



June 18, 2026

Jeanette M. Nuñez
Office of the President
Florida International University
11200 SW Eighth Street, PC 519
Miami, Florida 33199

Sent via U.S. Mail and Electronic Mail (president@fiu.edu)

Dear President Nuñez:

FIRE, a nonpartisan nonprofit that defends free speech,¹ is concerned by Florida International University's decision to charge seven students for a non-disruptive demonstration against the university's cooperation with U.S. Immigration and Customs Enforcement. The student protesters engaged in protected, non-disruptive expression, and the use of sweeping policies to squelch their expression violates FIU's First Amendment obligations. We urge FIU to drop the conduct charges and revise its expressive activities policy to protect such expression inside university facilities.

On March 13, students affiliated with the "ICEBreakers FIU" student group held a silent protest during your "fireside chat" at the Student Academic Support Center auditorium.² During the event, at least 11 protesters stood up and unzipped their hoodies to reveal matching t-shirts that read, "ICE OFF FIU."³ Despite university officials confirming that the demonstration "did not disrupt the event" and no attendees complained,⁴ at least seven students were charged with violating a university policy prohibiting "protests, parades,

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

² David Brown, *FIU Students Charged Following Silent Protest Against ICE*, PANTHER NOW & THE ROAR (May 28, 2026), <https://panthernow.com/2026/05/28/fiu-students-charged-following-silent-protest-against-ice/>. The recitation of facts here is based on public reporting. We appreciate that you may have additional information and invite you to share it with us.

³ Alex DeLuca, *FIU Investigates Students Over Anti-ICE Protest*, MIA. NEW TIMES (Apr. 14, 2026), <https://www.miaminewtimes.com/news/fiu-investigates-students-over-anti-ice-protest-40538946/>. The protest was targeted at FIU's "287(g) agreement" with ICE, under which ICE trains and deputizes local officers to enforce immigration laws. Kate Payne, *Florida universities to deputize campus police for immigration enforcement*, ASSOC. PRESS (Apr. 11, 2025), <https://apnews.com/article/florida-university-police-federal-immigration-enforcement-visas-ff488622d288af00f69109429cee673d>.

⁴ *Id.*

marches, picketing, demonstrations, and other similar expressive activities ... inside University buildings or other University indoor facilities.”⁵

Government actors such as FIU are bound by the First Amendment.⁶ While Universities may impose reasonable time, place, and manner restrictions on speech, these restrictions must be “justified without reference to the content of the regulated speech, ... narrowly tailored to serve a significant governmental interest, and ... leave open ample alternative channels for communication of the information.”⁷ To satisfy the narrow tailoring requirement, “the government must demonstrate that alternative measures that burden substantially less speech would fail to achieve the government’s interests, not simply that the chosen route is easier.”⁸ There is no narrow tailoring whatsoever with this policy, as a wide range of expressive activity is banned in all buildings. FIU could narrow the policies to target conduct that is disruptive or otherwise interferes with the rights of others, but instead, it prohibits *all* protests and demonstrations indoors.

The failure to single out expressive activity that is disruptive, unlawful, or otherwise interferes with the rights of others renders the policy unconstitutionally overbroad and vague. Overbreadth occurs when speech regulations sweep up a substantial amount of protected expression along with what they may legitimately regulate.⁹ While the policy’s sweep includes disruptive conduct, it also includes non-disruptive, protected expression such as silently turning one’s back during an event, or—as is the case here—wearing expressive clothing. Further, a speech-related policy is impermissibly vague when it fails to give persons of ordinary intelligence the reasonable opportunity to know what is prohibited so they may act accordingly.¹⁰ The policy’s failure to define “protests” or “demonstrations” or “similar expressive activities” chills a broad swath of expressive activity, as students cannot know what types of behavior constitute a violation of the policy in the university’s eyes and will justifiably self-censor.

⁵ Brown, *supra* note 2; *see also* *FIU-110 Expressive Activities in Outdoor Areas on Campus*, 3, FLA. INT’L UNIV. (revised Nov. 25, 2024), <https://regulations.fiu.edu/wp-content/uploads/2025/11/FIU-110-2024-11-25.pdf> [<https://perma.cc/HUD7-6VF2>]. Students were also charged with failure to comply for not providing identification when requested by officers. Brown, *supra* note 2; *See also* *FIU-2501 Student Conduct & Honor Code, Conduct Violations, Failure to Comply*, FLA. INT’L UNIV. (revised Jun. 16, 2025) <https://regulations.fiu.edu/wp-content/uploads/2025/11/FIU-2501-2025-06-16.pdf> [<https://perma.cc/S9KK-RDL7>] (“Failure to comply with a request or directive of a University Official or non-University law enforcement official in the performance of their duty.”).

⁶ *Healy v. James*, 408 U.S. 169, 180 (1972) (“The 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.”) (cleaned up).

⁷ *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

⁸ *McCullen v. Coakley*, 573 U.S. 464, 467 (2014).

⁹ *Broadrick v. Oklahoma*, 413 U.S. 601, 612–13 (1973).

¹⁰ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

Since “universities occupy a special niche in our constitutional tradition” for “the expansive freedoms of speech and thought associated with” them,¹¹ the policy’s overbreadth, vagueness, and sweep are especially offensive to the First Amendment. To be sure, this policy would violate students’ First Amendment rights even in the K-12 school setting, where a material and substantial disruption with the work of the school must be proven.¹² A mere “undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression.”¹³ The FIU students here engaged in no substantial disruption—they did not make any noise or otherwise engage in conduct interfering with the “fireside chat” programming. Administrators even admitted as such.

With these constitutional defects, FIU sends a message to its students that if they want to venture indoors, they must think twice before engaging in any expressive activity that can be construed as a “protest” or “demonstration.” Since this case involves clothing, would a student be prohibited from wearing a Malcolm X t-shirt in a university building under the same policy? What about a Palestinian keffiyeh or an Israeli flag lapel pin? If a student wore purple for Domestic Violence Awareness Month, would that be actionable? Clothing is, by its very nature, expressive, so the application of this policy is quite difficult to reconcile with the “Freedom of thought and expression” that FIU cites as an institutional value.¹⁴ Untethered to any definition, this policy can be used to punish this kind of clearly protected expression.

FIU should therefore revise its expressive activities policy to forbid *only* those indoor activities that cause a material and substantial disruption to university function (e.g., the conducting of classes, holding events, students’ ability to study in the library, or students’ enjoyment of the residence halls).¹⁵ FIU must also drop the conduct charges against the seven students for their anti-ICE demonstration. FIRE is happy to assist FIU—free of charge, in accordance with our charitable mission—to revise its policies to fully protect student speech on campus. We

¹¹ *Grutter v. Bollinger*, 539 U.S. 306, 329 (2003).

¹² *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 508–09 (1969). While *Tinker* involved minor students in high school, the speech of university students cannot be restricted more than that of high school students. *See id.* at 515 (Stewart, J., concurring). Therefore, the protections described by the Court in *Tinker* are the floor for student expressive rights, not the ceiling.

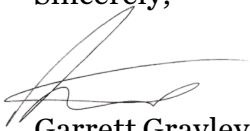
¹³ *Id.* at 508–09. *Tinker* involved two students who wore black armbands with the peace insignia, in protest of the Vietnam War. Like in *Tinker*, where matching armbands as part of a political demonstration was not sufficiently disruptive, here, the use of matching t-shirts saying “ICE OFF FIU” does not pose any material or substantial disruption to school operations, or otherwise interfere with the rights of other students.

¹⁴ *Mission and Vision, Values*, FLA. INT’L UNIV., <https://www.fiu.edu/about/mission-and-vision/index.html> [<https://perma.cc/FSC5-TYX4>].

¹⁵ For example, blasting music from a speaker indoors is likely disruptive, whether that music is part of a protest or not, so no determination about whether expression has crossed the line into protest is required. For a model policy on point enacted by other public universities, *see Freedom of Speech and Expression University Standard*, Standard, UNIV. OF N.C. AT CHAPEL HILL, <https://policies.unc.edu/TDClient/2833/Portal/KB/Article/132134/Freedom-of-Speech-and-Expression-University-Standard> [<https://perma.cc/65HX-FLVL>] (prohibiting material and substantial disruption, recognizing enumerated First Amendment exceptions such as harassment, and allowing for reasonable time, place, and manner restrictions).

respectfully request a substantive response to this letter no later than close of business on June 26, 2026.

Sincerely,

A handwritten signature in black ink, appearing to read 'Garrett Gravley', written over a horizontal line.

Garrett Gravley
Program Counsel, Campus Rights Advocacy

Cc: Patricia Lopez-Guerrero, Director of Student Affairs
Devin Parra, Director of Student Conduct & Academic Integrity