



October 7, 2024

Marilyn Murphy Fore
Office of the President
Horry Georgetown Technical College
2050 Highway 501 East
Conway, South Carolina 29526

URGENT

Sent via U.S. Mail and Electronic Mail (Marilyn.Fore@hgtc.edu)

Dear President Fore:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned Horry-Georgetown Technical College is imposing a severe punishment on student Leigha Lemoine for a Snapchat comment she made and an unrelated video of her firing a gun.² Even taken together, these two instances fall well short of constituting an unprotected true threat. We accordingly urge HGTC to promptly reverse Lemoine's suspension and return her to good standing at the college.

I. Lemoine Is Suspended for Snapchat Comment and Instagram Video

On September 11, Kristin Sawyer, Director of Student Development, received complaints from students about a comment Lemoine made in a Snapchat group chat stating that an individual not enrolled at the college should get "blasted" after the individual, Lemoine's boyfriend's roommate, had loudly pounded on Lemoine's boyfriend's door late at night.³ Students alleged

¹ For more than 20 years, the Foundation for Individual Rights and Expression has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our expanded 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. To these ends, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

³ The full Snapchat message read: "But naw I was trying to be nice but fuck that some random ugly ass in bread [sic] looking fuck dude called me a bitch he needa get blasted." (On file with author.)

that they were unsure of Lemoine’s intent when she used the term “blasted,” and that the comment made them feel “somewhat unsafe” and “uncomfortable.”⁴

On September 12, Lemoine met with administrators to discuss the “blasted” comment,⁵ which Lemoine said was intended to convey “the person needed to be held accountable and called out for his behavior.”⁶ She also “made comments deflecting personal associations with firearms” and said that neither she nor her parents owned any guns.⁷ At the conclusion of the meeting, administrators told Lemoine that she had not violated the student code of conduct and that they “accepted [her] explanation for the Snapchat comment.”⁸

Then, on September 13, an unknown individual submitted a video of Lemoine posted on social media on November 23, 2023, almost a year prior, of Lemoine firing a gun at an off-campus location.⁹ Because the existence of this unrelated video allegedly “generated questions about [Lemoine’s] original explanation of the term ‘blasted,’” the college again summoned Lemoine to meet with administrators.¹⁰ In a meeting on September 17, she explained that the gun in the video did not belong to her and that the video had been filmed off-campus almost a year prior, and offered to allow the college to search her personal belongings to assuage any concerns about safety.¹¹

Yet after this second meeting with administrators, Melissa Batten, Vice President for Student Affairs, notified Lemoine that the college was now imposing an interim suspension to conduct a preliminary investigation, citing “concerns about the safety of the campus.”¹² Lemoine met again for a third time with administrators on September 18 to discuss the situation further.

On September 20, Kristin Sawyer notified Lemoine that the college had suspended her through the Fall 2025 semester.¹³ The grounds for this suspension include her “failure to disclose the video, in conjunction with group text message on Snapchat where [she] used the term ‘blasted,’” which allegedly caused concern about Lemoine’s ability to remain at the college.¹⁴ Sawyer claimed that both employees and students expressed “that they feel unsafe due to these circumstances” and cited “apprehension related to the presence and use of guns.”¹⁵ She further claimed that Lemoine’s alleged disruption to the college process violated the Student Code for

⁴ Letter from Kristin Sawyer, Director of Student Development, to Leigha Lemoine, student (Sept. 20, 2024) (on file with author).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* The 15-second video shows Lemoine firing a small handgun at an off-screen target, then posing for a selfie with the caption, “Got u hooked.” (On file with author.)

¹⁰ *Id.*

¹¹ *Id.*

¹² Letter from Melissa Batten, Vice President for Student Affairs, to Lemoine (Sept. 17, 2024) (on file with author).

¹³ Letter from Sawyer, *supra* note 4.

¹⁴ *Id.*

¹⁵ *Id.*

the South Carolina Technical College System, and told Lemoine that if she re-enrolls in the fall 2025 semester, she will be on disciplinary probation for the remainder of her time at the college.¹⁶

II. The First Amendment Bars HGTC From Punishing Lemoine for Her Protected Speech

The First Amendment binds public colleges like HGTC,¹⁷ such that its actions and decisions—including the pursuit of disciplinary sanctions¹⁸—must comply with the First Amendment and the Supreme Court’s decisions concerning the First Amendment. HGTC policy also states that students “shall have the right to freedom of speech and assembly without prior restraints or censorship.”¹⁹

Student speech on social media receives the same level of protection as speech through other forms of media.²⁰ As the Supreme Court has observed, “in the past there may have been difficulty in identifying the most important places (in a spatial sense) for the exchange of views,” but the answer today is clear: “It is cyberspace ... and social media in particular.”²¹

Lemoine’s message and Instagram video are both well within the First Amendment’s protection. Whether speech is protected by the First Amendment is “a legal, not moral analysis,”²² and Lemoine’s posts cannot reasonably be considered “true threats” excepted from this protection.

Under First Amendment law, a “true threat” is a statement through which “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.”²³ But neither on their face nor in context do Lemoine’s social media posts indicate that Lemoine herself intends to engage in any form of unlawful violence. The term “blasted” is a popular term used to refer to individuals getting heavily criticized online,²⁴ while the existence of a year-old video of Lemoine shooting a

¹⁶ *Id.*

¹⁷ *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).

¹⁸ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

¹⁹ *Student Rights*, Student Code for the South Carolina Technical College System (3-2-106.1), Horry Georgetown Tech. Coll., <https://www.hgtc.edu/devcatalog/current/studentrights/code.html> [<https://perma.cc/MB5D-652C>].

²⁰ *Knight First Amendment Inst. at Columbia Univ. v. Trump*, No 18-1691-vc, 2019 U.S. App. LEXIS 20265, at *21 (2d Cir. July 9, 2019).

²¹ *Packingham v. North Carolina*, 137 S. Ct. 1720, 1735 (2017).

²² *Animal Legal Def. Fund v. Reynolds*, 353 F.Supp. 3d 812, 821 (S.D. Iowa 2019).

²³ *Virginia v. Black*, 538 U.S. 343, 359 (2003).

²⁴ *Blast*, OXFORD ENGLISH DICTIONARY (2d Ed.), https://www.oed.com/dictionary/blast_v (“To bring infamy upon (character, reputation); to discredit effectually, ruin, destroy.”). Lemoine’s use of the term can be

handgun, taken at an off-campus location and without any reference to HGTC or other individuals on campus, is utterly irrelevant. No reasonable reading of the “blasted” comment links it either to actual violence or to an unrelated video filmed a year ago. Even if Lemoine *were* referring to guns with her “blasted” comment—which she denies—the post would still amount only to rhetorical hyperbole, which is protected by the First Amendment.²⁵ There is simply no way that HGTC may square its severe punishment of Lemoine with its obligations under the First Amendment.

FIRE understands that HGTC must take seriously *genuine* threats of gun violence on campus. But that does mean punishing Lemoine for one off-handed comment that the college previously admitted did not violate the student code of conduct. That the administration later reinterpreted her comment after learning of an unrelated year-old video and almost immediately suspended her for a year is cause for serious concern about both the state of constitutional rights at HGTC and the credibility of its disciplinary process.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on Thursday, October 10, confirming that HGTC will rescind Lemoine’s suspension and restore her to good standing.

Sincerely,



Graham Piro
Faculty Legal Defense Fund Fellow

Cc: Kristin Sawyer, Director of Student Development
Melissa Batten, Vice President, Student Affairs

Encl.

understood as a variation on the phrase “to put on blast,” which in internet parlance means to call out or publicly shame someone “with the intention of holding them accountable, seeking justice, or simply expressing disapproval.” *Put on Blast*, LATER SOCIAL MEDIA MANAGEMENT, <https://later.com/social-media-glossary/put-on-blast/#:~:text=To%20%22put%20someone%20on%20blast%22%20is%20a%20form%20of%20calling,justice%2C%20or%20simply%20expressing%20disapproval.>

²⁵ *Watts v. United States*, 394 U.S. 705, 708 (1969) (man’s statement, after being drafted to serve in the Vietnam War—“If they ever make me carry a rifle the first man I want to get in my sights is L. B. J.”—was rhetorical hyperbole protected by the First Amendment, not a true threat to kill the president).

Authorization and Waiver for Release of Personal Information

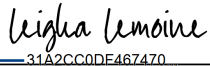
I, Leigha Lemoine, born on 06/28/2006, do hereby authorize Horry Georgetown Technical College (the "Institution") to release to the Foundation for Individual Rights and Expression ("FIRE") any and all information concerning my current status, disciplinary records, or other student records maintained by the Institution, including records which are otherwise protected from disclosure under the Family Educational Rights and Privacy Act of 1974. I further authorize the Institution to engage FIRE's staff members in a full discussion of all matters pertaining to my status as a student, disciplinary records, records maintained by the Institution, or my relationship with the Institution, and, in so doing, to fully disclose all relevant information. The purpose of this waiver is to provide information concerning a dispute in which I am involved.

I have reached or passed 18 years of age or I am attending an institution of postsecondary education.

In waiving such protections, I am complying with the instructions to specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom disclosure may be made, as provided by 34 CFR 99.30(b)(3) under the authority of 20 U.S.C. § 1232g(b)(2)(A).

This authorization and waiver does not extend to or authorize the release of any information or records to any entity or person other than the Foundation for Individual Rights and Expression, and I understand that I may withdraw this authorization in writing at any time. I further understand that my execution of this waiver and release does not, on its own or in connection with any other communications or activity, serve to establish an attorney-client relationship with FIRE.

I also hereby consent that FIRE may disclose information obtained as a result of this authorization and waiver, but only the information that I authorize.

Signed by:

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Student's Signature

10/4/2024

Date