



June 9, 2017

President Thomas L. Hellie  
Office of the President  
104 Melrose Hall  
Linfield College  
900 SE Baker St.  
McMinnville, Oregon 97128

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

Dear President Hellie:

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

FIRE is concerned about the state of freedom of expression at Linfield College following Vice President for Academic Affairs and Dean of Faculty Susan Agre-Kippenhan's decision to reject student group Young Americans for Liberty's (YAL's) invitation of speaker Dr. Jordan Peterson due in part to Peterson's public statements. Linfield's treatment of YAL undermines its commitments to freedom of expression and the college must reaffirm to students that administrators will not cancel student events because of the viewpoints speakers or students may express.

The following is our understanding of the facts; please inform us if you believe we are in error.

On February 27, Linfield College's YAL chapter invited University of Toronto professor Jordan Peterson to speak at the second event of the "Speak Freely Series" at Linfield, to be held on April 24, 2017. YAL co-hosted the series with the Associated Students of Linfield College (ASLC). The first event of the series, a campus free speech ball event held on April 12, generated controversy after a student drew "Pepe," a cartoon frog often associated with "alt-right" groups, on the free speech ball.<sup>1</sup>

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<sup>1</sup> Kaelia Neal, *Hate symbol on ball riles campus*, THE LINFIELD REVIEW (Apr. 17, 2017), <http://thelinfieldreview.com/20274/archive/news/hate-symbol-on-ball-riles-campus>.

On April 13, 2017, ASLC Club Director Connell Crabtree emailed YAL member Parker Wells informing him that ASLC would provide funding for the Jordan Peterson event (errors in original):

Activities Council decided to grant \$1,553 for the Jordan Peterson talk and loan \$1,500. There are stipulations that Activities Council has required of this event. First of all, being funded by ASLC means that this a Linfield Community only event. Do not publicize to other schools or groups in the area. The second stipulation is that there must be a topic for the talk. It can just simply be “Freedom of Speech and why it is important. A third stipulation is that the contract must be signed by both parties by Monday 4/17. And lastly a signed agreement that the \$1,500 will be paid back.

Wells provided the signed contract on April 18, one day after the established deadline. Later that day, Peterson tweeted, “I’m violating some more safe spaces soon: Linfield College, April 24” and linked to student newspaper *The Linfield Review*’s story about his upcoming visit to campus and the controversy over the free speech ball.<sup>2</sup>

On April 19, Agre-Kippenhan sent the following email, informing the campus community that ASLC would no longer fund YAL’s event and that Linfield would not allow Peterson to speak on campus:

I am writing on behalf of the Linfield Cabinet as officer-in-charge while President Hellie is out. I want to let the Linfield community know that the ASLC (Associated Students of Linfield College) has determined it will not fund Dr. Jordan Peterson’s appearance next week, because stipulations for the event were not met by the requestor, Young Americans for Liberty. Since the authorization parameters were not satisfied, the College will not host the event on April 24th.

Among the stipulations was that the event was to be a private, Linfield College-only event. By his own tweet yesterday, to 107,000 followers, Dr. Peterson indicates he would be “violating more safe spaces soon: Linfield College.” Like-minded supporters from outside our community have responded affirmatively.

Our policy on *Anti-Harassment Protection and Academic Freedom* states that “anti-harassment policies are not intended to limit the free exchange of opinions or the vigorous debate over ideas.” However, “intimidation, harassment, exploitation, and the use or threat of force are incompatible with the preservation of this freedom.”

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<sup>2</sup> Jordan B Peterson (@jordanbpeterson), TWITTER (Apr. 18, 2017, 3:02 PM), <https://twitter.com/jordanbpeterson/status/854409795335598080?lang=en>.

Based on the speaker's own words, this event no longer presents the possibility of academic inquiry within the Linfield community. Our policy is clear: "harassment and intimidation preclude the very possibility for maintaining an atmosphere of academic freedom." We cannot welcome speakers when the stipulations for their appearances are not met and who intend to violate the safety of our community.

YAL instead held the event at The Falls Event Center Evergreen Museum on April 24 and allowed the general public to attend.

While Linfield is a private university and thus not legally bound by the First Amendment, it is both morally and contractually bound to honor the promises it has made to its students.

For example, the "Anti-Harassment Protection and Academic Freedom" policy to which Agre-Kippenhan referred states in full:<sup>3</sup>

Academic freedom and freedom of inquiry are values to which Linfield College subscribes and which it protects by prescribing boundaries on the extent to which college officials may regulate discourse, speech, and the articulation of conscientiously held beliefs. So long as an opinion is delivered in a civil manner that invites and respects argument to the contrary, academic freedom demands that the college protect its expression. Maintaining academic freedom requires an atmosphere of trust and mutual confidence such that dishonesty, intimidation, harassment, exploitation, and the use or threat of force are incompatible with the preservation of this freedom. Accordingly, substantiated charges of sexual or other kind of discriminatory harassment must be sanctioned both for the reasons articulated in the college's antiharassment policy as well as for the protection of academic freedom itself.

Anti-harassment policies are not intended to limit the free exchange of opinions or the vigorous debate over ideas, except when harassment and intimidation preclude the very possibility for maintaining an atmosphere of academic freedom. All members of the college are entitled to use speech to convey disagreement, agreement, inquiry, or commentary in keeping with the principles underlying constitutionally protected free expression. In particular, speech that is related to or uttered in connection with academic affairs or the expression of non-anonymous opinions in classrooms, open forums, papers, newspapers, or pamphlets will not constitute discriminatory harassment unless it is so severe or pervasive as to interfere unreasonably with an individual's work or academic performance or unreasonably create an intimidating, hostile, or offensive work or academic environment.

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<sup>3</sup> *Student Policy Guide*, LINFIELD COLLEGE, <http://www.linfield.edu/assets/files/policy/student-handbook.pdf> (last visited June 7, 2017).

Linfield has thus expressly committed itself to protecting free expression, subject only to limitations when “harassment and intimidation,” defined by the policy, “preclude the very possibility for maintaining an atmosphere of academic freedom.” Charging that Peterson “intend[ed] to violate the safety of [the] community,” Agre-Kippenhan cited this exception as grounds for cancelling the event. But by the explicit terms of the policy, Peterson’s tweet does not constitute “harassment” or “intimidation” and thus does not provide any justification for Linfield’s decision. Rather, the college’s treatment of YAL suggests that its commitment to “the principles underlying constitutionally protected free expression” ends when administrators suspect that expression may prove controversial.

The principle of freedom of speech does not exist to protect only non-controversial expression; it exists precisely to protect speech that some members of a community may find controversial or offensive. The Supreme Court of the United States stated in *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949), that speech “may indeed best serve its high purpose when it induces a condition of unrest . . . or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea.” The Court reiterated this fundamental principle in *Snyder v. Phelps*, 562 U.S. 443, 461 (2011), proclaiming 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.” Again, although Linfield is a private university and not bound by the First Amendment, it has committed itself to “the principles underlying” it. Agre-Kippenhan’s email suggesting that Peterson’s tweet constituted “intimidation, harassment, exploitation,” or a “threat of force” fails to abide by the principles of the First Amendment.

First, as you no doubt know, Peterson’s tweet was nothing more than a rhetorical device to express that he would not shy away from controversial speech. This figurative “violation” could not rise to the legal standard of harassment set by the Supreme Court in *Davis v. Monroe County Board of Education*, 526 U.S. 629, 650 (1999), which states that student conduct (including expression) constitutes actionable harassment only when (1) unwelcome, (2) discriminatory, 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.” By definition, this would require a pattern of extreme behavior. In contrast, Peterson told one joke on Twitter about engaging in controversial speech.

Even Linfield’s own policy, cited above, requires that the conduct in question be “so severe or pervasive as to interfere unreasonably with an individual’s work or academic performance or unreasonably create an intimidating, hostile, or offensive work or academic environment.” One tweet made by a student group’s invited speaker that jokingly referenced “violating some more safe spaces” cannot reasonably be said to have met this standard. Claiming that it does demonstrates Agre-Kippenhan’s depressingly low estimation of the fortitude of Linfield students.

Likewise, Agre-Kippenhan’s suggestion that Peterson’s tweet constituted “the use or threat of force” or showed that he “intend[ed] to violate the safety of [the] community” similarly misses the mark. The Supreme Court has defined “true threats” as “those statements where the

speaker means to communicate a **serious expression** of an intent to commit an act of unlawful violence to a particular individual or group of individuals.” *Virginia v. Black*, 538 U.S. 343, 359 (2003) (emphasis added). Peterson’s tweet falls far short of this threshold. By any reasonable reading, his statement about “violat[ing]” a “safe space” reveals an intent to introduce potentially controversial ideas to a community he believes to be unwilling to encounter them, not intent to *physically harm* that community. Peterson is in no way implying that he intends to use “force” against any member of the Linfield community. To pretend otherwise is disappointingly disingenuous and flatly ignores the obvious hyperbole in his tweet. If Peterson had tweeted that he planned to “blow some minds at Linfield,” would administrators have called in a bomb squad? It would seem unlikely. Specialized legal knowledge is unnecessary to conclude that Peterson’s tweet is not a “threat.”

FIRE does not discount Linfield’s duties to maintain a safe environment for its students and respond quickly and responsibly to genuine threats. But as an institution that has committed itself to “the principles underlying constitutionally protected free expression,” Linfield has a fundamental responsibility to protect the free speech rights of its students. It cannot abandon those duties simply because a student group invited a speaker who used hyperbolic language on an online platform that awards greater attention to those who use hyperbolic language.

Finally, Agre-Kippenhan’s claim that YAL could not host Peterson because he publicized the event deserves closer scrutiny. Crabtree’s email specified only that YAL could not publicize the event to other schools or groups; it did not imply that YAL would be expected to stop Peterson from publicizing his presence there. Additionally, Agre-Kippenhan’s statement that Peterson’s “[l]ike-minded supporters from outside our community have responded affirmatively” to his tweet implies that YAL—and potentially other student groups—will be held accountable and punished for speech it did not engage in or encourage. This is flatly unfair.

Indeed, Peterson’s tweet is not the only source from which one could learn about his planned visit to Linfield. *The Linfield Review* wrote about the event as well, and the article is available to anyone via the internet.<sup>4</sup> If Peterson’s supporters had instead commented on the article expressing interest in attending the event, would Linfield ban YAL from hosting the event? Of course not. A student group should not be punished for the expression of others. The only way student groups at Linfield can ensure no one outside the campus community learns of private events is to never plan them in the first place.

While ASLC is obviously within its rights to require that student groups abide by deadlines for contracts, which YAL failed to do, administrators may not stymie student groups’ free speech rights simply because they dislike the expression of their invited speakers. By doing so, Linfield has abandoned its commitment to “the principles underlying constitutionally protected free expression.” To honor its stated commitments to free expression, Linfield College must reassure Young Americans for Liberty and the campus community that student groups are free to host speakers of their choice.

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<sup>4</sup> Neal, *supra* note 1.

FIRE is committed to seeing this matter through to a just conclusion. We request a response to this letter by June 23, 2017.

Sincerely,

A handwritten signature in cursive script that reads "Sarah McLaughlin".

Sarah McLaughlin  
Senior Program Officer, Individual Rights Defense Program

cc:

Susan Agre-Kippenhan, Vice President for Academic Affairs and Dean of Faculty