FIRE
Foundation for Individual Rights and Expression

May 19, 2026

Glenn Hegar
Office of the Chancellor
Texas A&M University
301 Tarrow Street
College Station, Texas 77840-7896

Sent via U.S. Mail and Electronic Mail (chancellor@tamus.edu)

Dear Chancellor Hegar:

As you may recall, FIRE[1] wrote you on April 8, explaining that student Yousef Mahdy cannot be investigated or punished for allegedly making antisemitic comments toward two individuals sitting at a Students Supporting Israel table on March 25, because those comments, regardless of viewpoint, do not constitute discriminatory harassment.[2] On May 5, Student Conduct Assistant Director Asia Smith informed Mahdy that his conduct was under investigation for potentially violating student rules prohibiting disruption, disorderly conduct, and unauthorized recording.[3] But Mahdy's conduct cannot form the basis for these charges either. The First Amendment, which binds TAMU,[4] protects Mahdy's expression from punishment under any rationale. We therefore urge TAMU to end any investigation into Mahdy and refrain from issuing any punishment.[5]

[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 fire.org.

[2] Letter enclosed.

[3] Letter from Asia Smith, Assistant Director of Student Conduct, to Yousef Mahdy, student (May 5, 2026) (on file with author) (Mahdy has until August 28 to schedule a hearing). According to TAMU policy, "unauthorized recording" is any "unauthorized use of electronic or other devices to make audio, video, still frame or photographic record of any person without his/her prior knowledge, or without his/her effective consent when the person or persons being recorded have a reasonable expectation of privacy and/or such recording is likely to cause injury or distress." *Id.*

[4] *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).

[5] Please find enclosed an executed privacy waiver authorizing you to share information about this matter.

Expression is not "disruptive" or "disorderly" merely because it offends or angers listeners. An area like TAMU's Memorial Student Center is designed to host debate and discussion. Student organizations, which often set up tables on campus for the purpose of advocating certain ideas and engaging with other individuals, cannot reasonably claim that disagreement with or critical responses from those individuals constitute "disruption," even when that speech is provocative. By choosing to table in a main area of campus, student organizations necessarily *invite* interaction, including from those who strongly oppose their views. The fact that one or both parties may find the expression that ensues from such exchanges offensive or hateful does not strip the expression of constitutional protection or transform it into punishable conduct.[6] Had the individuals sitting at the Students Supporting Israel table approached Mahdy at his own table and engaged in a mirror-image interaction of the one in this case, the analysis would be precisely the same.

Nor is there any indication that the individuals with Students Supporting Israel had to stop, or even pause, their activity at the table. In fact, the video Mahdy filmed shows one of the individuals at the table actively engaging with another individual. Mahdy did not physically attack any student or do any kind of damage to their table or materials. There is simply no evidence that Mahdy's expression interfered with Students Supporting Israel's activities any more than would vehement disagreement with a similar group of students on any other topic. Nor does Mahdy's recording of the exchange constitute disruption or disorderly conduct. Brief verbal exchanges rarely rise to the level of material and substantial disruption the Supreme Court requires before a school can punish expression,[7] and the recording itself shows that the recording process itself—one person, Mahdy, holding a cell phone—was neither disruptive nor disorderly.

The unauthorized recording charge is no more defensible given the individuals at the Students Supporting Israel table had no reasonable expectation of privacy while in the student center. The "reasonable expectation of privacy" standard referenced in TAMU's recording policy is a legal term of art, and the key term is "reasonable." The Students Supporting Israel individuals set up a table in the main—and likely busiest—area of the *public* campus to engage in an activity meant to engage others. Individuals who solicit engagement in an open area on a large public campus cannot reasonably expect privacy from video recording by other students.[8] Additionally, the individuals clearly saw Mahdy filming, defeating any claim that they had no prior knowledge.

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[6] *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag is protected by the First Amendment); *see also Cohen v. California*, 403 U.S. 15, 25 (1971) (wearing a jacket that says "Fuck the Draft" is protected); *Matal v. Tam*, 582 U.S. 218, 246 (2017) (Supreme Court refused to establish a limitation on speech viewed as "hateful" or demeaning "based on race, ethnicity, gender, religion, age, disability, or other similar ground.").

[7] *Tinker v. Des Moines,* 393 U.S. 503, 512 (1969) (quoting *Keyishian v. Bd. of Regents,* 385 U.S. 589, 603 (1967). While *Tinker* involved minor students in high school, the speech of university students cannot be restricted more than that of high school students. *See Tinker*, 393 U.S. at 515 (Stewart, J., concurring). Therefore, the protections described by the Court in *Tinker* are the floor for student expressive rights, not the ceiling. Even under *Tinker's* disruption standard, Mahdy's expression does not rise to the level of a punishable disruption.

[8] *See Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring).

Given the continued threat to Mahdy's free speech rights, we request a substantive response to this letter no later than the close of business on May 26, 2026, confirming TAMU has ended its investigation into Mahdy and is not considering punishment.

Sincerely,

Haley Gluhanich
Senior Program Counsel, Campus Rights Advocacy

Elliot Certain

Elliot Certain
Graduate Student Press Research Associate

Cc: R. Brooks Moore, General Counsel
Asia Smith, Assistant Director of Student Conduct

FIRE
Foundation for Individual Rights and Expression

April 8, 2026

Glenn Hegar
Office of the Chancellor
Texas A&M University
Moore/Connally Building
301 Tarrow Street
College Station, Texas 77840-7896

Sent via U.S. Mail and Electronic Mail (chancellor@tamus.edu)

Dear Chancellor Hegar:

FIRE, a nonpartisan nonprofit that defends free speech,[1] is concerned by Texas A&M University's investigation into student Yousef Mahdy for alleged antisemitic comments. While Mahdy's comments may have upset or offended many of those who heard them, they are protected by the First Amendment and do not constitute discriminatory harassment. Accordingly, TAMU must immediately cease any investigation into the matter and ensure that it does not punish Mahdy for his constitutionally protected speech.

On April 1, the StopAntisemitism X account shared a video—seemingly filmed by Mahdy himself—that circulated across social media.[2] In the video, Mahdy approached two students sitting at a Students Supporting Israel table, to whom he directed the following statements: "Free Palestine," "it's the genocide supporters right here," "what's up stinky Zionists, dirty scums?" and "when will these guys learn to get the hell out of our country?"[3] Mahdy also claimed that the United States is fighting wars on behalf of Israel and is funding the "disgusting Netanyahu government."[4] That same day, you posted on X that "[h]arassing others with hateful and demeaning language is unacceptable. There is no place at The Texas A&M University System for that kind of behavior. We are reviewing the facts, and will act if our policies have been violated."[5]

[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 fire.org.

[2] StopAntisemitism (@StopAntisemites), X (Apr.1, 2026, 9:52AM), https://x.com/StopAntisemites/status/2039340128271753238.

[3] *Id.*

[4] *Id.*

[5] Glenn Hegar (@Glenn_Hegar), X (Apr.1, 2026, 6:16 PM), https://x.com/Glenn_Hegar/status/2039466893887656402.

Insofar as TAMU's investigation arises from Mahdy's First Amendment-protected speech, the university has exceeded the constitutional limits on its authority. It has long been settled law that a public university's pursuit of disciplinary sanctions against students must comply with the First Amendment.[6] TAMU therefore cannot investigate or punish Mahdy merely because some or even many people found his comments offensive or hateful.[7] The Supreme Court made this clear when it held that the First Amendment protects protesters holding highly insulting, deliberately inflammatory signs outside soldiers' funerals, reaffirming 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."[8] At TAMU, that means, as the Court wrote in another famous case, 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.'"[9]

This is especially true for political expression, which includes Mahdy's speech regarding the Israeli-Palestinian conflict and the current war in Iran. We turn again to the Supreme Court, which has long taken notice that "[w]hatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of government affairs."[10] Speech regarding international conflicts is undoubtedly "core political speech" at the very heart of any conception of free expression and is where First Amendment protection is "at its zenith."[11]

Nor may TAMU investigate or punish Mahdy for harassment. His comments simply do not meet the stringent legal definition of actionable peer-on-peer harassment as required by the First Amendment. In the higher education context, institutions may constitutionally punish speech as hostile environment harassment only when it is (1) unwelcome, (2) discriminatory on the basis of gender or another protected class, and (3) "so severe, pervasive, and objectively offensive that it can be said to deprive the victim[] of access to the educational opportunities or benefits provided by the school."[12] Sanctions on speech among student peers that do not meet this standard are unconstitutional. Even assuming *arguendo* that some of

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

[7] *See Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag is protected by the First Amendment); *see also Cohen v. California*, 403 U.S. 15, 25 (1971) (wearing a jacket that says "Fuck the Draft" is protected); *Matal v. Tam*, 582 U.S. 218, 246 (2017) (Supreme Court has refused to establish a limitation on speech viewed as "hateful" or demeaning "based on race, ethnicity, gender, religion, age, disability, or any other similar ground."). 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 using a vulgar headline ("Motherfucker Acquitted"). These words and images in the newspaper—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest, just as Maydy's comments—made amid the Israeli-Palestinian conflict and a war with Iran—can be viewed as offensive or hateful. *Papish,* 410 U.S. at 667–68.

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

[9] *Papish*, 410 U.S. at 670.

[10] *Mills v. Alabama*, 384 U.S. 214, 218 (1966).

[11] *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186–87 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414 (1988)).

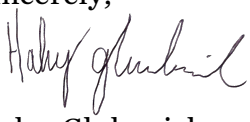
[12] *See Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 650 (1999).

Mahdy's comments—which concerned political and cultural issues—qualify as objectively offensive, his exchange of only a couple minutes' duration simply cannot be said to be pervasive or to have deprived a reasonable person from receiving his or her education.[13]

Importantly, the limits on how government actors like TAMU may regulate speech do not shield Mahdy from every consequence arising from his speech—including harsh criticism by students, faculty, and the broader community. Criticism is a form of the "more speech" remedy our free society prefers over censorship.[14] Nor is TAMU barred from offering resources to students who may have been offended by Mahdy's speech. The First Amendment does, however, strictly limit the consequences that government actors can impose on those who engage in disfavored speech. The Constitution plainly bars public college administrators from punishing student speakers, even when some, many, or most people are offended by what those speakers say.

Given the ongoing threat to Mahdy's free speech rights, we request a substantive response no later than close of business on April 13, 2026, confirming TAMU will cease its investigation into Mahdy and will refrain from meting out any punishment.

Sincerely,



Haley Gluhanich
Senior Program Counsel, Campus Rights Advocacy

Cc: R. Brooks Moore, General Counsel

[13] To deprive a student of educational opportunities or benefits, the speech needs to create a concrete, negative effect. *See Davis*, 526 U.S. at 654. Examples of such negative effects include a change of study habits, school transfer, or a drop in grades. *Fennell v. Marion Indep. Sch. Dist.*, 804 F.3d 398, 410 (5th Cir. 2015).

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