



June 2, 2022

Middle States Commission on Higher Education
3264 Market Street, Second Floor
Philadelphia, Pennsylvania 19140

Re: Third Party Comment | Saint Vincent College

Sent via MSCHE Complaints and Third-Party Comments Form

To the Middle States Commission on Higher Education:

The Foundation for Individual Rights in Education (FIRE)¹ 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.

This letter is both a third-party comment and offered as supplemental support for any complaint submitted by students or faculty pertaining to Saint Vincent College. Enclosed, please find all correspondence between FIRE and the institution relevant to our comment, together with copies of relevant institutional policies and/or procedures.

Saint Vincent College, an institution accredited by the Commission, is not in compliance with Standard II of the Standards for Accreditation and Requirements of Affiliation. That Standard requires, as a matter of "Ethics and Integrity," that an accredited institution "possesses and demonstrates . . . a commitment to academic freedom, intellectual freedom, [and] freedom of expression," and that the institution in "all activities, whether internal or external, . . . honor[s] its contracts and commitments, [and] adhere[s] to its policies[.]"²

Last month, Saint Vincent administrators seized control of the college's faculty-run Center for Political and Economic Thought (CPET) amid controversy over views expressed by a faculty-invited speaker. CPET's mission, according to the college's website, "is to promote scholarship and informed discussion on political, economic and moral-cultural principles, problems and controversies, and on the public policy questions arising out of them."³ CPET's

¹ We invite you to learn more about our mission and activities at thefire.org.

² Standards, "Requirements of Affiliation," *Standard II - Ethics and Integrity*, MIDDLE STATES COMM'N ON HIGHER ED., https://www.msche.org/standards/#standard_2 [<https://perma.cc/6CD8-778G>].

³ ST. VINCENT COLL., *The Center for Political and Economic Thought: Mission*, <https://www.stvincent.edu/academics/academic-centers/the-center-for-political-and-economic-thought.html> [<https://perma.cc/QPB8-MCQX>] (last visited Apr., 21, 2022).

mission comports with Saint Vincent’s accreditation commitments under Standard II and its own promise that “[t]he tenets of Academic Freedom — academic rigor and reasoned analysis — are treasured here. Faculty and students are encouraged to explore, discuss and responsibly debate topics and be inspired to search for truth in our classrooms, and on our campus.”⁴ Yet Saint Vincent has abrogated these commitments by unilaterally replacing CPET’s faculty director with an administrator and imposing strict oversight of the center’s activities, formerly run by faculty.⁵ Saint Vincent’s president also introduced strict new regulations that impact student and faculty speech by mandating administrative prior review of all invited campus speakers so that “no message that contravenes the [college’s] core values . . . will be allowed.”⁶

These actions negate faculty’s academic freedom by limiting their choices about what and how to teach on campus. They also limit the views that may be expressed and heard on Saint Vincent’s campus, giving a small group of administrators the power to decide which views are acceptable. These actions run directly counter not only to the college’s clear statements that free expression and academic freedom are among its core values, but also the promises it makes to the Commission by virtue of maintaining accreditation. FIRE’s enclosed correspondence objecting to these threats to freedom of expression protected by Standard II have proven unfruitful; Saint Vincent did not respond to FIRE’s concerns.

Accrediting agencies, including the Commission, are often the last line of defense in protecting students’ and faculty members’ freedom of expression at institutions of higher education. The limited time students have at a college or university hobbles their ability to organize for change in their institutions over the long term, and their ability to affect policy is largely at the whims of campus administrators. Faculty, particularly those without tenure protections, face a similar power differential when private institutions that promise free expression fail to live up to those commitments when controversies arise.

The Commission’s Standard II is one of the strongest protections for student and faculty expression at private universities in the United States. Institutions should take this admirable standard seriously and correct departures from it. The Commission has intervened when other institutions have departed from a commitment to freedom of expression,⁷ and Saint

⁴ *An Update for Our Community*, ST. VINCENT COLL., Apr. 19, 2022, <https://www.stvincent.edu/news/2022/an-update-for-our-community.html> [<https://perma.cc/5CTR-9QZL>] (last visited Apr. 21, 2022).

⁵ *Id.* (announcing a “formal speaker’s policy for all public presentations sponsored by the College” under which St. Vincent’s “President and Cabinet members will now approve all sponsored speakers to make sure that the message to be delivered is not in conflict with the spirit and Mission of the College,” along with “[i]mmediate structural changes at the Center for Political and Economic Thought, so that it reports directly to Dr. Jeff Mallory, Executive Vice President and Chief Operating Officer of the College,” who “will also undertake a review and assessment of policies and procedures”); Scott Jaschik, *Should All Speakers Be Approved by the President and Cabinet? Saint Vincent College adopts new rules after many found speaker’s remarks at conference sponsored by college to be racist.*, INSIDE HIGHER ED (Apr. 21, 2022), <https://www.insidehighered.com/news/2022/04/21/saint-vincent-college-adopts-new-policy-speakers>; Amy Hudak, *‘Black Privilege and Racial Hysteria’: Local college under fire for hosting controversial speaker*, WPXI (Apr. 14, 2022, 11: 17 PM), <https://www.wpxi.com/news/local/saint-vincent-college-receives-backlash-after-hosting-controversial-guest-speaker/ERMOERHB45AEDN7RFDLYRPAWRE>.

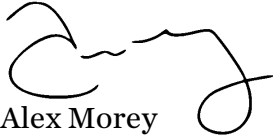
⁶ *An Update for Our Community*, *supra* note 4.

⁷ For example, the Commission cited administrators’ intolerance for criticism, in apparent breach of Standard II, as a basis to open an inquiry into a recently reaccredited institution. Susan Svrluga, *Mount St.*

Vincent's refusal to bring its policies and conduct in line with Standard II despite efforts at resolution similarly merits the Commission's attention.

In the event that FIRE may be of assistance in providing further information or clarification, please do not hesitate to contact me. I may be reached via email at alex@thefire.org and by phone at (215) 717-3473.

Sincerely,



Alex Morey
Director, Individual Rights Defense Program
Foundation for Individual Rights in Education

Cc: Father Paul R. Taylor, O.S.B., Ph.D.
Bruce A. Antkowiak, JD, General Counsel
Arthur J. Rooney II, Chair, Saint Vincent Board of Directors

Encl.



April 22, 2022

Father Paul R. Taylor, O.S.B., Ph.D.
Office of the President
Saint Vincent College
300 Fraser Purchase Road
Latrobe, PA 15650-2690

URGENT

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

Dear Father Taylor,

The Foundation for Individual Rights in Education (FIRE)—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—is deeply concerned by Saint Vincent College’s efforts to seize control of its faculty-run Center for Political and Economic Thought (CPET) amid controversy over views expressed by an invited speaker.¹ Equally, if not more, troubling is your imposition this week of new, strict regulations imposing administrative prior review of all invited campus speakers so “no message that contravenes the [college’s] core values . . . will be allowed.”² These actions run directly counter to Saint Vincent’s clear statements that free expression and academic freedom are among its core values, as those principles bar administrators like yourself from usurping student and faculty rights to decide which views are welcome on campus.

¹ Scott Jaschik, Should All Speakers Be Approved by the President and Cabinet? Saint Vincent College adopts new rules after many found speaker’s remarks at conference sponsored by college to be racist., *INSIDE HIGHER ED* (April 21, 2022), <https://www.insidehighered.com/news/2022/04/21/saint-vincent-college-adopts-new-policy-speakers>; Amy Hudak, ‘Black Privilege and Racial Hysteria’: Local college under fire for hosting controversial speaker, *WPXI* (April 14, 2022, 11: 17 PM), <https://www.wpxi.com/news/local/saint-vincent-college-receives-backlash-after-hosting-controversial-guest-speaker/ERMOERHB45AEDN7RFDLYRPAWRE>.

² ST. VINCENT COLL., *An Update for Our Community*, April 19, 2022, <https://www.stvincent.edu/news/2022/an-update-for-our-community.html> [<https://perma.cc/5CTR-9QZL>] (last visited April, 21, 2022), (Announcing “[a] formal speaker’s policy for all public presentations sponsored by the College. The President and Cabinet members will now approve all sponsored speakers to make sure that the message to be delivered is not in conflict with the spirit and Mission of the College,” and “[i]mmediate structural changes at the Center for Political and Economic Thought, so that it reports directly to Dr. Jeff Mallory, Executive Vice President and Chief Operating Officer of the College. He will also undertake a review and assessment of policies and procedures.”).

The college’s actions are particularly egregious given the mission of CPET, which “is to promote scholarship and informed discussion on political, economic and moral-cultural principles, problems and controversies, and on the public policy questions arising out of them.”³ Saint Vincent thus should not be surprised when a faculty-run initiative dedicated to exploring controversy is effective in doing so. For these reasons, and those explained below, FIRE calls on Saint Vincent to immediately cease attempts to unduly interfere with CPET and to retract its speaker-review policy. We also urge Saint Vincent to publicly recommit to upholding the expressive rights of its students and faculty.

FIRE makes these requests well aware that Saint Vincent is a private, religious college not bound—like public universities—by the First Amendment, and that it may elect to prioritize any number of values over that of free speech or academic freedom. However, Saint Vincent voluntarily commits to upholding the expressive and academic freedom rights of its community members, not only as a professed extension of its Benedictine mission,⁴ but also by virtue of its accreditation by the Middle States Commission on Higher Education, which requires that each institution, as a pre-condition for accreditation, “possesses and demonstrates . . . a commitment to academic freedom, intellectual freedom, freedom of expression.”⁵ Toward that end, Saint Vincent commits that: “The tenets of Academic Freedom – academic rigor and reasoned analysis – are treasured here. Faculty and students are encouraged to explore, discuss and responsibly debate topics and be inspired to search for truth in our classrooms, and on our campus.”⁶

According to Middle States, Saint Vincent’s commitment to upholding its written policies regarding freedom of expression and academic freedom is a matter of institutional “Ethics and Integrity” that is a “central, indispensable, and defining hallmark[] of effective higher education institutions,” and that “in all activities, whether internal or external, an institution must be faithful to its mission, honor its contracts and commitments, adhere to its policies, and represent itself truthfully.” Saint Vincent is bound to uphold these laudable commitments, even—especially—when it is difficult or unpopular to do so.⁷

Because Saint Vincent promises faculty freedom of expression and academic freedom, applications of the First Amendment’s guarantee of “the freedom of speech” provide guidance for what the college’s promises mean in practice. On this point, federal courts have been

³ ST. VINCENT COLL., *The Center for Political and Economic Thought: Mission*, <https://www.stvincent.edu/academics/academic-centers/the-center-for-political-and-economic-thought.html> [<https://perma.cc/QPB8-MCQX>] (last visited April, 21, 2022).

⁴ ST. VINCENT COLL., *Benedictine Tradition*, <https://www.stvincent.edu/meet-saint-vincent/benedictine-tradition.html> [<https://perma.cc/C67J-GY6W>] (last visited April, 21, 2022), (“As a community that grows and changes in our makeup each day, we look to remain open and quick to extend a big welcome to each arrival – visitor, new idea, *special guest*, *fresh perspective* – so that the sense of belonging we experience can be felt tangibly and easily passed along,”; “We seek to discover and realize our true gifts and greatest joys – to become who we are – by standing in the light offered in *every relationship*, *especially those that challenge us to overcome preconceptions and surrender bias*.”) (Emphasis added.)

⁵ MIDDLE STATES COMM’N ON HIGHER EDUC., STANDARDS FOR ACCREDITATION AND REQUIREMENTS OF AFFILIATION 5 (13th ed. 2015), *available at* <http://msche.org/publications/RevisedStandardsFINAL.pdf>. [<https://perma.cc/L3NF-WJ75>].

⁶ An Update for Our Community, *supra* note 2.

⁷ *Id.*

unambiguous that “the right of the faculty and students to hear a speaker . . . cannot be left to the discretion of the university president on a pick and choose basis.”⁸ Saint Vincent’s new policy, giving administrators ultimate power to approve or deny every single student- or faculty-invited campus speaker, is among the most extreme examples of campus speaker censorship FIRE has seen in more than 20 years defending student and faculty rights on campus.

A commitment to free speech presupposes that some on campus may take offense to an expressed viewpoint; however, the “bedrock principle underlying” freedom of expression is that speech may not be limited “simply because society finds the idea itself offensive or disagreeable[.]”⁹ It is this counter-majoritarian principle that protects “insulting, and even outrageous, speech in order to provide adequate breathing space” to public debate,¹⁰ recognizing those with authority “cannot make principled distinctions” between what speech is sufficiently offensive or inoffensive to suppress.¹¹

This principle of abstention is particularly important in higher education, where the exchange of views may sometimes be caustic, provocative, or inflammatory. Consider, for example, a student newspaper’s use of a vulgar headline (“Motherfucker Acquitted”) and a front-page “political cartoon . . . depicting policemen raping the Statue of Liberty and the Goddess of Justice.”¹² These words and images—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest. Yet, as the Supreme Court held, “the mere dissemination of ideas,” however “offensive” to others, “may not be shut off in the name alone of ‘conventions of decency.’”¹³ That is particularly important where, as here, speech, and the colloquy arising from it, involve discussion of core functions at the highest level of our governmental system.

This calculus is not modified where the speech “concern[s] sensitive topics like race, where the risk of conflict and insult is high,”¹⁴ nor do the college’s important obligations to address discriminatory harassment obligate it to censor expression in the absence of “something beyond the mere expression of views, words, symbols or thoughts” that others find offensive.¹⁵ To the contrary, the freedom of expression that Saint Vincent promises “embraces [the] heated exchange of views” in this context, and “desire to maintain a sedate academic environment does not justify limitations on a teacher’s freedom to express himself on political issues in vigorous, argumentative, unmeasured, and even distinctly unpleasant terms.”¹⁶

⁸ *Brooks v. Auburn Univ.*, 412 F.2d 1171, 1172 (5th Cir. 1969) (“[I]t nevertheless is clear.”).

⁹ *Snyder v. Phelps*, 562 U.S. 443, 458 (2011), citing *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

¹⁰ *Boos v. Barry*, 485 U.S. 312, 322 (1988) (cleaned up).

¹¹ *Cohen v. California*, 403 U.S. 15, 25 (1971).

¹² *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

¹³ *Id.*

¹⁴ *Rodriguez v. Maricopa Cnty. Comm. Coll. Dist.*, 605 F.3d 703, 708 (9th Cir. 2009).

¹⁵ U.S. Dep’t of Educ., Dear Colleague Letter from Gerald A. Reynolds, Assistant Sec’y for Civil Rights (July 28, 2003), <https://www2.ed.gov/about/offices/list/ocr/firstamend.html>.

¹⁶ *Id.*

Freedom of expression protects both CPET speakers and any criticism their lectures may prompt. It protects your right as Saint Vincent’s president, and the rights of all at your institution, to criticize, confront, or condemn controversial speech. But that same expressive freedom also prohibits you from censoring it. Instead, dialogue is the proper approach to engaging with controversial speech on campus, and it must be allowed to continue. Academic freedom relies on this exchange of ideas, however sharp and uncomfortable it sometimes may be, as that process is one of “more speech”¹⁷ and of open discussion—the remedy preferred over the “authoritative selection” of views in academia.¹⁸ Accordingly, Saint Vincent must implement its policies implicating free expression in a steadfastly viewpoint-neutral manner, because diluting the strength of the right itself in the name of penalizing instances of unpopular speech will imperil the rights of others.

We appreciate that the current controversy places pressure on you to meet unpopular speech with censorship—action contrary to Saint Vincent’s stated values. However, this challenge presents an opportunity to remind students, faculty, and the public—as other institutions have done when facing similar challenges¹⁹—that administrators at institutions that commit to expressive freedoms do not possess the authority to selectively censor, precisely because this power would be used to suppress speech across the ideological spectrum.²⁰

We respectfully submit that Saint Vincent must reconsider its hasty exercise of censorship in this case and quickly correct course for the benefit of all its students and faculty, and the college at large. We request a substantive response to our letter by close of business on Friday, April 29, 2022.

Sincerely,



Alex Morey
Director, Individual Rights Defense Program

Cc: Bruce A. Antkowiak, JD, General Counsel
Arthur J. Rooney II, Chair, Saint Vincent Board of Directors

¹⁷ *Whitney v. California*, 274 U.S. 357, 377 (1927).

¹⁸ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

¹⁹ Other institutions have assembled faculty panels to discuss controversies to help others articulate criticisms of the offending speaker’s views, or encouraged speakers to substantively engage with critics, or criticized the speaker directly themselves. These are forms of “more speech.” See, e.g., UNIV. OF NORTH TEXAS., *Embracing all of our community members – An Official Notice from the President*, Feb. 22, 2022, <https://www.unt.edu/notices/embracing-all-our-community-members-official-notice-president> [<https://perma.cc/X944-GDNH>] (“Here on our campus, we honor our First Amendment rights, even when we don’t agree with others’ opinions. Our views, or our very existence, might be challenged in ways that feel incredibly hurtful. . . . I encourage you to engage in open discourse, free expression, and debate. All individuals have the right to peacefully assemble, to speak, and to engage in expressive activity, including that which you may find offensive. Each of you has the freedom to express yourself and the freedom to walk away, disempowering those with intolerant views.”)

²⁰ Witness, for example, legislative attempts to suppress discussion of “divisive concepts” in universities. Joe Cohn, *New wave of bills on race and sex stereotyping violate academic freedom*, FIRE (Jan. 26, 2022), <https://www.thefire.org/new-wave-of-bills-on-race-and-sex-stereotyping-violate-academic-freedom>.