



March 28, 2024

Jermaine F. Williams
Office of the President
Montgomery College
9221 Corporate Boulevard, Suite S407
Rockville, Maryland 20850

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

Dear President Williams:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by your “direct and unequivocal condemnation and rejection of hateful sentiments expressed by panelists who advocated for violence against Israel” during a March 7 virtual discussion.² As the president of a public college bound by the First Amendment, you have an obligation to protect all protected expression on campus, even that which some may perceive as offensive or hateful.³ Because your statement suggests such expression will not be tolerated, Montgomery College must publicly assure its community that it permits all protected speech, and should also adopt a policy on institutional neutrality to avoid chilling future speech.

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 now more expansive mission and activities at thefire.org.

² Adam Pagnucco, *Montgomery College President Condemns “Hateful Sentiments” in Panel on Israel*, MONTGOMERY PERSPECTIVE (Mar. 11, 2024), <https://montgomeryperspective.com/2024/03/11/montgomery-college-president-condemns-hateful-sentiments-in-panel-on-israel/>. From our understanding, you did not condemn any specific remarks from the panel, but rather the general anti-Israel sentiments expressed. We appreciate that you may have additional information and invite you to share it with us.

³ *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, e.g., R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992) (invalidating ordinance that prohibited placing on any property symbols that “arouse[] anger, alarm or resentment in others on the basis of race, color, creed, religion or gender”).

Government actors—including college presidents—cannot circumscribe free expression on the basis that others find the ideas expressed offensive or hateful.⁴ It is well-established that the First Amendment does not make a categorical exception for expression deemed hateful, and that it limits public universities in penalizing faculty expression. The state has “no right to cleanse” public expression to make it “palatable to the most squeamish among us.”⁵ Expression on a state college “may not be shut off in the name alone of ‘conventions of decency.’”⁶

This is especially true of political speech, which lies at the core of what the First Amendment protects and is especially necessary in times of intense disagreement on global affairs.⁷ Political speech oftentimes encompasses “sensitive topics” like ethnicity or religion, “where the risk of conflict and insult is high.”⁸ Such speech includes rhetorical hyperbole, conceptual endorsements of violence,⁹ and assertions of the “moral propriety or even moral necessity for a resort to force or violence.”¹⁰ In the college context, “dissent is expected and, accordingly, so is at least some disharmony,”¹¹ neither of which affords college administrators any leeway to restrict or chill speech.

Yet your condemnation of sentiments expressed at the panel suggests Montgomery College will restrict and potentially punish unpopular expression regarding the Israeli-Palestinian conflict. Such discussion of geopolitics is undoubtedly the kind of “core political speech”¹² that public officials may not suggest merits punishment. The extent to which faculty and students are likely to self-censor and refrain from bringing controversial speakers to campus due to your condemnation demonstrates the constitutional problem such pronouncements create.

To that end, we urge you to consider adopting a position of institutional neutrality on political and social questions unrelated to university governance. As articulated in the University of Chicago’s 1967 Kalven Report, a commitment to neutrality allows a college to fulfill its primary mission of generating and disseminating knowledge by welcoming the fullest range of views.¹³ In maintaining a principled position of neutrality, a college will confront fewer demands to censor particular voices or to respond to every controversy. As the Kalven Report explains, a college “is the home and sponsor of critics; it is not itself the critic” — rather, it is faculty and

⁴ *Matal v. Tam*, 137 S. Ct. 1744, 1764 (2017) (noting that the Court has refused a limitation on speech viewed as “hateful” or demeaning “on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground”).

⁵ *Cohen v. California*, 403 U.S. 15, 25 (1971).

⁶ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973).

⁷ *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999).

⁸ *Rodriguez v. Maricopa Cnty. Comm. Coll. Dist.*, 605 F.3d 703, 705 (9th Cir. 2010).

⁹ *Watts v. United States*, 394 U.S. 705, 708 (1969).

¹⁰ *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

¹¹ *Higbee v. E. Mich. Univ.*, 399 F. Supp. 3d 694, 704 (E.D. Mich. 2019).

¹² *Meyer v. Grant*, 486 U.S. 414, 425 (1988)

¹³ See *Kalven Committee: Report on the University’s Role in Political and Social Action*, UNIV. OF CHICAGO (1967), available at <https://www.thefire.org/research-learn/report-universitys-role-political-and-social-action-kalven-report>.

students who are the “instrument of dissent and criticism.”¹⁴ We would be happy to work with Montgomery College on adopting the Kalven Report to avoid further controversies and make its campus free expression climate more hospitable.

We request a substantive response to this letter no later than the close of business April 11, 2024 confirming you will publicly announce that Montgomery College will permit all protected speech on campus and that it will consider adopting a position of institutional neutrality.

Sincerely,



Graham Piro
Program Officer, Campus Rights Advocacy

Cc: Timothy Dietz, General Counsel

¹⁴ *Id.*