



FIRE

Foundation for Individual
Rights and Expression

March 13, 2024

Keith E. Whitfield
Office of the President
University of Nevada, Las Vegas
4505 South Maryland Parkway
Las Vegas, Nevada 89154

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

Dear President Whitfield:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by the University of Nevada, Las Vegas's failure to address the substantial disruption of a recent campus event featuring Bar-Ilan University Professor Asaf Peer. The First Amendment requires public universities like UNLV to protect free speech by making good faith efforts to prevent severe disruptions to expressive events as they occur, such that refusal to do so serves only to ratify an unconstitutional "heckler's veto" and incentivize more threats to free speech and campus events.²

Our concerns arise from UNLV campus police and administrators' actions at a February 27 physics department guest lecture given by Peer on black holes.³ Approximately 15 minutes into the event, protesters entered the venue and began shouting about Peer's ties to Israel and

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](https://www.thefire.org).

² A heckler's veto occurs when protestors substantially disrupt an event via violence or other means to prevent a speaker from speaking. *First Amendment Glossary*, FIRE, <https://www.thefire.org/research-learn/first-amendment-glossary> (last visited Mar. 11, 2024); see also Zach Greenberg, *Rejecting the 'heckler's veto'*, FIRE (June 14, 2017), <https://www.thefire.org/rejecting-the-hecklers-veto>; Adam Goldstein, *Dear University of North Texas: The 'Heckler's veto' is not a good thing*, ETERNALLY RADICAL IDEA (Nov. 5, 2020), <https://www.thefire.org/dear-university-of-north-texas-the-hecklers-veto-is-not-a-good-thing>.

³ Dana Gentry, *UNLV failure to remove pro-Palestine protestors from lecture violates policy, groups say*, NEVADA CURRENT (Mar. 5, 2024), <https://nevadacurrent.com/2024/03/05/unlv-failure-to-remove-pro-palestine-protestors-from-lecture-violates-policy-groups-say>. The following reflects our understanding of the pertinent facts, which is based on information from public reporting. We appreciate that you may have additional information to offer and invite you to share it with us.

accused him of supporting genocide.⁴ As the protestors continued to shout, campus police arrived and told Peer they could not remove the protestors.⁵ UNLV administrators then decided to prematurely end the event as an alleged “safety precaution,” with plans to have Peer finish the lecture virtually later that day.⁶ After the event, Peer stated to journalists he “did not feel unsafe” at the event and that, when he asked administrators at the event about the cancellation, they claimed they could not ask the protestors to refrain from disrupting his lecture due to free speech concerns.⁷

That position, and UNLV’s (in)action, abdicates its constitutional obligation as a public university bound by the First Amendment⁸ to protect the right to host expressive events, including invited speakers.⁹ When disruptors target such events, state educational institutions must make “bona fide efforts” to protect speakers’ expressive rights by ensuring the event can go on.¹⁰ Such efforts to address the disruption are “the proper response to potential and actual violence” and must occur *before* authorities “suppress legitimate First Amendment conduct as a prophylactic measure.”¹¹ In holding that even the violent reaction of a hostile mob cannot justify cutting off a speaker’s protected expression, courts have explained that:¹²

Maintenance of the peace should not be achieved at the expense of the free speech. The freedom to espouse sincerely held religious, political, or philosophical beliefs, especially in the face of hostile opposition, is too important to our democratic institution for it to be abridged simply due to the hostility of

⁴ Michael Starr, *UNLV police end Israeli professor’s black holes lecture after protest*, THE JERUSALEM POST (Feb. 28, 2024), <https://www.jpost.com/breaking-news/article-789486>.

⁵ Gentry, *supra* note 3.

⁶ *Id.*

⁷ Starr, *supra* note 4; Gentry, *supra* note 3.

⁸ *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 quotations and citation omitted).

⁹ *E.g.*, *Gay Students Org. of the Univ. of N.H. v. Bonner*, 367 F. Supp. 1088, 1096 (D.N.H. 1974) (the student right “to hear speakers of their own choice” is one of the “activities traditionally protected by the First Amendment”); *Brooks v. Auburn Univ.*, 296 F. Supp. 188, 190–91 (M.D. Ala. 1969) (First Amendment protects “rights of students and faculty to hear a speaker invited to the campus”); *Stacy v. Williams*, 306 F. Supp. 963, 975 (N.D. Miss. 1969) (First Amendment protects student group’s right to invite political candidates to campus); *see also Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (it is “well established” that the First Amendment confers and protects the right to speak as well as “the right to receive information and ideas.”).

¹⁰ *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 255 (6th Cir. 2018).

¹¹ *Collins v. Jordan*, 110 F.3d 1363, 1371–72 (9th Cir. 1996); *Bible Believers*, 805 F.3d at 255 (“In a balance between two important interests—free speech on one hand, and the ... power to maintain the peace on the other—the scale is heavily weighted in favor of the First Amendment.”).

¹² *Bible Believers*, 805 F.3d at 252.

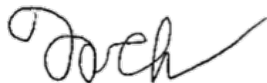
reactionary listeners who may be offended by a speaker's message.

Yet when UNLV administrators and police officers faced substantial disruption of Peer's lecture, they misunderstood this First Amendment standard by cutting short the expressive event, ratifying an impermissible "heckler's veto." Campus officials thus rewarded the disruptors by stifling Peer instead of protecting the fundamental First Amendment right to host and hear lectures on campus. Individuals do not—contrary to UNLV officials' implication—have a First Amendment right to shout down or drown out properly scheduled expressive events. UNLV's flawed determination that the disruption was a fair exercise of the protestors' free speech rights, and not punishable misconduct, violated the speaker's rights and will serve only to incentivize threats to future events and discourage speakers from visiting campus, putting both the expressive rights and safety of the UNLV community in jeopardy.

At this time of heightened tensions on campus, it is vitally important that university leaders deter disruptions to expressive events, ensure campus safety, and protect students' First Amendment rights. FIRE calls on UNLV to acknowledge it will make bona fide efforts to address substantial disruptions to expressive events as they occur, and to educate students, administrators, and campus police on the distinction between protected protest and disruptive conduct that prevents others from exercising their own freedom of speech.

FIRE would be pleased to work with UNLV to protect campus free speech, and we hope this letter can serve as a useful start to that process. We request receipt of your response no later than close of business March 27, 2024.

Sincerely,



Zachary Greenberg
Senior Program Officer, Campus Rights Advocacy

Cc: Adam Garcia, University Police Services, Vice President & Director