

January 25, 2024

Christopher L. Eisgruber
Office of the President
Princeton University
1 Nassau Hall
Princeton, New Jersey 08544

Sent via U.S. Mail and Electronic Mail (eisgruber@princeton.edu)

Dear President Eisgruber:

FIRE¹ and the Anti-Defamation League² write to express our collective concern about Princeton University's improper use of no-contact orders to censor students.³

In the wake of the October 7 Hamas terrorist attacks against Israel, contentious debates on the conflict have dominated campus discourse.⁴ Yet Princeton is stifling these discussions and newsgathering by its student press, by permitting students who dislike certain speech to be granted no-communication or no-contact orders against other students. While no-contact protocols are important tools to keep students safe from properly defined discriminatory harassment, and threatening, intimidating, or assaultive conduct, Princeton appears to be granting these orders for any student who requests one, so long as minimal procedural prerequisites are satisfied. These orders are being issued by administrators with disciplinary authority, under threat of punishment, without a modicum of due process, and—most unconscionably—where the student-speaker is not even alleged to have violated any university policy. This practice is deeply chilling, in blatant violation of Princeton's laudable free expression policies, and must end immediately.

¹ As you may recall from past correspondence on this issue, the Foundation for Individual Rights and Expression (FIRE) is a nonpartisan nonprofit dedicated to defending the rights of all Americans to the freedoms of speech, expression, and conscience. You can read more about our expanded mission at www.thefire.org.

² The Anti-Defamation League is the leading anti-hate organization in the world. Founded in 1913, its timeless mission is “to stop the defamation of the Jewish people and to secure justice and fair treatment to all.” ADL is a global leader in combating antisemitism, countering extremism, and battling bigotry wherever and whenever it happens.

³ The recitation 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.

⁴ FIRE takes no position on the conflict. Advocates on both sides hold the same First Amendment rights to express themselves—which FIRE will continue to defend without regard to viewpoint, as it does for all issues.

Perhaps more dismaying than the abuse of Princeton’s no-contact and no-communication policies, is that your administration has known for over a year that these rights incursions are occurring, yet has failed to act.

FIRE wrote you last January with identical concerns after an administrator issued a no-communication order against a student journalist at *The Princeton Tory*. The journalist, Danielle Shapiro, reported on a public event held by the Princeton Committee on Palestine to protest against the Israel Summer Programs Fair, which was hosted by the Center for Jewish Life. Shapiro did no more than report on this event and follow up with a source, a fellow student who was a leader of the Princeton Committee on Palestine.⁵ By all accounts, Shapiro conducted her newsgathering in a professional manner, consistent with journalistic best practices. Yet simply because the source apparently disliked the coverage and requested a no-communication order, Princeton immediately granted one—without any process whatsoever for Shapiro—significantly hampering her ability to cover the campus group for *The Tory*.

Princeton stated in a notice to Shapiro at the time that it was acting pursuant to its Title IX sexual assault policy, which allowed *any* student to seek such an order “due to interpersonal conflicts.”⁶ The notice indicated Princeton was not charging Shapiro with a particular policy violation but nonetheless instructed that failure to comply with the order could prompt formal disciplinary consequences.

After Shapiro wrote about her experience in *The Wall Street Journal*,⁷ Princeton appeared to alter its policy, reportedly moving the no-contact/communication language to its “Conflict Resolution” procedures and allowing students to request these orders after first notifying the other party they wish to have no contact.⁸

But as we explained last January, the change “may worsen the situation rather than rectify it,” for two key reasons:

First, allowing no-contact orders to be used against students not only in situations of properly defined harassment, but also as a form of basic “conflict resolution,” directly violates the university’s Statement on Free Expression: it allows students to

⁵ Danielle Shapiro, *Princeton Committee on Palestine Demonstrates in Front of Center for Jewish Life; Jewish Students Respond*, THE PRINCETON TORY (Mar. 1, 2022), <https://www.theprincetontory.com/princeton-committee-on-palestine-demonstrates-in-front-of-center-for-jewish-life-jewish-students-respond/>.

⁶ *No Communication Orders and No Contact Orders FAQs*, Who can request a No Communication Order or a mutual No Contact Order, and for what reasons?, SEXUAL MISCONDUCT & TITLE IX AT PRINCETON UNIV. (Oct. 2021), <https://sexualmisconduct.princeton.edu/faqs/no-contact-communication-orders> [<https://web.archive.org/web/20220316225527/https://sexualmisconduct.princeton.edu/faqs/no-contact-communication-orders>].

⁷ Danielle Shapiro, *I Committed Journalism, and Princeton Told Me Not to Communicate*, WALL ST. J. (Sept. 23, 2022), <https://www.wsj.com/articles/i-committed-journalism-and-princeton-told-me-not-to-communicate-nco-title-ix-regulations-campus-israel-misconduct-chicago-principles-11663945517>.

⁸ Julie Bonette, *Princeton Changes No Contact Order Rules After Student Pushback*, PRINCETON ALUMNI WEEKLY (Nov. 2022), <https://paw.princeton.edu/article/princeton-changes-no-contact-order-rules-wall-street-journal>.

use university systems to “obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe.”

Second, to issue a no-contact order, the policy fails to require the student against whom a no-contact order is sought to have first *violated* an informal request to not contact the complainant. Rather, the policy requires only that the complainant informally requested no contact with the respondent, with no further action required on the part of the respondent. By enforcing no-contact orders without first requiring any action from respondents, Princeton stifles students’ legitimate news gathering activities and violates their expressive rights.

One year later, the exact threat FIRE portended has transpired. Princeton has issued yet another no-contact order against a *Tory* journalist who reported on a student demonstration against Israel. A *Tory* journalist covered a November 9 protest held by Students for Justice in Palestine. While she was recording footage of the protestors’ chants and signs, a graduate student attempted to block her camera. The graduate student followed the journalist, and remained in close physical proximity to her, despite the journalist voicing her discomfort. When the journalist reported this to an on-duty Public Safety officer, the officer informed the journalist that *she* was “inciting something.” Following the officer’s inaction, the graduate student continued to attempt to physically obstruct the journalist from filming, eventually pushing her and stepping on her foot.

After the protest, the graduate student who pushed the journalist obtained a no-contact order against her. The journalist met with her Assistant Dean for Student Life to discuss the order and asked the dean whether she could publish articles written before the issuance of the no-contact order that mention the graduate student’s name. The dean later informed the journalist via email that the university “cannot determine if they would be a violation of the NCO—it is possible that some statements may be interpreted by the other student as an indirect or direct attempt to communicate. The safest course of action in terms of a possible violation of the NCO would be to refrain from writing or to be interviewed for articles that mention the name of the student with whom you have an NCO (or to retract them if that’s possible).”⁹

The journalist later informed her dean the university failed to follow its own policies when issuing the no-contact order. Princeton issues no-contact orders only “*after* an individual communicates in writing that they wish to have no communication or contact with that individual.”¹⁰ However, the graduate student never provided this written communication to the journalist.

⁹ Email from Assistant Dean for Student Life to student journalist (Nov. 15, 2023, 7:21 PM) (on file with author).

¹⁰ *No Communication Orders and No Contact Orders Frequently Asked Questions*, Who can request a No Communication Order or a Mutual No Contact Order, and for what reasons?, PRINCETON UNIV. (Nov. 2023), https://odus.princeton.edu/sites/g/files/toruqf896/files/documents/FAQs%20re%20NCOs%20092722_0%20updated%203-7-

This censorship is utterly inconsistent with Princeton’s unequivocal promises that students have the right to engage in even the most challenging conversations.¹¹ Your Statement on Freedom of Expression, for example, declares “the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.”¹² The Statement further notes “it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.”¹³ Nor can a desire for “civility and mutual respect ... be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.”¹⁴ Likewise, Princeton’s protest policy explicitly forbids students from abusing university systems to “obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe.”¹⁵

Just last week, you observed that despite “[c]ontroversy over the war in the Middle East,” Princeton would “*never*” censor or discipline students unless their speech “falls under one of the enumerated expressions to [Princeton’s] free expression policy, such as those permitting the University to restrict threats of harassment.”¹⁶ Yet your administration continues to turn a blind eye to the use of no-contact orders to silence students who seek to express their pro-Israel ideas, simply because their peers find these ideas “heterodox, shocking, or offensive.”¹⁷

Princeton’s commitments to free speech are admirable—but only to the extent to which they are followed. As written, they properly align with First Amendment jurisprudence and prevailing conceptions of free speech and free press principles. Any reasonable student or student journalist reading these policies would be confident they have the right to engage in difficult discussions without worrying they will be slapped with a no-contact order, under threat of discipline. Student journalists are also promised their right to engage in dogged newsgathering, including contacting student leaders in the ordinary course of their reporting. But Princeton has betrayed its promises by allowing students to censor their peers on the basis

23.pdf#:~:text=Princeton%20has%20a%20practice%20of,no%20communication%20with%20that%20individual [https://perma.cc/LA86-NJ6E].

¹¹ *Rights, Rules, Responsibilities*, University-Wide Conduct Regulations, Peaceful Dissent, Protest, and Demonstrations, PRINCETON UNIV., <https://rrr.princeton.edu/2023/university-wide-regulations/12-university-wide-conduct-regulations> [https://perma.cc/7ECK-5DR2] (Princeton has “an obligation to promote the free expression of all views,” and “[f]ree speech and peaceable assembly are basic requirements of the University as a center for free inquiry and the search for knowledge and insight.”).

¹² *Rights, Rules, Responsibilities*, University Principles of General Conduct and Regulations, Statement on Freedom of Expression, PRINCETON UNIV., <https://rrr.princeton.edu/2023/university-wide-regulations/11-university-principles-general-conduct-and-regulations> [https://perma.cc/BK6Y-L3HQ].

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Rights, Rules, Responsibilities*, *supra* note 11.

¹⁶ Office of Communications, *President Eisgruber’s annual State of the University letter, 2024* (Jan. 18, 2024, 12:04 PM), <https://www.princeton.edu/news/2024/01/18/president-eisgrubers-annual-state-university-letter-2024> [https://perma.cc/7TAA-BSQN].

¹⁷ *Id.*

of subjective offense. These outcomes cannot be squared with the university’s mission or purported commitments.

Importantly, while Princeton’s no-contact orders to student speakers note they are not being formally charged with a policy violation, the university’s silencing of these students clearly violates their rights. The legal question in such cases is only whether the institution’s actions in response to protected expression “would chill or silence a person of ordinary firmness” from engaging in future protected expression.¹⁸ Official documentation from administrators with disciplinary authority—especially when it expressly bans certain communication—can meet this bar. Courts have recognized that any investigation carrying even an implicit threat of discipline, and the resulting chilling effect, was cognizable as First Amendment harm.¹⁹

Princeton’s accreditation by the Middle States Commission on Higher Education is also jeopardized by this speech-chilling practice. Middle States requires all accredited institutions to “possess[] and demonstrate[] ... a commitment to academic freedom, intellectual freedom, freedom of expression.”²⁰ It also requires schools to abide by their due process commitments, including procedural fairness.²¹ For Middle States, these are matters of institutional “Ethics and Integrity,” which are a “central, indispensable, and defining hallmarks of effective higher education institutions.”²² It also requires that “in all activities, whether internal or external, an institution must be faithful to its mission, honor its contracts and commitments, adhere to its policies, and represent itself truthfully.”²³

To be clear, when properly utilized, no-contact orders are an important tool to ensure the safety of victims of physical violence, sexual misconduct, true threats, or discriminatory harassment. But Princeton is allowing students with ideological disagreements to transform no-contact orders into cudgels to silence the “lively and fearless freedom of debate and deliberation” that Princeton promises all students.²⁴ This is at least the second time in the last two years that a *Tory* student journalist has been silenced by a no-contact order at the behest of community members offended by his or her pro-Israel journalism. This systematic weaponization of no-contact orders to silence pro-Israel journalism—or any journalism—cannot stand.

¹⁸ *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

¹⁹ *Levin v. Harleston*, 966 F.2d 85, 89–90 (2d Cir. 1992).

²⁰ *Standards for Accreditation and Requirements for Affiliation*, Standard II, Ethics and Integrity, Criteria, MIDDLE STATES COMM’N ON HIGHER EDUC. (effective July 1, 2023), <https://www.msche.org/standards/fourteenth-edition>.

²¹ *Rights, Rules, Responsibilities*, University Discipline, Jurisdiction, Cases Involving Undergraduates, PRINCETON UNIV., <https://rrr.princeton.edu/2023/students-and-university/25-university-discipline> [<https://perma.cc/SM8K-C5CZ>] (where a student is alleged to have committed an infraction “for which the penalty might interrupt the student’s academic career,” the student must receive due process including a hearing by committee).

²² *Standards for Accreditation and Requirements for Affiliation*, *supra* note 20.

²³ *Id.*

²⁴ *Rights, Rules, Responsibilities*, *supra* note 11.

Princeton must act now to prevent further abuse of students' expressive and press freedoms, live up to its historic educational mission, and guard against legal and reputational liability. Given the urgent nature of this matter, we request a substantive response to this letter no later than February 1, 2024.

Sincerely,



Alex Morey
Director, Campus Rights Advocacy
FIRE



James Pasch
Senior Director, National Litigation
ADL

Cc: The Trustees of Princeton University
c/o Hilary A. Parker, Vice President and Secretary

Ramona Romero, Vice President and General Counsel