



FIRE

Foundation for Individual
Rights and Expression

September 14, 2023

Michael J. Sosulski
Office of the President
Washington College
300 Washington Avenue
Chestertown, Maryland 21620

URGENT

Sent via U.S. Mail and Electronic Mail (msosulski2@washcoll.edu)

Dear President Sosulski:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is gravely concerned by the substantial disruption and subsequent postponement of a Washington College event featuring Princeton Professor Robert George, especially given reports that campus security stood idly by as protesters ultimately forced a shutdown of the event. As an institution that promises expressive and academic freedom to faculty and students—whose policies explicitly state it will intervene in cases of disruption to ensure expressive events proceed—Washington College must commit to enforcing its policies and to educating its students on the importance of tolerating a range of views on campus and about the bounds of peaceful protest.

On September 7, George appeared on campus at the invitation of Professor Joseph Prud'homme to deliver a talk at the annual Lawrence W. Swanstrom '67 Memorial Lecture.² Prior to the event, a group of protesters gathered outside the venue, where individual protesters addressed the crowd about George's planned speech. George began his talk and proceeded through opening remarks but was then interrupted by the protesters who entered

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 Bontrager, *Protesters silence renowned speaker at Washington College*, STAR DEMOCRAT, Sept. 10, 2023, https://www.stardem.com/news/local_news/protesters-silence-renowned-speaker-at-washington-college/article_997b9cfa-4f4b-11ee-902b-573058135ae8.html. The recitation of facts here reflects our understanding of the pertinent information, which is based on public information. We appreciate that you may have additional information to offer and invite you to share it with us.

the event space.³ Prud’homme addressed the protesters and asked them to allow George to continue speaking, but as he tried to do so, protesters played loud music, blew whistles, and shouted to drown out George’s speech.⁴ When the disruption continued unabated and College forces failed to intervene but rather stood by watching, Prud’homme escorted George from the venue and said the event would continue at a later, unspecified time.⁵ Campus security admitted they did not interfere with the protesters, citing concern about escalating the situation, even though they had reportedly received briefing ahead of the event about the potential for disruption.⁶

After the event, a College spokesperson said the protesters “took issue with homophobic and transphobic statements that George has made in the past” and said the College declined requests to cancel the lecture in favor of sending an email ahead of the event reinforcing institutional values of “informed, critical inquiry and the exploration of a wide diversity of perspectives.”⁷ The spokesperson added that the cancellation was “not consistent with the core values of the liberal arts to which Washington College is committed.”⁸ This public acknowledgement that the cancellation contradicts the “core values” of Washington College aligns with its promise that the “essential importance of academic freedom is recognized and a standard of reasonableness will guide the College,”⁹ and that its bias policies “do[] not seek to limit freedom of speech.”¹⁰

While we commend Washington College for publicly acknowledging the disruption and shout-down of the George event was unacceptable, neither that sentiment nor its written policies carry any weight if the College does not commit to taking—and then actually take—steps necessary to prevent such disruptions from effectively canceling controversial campus events. Critically, Washington College policy explicitly states it “will intervene in ... protests and demonstrations when others are deprived of their rights or when operations of the College are

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Jennifer Kabbany, *Rowdy protesters shut down conservative Princeton professor’s ‘truth-seeking’ speech*, THE COLLEGE FIX, Sept. 12, 2023, <https://www.thecollegefix.com/rowdy-protesters-shut-down-conservative-princeton-professors-truth-seeking-speech/>.

⁸ *Id.*

⁹ *Discrimination and Harassment Policies*, Policy Statement on Discrimination, Statement on Importance of Academic Freedom, WASH. COLL. https://www.washcoll.edu/people_departments/offices/student-affairs/student-handbook/discrimination-and-harassment-policies/index.php [<https://perma.cc/VJ52-U3AB>].

¹⁰ *Identifying and Reporting Bias Incidents at Washington College*, Purpose, WASH. COLL. https://www.washcoll.edu/people_departments/offices/intercultural-affairs/identifying-and-reporting-bias-incidents-at-washington-college.php#:~:text=For%20immediate%20assistance%20or%20in,CARE%20system%3B%20please%20click%20here. [<https://perma.cc/EML2-EV9M>].

disrupted.”¹¹ Yet campus security reportedly made no effort toward that end to allow the George event to continue.

Without proper enforcement of that policy and the others Washington College maintains sounding in free speech, those engaging in non-peaceful protest effect a “heckler’s veto” by which protesters substantially disrupt an event via violence or other means to prevent speakers from speaking.¹² Hecklers’ vetoes are not protected speech, but rather infringe both a speaker’s right to deliver their message and the rights of those who wish to hear it. As the late Supreme Court Justice Thurgood Marshall famously wrote: “The freedom to speak and the freedom to hear are inseparable; they are two sides of the same coin.”¹³ Colleges renege on their free speech policy promises—and further incentivize censorship by heckler’s veto—when they permit this kind of misconduct.

None of this, of course, negates the need to equally protect *peaceful* protest, or that not even all protest *during* a speech is sufficiently disruptive to warrant intervention. For example, protestors who hold signs in the back of an auditorium, or offer fleeting commentary, are unlikely to be so disruptive as to prevent an event from proceeding. But when the event cannot proceed as planned because protesters talk over speakers, drown them out with other sounds, or cause other disruptions that substantially impede the ability to deliver remarks, Washington College must use the resources at its disposal to prevent this pernicious form of mob censorship, and to ensure audiences can, at the very least, hear the speakers talk.¹⁴ Would-be disruptors must know the College will not tolerate the heckler’s veto, and that it will take swift action to remove anyone who violates its policies.

While campus security said they avoided confronting protesters out of concern for escalating the situation, those security members have the obligation to remove such protesters so the event can proceed, and should be briefed accordingly. Administrators should also inform students that peaceful, non-disruptive protests or counter-events are allowed, but that attempted disruptions will result in removal from the event, and in potential discipline.

When Washington College allows silencing of speakers like George, its message to all in the campus community is that those who engage in disruptive conduct have the power to dictate which voices and views may be heard on campus. The fact that the College has publicly

¹¹ Protests and Demonstrations, Washington College Event Policy, WASH. COLL. <https://www.washcoll.edu/coronavirus/files/WC%20Event%20Policy%20Spring%202021.pdf> [https://perma.cc/WH8E-RL9U].

¹² See, e.g., Zach Greenberg, *Rejecting the ‘heckler’s veto’*, FIRE (June 14, 2017) <https://www.thefire.org/news/rejecting-hecklers-veto>; Adam Goldstein, *Dear University of North Texas: The ‘Heckler’s veto’ is not a good thing*, ETERNALLY RADICAL IDEA (Nov. 5, 2020), <https://www.thefire.org/news/blogs/eternally-radical-idea/dear-university-north-texas-hecklers-veto-not-good-thing>.

¹³ *Kleindienst v. Mandel*, 408 U.S. 753, 775 (1972) (Marshall, J., dissenting).

¹⁴ For guidance, it would behoove Washington College to look to courts that have established that when those opposed to speakers or their message target events for disruption, educational institutions must respond with “bona fide efforts” to protect expressive rights. *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 255 (6th Cir. 2015).

denounced the disruption and stated that it is not in line with College values is a positive sign. But the College must do more.

We request a substantive response to this letter no later than Thursday, September 21 affirming that Washington College will educate security officials and administrators about their obligations to intervene to ensure expressive events can proceed, and will educate its students on the importance of tolerating speech with which they may disagree, and of limiting dissent to non-disruptive protest.

Sincerely,

A handwritten signature in cursive script that reads "Graham Piro".

Graham Piro
Program Officer, Campus Rights Advocacy