



FIRE

Foundation for Individual
Rights and Expression

July 25, 2023

Mark A. Welsh III
Office of the President
1246 TAMU
Texas A&M University
College Station, Texas 77843-1246

URGENT

Sent via Electronic Mail (president@tamu.edu, bushschooldean@tamu.edu)

Dear Acting President Welsh:

FIRE¹ is deeply troubled by *The Texas Tribune's* report on Texas A&M University's censure and investigation of Clinical Assistant Pharmacy Professor Joy Alonzo for criticizing the Lieutenant Governor.² We urge you to take swift, decisive action to ensure the university will meet its First Amendment obligations to respect faculty's core expressive rights.³

When citizens criticize public officials, the First Amendment's protection is "at its zenith."⁴ Public university faculty also have broad expressive and academic freedom rights to raise those

¹ For more than 20 years, the Foundation for Individual Rights and Expression (FIRE) has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our expanded mission and activities at thefire.org.

² Kate McGee and James Barragan, *Texas A&M suspended professor accused of criticizing Lt. Gov. Dan Patrick in lecture*, TEXAS TRIB., July 25, 2023, <https://www.texastribune.org/2023/07/25/texas-a-m-professor-opioids-dan-patrick/>. This letter 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.

³ As a public university, Texas A&M is legally bound to uphold the First Amendment rights of its faculty. *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).

⁴ See *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186–87 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414, 425 (1988)). See also *Whitney v. California*, 274 U.S. 357, 375 ("Those who won our independence believed . . . public discussion is a political duty; and that this should be a fundamental principle of the American government.") (J. Brandeis, concurring).

criticisms in their classrooms,⁵ which the Supreme Court has held “occupy a special niche in our constitutional tradition,”⁶ and where “government should be extremely reticent to tread.”⁷

Texas A&M’s punishment of Alonzo to please powerful political forces is a stunning abdication of its constitutional obligations, deeply chilling faculty and student expression on campus. It is of no consequence that the Alonzo investigation ultimately resolved in her favor, as the First Amendment prohibits state actors like Texas A&M from any action that “would chill or silence a person of ordinary firmness from future First Amendment activities[.]”⁸ Any adverse action taken in response to protected expression—including investigations by state actors with disciplinary authority—can violate the First Amendment.

An informed citizenry depends on, among other things, public university faculty performing educational duties free from outside influence. When confronted with inevitable pressures to encroach on academic freedom—whether from powerful alumni, donors, or, as here, politicians—institutions like Texas A&M must abide by the constitutional principles that instill trust in our public universities.

Because Texas A&M has violated that trust, and the law, it must publicly renounce its investigation into Alonzo for her protected expression and recommit to protecting faculty’s expressive freedoms moving forward. Given the urgent threat to faculty rights, we request a substantive response to this letter no later than close of business on Friday, July 28, confirming the university will do so.

Sincerely,



Graham Piro
Program Officer, Campus Rights Advocacy



Alex Morey
Director, Campus Rights Advocacy

⁵ Numerous courts—including the Supreme Court and the Fifth Circuit Court of Appeals, whose decisions are binding on Texas A&M—have recognized the First Amendment’s protection of freedom of speech is closely intertwined with academic freedom. *See, e.g., Buchanan v. Alexander*, 919 F.3d 847, 852-53 (5th Cir. 2019) (academic speech enjoys First Amendment protection even if it occurs pursuant to a professor’s official duties.); *DeJohn v. Temple Univ.*, 537 F.3d, 301, 314 (3rd Cir. 2008) (“[F]ree speech is of critical importance [at universities] because it is the lifeblood of academic freedom[.]”); *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957) (“academic freedom [is an area] in which government should be extremely reticent to tread.”).

⁶ *Grutter v. Bollinger*, 539 U.S. 306, 329 (2003).

⁷ *Sweezy*, 354 U.S. at 250.

⁸ *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).