



FIRE

Foundation for Individual
Rights and Expression

April 20, 2023

Jack Hawkins, Jr.
Chancellor's Office
Troy University
216 Adams Administrative Building
Troy, Alabama 36082

Sent via U.S. Mail and Electronic Mail (jhawkins@troy.edu)

Dear Chancellor Hawkins:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by a recent email conversation between you, fellow Board of Trustees members Cam Ward and Gibson Vance, and others that suggest administrators are unduly interfering in faculty research in violation of the university's First Amendment obligation to respect academic freedom.

The March 15 email exchange was in response to an event co-hosted by the university's Manuel Johnson Center for Political Economy, where a former professor and panelist, using his previous research, criticized Alabama's economic incentive programs.² In the email exchange, Vance shared that "several folks,³ including [people at] Alabama Power,⁴ are upset" about the criticism and the "negative spotlight on Troy is both unfortunate and unnecessary."⁵ Ward said

¹ 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.

² Will Blakely, *Leaked emails: Troy trustees plotted to censor free-market think tank for criticizing state government's economic incentives after Alabama Power, BCA complaints*, 1819 NEWS, Mar. 31, 2023, <https://1819news.com/news/item/leaked-emails-troy-trustees-plotted-to-censor-free-market-think-tank-for-criticizing-state-governments-economic-incentives-after-alabama-power-bca-complaints>. The recitation of facts here reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

³ Several Democrat and Republican state legislators, as well as Alabama Governor Kay Ivey, have called for the renewal of economic incentive programs, and powerful organizations within the state act as lobbyists for economic incentives. *Id.*

⁴ Alabama Power is one of the Nation's largest producers of energy and supplies 1.5 million homes, businesses, and industries in the southern two-thirds of Alabama. ALABAMA POWER, *Our Company*, <https://www.alabamapower.com/company.html> (last visited Apr. 11, 2023).

⁵ Blakely, *supra* note 2.

he does not “know why we pick fights with an issue that the entire legislature and the Governor support.”⁶ You added:⁷

The Manley [*sic*] Johnson Center for Political Economics [*sic*] (MJC) is a valued asset to Troy University, especially now when the free market system is under attack. However, that does not suggest we can continue to allow uncontrolled freedom of speech or academic research ... Over the past few years, we have experienced several disadvantages as a result of the “ready, fire, aim” approach of a couple of professors who have held appointments in the MJC. Unfortunately, the most recent example, and the one which prompted your message, involved a former faculty member no longer with the MJC ... I will also ask my secretary ... to schedule a meeting with them to discuss the Center and ‘how’ it prioritizes and vets topics which are appropriate for MJC staff to pursue.

As a public university, the U.S. Constitution requires Troy to not only permit but defend “freedom of speech” and “academic research” by faculty.⁸ This is because academic freedom is “a special concern of the First Amendment,” which “[o]ur Nation is committed to safeguarding” because of its “transcendent value to all of us and not merely to the teachers concerned.”⁹ Accordingly, “free speech is of critical importance [at universities] because it is the lifeblood of academic freedom[.]”¹⁰ As the Supreme Court of the United States cogently explained in rejecting efforts to root out “subversive persons” from universities:¹¹

The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any straight jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study in to evaluate, to gain

⁶ *Id.*

⁷ *Id.*

⁸ *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).

⁹ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

¹⁰ *DeJohn v. Temple Univ.*, 537 F.3d 301, 314 (3d Cir. 2008).

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

new maturity and understanding; otherwise our civilization will stagnate and die.

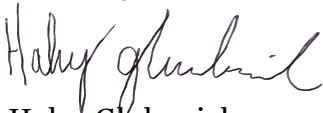
Troy administrators violate this clear legal duty when they attempt to “control” legitimate faculty research due to pressure from powerful outside entities or politicians, or fears that faculty expression may cast a “negative spotlight” on Troy.

Administrators may not engage in “vetting” faculty research topics to ensure consistency with ideological or political beliefs. Troy can no more withhold approval of a research topic because some might not agree with the thesis, or because it may make the university look bad, than it can punish a faculty member for presenting that same view in the classroom when it is pedagogically relevant.¹² For any research proposal, it is possible that someone, upon encountering its point of view, will disagree with the topic or results. But faculty at public universities must retain full academic freedom to decide which topics are worthy of inquiry without meddling from Troy administrators.

Impermissible interference includes calling faculty into meetings to discuss which First Amendment-protected topics are “appropriate for MJC staff to pursue.” Such a meeting would itself violate the First Amendment because it “would chill or silence a person of ordinary firmness from future First Amendment activities.”¹³ As evidenced by your emails, the subtext of any inquiry into topic appropriateness—by administrators with disciplinary authority—would be to discourage research that is politically inconvenient for you and other Troy officials. Faculty would feel pressured to change their research topic accordingly in fear of discipline. This is not only unconstitutional but undermines the vital role academic freedom plays in American democracy.

FIRE requests an expedient and substantive response to this letter no later than the close of business on April 27, 2023, confirming that Troy does not and will not impose viewpoint restrictions on faculty research at the MJC. To the extent faculty have already been directed to vet their research in line with Troy administrators’ political motives, those mandates must be clearly and quickly rescinded.

Sincerely,



Haley Gluhanich
Program Officer, Campus Rights Advocacy

Cc: Cam Ward, Troy University Trustee
Gibson Vance, Troy University Trustee

¹² See, e.g., *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 683 (6th Cir. 2001) (stating that, in the classroom context, a professor’s lectures, materials, or remarks, “however repugnant” to students or others, are “protected by the First Amendment” when they are “germane to the classroom subject matter”).

¹³ *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).