



May 7, 2026

Eric D. Bentley  
Vice Chancellor and General Counsel  
Texas Tech University System  
1508 Knoxville Avenue  
System Administration Building, Office 301F  
Lubbock, Texas 79409

*Sent via U.S. Mail and Electronic Mail (Eric.Bentley@ttu.edu)*

Dear Mr. Bentley:

We received your March 18, 2026 response to FIRE Program Officer Ross Marchand, in which you requested that FIRE stop sending letters to the Texas Tech University System regarding the system's violations of the First Amendment rights of its faculty and students.<sup>1</sup> For more than 25 years, FIRE has defended freedom of expression and other individual rights on America's college campuses. Our mission is to defend and promote the value of free speech for all Americans across our nation's campuses, courtrooms, and broader culture. FIRE will continue to send and publicize letters and other advocacy regarding abuses of the First Amendment at any public university, including those in the Texas Tech system, so long as those universities or university systems violate their First Amendment obligations. We will stop writing when TTUS sufficiently addresses our concerns.

You requested that we provide you with "case law that affords faculty members the First Amendment right to violate federal or state law at the risk of losing funding to the System."<sup>2</sup> You contend in your letter that the directive was necessary, in part, so the university can "comport with its mission."<sup>3</sup> You also maintain that this is necessary so TTUS can "comply with federal and state law, and retain federal and state funding."<sup>4</sup>

TTUS appears determined to place limits on constitutionally protected expression. We would remind you, however, that no statute, federal or state, can authorize TTUS to violate its

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<sup>1</sup> Your letter also requests that Mr. Marchand inform his "client" about your response. Mr. Piro (the author of this letter) is an employee of FIRE; he is not legally represented by the organization.

<sup>2</sup> Re: Letter from Graham Piro Dated February 10, 2026, from Eric D. Bentley, Office of General Counsel, to Ross Marchand, Program Counsel (March 17, 2026) (on file with author).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

students' or faculty's First Amendment rights.<sup>5</sup> We understand that protecting those rights is not always easy or politically convenient. Protecting them is nevertheless TTUS's legal obligation, precisely because our nation's founders understood that there would always be political pressure to use the power of the state to silence those with dissenting views. As our previous letter explained, in rejecting legislative attempts to curtail "subversive" views, the Supreme Court has held that the First Amendment's protections of academic freedom do not tolerate "laws that cast a pall of orthodoxy over the classroom,"<sup>6</sup> recognizing that higher education depends on "wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, rather than through any kind of authoritative selection."<sup>7</sup>

The Court added elsewhere that both instructors and students "must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die."<sup>8</sup> These principles mean faculty do not shed their First Amendment rights at the classroom door, but instead remain free to address pedagogically relevant material, including topics or viewpoints elected officials might find odious.

To these ends, the Fifth Circuit has recognized that "classroom discussion is protected activity" under the First Amendment.<sup>9</sup> A professor's instruction is protected under this scheme, so long as it is on a matter of public concern, and the professor's interest in the speech outweighs the university's interest in regulating it.<sup>10</sup> The topics of race and gender are unquestionably matters of public concern, which includes speech that "can be fairly considered as relating to any matter of political, social, or other concern to the community[.]"<sup>11</sup> And they are certainly relevant topics in a wide variety of classes, both on TTU campuses and elsewhere. Accordingly, Texas Tech faculty retain First Amendment protection against unconstitutional viewpoint discrimination in the classroom when they teach their courses. This legal precedent, which binds TTUS, cannot be cast aside simply because lawmakers are targeting disfavored and politically unpopular views in the classroom for elimination.

You further characterized FIRE as "attempting to impose a 'straitjacket' on TTUS." But the limitation on TTUS's actions comes not from FIRE but from the First Amendment, which is *intended* to be a restriction on the power of government agencies like TTUS. This is why the Supreme Court has held that content-based restrictions on speech are presumptively unconstitutional and are legal only if they pass strict scrutiny.<sup>12</sup> And since TTUS has continued

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<sup>5</sup> See U.S. CONST. art. VI, cl. 2 ("This Constitution . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.").

<sup>6</sup> *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

<sup>7</sup> *Id.* at 603 (cleaned up).

<sup>8</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

<sup>9</sup> *Buchanan v. Alexander*, 919 F.3d 847, 852 (5th Cir. 2019).

<sup>10</sup> *Id.* at 852–53. *Cf. Connick v. Myers*, 461 U.S. 138, 147–150 (1983).

<sup>11</sup> *Snyder v. Phelps*, 562 U.S. 443, 453 (2011).

<sup>12</sup> *Reed v. Town of Gilbert*, 576 U.S. 155, 165 (2015).

to target “sexual orientation and gender identity” content, both inside and outside the classroom, it has no choice but to contend with this settled legal doctrine.

And there is every reason to think that the Supreme Court’s longstanding concerns about imposing “orthodoxy” are manifesting at TTUS. Recent news reports indicate that the university system has banned graduate students from pursuing theses or dissertations on these topics.<sup>13</sup> Such directives add to the litany of First Amendment abuses on TTUS campuses. Simply put, administrators may not engage in vetting research topics to ensure consistency with ideological or political beliefs.<sup>14</sup> For any research topic, it is possible that someone, upon encountering its position, will disagree with the topic or results. But faculty at an institution that makes clear commitments to academic freedom must retain that right to decide which topics are worthy of inquiry, without meddling from administrators. This right necessarily extends to the students those faculty advise and mentor.

So long as TTUS continues to violate the First Amendment, FIRE will continue to publicize our advocacy for faculty and student rights on Texas Tech campuses and exercise our right to petition TTUS for the redress of grievances. We once again urge TTUS to cease its unconstitutional interference in faculty pedagogy.

Sincerely,



Graham Piro

Faculty Legal Defense Fund Fellow, Campus Rights Advocacy

Cc: Brandon Creighton, c/o Dede Kirkpatrick, Chancellor  
Texas Tech University Board of Regents, c/o Keino McWhinney  
Lawrence Schovanec, President  
Ronald Hendrick, Provost and Senior Vice President

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<sup>13</sup> Megan Zahneis, *At Texas Tech, Even Some Student Research on Gender Will Be Banned*, CHRON. OF HIGHER ED., (Apr. 27, 2026), <https://www.chronicle.com/article/at-texas-tech-even-some-student-research-on-gender-will-be-banned>.

<sup>14</sup> *Dow Chemical Company v. Allen*, 672 F.2d 1262, 1275 (7th Cir. 1982) (“[W]hatever constitutional protection is afforded by the First Amendment extends as readily to the scholar in the laboratory as to the teacher in the classroom.”); *1940 Statement of Principles on Academic Freedom and Tenure With 1970 Interpretive Comments*, AAUP, <https://www.aaup.org/file/1940%20Statement.pdf> (“Freedom in research is fundamental to the advancement of truth.”).