



April 18, 2022

Philip J. Hanlon  
Office of the President  
Dartmouth College  
207 Parkhurst Hall  
Hanover, New Hampshire 03755

**URGENT**

*Sent via U.S. Mail and Electronic Mail (Philip.J.Hanlon@dartmouth.edu)*

Dear President Hanlon:

The Foundation for Individual Rights in Education is astounded that Dartmouth College has compounded its improper treatment of the College Republicans' January 20 program featuring Andy Ngo—about which we have written you twice previously<sup>1</sup>—by imposing \$3,600 in security-related fees on the student organization for an event the college unilaterally moved online, no less. Forcing the group to shoulder these security costs—based on detractors' disruption at no fault of the College Republicans—and refusing to fund future College Republicans events until these exorbitant fees are paid, infringes the expressive and associational rights Dartmouth promises its students. Dartmouth must immediately rescind the security fee charge it imposed on the College Republicans and allow them to request funding to host future events, including their upcoming event featuring conservative political activist James O'Keefe.

The following is our understanding of the pertinent new facts. We appreciate that you may have additional information to offer and invite you to share it with us.

The College Republicans, a recognized student organization at Dartmouth,<sup>2</sup> planned to host an in-person panel discussion and question-and-answer session with conservative journalist Andy Ngo and activist Gabriel Nadales on January 20. However, Dartmouth administrators

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<sup>1</sup> Zach Greenberg, *FIRE Letter to Dartmouth College, January 26, 2022*, FIRE (Jan. 26, 2022), <https://www.thefire.org/fire-letter-to-dartmouth-college-january-26-2022>; Zach Greenberg, *FIRE Letter to Dartmouth College, March 7, 2022*, FIRE (Mar. 7, 2022), <https://www.thefire.org/fire-letter-to-dartmouth-college-march-7-2022>. As you know from prior correspondence, FIRE is a nonpartisan nonprofit dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

<sup>2</sup> College Republicans, DARTMOUTH UNIV., <https://engage.dartmouth.edu/organization/college-republicans> (last visited Apr. 15, 2022).

unilaterally canceled that event and moved it online, citing security concerns, just hours before the event was to begin.<sup>3</sup> The College Republicans now plan to host an event on April 20 featuring conservative political activist James O’Keefe. However, the group has been told it may not request funds for O’Keefe’s appearance, including any future security fees to prevent disruption of the event, because the College Republicans aren’t in “good standing” due to having a debt of more than \$3,600 in security fees for the Ngo event.

Although Associate Dean for Student Life Eric Ramsey told the College Republicans that the college ensures freedom for even unpopular expression by covering ancillary security charges due to possible escalation or protests, Anna Hall, Dartmouth’s Senior Assistant Dean for Student Life, told the group those ancillary security fees will be paid by the university only if they were charges from the day of the event. In short, Dartmouth is charging the College Republicans for reporting beforehand actionable threats of disruption to allow adequate lead-time to the university police, who then chose to involve the Hanover police.

Dartmouth has additionally prohibited the College Republicans from requesting funding for their O’Keefe event, including an honorarium and security fees, until the group pays its debt incurred from security fees from the Ngo appearance.

FIRE reminds Dartmouth that it makes strong promises of free expression to students, including that it “prizes and defends the right of free speech and the freedom of the individual to make his or her own disclosures.”<sup>4</sup> Although Dartmouth is not bound by the First Amendment to make promises of free expression, it has elected to make these strong commitments and is therefore morally and legally bound to keep them. This includes respecting students’ expressive right to host controversial speakers on campus.<sup>5</sup>

Requiring the College Republicans to pay for the costs of security for its event imposes a financial burden on a student group based on the controversial nature of a group or event’s expression. In doing so, Dartmouth allows for, and indeed incentivizes, the exercise of a “heckler’s veto” by anyone wishing to silence that student group’s controversial or unpopular expression—this, on top of Dartmouth’s original capitulation to the heckler’s veto when it canceled the in-person Ngo event. Dartmouth’s actions here impermissibly align the college with those who would threaten unlawful conduct over the clear expressive rights of its own students.

By forcing the College Republicans to pay \$3,600 in security fees as a condition of holding its event and citing an arbitrary lack of good standing for refusing to grant additional funding, Dartmouth has impermissibly affixed a price tag to the group’s expression. The United States Court of Appeals for the Fifth Circuit’s decision in *Sonnier v. Crain* is instructive. The Fifth Circuit struck down a Southeastern Louisiana University policy that allowed the university

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<sup>3</sup> Sabrina Conza, *Dartmouth forced Andy Ngo’s event to go online only — despite protesters never showing up. FIRE wants answers.*, FIRE (Jan. 26, 2022), <https://www.thefire.org/dartmouth-forced-andy-ngos-event-to-go-online-only-despite-protesters-never-showing-up-fire-wants-answers>.

<sup>4</sup> Policy Statement on Freedom of Expression and Dissent, Dartmouth Principles of Community, <https://students.dartmouth.edu/student-life/policy/principles-community>.

<sup>5</sup> See *Gill v. Franklin Pierce Law Ctr.*, 899 F. Supp. 850 (D.N.H. 1995) (a university’s Academic Rules and Regulations governing students constituted a contract); *Gamble v. Univ. Sys. of N.H.*, 610 A.2d 357 (N.H. 1992) (analyzing contractual relationship between students and university system).

unfettered discretion in charging security fees, with no objective factors provided for the university to rely on when making this unilateral decision.<sup>6</sup>

The Supreme Court has additionally addressed this issue in *Forsyth County v. Nationalist Movement* when it struck down an ordinance in Georgia that permitted the local government to set varying fees for events based upon how much police protection the event would need.<sup>7</sup> Declaring the ordinance a violation of the First Amendment, the Court wrote that “[t]he fee assessed will depend on the administrator’s measure of the amount of hostility likely to be created by the speech based on its content. Those wishing to express views unpopular with bottle throwers, for example, may have to pay more for their permit.”<sup>8</sup> The principles set forth in *Forsyth* apply on a campus that promises students expressive rights coextensive with the First Amendment.<sup>9</sup>

Dartmouth’s decision to charge thousands of dollars in security fees to the College Republicans also disincentivizes students from reporting threats to their safety, as that may lead the students to incur unreasonable and exorbitant fees. Students who may hold controversial viewpoints will be chilled from expressing them as Dartmouth provides them only bad options: incur excessive security fees, self-censor expression that may anger others, or speak but face threats of deplatforming or censorship.

FIRE understands the Hanover police’s involvement in the Ngo event incurred substantial fees for the college. However, Dartmouth, in promising to create a campus where free speech is protected, may not pass its burden onto student groups.

Given the urgent nature of this matter, we request a response to this letter no later than the close of business on Tuesday, April 19, 2022, confirming that Dartmouth will immediately rescind the \$3,600 of security fees imposed on the College Republicans.

Sincerely,



Sabrina Conza  
Program Officer, Individual Rights Defense Program

Cc: Eric Ramsey, Associate Dean for Student Life  
Anna Hall, Senior Assistant Dean for Student Life

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<sup>6</sup> *Sonnier v. Crain*, 613 F.3d 436 (5th Cir. 2010) (holding that the trial court erred in not granting an injunction preventing enforcement of Southeastern Louisiana University’s security fee policy). Longstanding judicial interpretations of the First Amendment’s guarantees of freedom of speech and freedom of association provide a useful baseline for what students would reasonably expect from an institution, like Dartmouth, that purports to grant them expressive rights.

<sup>7</sup> 505 U.S. 123, 134–35 (1992).

<sup>8</sup> *Id.* at 134.

<sup>9</sup> *See Sonnier*, 613 F.3d at 448.