that the College knows violate its expressive obligations to retaliate against Rhys for his expression lays bare the vindictiveness of Bowdoin's prosecution. We, and Bowdoin's own policy, accordingly demand the college end its disciplinary investigation and approve Rhys's re-admission.

On September 14, 2025, Rhys replied to an email invitation for a vigil honoring Charlie Kirk with the phrase, "RIP to bro 😿." Since that message, he has been subject to at least three disciplinary investigations and six separate disciplinary charges, some stemming from conduct

[1] As you may recall from prior correspondence, the Foundation for Individual Rights and Expression is a nonpartisan nonprofit dedicated to defending free speech. You can learn more about our mission and activities at fire.org.

[2] 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.

[3] FIRE's previous letters to Bowdoin on these issues are enclosed.

that occurred while he was not a student.[4] The most recent salvo in Bowdoin's retaliatory crusade against Rhys was Bowdoin's May 7, 2026, charge letter detailing four charges.[5]

One charge alleged that he impermissibly contacted one of the students who received the "RIP to bro 😿" email in violation of a no-contact order the college entered after that student complained. Another alleged Rhys had impermissibly shared materials from a formal hearing.[6] Proceedings on these charges were suspended while Rhys was on medical leave of absence.

The other two charges relate to Rhys's affiliation with the Bowdoin Socialists, an unregistered group that includes Bowdoin students. One alleges that Rhys failed to "Comply with Reasonable Requests of College Officials" because he refused to stop posting on the Socialists' Instagram account after administrators suggested this violated college policy. The other charge alleges that he "engag[ed] in retaliation" by posting emails from an administrator on social media and tagging that administrator's personal account.

Rhys will attend a hearing on all four charges this Friday, May 15.

As FIRE explained in our previous letters, while Bowdoin is a private college not bound by the First Amendment, it makes independent promises in the same vein, enshrining "free expression of widely varying views" as an integral part of the college community.[7] Based on this strong commitment, students have every reason to believe their rights would be substantially the same as the rights they enjoy off campus under the First Amendment.

When receiving complaints that implicate protected expression, colleges like Bowdoin must ensure they do not punish speech their promises protect. As we made abundantly clear in our first letter, Rhys's email was not a true threat, a statement through which "the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals."[8] To be meaningful, the true-threats exception to free speech protections does not include speech that amounts to rhetorical hyperbole,[9] the general endorsement of violence, or the assertion of the "moral propriety or even moral necessity for a resort to force or violence,"[10] since so much expression that fits these descriptions is nevertheless political speech that a free and democratic society must protect. Rhys's email reading, "RIP to bro 😿," was not trying to communicate his intent to commit *any* action, let alone unlawful violence. His phrase would have been commonly understood as a

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[4] In a rich twist of irony, the College alleges both that Rhys could not "engage in the life of the College" while on leave, but that he is nevertheless liable for conduct that occurred while he was on leave.

[5] Letter from James Riley, Associate Dean for Community Standards and Case Management, to Finley Rhys, student (May 7, 2026) (on file with author).

[6] *See Formal Hearings*, 4.c Confidentiality, BOWDOIN COLL., https://www.bowdoin.edu/dean-of-students/ccs/community-standards/formal-hearings.html [https://perma.cc/29WN-GGNA].

[7] *The Bowdoin Learning Community*, BOWDOIN COLL., https://www.fire.org/sites/default/files/2025/04/The%20Bowdoin%20Learning%20Community%20_%20Bowdoin%20College.pdf (last visited Nov. 14, 2025).

[8] *Virginia v. Black*, 538 U.S. 343, 359 (2003).

[9] *Watts v. United States*, 394 U.S. 705, 708 (1969) (man's statement, after being drafted to serve in the Vietnam War—"If they ever make me carry a rifle the first man I want to get in my sights is L. B. J."—was rhetorical hyperbole protected by the First Amendment, not a true threat to kill the president).

[10] *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

sarcastic expression of sympathy to mock the death of Kirk, not as a threat against the organizers of the vigil. Arguments to the contrary simply lack credibility.

Where, as here, a complaint consists of nothing more than a grievance about another person's protected speech, Bowdoin should have recognized that there was nothing to investigate and closed the case. But even failing that, it should have stopped before gagging its own student. There is a reason the Supreme Court views prior restraints on expression most unfavorably, observing that "[a]ny prior restraint on expression comes [...] with a 'heavy presumption' against its constitutional validity."[11] Government prior restraints on speech are permissible only in "exceptional cases," such as to protect knowledge of the movement of armed forces during wartime.[12] Bowdoin cannot point to any analogously weighty concern about Rhys's speech. Bowdoin has an interest in preventing harassment[13] and true threats,[14] but where neither was alleged, the college has no business imposing a no-contact order preventing Rhys from expressing his opinion. It is unreasonable for Bowdoin to demand students refrain from contacting one another in a case that does not serve its legitimate interest in preserving student safety. Bowdoin simply cannot make a good-faith argument for punishing Rhys for refusing to comply with that request.

Bowdoin's prohibition on communications with *anyone* about hearings amounts to another prior restraint on speech. This prohibition does not appear closely tied to any critical interest, much less confined to protect that interest. Certainly, the college may have an interest in protecting *some* of the contents of a hearing from public exposure to preserve privacy and prevent retaliation. But to categorically bar the publication of *any* materials related, however tangentially, to a hearing is simply an attempt to prevent students from talking about a matter of public concern and their own student conduct records. A directive that students may not discuss allegations against them with anyone is a prescription for Star Chamber-like abuses of justice and individual rights and hardly reflects a serious commitment to students' freedom of expression at a critical moment in their college careers. Bowdoin thus has no grounds to punish Rhys for his publication of hearing materials.

As we observed in our March 12 letter, Bowdoin policy does not appear to enact any restriction on association with unregistered student organizations or on an unregistered student organization's ability to express itself. College officials' demand that the Bowdoin Socialists cease publishing on social media therefore constituted an additional prior restraint. So, too, did Bowdoin's demand that the group neither organize events nor ask the college for permission to hold those events, which restrained the group from exercising its right to expressive association. Regulating the actions and expression of a group like this reaches beyond the bounds of the college's authority.[15] Even if they could regulate an off-campus

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[11] *Org. for a Better Aus. v. Keefe*, 402 U.S. 415, 419 (1971).

[12] *Near v. Minnesota*, 283 U.S. 697, 715–16 (1931)

[13] The Supreme Court defined harassment in the educational setting as situations in which communication 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' educational experience, that the victim-students are effectively denied equal access to an institution's resources and opportunities." *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 651 (1999).

[14] *Black*, 538 U.S. at 359.

[15] *See Mahanoy Area Sch. Dist. V. B.L.*, 594 U.S. 180, 189–90 (2021) ("[C]ourts must be more skeptical of a school's effort to regulate off-campus speech"). *Mahanoy* involved a K–12 school district rather than a

group's conduct, administrators cannot fabricate a policy from whole cloth,[16] and they certainly may not do so where that policy would violate the college's expressive promises. Bowdoin administrators similarly are not entitled to take the laws unto themselves. They cannot make up policies that break the college's expressive guarantees, then turn around and punish students for violating these fictitious policies. Therefore, the failure to comply charge relating to the Bowdoin Socialists' social media comments cannot stand.

More egregious still is the conduct unbecoming charge against Rhys for posting an excerpt of an email from Director Hintze, demanding the Socialists cease publishing to the Socialists' account. We understand that exposure of this unconscionable demand was likely embarrassing for Director Hintze and the college, which is precisely why posting these images is a textbook example of protected political speech. And as we previously explained, for Bowdoin's promises to mean anything, it cannot use "conduct unbecoming" to privilege other values (if any such values can be discerned in this case) over its speech promises. For Bowdoin's promise of free speech to mean anything, it *must* include speech that offends, particularly speech whose "offense" is limited to using the exposure of an administrator's own egregious conduct to pressure that administrator to discontinue that conduct. Free speech principles include "that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."[17] The Socialists' screenshot could not reasonably be described as any of these things.[18]

Bowdoin also promises its students fundamental fairness in disciplinary proceedings.[19] The college's continued prosecution of these charges even *after* FIRE's repeated notice that the charges violate Bowdoin's expressive promises strongly suggests that the College is engaged in vindictive and retaliatory prosecution of Rhys. Due process "requires that vindictiveness against a defendant … play no part" in the decision-making of college administrators.[20] Bowdoin administrators know their charges violate the college's free speech promises. Yet they not only charged Rhys for his protected expression but also *invented* policies to make his alleged conduct with the Bowdoin Socialists sanctionable. That reeks of vindictiveness, as does the ever-lengthening set of charges Bowdoin has leveled against Rhys, who has persisted in his

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university, whose students the First Circuit recognizes are more mature—and whose speech is less regulable—than their K–12 counterparts. *Doe v. Univ. of Mass.*, 145 F.4th 158, 170 (1st Cir. 2025); *see also Oyama v. Univ. of Haw.*, 813 F.3d 850, 862 (9th Cir. 2015) (declining to analyze university students' speech according to the more state-friendly K–12 student speech standard).

[16] Indeed, the U.S. Court of Appeals for the First Circuit, whose decisions are binding in Maine, has held that "[officials are] not a law unto [themselves]; he cannot give an order that has no colorable legal basis and then arrest a person who defies it." *Iacobucci v. Boulter*, 193 F.3d 14, 25 (1st Cir. 1999).

[17] *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

[18] To be clear, to charge Rhys for the Instagram post, Bowdoin would also have to show that he was personally responsible for posting it to the Socialists' account. But the college should never reach that level of analysis because it should recognize the post as protected speech; that is, speech it cannot investigate.

[19] *The Academic Honor Code and Social Code*, BOWDOIN COLL., https://www.bowdoin.edu/dean-of-students/ccs/community-standards/the-codes.html [https://perma.cc/D2E2-RZ3L].

[20] *North Carolina v. Pearce*, 395 U.S. 711, 725 (1969) (*overruled on other grounds by Alabama v. Smith*, 490 U.S. 794 (1989)).

expression.[21] Bowdoin may have, at first, been acting in good faith, if still erroneously. But continuing to persecute Rhys despite FIRE's letters at best reflects wanton disregard for the college's promises.

Bowdoin's charges here are wholly incompatible with the college's expressive guarantees. FIRE submits this letter as evidence in Rhys's hearing and requests a substantive response to this letter no later than the close of business on May 26, confirming Bowdoin will drop all charges against Rhys and will not oppose his re-enrollment request.

Sincerely,

Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: Nate Hintze, Director of Student Activities
Lisa Hardej, Dean of Students

Encl.

[21] The law is also "settled that as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions," including disciplinary investigations, for speaking out. *Hartman v. Moore*, 547 U.S. 250, 256 (2006).

FIRE
Foundation for Individual Rights and Expression

March 12, 2026

Safa R. Zaki
Office of the President
Bowdoin College
5700 College Station
Brunswick, Maine 04011

Sent via U.S. Mail and Electronic Mail (zaki@bowdoin.edu)

Dear President Zaki:

FIRE[1] is concerned by Bowdoin College's demands that the Bowdoin Socialists, a recently formed group of Bowdoin students, register with the college or cease all publications.[2] Students' right to expressive association, including the right to associate with other students outside of formal registration, is protected by Bowdoin's strong and laudable free expression promises. As such, Bowdoin may not restrict that right by demanding students register before posting their shared views online. We urge the college to uphold its promises and cease restricting the Socialists' online presence.

The Bowdoin Socialists are a group focused on promoting socialism at Bowdoin and engaging in general political commentary on Instagram.[3] On February 13, Director of Student Activities Nate Hintze emailed Finley Rhys, a Bowdoin student on leave, requesting that the Bowdoin Socialists—a group Rhys worked with current students to establish—"refrain from further activity until the group" was approved as a registered student organization.[4] Rhys replied, explaining that the group was not seeking recognition from the college. Rhys's email included a link to the Socialists' exposé on former Bowdoin trustee Jes Staley's connections with Jeffrey Epstein to demonstrate that the group was a media outlet.[5] Rhys referred to the group as

[1] As you may recall from prior correspondence, the Foundation for Individual Rights and Expression is a nonpartisan nonprofit dedicated to defending free speech. You can learn more about our mission and activities at fire.org.

[2] 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.

[3] Bowdoin Socialists (@bowdoinsocialists), INSTAGRAM, https://www.instagram.com/bowdoinsocialists/.

[4] Email from Nate Hintze, Director of Student Activities, to Finley Rhys, former student (Feb. 13, 2026, 4:40 PM) (on file with author).

[5] Email from Rhys to Hintze (Feb. 13, 2026, 5:11 PM) (on file with author); *see also* Bowdoin Socialists, *Findings from Recent Department of Justice Files:*, BOWDOIN SOCIALISTS, (updated Feb. 19, 2026) https://bowdoinsocialists.org/epstein.

"student-run media," a type of organization the college has declared "editorially independent of the College and its administration."[6] Hintze reiterated his belief that student media must be registered with the college or receive department sponsorship and repeated his demand that the Socialists cease publication.[7] Rhys, in turn, objected to Hintze's interpretation of the policy, pointing out that student media are not required to be chartered or department-run, the Socialists did not seek SAFC funding, and the group did not claim to be affiliated with the college.[8]

Hintze continued to insist that student groups could not operate without college sanction and escalated the matter to Dean of Students Lisa Hardej.[9] On February 27, Hardej emailed Rhys, ordering the Socialists to stop publishing and threatening to sanction him personally for failing "to comply with the reasonable request of a college official."[10] Hardej also told Rhys that the college had received reports about posts on the Bowdoin Socialists' Instagram account and another satirical Instagram account known as the Bowdoin Republicans.[11]

While Bowdoin is a private college not bound to grant students freedom of expression by the First Amendment, it makes independent promises to the same effect, enshrining "free expression of widely varying views" as an integral part of the college community.[12] Based on this strong promise, students have every reason to believe their rights would be substantially the same as the rights they enjoy off campus under the First Amendment, which protects merely offensive expression. Moreover, any coherent interpretation of freedom of expression necessarily includes the right to express criticism of those in authority without first seeking the approval of that very authority.

The college's authority to regulate student organizations is limited by its official relationship with those organizations. Bowdoin cannot prohibit students from associating with unregistered student organizations like the Socialists any more than it could prohibit association with a local church, chess club, or theater troupe.[13]

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[6] Email from Rhys to Hintze (Feb. 13, 2026, 5:11 PM) (on file with author); *see also Student-Run Media,* BOWDOIN, https://www.bowdoin.edu/dean-of-students/ccs/campus-life/student-run-media.html [https://perma.cc/3BXW-JTPQ]. While it appears that Bowdoin intended the policy to cover specific organizations, those organizations are not enumerated, and the only affirmative requirement of media is that they follow college policy.

[7] Email from Hintze to Rhys, (Feb. 16, 2026, 1:47 PM) (on file with author).

[8] Email from Rhys to Hintze (Feb. 17, 2026, 7:12 AM) (on file with author).

[9] Email from Hintze to Rhys (Feb. 17, 2026, 10:26 AM) (on file with author).

[10] Email from Lisa Hardej, Dean of Students, to Rhys (Feb. 27, 2026 9:10 AM) (on file with author).

[11] *Id*; Bowdoin Republicans (@bowdoinrepublicans), INSTAGRAM, https://www.instagram.com/bowdoinrepublicans/.

[12] *The Bowdoin Learning Community*, BOWDOIN COLL., https://www.bowdoin.edu/dean-of-students/ccs/intro/our-learning-community.html (last visited Nov. 14, 2025).

[13] *See Student Group Disciplinary Process*, Scope, BOWDOIN COLL. https://www.bowdoin.edu/dean-of-students/ccs/campus-life/group-disciplinary-process.html [https://perma.cc/2PHY-2DZP] (limiting discipline to behavior of matriculated students that violates the Code of Community Standards or state law, damages property, disrupts campus operations, or poses a safety risk); see *also, e.g.*, *Guest v. Hansen*, 603 F.3d

Our concerns are exacerbated by the arbitrary nature of the college's restrictions. College rules that do not give "adequate warning of the conduct which is to be prohibited" fail to comport with due process[14] because they threaten to "trap the innocent" and invite "arbitrary and discriminatory enforcement.[15]

As written, Bowdoin policy does not seem to enact any restriction on association with unregistered student organizations or on an unregistered student organization's ability to express itself. If the college is nevertheless enforcing an unwritten policy to this effect, that policy is unavoidably unfair. To take just one elementary example, students cannot reasonably know at what point they have become a group that must be officially registered rather than an informal group of friends. Is one Bowdoin student expressing himself or herself in an attempt to gather like-minded students enough to trigger the requirement? What about a group of two roommates who share opinions? Perhaps five students are enough to become a "group," or 10?

And where do such demarcations end? Does a local church or charity, whose membership or management contains at least a couple of Bowdoin students, need to register as a Bowdoin student organization or risk college sanctions against those students for its social media use? As it stands, administrators have unbridled discretion to enforce such unwritten requirements against any organization they dislike, leading students to justifiably self-censor rather than engage with unaffiliated groups. This result is incompatible with Bowdoin's free speech promises.

And codifying a ban on social media activity by unrecognized groups would constitute a prior restraint, "the most serious and least tolerable infringement on" freedom of expression.[16] When government agencies engage in such restraints, courts impose a "heavy presumption against [their] constitutional validity."[17] At an institution like Bowdoin that promises free expression, students should reasonably expect such restraints will be seldom imposed. In a free society, it could hardly be otherwise; such promises are worthless if they must give way even to flimsy or unpersuasive justifications for silencing potential dissenters. Indeed, Bowdoin has cited no reason for its sweeping restriction, which allegedly applies to all unregistered student groups.

15, 21 (2d Cir. 2010) ("Under New York law, colleges have no legal duty to shield students or their guests from the harmful off-campus activity of other students."); *Hartman v. Bethany Coll.*, 778 F. Supp. 286, 291 (N.D. W. Va. 1991) ("It would not be consistent with the caselaw in this area to impose a duty upon colleges to supervise their students when they leave the college campus for non-curricular activities. It would also not be consistent with the settled expectations of students, parents or colleges.").

[14] *Doe v. Univ. of Mich.*, 721 F. Supp. 852, 866 (E.D. Mich. 1989); *see also Dambrot v. Cent. Mich. Univ.*, 55 F.3d 1177, 1184 (6th Cir. 1995) (finding university racial harassment policy prohibiting "negative" and "offensive" speech unconstitutionally vague and overbroad).

[15] *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

[16] *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976).

[17] *N.Y. Times Co. v. United States*, 403 U.S. 713, 714 (1971).

Further, such a ban could not be narrowly tailored to any cognizable collegiate interests. The college does not provide a rationale for this ban. Even if it did, it is hard to imagine an interest that could be served by so aggressively restricting student organizing.[18]

Bowdoin's imposition of a prior restraint based on a vague policy that is itself incompatible with the college's expressive guarantees makes a mockery of its promises. The college must therefore cease using this purported policy to limit students' associational freedoms and student groups' expressive rights.

We request a substantive response to this letter no later than the close of business on March 26, confirming Bowdoin will allow the Bowdoin Socialists to continue to post on its website and social media and will refrain from sanctioning any student associated with the group, including Rhys.

Sincerely,

Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: Nate Hintze, Director of Student Activities
Lisa Hardej, Dean of Students

[18] *See Johnson v. City of Cincinnati*, 310 F.3d 484, 504 (6th Cir. 2002) (a city ordinance excluding those convicted of drug offenses from "drug-exclusion zones" burdened far greater associational freedoms than necessary to achieve the city's interest because it failed to consider alternatives imposing lesser restrictions on an individual's right to freely travel on public thoroughfares).

FIRE
Foundation for Individual Rights and Expression

November 18, 2025

Safa R. Zaki
Office of the President
Bowdoin College
5700 College Station
Brunswick, Maine 04011

URGENT

Sent via Overnight Mail and Electronic Mail (zaki@bowdoin.edu)

Dear President Zaki:

FIRE, a nonpartisan nonprofit that defends free speech,[1] is concerned by Bowdoin College's investigation into student Finley Rhys for an email he sent to Bowdoin Conservatives about Charlie Kirk's murder. While Rhys's email may have offended the recipients, it is also unquestionably protected by Bowdoin's strong and laudable free expression promises and accordingly cannot be grounds for official sanctions. We urge Bowdoin to uphold its commitment to free speech and drop the charge against Rhys.

On September 14, Rhys replied to an email invitation from the Bowdoin Conservatives for a vigil honoring Charlie Kirk with the phrase, "RIP to bro 😿."[2] On September 16, a Campus Safety and Security officer met with a student organizer from Bowdoin Conservatives about the upcoming vigil.[3] At this meeting, the student reported receiving Rhys's email.[4] Another student from the organization reported receiving the same email, which the student characterized as a "threat."[5] The latter student also told campus security that Rhys's language was "unkind."[6] On

[1] For more than 25 years, FIRE 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 expression "RIP to bro" is commonly used to satirize an unfortunate situation. *See, e.g.,* Rjthetrihard, RIP to bro, FACEBOOK, https://www.facebook.com/watch/?v=1241378107487395 (using the phrase in reference to defenders who missed tackles due to the player's skill move in the Madden NFL 25 video game). 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] Paul Hansen, *Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Sept. 19, 2025, 3:45 PM) (on file with author).

[4] *Id.*

[5] Bill Harwood, *Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Sept. 19, 2025, 4:00 PM) (on file with author).

[6] Hansen, *supra* note 3.

September 24, an officer emailed Rhys, asking him to explain what he had meant by the email.[7] Rhys replied, "I am not entertaining this."[8] The officer replied, "Thank you for the response, which we will document."[9] Then, on October 7, campus safety followed up by asking one of the Bowdoin Conservatives' members to document his interpretation of Rhys's email.[10] That student said the email contained a "mocking crying cat emoji." The student also "interpreted this message as a direct threat to [their] life."[11]

This nearly two-month long inquiry culminated on November 11, when Associate Dean for Community Standards and Case Management James Riley notified Rhys he was being charged with "conduct that is unbecoming of a Bowdoin student" for his September 14 email.[12]

As popular expression rarely needs protecting, an institution typically finds its commitment to free speech tested in moments of controversy. Unfortunately, Bowdoin failed this test with respect to Rhys's email. While Bowdoin is a private college not bound by the First Amendment to grant students freedom of expression, it makes independent promises to the same effect, enshrining "free expression of widely varying views" as an integral part of the college community.[13] Based on this strong commitment, students have every reason to believe their rights—and Bowdoin's response to complaints—would be substantially the same as the rights they enjoy off campus under the First Amendment, which protects merely offensive expression. If its promises are to have any force or meaning, then, Bowdoin may not punish Rhys's speech solely because recipients of his email found its contents offensive.

The Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted or punished on the basis that others find it to be offensive or hateful.[14] This core free speech principle is why authorities cannot outlaw burning the American flag,[15] punish the wearing of a jacket emblazoned with the words "Fuck the Draft"[16] or penalize a parody ad depicting a pastor losing his virginity to his mother in an outhouse.[17] In ruling that the First Amendment protects protesters holding insulting signs outside of soldiers' funerals, the Court

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[7] Paul Hansen, *Supplement Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Sept. 28, 2025, 2:32 PM) (on file with author).

[8] *Id.*

[9] *Id.*

[10] Bill Harwood, *Supplement Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Oct. 15, 2025, 12:56 PM) (on file with author).

[11] *Id.*

[12] Letter from James Riley, Associate Dean for Community Standards and Case Management, to Finley Rhys, student (Nov. 11, 2025) (on file with author).

[13] *The Bowdoin Learning Community*, BOWDOIN COLL., https://www.thefire.org/sites/default/files/2025/04/The%20Bowdoin%20Learning%20Community%20_%20Bowdoin%20College.pdf/ (last visited Nov. 14, 2025).

[14] *Matal. v. Tam*, 582 U.S. 218, 244 (2017).

[15] *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

[16] *Cohen v. California*, 403 U.S. 15, 25 (1971).

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

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."[18]

This principle is especially applicable to college campuses, which courts recognize are necessarily dedicated to open debate and discussion. 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").[19] These words and images, published many years ago at the height of the Vietnam War, were no doubt deeply offensive to many at the time. Not only were the waning days of Vietnam a time of deep polarization and unrest, but the newspaper's use of profanity and reference to rape would have been far more shocking to the Americans of half a century past. The Supreme Court nevertheless recognized that "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.'"[20]

While Rhys's email clearly upset the College Conservatives who read it, Bowdoin may not punish Rhys for "conduct that is unbecoming of a Bowdoin student." While the college may have its own values, those values explicitly include an affirmative commitment to free speech. That commitment protects students who dissent from this standard. For Bowdoin's promise of free speech to mean anything, it *must* include speech that is offensive and controversial.

Nor may Bowdoin punish Rhys for any supposedly unprotected "threat" in his email. While true threats are not protected by speech principles, Rhys's statement, "RIP to bro," simply cannot be construed as a threat, and certainly comes *nowhere near* meeting the legal standard of a true threat, a statement through which "the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals."[21] This standard requires that the speaker consciously disregard a substantial risk that their speech would place another in fear of serious physical harm.[22] The true threats exception does not include speech that amounts to rhetorical hyperbole, the endorsement of violence,[23] or the assertion of the "moral propriety or even moral necessity for a resort to force or violence."[24] Here, Rhys was not trying to communicate his intent to commit *any* action, let alone unlawful violence. Rather, he used a phrase commonly understood as a sarcastic expression of sympathy to mock the death of Kirk. Nothing in his email could reasonably be considered a threat against the organizers, notwithstanding their gross misinterpretation of his words. While offensive expression made with the intent to intimidate or threaten physical

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[18] *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

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

[20] *Id.* at 667–68 (1973).

[21] *Virginia v. Black*, 538 U.S. 343, 359 (2003).

[22] *Counterman v. Colorado*, 600 U.S. 66 (2023).

[23] *Watts v. United States*, 394 U.S. 705, 708 (1969) (man's statement, after being drafted to serve in the Vietnam War—"If they ever make me carry a rifle the first man I want to get in my sights is L. B. J."—was rhetorical hyperbole protected by the First Amendment, not a true threat to kill the president).

[24] *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

violence against another person is not protected, the use of offensive expression *without more* remains protected speech.[25]

When a student is accused of engaging in what is clearly protected speech, as Rhys was here, it is critical that Bowdoin refrain from investigating that speech, even if it ultimately resolves its investigation in favor of the speaker. Launching investigations into speech that cannot be punished is an example of making the process the punishment. Recognizing this, when courts consider this question, they consider not whether formal punishment is meted out, but whether the institution's actions in response to the protected speech "would chill or silence a person of ordinary firmness from future First Amendment activities[.]"[26] Such investigations into protected expression chill speech—and effectively constitute censorship—because of the implicit threat of discipline.[27] Not only will the student being investigated begin to self-censor, but other students made aware of the situation will reasonably fear that engaging in similar speech will result in discipline, and self-censor accordingly.

Rhys's email is fully protected by Bowdoin's clear institutional free expression promises. While Bowdoin may not engage in official investigations or punishments regarding such expression, the principle of free expression does not shield the speaker from every consequence from his expression—including criticism by students, faculty, or the broader community. Criticism is a form of "more speech," the remedy to offensive expression that free speech principles prefer to censorship.[28] However, free speech principles limit the *types* of consequences that may be imposed and who may impose them.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on November 19, 2025 confirming Bowdoin will immediately end its investigation into the email and clear Rhys of any wrongdoing.

Sincerely,

Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: James Riley, Associate Dean for Community Standards and Case Management

Encl.

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[25] *Black*, 538 U.S. at 347–48.

[26] *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

[27] *Levin v. Harleston*, 966 F.2d 85, 89 (2d Cir. 1992); *Speech First, Inc. v. Fenves*, 979 F.3d 319, 333 (5th Cir. 2020).

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