

FIRE

Foundation for Individual
Rights and Expression

June 28, 2022

President Rob Vischer
Office of the President
University of St. Thomas
2115 Summit Ave.
St. Paul, Minnesota 55105

Sent via U.S. and Electronic Mail (rkvischer@stthomas.edu)

Dear President Vischer:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech, expression, and conscience, and other individual rights on campus, is concerned about the University of St. Thomas's rejection of the College Republicans' request to host Michael Knowles due to his political views. As a university that promises its students freedom of expression, St. Thomas may not reject students' events over their chosen speakers' viewpoints.

I. St. Thomas Rejected The College Republicans' Request to Host Knowles Over His Viewpoints

The following reflects our understanding of the pertinent facts, though we appreciate you may have additional information and invite you to share it.

The College Republicans are a recognized student group that seeks to bring conservative speakers to campus.¹ In February 2022, the group reached out to the St. Thomas administration about hosting an event concerning free speech featuring political commentator Michael Knowles. Assistant Director of Campus Life Jeff Holsten responded by asking the group about its “[g]oals, objectives, or educational value for bring [sic] this speaker,” whether Knowles is “the best speaker to bring to meet these goals,” and if “the topic or the speaker’s values [are] contradictory to the university’s Conviction Statement.”² The group answered Holsten’s questions and provided details about potential event dates and logistics.³ In a subsequent meeting, Holsten denied the group’s request, prompting the group

¹ Univ. of St. Thomas, *College Republicans*, TOMMIE LINK (last visited June 23, 2022), <https://www.stthomas.edu/campuslife/clubs/findaclubtommielink/> [<https://perma.cc/66RY-MZ7R>]

² Email from Jeff Holsten, Ass’t. Dir. of Campus Life, to the College Republicans leadership (Feb. 17, 2022) (on file with author).

³ Email from the College Republicans leadership to Holsten (Feb. 21, 2022) (on file with author).

to request that Holsten “reiterate precisely what your objections are to hosting Michael Knowles and how him coming to campus would violate the university’s core convictions.”⁴ On March 7, Holsten replied:

After reviewing the online content available for Mr. Knowles, I concluded that the event does not meet the criteria for an approved club event. Statements he has made do not align with our St. Thomas Conviction Statements on dignity and diversity. Specifically, Mr. Knowles has made statements that are derogatory to the transgender and autistic community.⁵

Holsten did not specify what online content or statements made by Knowles informed his decision.

II. St. Thomas’s Viewpoint-Based Rejection of Knowles Cannot Be Reconciled With Its Commitment to Freedom of Expression

St. Thomas’s refusal to approve the College Republicans’ event featuring Knowles due to Knowles’ viewpoints runs contrary to the free speech promises by which the university is bound.

A. St. Thomas Promises Students Freedom of Expression

Private institutions are not compelled by the First Amendment to extend freedom of expression to their students. They are, however, legally and morally bound to adhere to the promises they make, including promises to respect students’ expressive rights.

In its Student Bill of Rights, St. Thomas “recognizes that free inquiry and free expression are indispensable elements for the achievement of the goals of an academic community, adding that “[s]tudents have the right to freedom of expression, including the right to dissent, protest and/or take reasoned exception to the information and views offered in any course.”⁶ Additionally, St. Thomas promises students that “No one may be excluded” from “the opportunity to participate in and receive the benefits of the programs at St. Thomas . . . on the basis of . . . creed.”⁷

Having made this commitment, St. Thomas is bound to uphold it. The United States Court of Appeals for the Eighth Circuit, the decisions of which are binding on St. Thomas, recognized that “[t]he relationship between a university and a student is contractual in nature.”⁸ The Minnesota Court of Appeals likewise declared that “[t]he catalogs, bulletins, circulars, and

⁴ Email from the College Republicans leadership to Holsten (Mar. 4, 2022) (on file with author).

⁵ Email from Holsten to College Republicans leadership (Mar. 7, 2022) (on file with author).

⁶ UNIV. OF ST. THOMAS, *Student Bill of Rights* (last visited June 22, 2022), <https://www.stthomas.edu/deanofstudents/studentpolicies/studentbillofrights> [<https://perma.cc/G47X-ZN2U>].

⁷ *Id.*

⁸ *Corso v. Creighton Univ.*, 731 F.2d 529, 531 (8th Cir. 1984).

institution regulations given to the student form part of the contract.”⁹ Accordingly, any reasonable student would expect St. Thomas to uphold its promise to protect the free speech rights enshrined in the university’s official written policies.

These foundational commitments are not only moral and contractual obligations to the students of St. Thomas, but are also important to the university’s accreditation. St. Thomas is accredited by the Higher Learning Commission, which requires accredited institutions to be “committed to freedom of expression and the pursuit of truth in teaching and learning.”¹⁰

B. St. Thomas Cannot Refuse a Student Group’s Speaker Request Because of Opposition to the Speaker’s Viewpoints

In accordance with the right to expression, St. Thomas allows its student organizations to invite speakers to campus. On this point, federal courts have unambiguously found 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.”¹¹ While St. Thomas may place consistent, reasonable, viewpoint-neutral limitations on speaker invitations, the university cannot limit expressive rights on the basis of the speaker’s viewpoint.¹² Accordingly, St. Thomas’s viewpoint-based denial of the College Republicans’ request to bring Knowles to campus cannot be reconciled with the university’s free speech promises.

St. Thomas’s rejection of Knowles was based on the belief that Knowles “has made statements that are derogatory to the transgender and autistic community,” which “do not align with our St. Thomas Conviction Statements on dignity and diversity.” This explanation makes clear that St. Thomas’s refusal to approve the College Republicans’ event was due to its opposition to Knowles’ viewpoints.

That Knowles has expressed viewpoints that those at St. Thomas or society at large may find offensive is not a reasonable basis to bar students from inviting him to speak. The principle of freedom of speech does not exist to protect only non-controversial expression; it exists precisely to protect speech that some members of a community may find controversial or offensive. As the Supreme Court explained:

[Speech] may indeed best serve its high purpose when it induces a condition of unrest . . . or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and

⁹ *Alsides v. Brown Inst., Ltd.*, 592 N.W.2d 468, 472 (Minn. Ct. App. 1999).

¹⁰ HIGHER LEARNING COMM’N, *Policy Book* (revised Feb. 2022), https://download.hlcommission.org/policy/HLCPolicyBook_POL.pdf [<https://perma.cc/ATE4-TT96>].

¹¹ *E.g.*, *Brooks v. Auburn Univ.*, 412 F.2d 1171, 1172 (5th Cir. 1969); *see also Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (It is “well established” that the First Amendment confers and protects the right to speak as well as “the right to receive information and ideas.”). While St. Thomas is not bound by the First Amendment, interpretations of the First Amendment’s guarantee of “the freedom of speech” provide guidance as to what St. Thomas’s institutional promise of that freedom means to its students.

¹² *See Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995) (“Viewpoint discrimination is . . . an egregious form” of censorship, and authorities “must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”).

preconceptions and have profound unsettling effects as it presses for acceptance of an idea.¹³

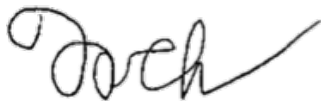
It is axiomatic that speech cannot be restricted simply because it may offend some or many.¹⁴ In discussing matters of societal and political importance, one would be hard-pressed to find an opinion or position that is not controversial to *someone*. If St. Thomas were to deny every student group’s speaker request on the basis of opposition to the speaker’s beliefs, there would be precious few speakers allowed to address its student body.

By blocking Knowles from speaking at St. Thomas because of opposition to his opinions, St. Thomas restricted its students’ right to contribute to free and open dialogue on campus. Of course, St. Thomas’s administration can add its own voice to the discussion on controversial topics. Indeed, dialogue is the proper approach to engaging with controversial speech on campus, and it must be allowed to continue. Free speech relies on this exchange of ideas, however sharp and uncomfortable it sometimes may be, as that process is one of “more speech”¹⁵ and of open discussion—the remedy preferred over the “authoritative selection” of views in academia.¹⁶ However, the administration’s views on what the debate *should* look like cannot come at the expense of students’ ability to share their own views on what issues should drive the discussion, as the College Republicans seek to do by inviting Knowles to campus.

III. Conclusion

FIRE calls on St. Thomas to allow all of its student groups to host speakers without the threat of rejection over any invited speaker’s views. We request receipt of a response to this letter by the close of business on July 12, 2022.

Sincerely,



Zachary Greenberg
Senior Program Officer, Individual Rights Defense Program

Cc: Linda Baughman, Dean of Students
Margaret Cahill, Director of Campus Life
Jeff Holstein, Assistant Director of Campus Life

¹³ *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949).

¹⁴ See, e.g., *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973) (“[T]he mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of conventions of decency.”) (internal quotations omitted); see also *Snyder v. Phelps*, 562 U.S. 443, 461 (2011) (in holding that the picketing of soldiers’ funerals was protected speech, the Court noted that “[a]s a Nation we have chosen . . . to protect even hurtful speech on public issues to ensure that we do not stifle public debate”).

¹⁵ *Whitney v. California*, 274 U.S. 357, 377 (1927).

¹⁶ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).