

FIRE

Foundation for Individual
Rights and Expression

November 1, 2023

Lester Edgardo Sandres Rápalo
Office of the President
Rockland Community College
Brucker Hall, Room 6205
145 College Road
Suffern, New York 10901

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

Dear President Rápalo:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by Rockland Community College's punishment of student Madeline Ward for her pro-Palestinian expression. We acknowledge that our concerns arise at a time when emotions are running high between those with opposing views on the Israeli-Palestinian conflict, but Ward's political, nondisruptive speech is fully protected by the First Amendment, which bars RCC from disciplining her. Accordingly, we call on RCC to rescind all punishment imposed on Ward and commit to protecting students' free speech rights.

On October 12, Hillel of Rockland, together with RCC's Hillel Club and Antidiscrimination Club, hosted a Unity Gathering at the Ellipse Technology Center.² During the event, Ward entered the center, stood by the door, and shouted, "from the river to the sea, Palestine will be free" and "Jews for Palestine," and then walked out.³ She did not block the door or prevent other students from attending the event.

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² Stephanie Dixon, *Unity Gathering in Support of Israel*, HUDSON VALLEY NEWS (Oct. 12, 2023), <https://hudsonvalley.town.news/g/nanuet-ny/e/219280/unity-gathering-support-israel>. The recitation here reflects is our understanding of the pertinent facts, based on public 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 Alex Kane, *A "McCarthyite Backlash" Against Pro-Palestine Speech*, JEWISH CURRENTS (Oct. 20, 2023), <https://jewishcurrents.org/a-mccarthyite-backlash-against-pro-palestine-speech>. Affording to Ward,

Later that day, Executive Director of Student Engagement and College Life LaToya Blount emailed Ward to notify her she was charged with, among other violations, “Disruptive Behavior,” defined by the RCC Code of Student Conduct as:⁴

Intentionally, knowingly, or recklessly engaging in disruptive behavior that interferes with the educational or administrative operation of the College. Such conduct includes, but is not limited to: conduct which disrupts the peaceable classroom, office or administrative environment, conduct that disrupts any College-sponsored activity (the blocking of an entrance, exit, or access to any College facility, area, road, stairway, and/or walkway); behavior that infringes upon the rights of other members of the College community; and leading or inciting others to disrupt scheduled and/or normal activities on College premises.

Ward replied to Blount by email stating “FREE PALESTINE,” to which Blount replied, “This is a **firm warning** that your email is inappropriate” and that Blount would “not entertain any further correspondence” until a disciplinary meeting scheduled for October 19.⁵

On October 23, RCC found Ward responsible for disruptive behavior and imposed a written warning and a requirement that she complete a reflection paper about complying with college policies.⁶ At no point during the process did RCC demonstrate how Ward interfered with or disrupted the Unity Gathering. Ward’s appeal of this determination is pending.

Ward’s speech is protected by the First Amendment and should not have prompted disciplinary proceedings to begin with, much less a finding of responsibility or subsequent punishment for her speech. Notably, Ward’s fleeting commentary neither disrupted the Unity Gathering nor ran afoul of any RCC policy.⁷ Public educational institutions must show “material and substantial interference” with events or operations to punish students for disruptive

campus police officers followed her away from the event, asked for her student ID and driver’s license, and told her she could be charged with a crime for her speech.

⁴ Letter from LaToya Blount, Executive Director of Student Engagement and College Life, to Madeline Ward, student (Oct. 12, 2023) (on file with author); *Student Code of Conduct*, ROCKLAND CMTY. COLL. (rev. Aug. 27, 2015), <https://sunyrockland.edu/about/college-policies/student-services-policies/student-code-of-conduct> [<https://perma.cc/87S8-F2FK>].

⁵ Email thread between Ward and Blount (Oct. 15, 2023) (emphasis in original) (on file with author).

⁶ Letter from Blount to Ward (Oct. 23, 2023) (on file with author).

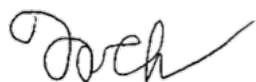
⁷ It has long been settled law that the First Amendment binds public college like RCC, such that its actions and decisions—including imposition of disciplinary sanctions—must comply with the First Amendment. *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for 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); see also *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

expression.⁸ This reflects the First Amendment’s robust protection for uncivil, offensive, and even hateful speech.⁹ This includes Ward’s advocacy for Palestinians.¹⁰

RCC has put forth no evidence of any disruption, let alone a severe and material disruption necessary to justify punishing Ward.¹¹ Further, Blount’s hostile reaction to Ward’s two-word response email and warning that her protected political speech is “inappropriate” suggests RCC based its punishment in part on her pro-Palestinian viewpoints. Such impermissible viewpoint discrimination has no place at a public college bound by the First Amendment.¹² Considering the absence of an actual disruption, Ward’s words do not rise to “disruptive behavior” under RCC’s policies and cannot form the basis of any punishment by the college.

FIRE writes privately to urge your administration to rectify this undue violation of Ward’s fundamental First Amendment rights. We request a substantive response to this letter no later than close of business November 8, confirming RCC has rescinded its punishment of Ward and will commit to upholding students’ free speech rights.

Sincerely,



Zachary Greenberg
Senior Program Officer, Campus Rights Advocacy

Cc: LaToya Blount, Executive Director of Student Engagement and College Life

Encl.

⁸ *Tinker v. Des Moines*, 393 U.S. 503, 512 (1969) (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)). In the college context, the protections described by the Court in *Tinker* are the floor for student expressive rights, not the ceiling. Even under *Tinker*’s disruption standard, Ward’s words do not rise to level of a punishable disruption.

⁹ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag is protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”); see also *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011) (“As a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”); cf. *Tinker*, 393 U.S. at 508 (“undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression”).

¹⁰ E.g., *Mills v. Alabama*, 384 U.S. 214, 218 (1966) (“Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose ... was to protect the free discussion of governmental affairs.”).

¹¹ To the extent Ward disrupted the event at all, RCC must disclose these relevant facts per its due process obligation to provide students adequate notice of alleged misconduct and a meaningful opportunity the contest charges. *Student Code of Conduct*, *supra* note 4 (“Conduct proceedings are governed by ... the due process provisions of the United States and New York ... Constitutions”).

¹² *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995) (“Viewpoint discrimination is thus an egregious form” of censorship, and authorities “must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”).