

July 28, 2025

Mr. Graham Piro
Faculty Legal Defense Fund Fellow
Foundation for Individual Rights and Expression
510 Walnut Street, Suite 900
Philadelphia, PA 19106

Via email: graham.piro@thefire.org

Re: Your letter to Dr. Guy Bailey concerning Dr. Clyde Barrow dated and received July 11, 2025

Dear Mr. Piro:

The above-referenced letter has been forwarded to my attention. Please address any future correspondence regarding this matter to me.

Dr. Barrow remains on non-disciplinary leave without a deduction in pay while UTRGV conducts a compliance investigation, in accordance with federal and state law. Under the Texas Education Code, “information that directly or indirectly reveals the identity of an individual” who made a report, sought guidance from, or participated in an investigation is confidential.¹ Consequently, UTRGV will not respond to or comment on any of the alleged “pertinent facts” regarding the substance of its ongoing investigation.

UTRGV’s routine administrative step of placing an employee like Dr. Barrow on leave with pay during an investigation, consistent with the Texas Government Code, does not violate Dr. Barrow’s First Amendment or due process rights. While UTRGV disputes some of your legal assertions related to the scope and applicability of the First Amendment in connection with this matter, it is premature to debate the legal implications of facts that are still being developed.

¹ Tex. Educ. Code § 51.971.

Office of Legal Affairs

Mailing address:
1201 West University Blvd.
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Once the investigation is complete, the findings will be forwarded to the appropriate administrator, who will in turn review the findings and decide what action to take based on the credible evidence gathered, UTRGV policy, and relevant law. Should this process result in discipline for Dr. Barrow, UTRGV will follow the appropriate discipline and appeal procedures.²

UTRGV has and will continue to act consistently with its commitment to freedoms of speech, expression, and assembly for its students, faculty, and staff. Likewise, UTRGV will continue its investigation in a fair and equitable manner to determine if a violation of its policies occurred. And, as a show of good faith, UTRGV will not interpret FIRE's recent actions as an attempt to interfere with or manipulate UTRGV's ongoing investigation.

If you have other questions that do not relate to the substance of UTRGV's ongoing investigation, please contact me directly.

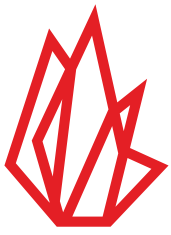
Regards,



Laura A. Barbour
Chief Legal Officer
The University of Texas Rio Grande Valley

cc: Guy Bailey, Ph.D., President
Luis Zayas, Ph.D., Provost and Executive Vice President for Academic Affairs

² UTRGV has detailed these procedures in prior correspondence to FIRE related to Dr. Barrow. Please see attached letters dated August 3, 2022 (FIRE to UTRGV) and August 12, 2022 (UTRGV to FIRE).



FIRE

Foundation for Individual
Rights and Expression

August 3, 2022

President Guy Bailey
Office of the President
University of Texas Rio Grande Valley
One West University Boulevard
Brownsville, Texas 78520

Sent via Electronic Mail (president@utrgv.edu)

Dear President Bailey:

The Foundation for Individual Rights and Expression, a nonpartisan nonprofit dedicated to defending freedom of speech, expression, and conscience, and other individual rights on campus, is concerned that the University of Texas Rio Grande Valley has severely reprimanded professors Kirstin Munro and Monica Clua-Losada for opposing a campus speaking engagement featuring former Attorney General Alberto Gonzales. As a public institution bound by the First Amendment, UTRGV cannot punish or reprimand faculty for their constitutionally protected criticisms of a university event.

I. UTRGV Disciplines Munro and Clua-Losada for Their Protected Expression

Based on our understanding of the pertinent facts (though we appreciate you may have additional information and invite you to share it), on February 4, 2022, Munro, a professor in UTRGV's Political Science department, learned members of her department had invited former U.S. Attorney General Alberto Gonzales to speak at a departmental symposium on race and gender. Munro emailed one of the symposium organizers, explaining that due to Gonzales's record on human rights, she believed the invitation should not have been issued.

On March 11, UTRGV formally reprimanded and sanctioned Munro, citing her department chair's conclusion that Munro's communications with the Gonzales event's faculty organizer were "disruptive, harassing, and creating a hostile work environment" and thus not protected under university policy.¹ The reprimand also cited social media posts allegedly written by

¹ Letter from Clyde Barrow, Political Science Department Chair, to Kirstin Munro re: Written Reprimand, March 11, 2022 (on file with author).

Munro as “intended to demean and embarrass” colleagues.² The sanctions on Munro included:

1. You will not be eligible to receive any merit pay awards, or any other salary adjustments for the next two years (AY 2022-2023 and AY 2023-2024).
2. You will be expected to recuse yourself from the Tenure & Promotion Committee for any promotion reviews involving Dr. Sylvia Gonzalez-Gorman or Dr. Natasha Altema McNeely until after August 31, 2027.
3. You will not be eligible to chair any standing committee or ad hoc committee in the Department of Political Science until after August 31, 2024.
4. You will not be eligible to sit as a member of any search committee until after August 31, 2024.
5. You will not be eligible to access Department Summer Incentive Funds until after August 31, 2024.³

Munro’s colleague, Professor Clua-Losada, also objected to the Alberto Gonzales invitation. She reached out via WhatsApp to another of the symposium’s organizers to share her views, stating “I think that giving a platform to the person responsible for the torture of hundreds of brown people is not about showcasing plurality or entering into dialogue. This is outrageous and unacceptable.” Dr. Clua-Losada also posted several tweets about Gonzales using a GIF that stated “I Love War Crimes.” She received a nearly identical reprimand and list of sanctions, for largely the same reasons.⁴

II. UTRGV’s Actions Violate Munro’s and Clua-Losada’s First Amendment Rights

It has long been settled law that the First Amendment is binding on public universities like UTRGV.⁵ Decisions and actions of a public university—including pursuit of disciplinary sanctions⁶—therefore must be consistent with the First Amendment. UTRGV’s investigation

² *Id.* FIRE is aware that Barrow attributed several tweets on other topics by other individuals, including Munro’s spouse and Clua-Losada, to Dr. Munro and alleged they were related to the Gonzales invitation. Even if those tweets had been authored by Dr. Munro and had been related to the Gonzales invitation, however, they would have been entirely protected.

³ *Id.*

⁴ Letter from Clyde Barrow to Monica Clua-Losada re: Written Reprimand, March 11, 2022 (on file with author). FIRE is aware that Dr. Barrow has attempted to connect a number of Dr. Clua-Losada’s tweets on other matters—such as the so-called “Harvard letter” that was causing controversy among academics on Twitter at the time—to the Gonzales invitation, and has cited those as evidence of an alleged pattern of conduct. Even if these tweets had been related to the Gonzales invitation, however, they would have been entirely protected.

⁵ *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).

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

and punishment of Munro and Clua-Losada for their protected expression violate the university's legal obligations.

As the Supreme Court has held, public employees do not surrender their First Amendment rights simply by the nature of their employment.⁷ They retain a right to speak as private citizens on matters of public concern. Courts have recognized that the First Amendment protects faculty at public colleges and universities even when speaking pursuant to their normal job duties when they do so on matters of public concern as part of those duties. This includes the U.S. Court of Appeals for the Fifth Circuit,⁸ whose decisions bind UTRGV. This accords with the Supreme Court's recognition that academic freedom is a "special concern of the First Amendment."⁹ Faculty like professors Munro and Clua-Losada retain the academic freedom to discuss difficult and controversial issues—even while on the job.

Beyond UTRGV's First Amendment obligations, the university's own policies contain strong, unambiguous commitments to student and faculty expression. ADM 02-300 makes clear that:

Students, faculty, and staff are free to express their views, individually or in organized groups, orally or in writing or by other symbols, on any topic, in all parts of the campus, subject only to rules necessary to preserve the equal rights of others and the other functions of UTRGV.¹⁰

UTRGV also limits harassment to speech that:

(i) is not necessary to the expression of any idea described in Subsection a of this definition; (ii) is sufficiently severe, pervasive, or persistent to create an objectively hostile environment that interferes with or diminishes the victim's ability to participate in or benefit from the services, activities, or privileges provided by UTRGV; and (iii) personally describes or is personally directed to one or more specific individuals.¹¹

By definition, this includes only extreme, typically repetitive behavior targeted at specific individuals and devoid of any expressive purpose—conduct so serious it would prevent a reasonable person from participating in university activities.¹²

Munro's and Clua-Losada's criticisms regarding the propriety of UTRGV hosting a former U.S. Attorney General whom they believe has committed human rights violations are clearly protected expression on a matter of public concern and do not approach the high bar for harassment set by UTRGV's own policies. That Munro, in the course of expressing her

⁷ See *Connick v. Myers*, 461 U.S. 138, 145–46 (1983).

⁸ *Buchanan v. Alexander*, 919 F.3d 847 (5th Cir. 2019) (skipping *Garcetti* and applying only the *Pickering* balancing test).

⁹ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

¹⁰ UNIV. OF TEX. RIO GRANDE VALLEY, HANDBOOK OF OPERATING PROCEDURES ADM 02-300, available at <https://www.utrgv.edu/hop/policies/adm-02-300.pdf> [<https://perma.cc/G7C5-CFV5>].

¹¹ *Id.*

¹² *Cf. Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 633 (1999) ("an action will lie only for [student-on-student] harassment that is so sufficiently severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.").

opinions more widely, sent a single email to a fellow faculty member does not render it unprotected “targeted” expression; by definition, such expression must also have been severe, pervasive, or persistent and devoid of expressive purpose.

The mere fact that Munro’s speech may have made others uncomfortable does not remove those comments from First Amendment protection. The Supreme Court has repeatedly, consistently, and clearly held that government actors may not restrict expression on the basis that others take offense. This core constitutional principle is why authorities cannot outlaw burning the American flag,¹³ punish the wearing of a jacket emblazoned with the words “Fuck the Draft,”¹⁴ penalize cartoons depicting a pastor losing his virginity to his mother in an outhouse,¹⁵ or disperse civil rights marchers out of fear that “muttering” and “grumbling” white onlookers might resort to violence.¹⁶

The “wide latitude” afforded by freedom of expression “is not without its costs in terms of the risks to the maintenance of civility and an ordered society,” and those risks have often been borne “on the campus and elsewhere.”¹⁷ However, the “desire to maintain a sedate academic environment does not justify limitations on a [faculty member’s] freedom to express [themselves] on political issues in vigorous, argumentative, unmeasured, and even distinctly unpleasant terms.”¹⁸ Faculty also “may have to withstand colleagues that do not like them, are rude, and may be generally disagreeable people,”¹⁹ but in order to provide adequate breathing room for freedom of expression, any policies limiting faculty members’ speech must be objective, narrow, and precise.

UTRGV appears to have unlawfully retaliated against Munro and Clua-Losada by issuing sanctions. Government actors, including public university administrators, may not retaliate against employees for protected speech. The government has retaliated if a person of ordinary firmness would be deterred from future expression by the government’s actions in response.²⁰ In the Fifth Circuit, reprimands constitute an adverse employment action as they are enough to deter a reasonable employee from engaging in protected speech.²¹

Here, both Munro and Clua-Losada received formal reprimands expressly due to their protected speech. Moreover, those reprimands carried significant sanctions, including denying them pay raises and access to Summer Incentive funding, as well as the ability to develop professionally by serving on various committees. These are well more than sufficient adverse actions to constitute retaliation.

¹³ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (“burning the American flag was 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.”).

¹⁴ *Cohen v. California*, 403 U.S. 15, 25 (1971).

¹⁵ *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

¹⁶ *Cox v. Louisiana*, 379 U.S. 536, 557 (1965).

¹⁷ *Healy v. James*, 408 U.S. 169, 194 (1972).

¹⁸ *Rodriguez v. Maricopa Cnty. Cmty. Coll. Dist.*, 605 F.3d 703, 708–09 (9th Cir. 2009).

¹⁹ *Somoza v. Univ. of Denver*, 513 F.3d 1206, 1218 (10th Cir. 2008).

²⁰ *Mendocino Env’tl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

²¹ *Breaux v. City of Garland*, 205 F.3d 150, 157 (5th Cir. 2000) (“Adverse employment actions are discharges, demotions, refusals to hire, refusals to promote, and reprimands.”).

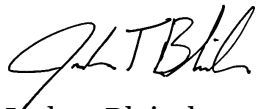
III. Conclusion

The reprimands and attendant sanctions against Munro and Clua-Losada for their constitutionally protected speech violate the professors' First Amendment rights and constitute retaliatory, adverse employment actions.

Both the Constitution and UTRGV policy afford faculty the right to speak on matters of public concern, even if they do so in ways that may be offensive, uncivil, or uncomfortable to others. Munro's and Clua-Losada's speech here is clearly protected. As a government entity, UTRGV may not punish Munro and Clua-Losada simply because administrators or other faculty object to their views or manner of expression.

We request receipt of a response to this letter no later than the close of business on Monday, August 16, 2022, confirming that UTRGV will rescind the reprimands and sanctions issued to these faculty members, and recommit to abiding by its binding First Amendment obligations moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'JTBleisch', written in a cursive style.

Joshua Bleisch
Faculty Legal Defense Fund Fellow

Cc: Janna Arney, Executive Vice President and Provost

August 12, 2022

VIA EMAIL JOSH.BLEISCH@THEFIRE.ORG

Joshua Bleisch
Faculty Legal Defense Fund Fellow
Foundation for Individual Rights and Expression
510 Walnut Street, Suite 1250
Philadelphia, PA 19106

Re: Your Letter to Dr. Guy Bailey concerning Drs. Monica Clua-Losada and Kirstin Munro dated and received August 3, 2022

Dear Mr. Bleisch:

The referenced letter has been forwarded to my attention. Please address any future correspondence regarding this matter to me.

In reviewing your letter, the “understanding of the pertinent facts” you described with respect to Drs. Monica Clua-Losada and Kirstin Munro and an ongoing faculty grievance process can be reasonably characterized as incomplete.

To summarize the pertinent facts, two members of the Department of Political Science faculty raised concerns with their chair about a series of communications occurring in a short time period that appeared to target them personally and unnecessarily based on factors such as race, professional competence, and intelligence – which, if true, would constitute unprofessional and unacceptable harassing conduct – and which apparently occurred as part of a larger ongoing discussion about the invitation of a speaker to a department-supported symposium.¹ The department chair undertook a review,² determined the greater weight of credible evidence supported the allegations of coordinated conduct that was disruptive, harassing, and creating a hostile work environment for the complainants, and issued reprimands to Drs. Clua-Losada and Munro. Both Drs. Clua-Losada and Munro timely grieved these decisions under [UTRGV’s faculty grievance policy](#), asserting that the chair’s fact-finding was inaccurate, and that their conduct either (a) addressed other topics entirely (e.g., “Academic Twitter”)

¹ Other faculty apparently raised objections concerning the invited speaker without issue. During the symposium itself, protestors were present and actively protested the presentation. UTRGV had and has no concerns with these clearly protected expressive activities.

² This review involved discussions with other Department faculty as well as examination of various communications. The chair expressly excluded from his consideration communications by Drs. Clua-Losada and Munro that focused on the speaker’s record, noting the communications were clearly protected expressive activity.

and was not directed at the complainants or alternatively (b) commented on the speaker/invitation and not the complainants, and so arguably would be protected expression.

In other words, there is an active, ongoing factual dispute regarding the communications at the heart of this intra-department disagreement.

The arguments asserted by Drs. Clua-Losada and Munro are now under review by a Faculty Grievance Committee ("Committee"). [UTRGV's faculty grievance policy](#) authorizes such a committee when a grievant can present sufficient information in the grievance to raise concerns about whether there was a rational basis for the reprimands or if the reprimands might have been based on reasons that are unlawful under the Texas or U.S. constitutions, laws, or court decisions. It follows, then, that UTRGV itself already has recognized that the arguments presented by Drs. Clua-Losada and Munro in their grievances about their conduct merit additional consideration, and so the Committee is now engaging in necessary fact-finding with respect to the grievances and underlying events. In fact, Drs. Clua-Losada and Munro are fully aware of the ongoing nature of this Committee process since they each met with the Committee as part of the committee's fact-finding efforts just days before your August 3, 2022, letter.

Once the Committee's fact-finding is complete, it will make its findings and recommendation to the Executive Vice President and Provost, who in turn will review the Committee's report and decide what action to take based on the credible evidence gathered, UTRGV policy, and relevant law. That decision may include accepting the report, its findings, and recommendations for action; reaching a different conclusion than the report; or returning the report to the Committee with a request for further fact-finding or analysis.

I can only assume that you were not aware of the Committee's ongoing work, since otherwise the substance and timing of your letter – just days after Drs. Clua-Losada and Munro were interviewed by the Committee – would have to be viewed as an attempt to circumvent or undermine an ongoing faculty grievance process based on one-sided conclusions masquerading as "pertinent facts." To be expressly clear, UTRGV's faculty grievance process is not subject to the arbitrary deadline of an external organization. UTRGV's faculty grievance process is and will remain respectful of and balance the individual rights of all faculty members involved, and I am confident the Committee's work and any decision of the Executive Vice President and Provost will be based on a body of credible evidence, policy, and relevant law. As I understand FIRE's mission, this approach should be in alignment with your mission.

UTRGV's strong, unambiguous commitment to the freedoms of speech, expression, and assembly for its students, faculty, and staff does not require "recommitment" as your letter asserts, since our commitment to those fundamental rights has not wavered. UTRGV's commitment to the importance of free inquiry, open debate, and unfettered criticism that are essential to academic freedom of all its faculty – including both the complainants and Drs. Clua-Losada and Munro – also has not wavered. Likewise, our commitment to grievance processes that seek resolutions of disputes fairly, timely, and equitably has not wavered. UTRGV has acted and will continue to act in a manner consistent with these commitments.

Ultimately, it is up to each UTRGV faculty member to recognize and understand that an essential part of higher education involves separating substantive argument from personal offense and expressing even the deepest disagreement within the standards of civility reflecting mutual respect and understanding, so that all UTRGV faculty can benefit from academic freedom and free speech supported by such an approach while at the same time promoting a culture of respect of these rights and values.

If you have any other questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'K. Adams', with a stylized flourish at the end.

Karen E. Adams, J.D.

cc: Guy Bailey, Ph.D., President
Janna Arney, Ph.D., Executive Vice President and Provost