



FIRE

Foundation for Individual
Rights and Expression

July 18, 2023

M. Katherine Banks
Office of the President
1246 TAMU
Texas A&M University
College Station, Texas 77843-1246

URGENT

Sent via Electronic Mail (president@tamu.edu)

Dear President Banks:

FIRE¹ is concerned by reports that Texas A&M University engaged in viewpoint-discrimination when it reneged on an employment offer to University of Texas at Austin professor and former *New York Times* journalist Kathleen McElroy. FIRE seeks clarity about this decision-making process to ensure TAMU, a public university, is meeting its First Amendment obligations.

It is our understanding that, in June,² TAMU announced its intent to hire McElroy to serve as director of the university's new journalism program.³ Following this announcement, several alumni groups, including The Rudder Association, criticized McElroy's hiring, her previous work involving diversity, equity, and inclusion initiatives, and her research on race.⁴ McElroy stated that TAMU then rescinded the original offer of a tenured position in favor of a five-year

¹ As you may recall from past correspondence, the Foundation for Individual Rights and Expression (FIRE) is a nonpartisan nonprofit defending freedom of expression and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² This letter reflects our understanding of the facts based on public reporting; please inform us if you believe we are in error.

³ Texas A&M Univ. Div. of Mktg. and Commc'ns, *Aggie with Distinguished Career Selected to Lead A&M Journalism Program*, TEXAS A&M TODAY (June 13, 2023), <https://today.tamu.edu/2023/06/13/aggie-with-distinguished-career-selected-to-lead-texas-am-journalism-program>.

⁴ Jack Stripling, *A big new hire imploded at Texas A&M. Conservatives are Cheering*, WAPo (June 14, 2023), <https://www.washingtonpost.com/education/2023/07/14/texas-am-kathleen-mcelroy-hire-controversy>.

contract, to which she agreed.⁵ But it appears that last week TAMU lowered the offer again, this time to a one-year, at-will position, which McElroy rejected.⁶

Revoking McElroy's original employment offer in response to powerful political forces, big donors, or alumni groups that object to her views effectuates unconstitutional viewpoint discrimination in violation of TAMU's binding First Amendment obligations.⁷ The principle of viewpoint neutrality applies with particular strength to universities, which by their nature must be dedicated to "free speech and creative inquiry," as "one of the vital centers for the Nation's intellectual life."⁸

We urge TAMU to urgently and transparently address its decision-making during McElroy's hiring process, and to reaffirm its commitment to viewpoint diversity. Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on Monday, July 24.

Sincerely,



Ida Namazi
Program Officer, Campus Rights Advocacy

Cc: Ray Bonilla, General Counsel
José Luis Bermúdez, Interim Dean of the College of Arts & Sciences

⁵ Kate McGee, *Texas A&M recruited a UT professor to revive its journalism program, then backtracked after "DEI hysteria,"* TEXAS TRIBUNE (July 11, 2023), <https://www.texastribune.org/2023/07/11/texas-a-m-kathleen-mcelroy-journalism>.

⁶ *Id.*

⁷ *See, e.g., Healy v. James*, 408 U.S. 169, 180 (1972) (The "precedents of this Court leave no room for the view that ... 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).

⁸ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 836 (1995).