



November 21, 2024

Kent Fuchs
Office of the President
University of Florida
P.O. Box 113150
Gainesville, Florida 32611-3150

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

Dear Interim President Fuchs:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by the University of Florida's last-minute cancellation of a faculty-organized symposium on the Israeli-Palestinian conflict. FIRE appreciates that UF is one of the few institutions in the country whose policies earn a "green light" rating from FIRE, but the unilateral cancellation of the event, ostensibly due to an unspecified violation of the university's use of space policy, violates the First Amendment. We urge UF to immediately reverse course and release the funding previously approved to support the symposium.

The "Symposium on the War in Israel and Palestine" was scheduled for November 1–2 at UF.² UF professors Malini Schueller, Leah Rosenberg, Fiona McLaughlin, Sharon Austin, and Apollo Amoko organized the symposium,³ secured sponsorship from the English Department and the Center for the Humanities and the Public Sphere,⁴ obtained the necessary university approvals

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our mission and activities at thefire.org.

² The recitation here reflects our understanding of the pertinent facts. We appreciate that you may have additional information and invite you to share it with us.

³ Other UF faculty not named here also participated.

⁴ Letter from Jaime Ahlberg, Rothman Chair and Director, to Malini Schueller, professor (Feb. 13, 2024) (on file with author).

for the event’s funding and speaker roster,⁵ reserved space on campus,⁶ and printed flyers advertising the event.⁷ On October 29, an Orlando activist launched an email campaign on X urging UF to either cancel the symposium or add pro-Israel speakers to the lineup.⁸ The next day, Center for the Humanities and the Public Sphere director Jaime Ahlberg contacted Schueller to express concern about the lack of balance in the planned speakers’ viewpoints and possible ensuing controversy.⁹ On October 31, UF’s Office of the General Counsel abruptly cancelled the symposium, citing an unspecified violation of the university’s use of space policy, and barred the use of any university resources for the event.¹⁰ The symposium proceeded at an off-campus location.

As a public institution, UF is bound by the First Amendment, and its last-minute cancellation of a faculty-organized symposium raises serious constitutional concerns. The timing of OGC’s order to cancel the symposium—immediately following the launch of a viewpoint-driven email campaign against it—suggests the decision was based on opposition to the speakers and their viewpoints.

The First Amendment bars public universities like UF from denying university faculty the equal use of resources or facilities due to the “ideology or the opinion or perspective of the speaker[.]”¹¹ Like most universities, UF makes its facilities available to faculty to “further the

⁵ *See id.* (awarding grant based on application that included the speaker roster); CHPS Speaker Series and Workshops in the Humanities Grant Proposal for “Fostering Critical Conversations in the Humanities: Settler Colonialism, Digital Activism, and Palestine Solidarity” (Jan. 13, 2024) (on file with author) (the title of the symposium was subsequently changed to “Critical Conversations in the Humanities: The War in Israel/Palestine” after a discussion between CHPS and Schueller); Email from Ahlberg to Schueller (Feb. 14, 2024, 12:27 PM) (on file with author) (notifying Schueller of CHPS grant award); Email from Ahlberg to Schueller and Lynn Harris, admin. support assistant (Oct. 21, 2024, 12:29 PM) (on file with author) (confirming transfer of funds for symposium); Email from Dom’s Liquors and Wine Warehouse to UFL.invoices@trustflowds.com (Nov. 4, 2024, 4:28 PM) (on file with author) (invoice showing the English Department’s use of allocated funds for the beverages for the symposium reception); Email from Harris to Judith Butler, professor (July 29, 2024, 8:57 AM) (on file with author) (supplier portal invitation for payment of honorarium to symposium speaker).

⁶ Email from Hampton Glover, admin. svcs. specialist, to Schueller et al. (June 10, 2024, 6:02 PM) (on file with author) (confirming reservation of the UFII Lecture Room for Nov. 1). Schueller and another faculty member also visited the space and met with facility administrators in person twice in October 2024 in preparation for the symposium.

⁷ Email from Ahlberg to Schueller (Oct. 29, 2024, 3:04 PM) (on file with author) (arranging promotion for the symposium); *see also* UF Faculty & Staff for Justice in Palestine (@uf_fsjp) and UF Students for Justice in Palestine (@ufsfp), INSTAGRAM (Oct. 24, 2024), https://www.instagram.com/p/DBhZT_eSiO1/ [<https://perma.cc/ASP7-2S5P>] (sharing the flyer advertising the symposium).

⁸ Matthew Feinberg (@thewebbie), X (Oct. 29, 2024, 7:35 PM), <https://x.com/thewebbie/status/1851407628032786611> [<https://perma.cc/3GR2-9TAS>].

⁹ Ahlberg had previously approved the proposed list of speakers. *See* CHPS Speaker Series Grant Proposal, *supra* note 5; Letter from Ahlberg to Schueller, *supra* note 4.

¹⁰ Email from Sid Dobrin, English Dept. Chair, to Schueller and Laura Gonzales, professor (Oct. 31, 2024, 11:16 AM) (on file with author). The OGC also accused the organizers of misrepresenting the symposium as a university event on its flyers.

¹¹ *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995); *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 392–93 (1993) (school’s refusal to permit an organization access to school

University’s mission of education, research, and service,”¹² including to organize symposia on its campus. However, as a public university, this means that UF has established at least a limited public forum,¹³ to which it may not subsequently restrict access based on an event’s or speaker’s viewpoint.¹⁴ Indeed, “[v]iewpoint discrimination is anathema to free expression and is impermissible in both public and nonpublic fora.”¹⁵

That includes discrimination against viewpoints that some, even many, would find offensive. The Supreme Court has repeatedly, consistently, and clearly held that government may not restrict expression on the basis that others find it to be offensive because, “[a]s a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”¹⁶ Expression representing an anti-Israel perspective is protected by the First Amendment, unless otherwise accompanied by expression or conduct falling within one of the recognized, narrowly defined categories of unprotected speech, such as incitement,¹⁷ true threats,¹⁸ or discriminatory harassment.¹⁹ UF cannot, consistent with its First Amendment obligations, cancel an event based on animus for the anti-Israel sentiments expressed by the event’s organizers or invited speakers.

facilities at night to show a film addressing family issues from a religious perspective was impermissible viewpoint discrimination).

¹² *Policy No. 4-011 Use of University Space*, Policy Statement, UNIV. OF FLA. REG. & POLICY HUB, <https://policy.ufl.edu/policy/use-of-university-space/> [<https://perma.cc/JFF7-VQCY>].

¹³ A limited public forum is government property open for the use of only certain speakers or the discussion of particular subjects, and government restrictions on speech must be reasonable and viewpoint neutral. *Keister v. Bell*, 29 F.4th 1239, 1252 (11th Cir. 2022); *see also Pleasant Grove City, Utah v. Sumnum*, 555 U.S. 460, 478 (2009) (distinguishing a forum for private speech from the government’s own speech).

¹⁴ *Rosenberger*, 515 U.S. at 829 (“Once it has opened a limited forum, [] the State ... may not exclude speech where its distinction is not ‘reasonable in light of the purpose served by the forum,’ nor may it discriminate against speech on the basis of its viewpoint.”) (internal citations omitted); *Pittsburgh League of Young Voters Educ. Fund v. Port Auth. Of Allegheny Cnty.*, 653 F.3d 290, 296 (3d Cir. 2011) (“[I]f the government allows speech on a certain subject, it must accept all viewpoints on the subject, even those that it disfavors or that are unpopular.”) (internal citations omitted).

¹⁵ *Pittsburgh League*, 653 F.3d at 296.

¹⁶ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011) (holding signs outside of soldiers’ funerals reading “Thank God for Dead Soldiers,” “Thank God for IEDs,” and “Fags Doom Nations” was expression protected by the First Amendment); *see also Matal v. Tam*, 582 U.S. 218, 247 (2017) (the First Amendment protects speech viewed as “hateful” or demeaning “on the basis of gender, religion, age, disability, or any other similar ground”); *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag was protected by the First Amendment based on the “bedrock principle” that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

¹⁷ *Brandenburg v. Ohio*, 395 U.S. 444, 447–48 (1969) (incitement is speech advocating violence that is both intended and likely to produce imminent lawless action by others).

¹⁸ *Counerman v. Colorado*, 600 U.S. 66, 74 (2023) (“True threats are ‘serious expression[s]’ conveying that a speaker means to ‘commit an act of unlawful violence.’”) (quoting *Virginia v. Black*, 538 U.S. 343, 359 (2003)).

¹⁹ *Davis v. Monroe Cnty. Bd. of Ed.*, 526 U.S. 629, 650 (1999) (punishable harassment is unwelcome, discriminatory on the basis of gender or another protected status, and “so severe, pervasive, and objectively offensive that it can be said to deprive the victim[] of access to the educational opportunities of benefits provided by the school”).

Nor does the First Amendment apply with any less force to speakers or events that present a one-sided or biased perspective. UF may encourage and foster speech that includes a broader range of views on a topic if it wishes to do so, but it may not require faculty to present competing viewpoints as a condition for use of university facilities.²⁰ Allowing faculty the use of university facilities and resources does not transform their individual speech into government speech.²¹

Schueller’s choice of speakers to host—and to exclude²²—is itself protected expression.²³ Forcing faculty “to host or accommodate another’s speaker’s message,” even in the service of providing a greater range of views, inevitably “alters the expressive content” of the event.²⁴ “[T]he balance struck by the First Amendment ... is that society must take the risk that occasionally debate on vital matters will not be comprehensive and that all viewpoints may not be expressed.”²⁵

UF’s reliance on an unspecified violation of the university’s use of space policy to explain its last-minute order cancelling the symposium suggests the selective and pretextual application of neutral university policy. If the university’s concern was truly over an administrative error related to the reservation of space for the symposium, UF would presumably have explained the nature of the violation to the event’s organizers. A mere facility reservation error also would not provide UF a reason to bar the previously approved expenditure of university funds for the symposium or to banish the event from campus entirely.

²⁰ *Rumsfeld v. Found. for Acad. & Inst. Rts., Inc.*, 547 U.S. 47, 63 (2006); *McClendon v. Long*, 22 F.4th 1330, 1337 (11th Cir. 2022).

²¹ *Child Evangelism Fellowship of N.J. Inc. v. Stafford Twp. Sch. Dist.*, 386 F.3d 514, 524 (3d Cir. 2004) (“School- or government-sponsored speech occurs when a public school or other government entity aims ‘to convey its own message.’”) (quoting *Rosenberger*, 515 U.S. at 833); *see also Rosenberger*, 515 U.S. at 834 (“A holding that the University may not discriminate based on the viewpoint of private persons whose speech it facilitates does not restrict the University’s own speech, which is controlled by different principles.”); *Widmar v. Vincent*, 454 U.S. 263, 274 (1981) (religious group’s use of public university facilities did not impute the group’s religious views to the university).

²² *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 573 (1995) (“Since *all* speech inherently involves choices of what to say and what to leave unsaid, one important manifestation of the principle of free speech is that one who chooses to speak may also decide what not to say.” (cleaned up) (emphasis in original)); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977) (“[T]he right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all.”).

²³ *Hurley*, 515 U.S. at 569–70 (the First Amendment protects the private speaker’s choice to “combin[e] multifarious voices” or present “an edited compilation of speech generated by other persons”); *see also Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 636 (1994) (“Cable programmers and cable operators engage in and transmit speech, and they are entitled to the protection of the speech and press provisions of the First Amendment.”); *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241, 258 (1974) (the First Amendment protects the “choice of material to go into a newspaper, and the decisions made as to limitations on the size and content of the paper, and treatment of public issues and public officials—whether fair or unfair”).

²⁴ *Found. for Acad. & Inst. Rts., Inc.*, 547 U.S. at 63.

²⁵ *Tornillo*, 418 U.S. at 260 (White, J., concurring).

Given the urgent nature of this matter, we request a substantive response to this letter no later than December 5, confirming that UF will rescind its order barring the use of university funds for the symposium.

Sincerely,

A handwritten signature in black ink that reads "Jessie Appleby". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jessie Appleby
Program Officer, Campus Rights Advocacy

Cc: Ryan Fuller, Interim Vice President and General Counsel
Mary Watt, Interim Dean of the College of Liberal Arts and Sciences