



May 25, 2022

Gregory S. Woodward
President's Office
University of Hartford
200 Bloomfield Avenue
Hartford, Connecticut 06117

Sent via U.S. Mail and Electronic Mail (gwoodward@hartford.edu)

Dear President Woodward:

As an advocate for free expression on campus, the Foundation for Individual Rights in Education (FIRE),¹ is concerned by reports that the University of Hartford's Athletic Department warned student-athletes that "any disruption" of the university's commencement would result in serious punishment.² Because student-athletes are students first,³ threatening discipline for anticipated expression imperils the free speech rights the university promises.⁴ Accordingly, Hartford must immediately clarify that student-athletes will not face targeted censorship of the sort the Athletic Department imposed earlier this month.

While the University of Hartford is a private institution not bound by the First Amendment, it independently makes commensurate promises to protect students' expressive rights.⁵ And

¹ 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. You can learn more about our mission and activities online at thefire.org.

² John Feinstein, *The University of Hartford betrayed its athletes. Then it threatened them*, WASH. POST, May 19, 2022, [washingtonpost.com/sports/2022/05/19/hartford-division-iii-sports-graduation](https://www.washingtonpost.com/sports/2022/05/19/hartford-division-iii-sports-graduation/); Maria Carrasco, *U of Hartford Demands Athletes Behave During Commencement*, INSIDE HIGHER ED, May 20, 2022, <https://www.insidehighered.com/quicktakes/2022/05/20/u-hartford-demands-athletes-behave-during-commencement>.

³ *Frequently Asked Questions about the NCAA*, NAT'L COLLEGIATE ATHLETIC ASS'N, <http://www.ncaa.org/about/frequently-asked-questions-about-ncaa> [<https://perma.cc/XXK9-2DPL>].

⁴ See, e.g., *Student Code of Conduct: Introduction*, UNIV. OF HARTFORD, <https://www.hartford.edu/current-students/student-handbook> [<https://perma.cc/QWN9-D2UT>] ("Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of the whole student, and the betterment of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.").

⁵ *Id.*

while your administration may have wished to avoid a repeat of last year’s commencement—where student expression prompted your early departure from the festivities⁶—censorship on pain of punishment is not an appropriate means to achieve this goal at a university morally and contractually bound to keep its free speech commitments.⁷

Notwithstanding, Interim Athletic Director Sharon Beverly emailed team coaches on May 11, about individual and team consequences for “any disruption” by student-athletes at the then-upcoming May 15 ceremony:

I encourage you to address with your team that while any disruption may result in disciplinary actions, including but not limited to their diplomas or transcripts being held, the respective sport programs may also have repercussions. These will include forfeiting games and/or suspensions of the entire 2022-2023 season. Lastly, keep in mind that as leaders of your program, you are responsible for the behavior of your SA’s.⁸

In an email to students—under an artificially cheerful “Congratulations!” subject line—Beverly wrote in relevant part:

[I]t is expected that all graduates and their guests will be courteous during the entire ceremony and refrain from behavior that is disruptive, distracting, or dangerous. Should any of our graduates or their guests be found responsible for disruptions, there will be athletic repercussions for the respective team, in addition to the transcript and diploma holds. I recognize you are graduating, but your teams will ultimately have to take responsibility for your actions, including the possibility of games being cancelled or forfeited next season.⁹

Importantly, Beverly fails to define “disruption” in either of her messages, thus imperiling a wide range of potential student expression. Can student-athletes clap, cheer, or shout? If so, when, for whom, and how loudly? Are they allowed to express delight, but not dissatisfaction? Or is Beverly’s mandate simply code for: “Don’t boo the president again this year—or else”? With a broad mandate like hers, one cannot know, and students will likely self-censor before they risk crossing a line they cannot see. This vague mandate is also ripe for abuse, presenting the perfect pretext to punish a student who expresses sentiments administrators merely

⁶ Alex Putterman, *University of Hartford president leaves commencement ceremony after being booed by students angry over decision to switch from Division I to Division III*, HARTFORD COURANT, May 17, 2021, <https://www.courant.com/sports/hc-news-university-hartford-president-leaves-graduation-20210517-lvfztdbq4bg3hhsfu2h4bdzaie-story.html>.

⁷ See, e.g., *Bass v. Miss Porter’s Sch.*, 738 F. Supp. 2d 307 (D. Conn. 2010) (holding the basic relationship between a student and a private university is contractual in nature). Given this commitment, while Hartford is not bound by the First Amendment, interpretations of its guarantee of “freedom of speech” provide guidance as to what the university’s institutional promise means to its students.

⁸ Email from Sharon Beverly, Acting Vice President of Athletics and Recreation, Univ. of Hartford, to Univ. of Hartford Coaches (May 11, 2022, 4:44 AM) (on file with author).

⁹ *Id.*

dislike, or to target a student administrator’s dislike by claiming their speech was “disruptive.”

It is true that student-athletes may accept certain limitations on their freedoms in exchange for the benefits of athletic team membership. Yet, these limitations do not apply to ceremonies like commencement, which student-athletes attend—like other students—while they are not actively representing their athletic teams.¹⁰ Students who participate in athletics do not broadly relinquish their rights off the field.

Nor is the policy justified by concerns about the views student-athletes might express—namely that they might express dissatisfaction for a second year in a row with your athletics-related decisions.¹¹ This constitutes viewpoint-based discrimination, which the Supreme Court has called “an egregious form” of censorship and antithetical to the freedom of speech,¹² which Hartford clearly promises. Hartford’s Interim Athletic Director may not appoint herself the arbiter of which views students can and cannot express, particularly on a topic of public concern.¹³

We request a substantive response to this letter no later than the close of business on Wednesday, June 8, 2022, confirming Hartford will clarify that student-athletes may express themselves as individuals and reiterate that it will protect the expressive rights it promises students, including student-athletes.

Sincerely,



Alex Morey
Director, Individual Rights Defense Program

Cc: Sharon Beverly, Interim Athletic Director
Kate Dion, General Counsel and Secretary

¹⁰ See, e.g., Frank LoMonte and Virginia Hamrick, *Running The Full-Court Press: How College Athletic Departments Unlawfully Restrict Athletes’ Rights to Speak to the News Media*, (Sep. 15, 2020), NEB. L. REV., Vol. 99, No. 86, 2020, available at SSRN: <https://ssrn.com/abstract=3861817>.

¹¹ Putterman, *supra* note 6.

¹² *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”).

¹³ See *Hustler Magazine, Inc. v. Falwell*, 485 U. S. 46, 50 (1988) (“At the heart of the First Amendment is the recognition of the fundamental importance of the free flow of ideas and opinions on matters of public interest and concern.”). Hartford Athletics’ move from NCAA Division I to Division III is inarguably a matter of public concern, having been widely reported in the media and being the subject of a lawsuit by student-athletes against Hartford. See, e.g., Edmund H. Mahony, *Judge declines to block University of Hartford’s move to Division III, dealing blow to student athletes trying to stop the school’s downgrade from Division I*, HARTFORD COURANT, Dec. 23, 2021, <https://www.courant.com/news/connecticut/hc-news-university-of-hartford-athletics-division-iii-20211223-20211223-ca5izf4vx5hqmmds3vfskzjzvi-story.html>.