



# FIRE

Foundation for Individual  
Rights and Expression

October 6, 2022

Dr. Beverly Daniel Tatum, Interim President  
Office of the President  
Mount Holyoke College  
50 College Street  
South Hadley, Massachusetts 01075

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

Dear Interim President Tatum:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned Mount Holyoke College (MHC) is requiring all college employees, students, and volunteers who host public events on- or off-campus to begin by reciting a pledge of personal beliefs in the form of a “Land Acknowledgement.” The university is free to *encourage* program organizers to use this language, and principles of free speech and academic freedom protect faculty and students who would voluntarily adopt such statements; however, a *mandate* that they do so amounts to compelled speech in violation of MHC’s own policies respecting student and faculty expressive rights. Accordingly, FIRE calls on MHC to rescind the requirement that employees, students, and volunteers endorse a prescribed ideological viewpoint.

## **I. MHC’s Mandatory Opening Statement for Public Events**

It is our understanding that on September 8, 2021, MHC established a Land Acknowledgment Policy,<sup>2</sup> mandating all MHC public events be opened with a verbal recitation of a “Land Acknowledgement”:

All employees, students and volunteers of the College who host public events must comply with Mount Holyoke College’s Land Acknowledgment Policy. This policy applies to all individuals, whether they are on- or off-campus for their event(s). All College-affiliated individuals and

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<sup>1</sup> For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America’s college campuses. You can learn more about our recently expanded mission and activities at [thefire.org](http://thefire.org).

<sup>2</sup> This recitation reflects our understanding of the pertinent facts, based on public information. We appreciate that you may have additional information to offer and invite you to share it with us.

representatives should adapt land acknowledgement language appropriately when delivering College-sponsored events or programming.<sup>3</sup>

The policy also encourages event organizers to include a land acknowledgment “as part of written print and/or digital content, including websites, programs, brochures, syllabi and other materials,”<sup>4</sup> and applies to all employees, students and volunteers at the college, whether the event is on- or off-campus.<sup>5</sup> MHC’s policy goes on to define “public event” for the purpose of the policy as “[a]ny college sponsored events of the Mount Holyoke College community. Examples include professional/academic conferences, lectures, panel discussions, performances, sporting events, Commencement ceremonies, etc.”<sup>6</sup>

MHC’s suggested verbal Land Acknowledgment statement reads:

Mount Holyoke College begins each event in the life of the College by acknowledging that those of us in Western Massachusetts are occupying the ancestral land of the Nonotuck people.

We also acknowledge the neighboring Indigenous nations: the Nipmuc and the Wampanoag to the East, the Mohegan and Pequot to the South, the Mohican to the West and the Abenaki to the North. We encourage every member of our community to learn about the original inhabitants of the land where they reside. The impact of settler colonization contributed to the displacement, removal and attempted genocide of Indigenous peoples.

This land acknowledgement seeks to verbalize Mount Holyoke’s commitment to engage in shared responsibility as part of our collective humanity. We urge everyone to participate in action steps identified by Indigenous community based organizations.<sup>7</sup>

## **II. University Policy Prohibits MHC from Requiring Students and Faculty to Express Specific Ideological Views**

While MHC is a private institution not bound by the First Amendment to protect free expression, it has independently made affirmative, robust commitments to do so, and is legally

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<sup>3</sup> *Mount Holyoke College Land Acknowledgement Policy*, MOUNT HOLYOKE COLL., <https://www.mtholyoke.edu/policies/mount-holyoke-college-land-acknowledgement-policy> (last visited Sept. 26, 2022) [<https://perma.cc/4DLC-NCBQ>].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* MHC’s abbreviated version of the Land Acknowledgment statement suggested for written materials reads: “Mount Holyoke College is located in Western Massachusetts on the ancestral land of the Nonotuck people. It is also important to acknowledge the neighboring Indigenous nations who continue to be connected to this land: the Nipmuc and the Wampanoag to the East, the Mohegan and Pequot to the South, the Mohican to the West and the Abenaki to the North.”

and morally obligated to honor those promises. These policies bar the college from forcing students and faculty to express views they may not hold.

#### A. *MHC's Policies Protect Freedom of Speech at the College*

MHC's "Statement on Free Inquiry and Expression" includes express promises of free expression and academic freedom:

As an institution dedicated to seeking intellectual enlightenment and the enrichment of quality of life, Mount Holyoke College believes in the right, indeed the necessity, of free inquiry and free expression for every member of the college community. The College aims to provide an environment hospitable to open interchanges of knowledge and opinion in the terms of reasoned discourse. The citizen's right to free speech, free movement, free association, peaceful assembly, and orderly protest extends to every member of the College. So do the citizen's responsibility to uphold the law and the civilized person's obligation to respect the rights and feelings of others (Faculty Legislation).<sup>8</sup>

The college's "Statement of Community" uses the same language, doubling down on the school's promises to protect the academic freedom and freedom of expression of every member of the college community.<sup>9</sup> The college's "Guidelines for Community Responsibility" make these promises again.<sup>10</sup> MHC's repeated reliance on this unambiguous statement demonstrates MHC rightly recognizes that the "essentiality of freedom in the community of American universities is almost self-evident,"<sup>11</sup> and that free speech is the "lifeblood of academic freedom."<sup>12</sup>

These commitments are not merely aspirational—they are critical to MHC's status as an accredited institution of higher education. The university is accredited by the New England Commission of Higher Education, whose standards require accredited institutions be "committed to the free pursuit and dissemination of knowledge" and "protect[ing] and foster[ing] academic freedom for all faculty regardless of rank or term of appointment."<sup>13</sup>

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<sup>8</sup> *Statement on Free Inquiry and Free Expression*, MOUNT HOLYOKE COLL., <https://www.mtholyoke.edu/policies/grievance-procedure> (last visited Sept. 26, 2022) [<https://perma.cc/YBZ2-GB7X>].

<sup>9</sup> *Statement of Community*, MOUNT HOLYOKE COLL., [https://offices.mtholyoke.edu/diversity/statement-community?\\_ga=2.15952694.1883504741.1663789331-1423005067.1662750303](https://offices.mtholyoke.edu/diversity/statement-community?_ga=2.15952694.1883504741.1663789331-1423005067.1662750303) (last visited Sept. 26, 2022) [<https://perma.cc/C8B5-NHTF>].

<sup>10</sup> *Guidelines for Community Responsibility*, MOUNT HOLYOKE COLL., <https://www.mtholyoke.edu/student-handbook/honor-code-and-community-responsibility> (last visited Sept. 26, 2022) [<https://perma.cc/QJ42-F5Q2>].

<sup>11</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

<sup>12</sup> *DeJohn v. Temple Univ.*, 537 F.3d 301, 314 (3d Cir. 2008).

<sup>13</sup> *Standards for Accreditation*, NEW ENGLAND COMM'N OF HIGHER EDUC., <https://www.neche.org/resources/standards-for-accreditation> (last visited Sept. 26, 2022) [<https://perma.cc/6XFL-HW9K>].

***B. MHC’s Land Acknowledgment Mandate Violates Student and Faculty Rights by Requiring Them to Express Specific Ideological Views***

MHC’s Land Acknowledgment policy requires students and faculty to convey from a first-person perspective personal pledges endorsing a university-prescribed ideology. The Land Acknowledgment’s wording compels students and professors to personally endorse a statement they might not personally believe. While many may agree with the language therein, compelling students or faculty—even those sympathetic to the statement’s sentiment—to repeat and endorse its specific ideological assertions violates MHC’s commitment to uphold free speech rights.

MHC’s choice to count free expression among its core values means that, despite its status as a private institution, its students and faculty can reasonably look to the First Amendment as a baseline for the rights they expect. In that regard, the freedom of expression guaranteed by the First Amendment protects not only the right to speak freely, but also “the right to refrain from speaking at all.”<sup>14</sup> Yet, a mandatory Land Acknowledgment forces students and faculty to express the university’s views on the subject, “cast[ing] a pall of orthodoxy”<sup>15</sup> over the campus.

To further illustrate our concern by analogy, we trust MHC would readily recognize the problem with requiring students and faculty to salute the U.S. flag,<sup>16</sup> or compelling faculty to publish the Pledge of Allegiance in their syllabi. Likewise, MHC would surely think twice before forcing faculty to make statements promoting concepts like “patriotism” or denouncing ideologies such as communism. Yet, MHC’s Land Acknowledgment—which includes phrases like “those of us in Western Massachusetts are occupying the ancestral land of the Nonotuck people”—expresses an inherently ideological viewpoint about the land occupied by MHC. Requiring students or faculty to become personal couriers of MHC’s views, even where doing so violates dictates of their own consciences, is unacceptable at an institution promising free expression.<sup>17</sup>

Our nation is only a few generations removed from college faculty being required to submit to state interrogation regarding possible involvement with “subversive” organizations, or being forced to sign loyalty oaths disavowing socialism or communism as a condition of employment. Because of the bravery of faculty who challenged the constitutionality of such requirements in

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<sup>14</sup> *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 645 (1943) (Murphy, J., concurring); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977) (“A system which secures the right to proselytize religious, political, and ideological causes must also guarantee the concomitant right to decline to foster such concepts.”).

<sup>15</sup> *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

<sup>16</sup> The Supreme Court struck down a state’s power to compel such an act nearly 80 years ago, recognizing that “the compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind.” *Barnette*, 319 U.S. at 633.

<sup>17</sup> See *Wooley*, 430 U.S. at 717 (“[W]here the State’s interest is to disseminate an ideology, no matter how acceptable to some, such interest cannot outweigh an individual’s First Amendment right to avoid becoming the courier for such message.”); *Barnette*, 319 U.S. at 642 (“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”).

federal court, the Supreme Court has made clear that such requirements violate the First Amendment.<sup>18</sup>

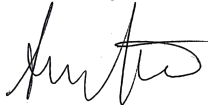
FIRE recognizes MHC may shape and express its own aspirational values as an institution. So, too, may it encourage students or faculty to adopt statements that reflect such values, so long as that encouragement does not cross the line into implicit coercion. What MHC cannot do, however, is expressly compel students and faculty to express fealty to a specific ideological viewpoint.

Compulsory speech not only violates the speaker's expressive rights, but dilutes the message's meaning. As our Supreme Court explained in ruling that public schools cannot compel students to salute the flag, "To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds."<sup>19</sup> This point was echoed by Justices Black and Douglas, who wrote that "[w]ords uttered under coercion are proof of loyalty to nothing but self-interest."<sup>20</sup> FIRE takes no position on the propriety of land acknowledgements, but those who believe they have value and wish to convince others of that belief must use tools of persuasion, not coercion.

### **III. Conclusion**

MHC's requirement that college event hosts endorse a "Land Acknowledgment" statement imposes an institutional orthodoxy on its students and faculty that contravenes the university's strong commitment to freedom of speech. We urge MHC to uphold its promise of freedom to express differing perspectives by eliminating this mandate. We request receipt of a response to this letter no later than the close of business on October 20, 2022.

Sincerely,



Amanda Nordstrom  
Program Officer, Campus Rights Advocacy

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<sup>18</sup> See *Sweezy*, 354 U.S. at 235–36; see generally *Keyishian*, 385 U.S. 589. While, again, MHC is not bound by the First Amendment as a private college, decades of First Amendment jurisprudence establish the meaning of free expression and what students and faculty reasonably expect when an institution commits to protecting that freedom.

<sup>19</sup> *Barnette*, 319 U.S. at 641.

<sup>20</sup> *Id.* at 644 (Black, J., concurring).