



January 17, 2024

Martha E. Pollack  
Office of the President  
Cornell University  
300 Day Hall  
Ithaca, New York 14853

*Sent via U.S. Mail and Electronic Mail (president@cornell.edu)*

Dear President Pollack:

FIRE<sup>1</sup> is disappointed Cornell University is violating its commitment to free speech by threatening to punish student Maria Lima Valdez for posting “Zionists must die” on social media. Punishing clearly protected political speech is foreclosed by Cornell’s clear commitment to upholding student free speech rights, even when some consider the views expressed to be offensive or hateful. Cornell cannot keep its promise to respect students’ expressive freedoms if it also punishes Valdez.

On January 11, Cornell announced that a student, now identified as Valdez, “will be held fully accountable and appropriately sanctioned” for her “heinous” and “hateful” social media post stating “Zionists must die.”<sup>2</sup> While it is unclear what Cornell anticipates “full accountability” or “appropriate sanctions” will mean in this case, it is hard to envision they would not constitute adverse action that would chill the speech of students of ordinary firmness.<sup>3</sup>

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<sup>1</sup> As you may recall from prior correspondence, the Foundation for Individual Rights and Expression defends freedom of expression, conscience, and religion, and other individual rights on America’s university campuses. You can learn more about our expanded mission and activities at [thefire.org](https://thefire.org).

<sup>2</sup> *Hateful social media post*, CORNELL UNIV. (Jan. 11, 2024), <https://statements.cornell.edu/2024/20240111-social-post.cfm> [<https://perma.cc/X4QW-F2AD>]; StopAntisemitism (@StopAntisemites), X (Jan 12, 2024, 1:21 PM), <https://twitter.com/StopAntisemites/status/1745873582444388593> [<https://perma.cc/Z8XD-UTDX>]. The recitation here reflects our understanding of the pertinent facts, which is based on publicly available information. We appreciate that you may have additional information to offer and invite you to share it with us.

<sup>3</sup> *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999) (institutional response short of formal punishment can violate free speech rights if it “would chill or silence a person of ordinary firmness from future First Amendment activities”).

Such discipline is accordingly inappropriate under Cornell’s free speech promises, as calls for genocide that do not constitute unprotected true threats or discriminatory harassment remain protected by the First Amendment standards Cornell incorporates into its free speech policies.<sup>4</sup> Indeed, Cornell has not shown how Valdez’s words fall into *any* category of unprotected speech meriting university punishment.<sup>5</sup> Rather, university policy explicitly protects the expression “even of ideas some may consider wrong or offensive,”<sup>6</sup> such as “heinous” and “hateful” social media posts. Cornell’s “Core Value” of “Free and Open Inquiry and Expression” properly reflects the First Amendment’s robust protection for offensive speech on public issues, including virulent rhetoric concerning the ongoing Israeli-Palestinian conflict.<sup>7</sup>

As a university dedicated to making free expression the centerpiece of its current academic year,<sup>8</sup> Cornell should be ideally situated to counter speech that raises concerns among the campus community with education instead of censorship. As you stated last year in opposing mandatory trigger warnings: “Learning to engage with difficult and challenging ideas is a core part of a university education: essential to our students’ intellectual growth, and to their future

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<sup>4</sup> *Cornell University Core Values*, CORNELL UNIV., [https://president.cornell.edu/initiatives/university-core-values/\[https://perma.cc/CU9L-D69R\]](https://president.cornell.edu/initiatives/university-core-values/[https://perma.cc/CU9L-D69R]). As you wrote last spring, “Free expression is the bedrock of democracy, just as academic freedom is the bedrock of higher education. These twin freedoms are at the heart of our core values, and have always been fundamental to Cornell’s excellence and its identity.” Martha E. Pollack, *The Indispensable Condition: Freedom of Expression at Cornell*, CORNELL UNIV. (Apr. 17, 2023), <https://statements.cornell.edu/2023/20230417-free-expression.cfm> [<https://perma.cc/6KPS-JJE3>].

<sup>5</sup> To the extent Cornell is following New York Governor Hochul’s directive to punish students “calling for the genocide of any group of people,” it must resist such pressure to censor students, as there are constitutional concerns with the government forcing private actors to censor speech otherwise protected by the First Amendment. *FIRE statement on Gov. Hochul’s letter to New York State colleges and universities*, FIRE (Dec. 10, 2023), <https://www.thefire.org/news/fire-statement-gov-hochuls-letter-new-york-state-colleges-and-universities>. See also Brief of *Amici Curiae* Found. for Individual Rts. and Expression, Nat’l Coal Against Censorship, The Rutherford Inst. and First Amendment Lawyers Ass’n in Support of Petitioner and Reversal, *NRA v. Vullo*, No. 22-842 (Jan. 16, 2024), available at <https://www.thefire.org/research-learn/amicus-brief-support-petitioner-and-reversal-nra-v-vullo>; *Missouri v. Biden*, 83 F.4th 350, 381 (5th Cir. 2023), cert. granted *sub nom. Murthy v. Missouri*, 144 S. Ct. 7 (2023) (affirming that government violated the First Amendment rights of social media users by pressuring, coercing, and directing private platforms to censor disfavored speech).

<sup>6</sup> Cornell University Core Values, *supra* note 4.

<sup>7</sup> *Id.* The values of free speech and the fullest exchange of ideas are furthered by allowing students to discuss controversial, offensive, and even hateful ideas. See, e.g., *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973) (“[T]he mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of conventions of decency.”) (internal quotations omitted); *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949) (“[Speech] may indeed best serve its high purpose when it induces a condition of unrest ... or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea.”); see also *Snyder v. Phelps*, 562 U.S. 443, 461 (2011) (holding that the picketing of soldiers’ funerals was protected speech, the Court noted that “[a]s a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”). Courts’ interpretations of the First Amendment’s guarantee of “the freedom of speech” provide guidance as to what Cornell’s institutional promise of that freedom means to its students.

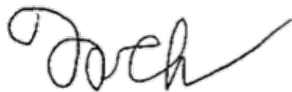
<sup>8</sup> James Dean, *2023-24 academic year to feature free expression theme*, CORNELL CHRONICLE (Apr. 14, 2023), <https://news.cornell.edu/stories/2023/04/2023-24-academic-year-feature-free-expression-theme>.

ability to lead and thrive in a diverse society.”<sup>9</sup> That accords with your prior rejection of misguided efforts to “ban all the hate speech” with speech codes,<sup>10</sup> which recognized that Cornell’s power to enlighten stands as a superior alternative to attempting to repress hate by punishing protected student speech.

Cornell can put this principle into practice by informing its campus community how the robust protection for political speech—of vital necessity in times of intense disagreement on global affairs—encompasses rhetorical hyperbole, conceptual endorsement of violence,<sup>11</sup> or assertions of the “moral propriety or even moral necessity for a resort to force or violence.”<sup>12</sup> And it can explain how this protection balances the fundamental right to discuss public issues with universities’ obligation to ensure campus safety.

We request a substantive response to this letter no later than the close of business January 31, 2024, confirming Cornell will not punish Valdez and will publicly commit to upholding its students’ free speech rights.

Sincerely,



Zach Greenberg  
Senior Program Officer, Campus Rights Advocacy

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<sup>9</sup> Martha E. Pollack & Michael I. Kotlikoff, comment on *Mandating Content Warnings for Traumatic Content in the Classroom*, CORNELL UNIV., SA R31 (2023), available at <https://assembly.cornell.edu/resolution-actions/sa-r31-mandating-content-warnings-traumatic-content-classroom-1> [<https://perma.cc/6D9F-9XC5>].

<sup>10</sup> Meredith Liu, *Pollack Details Task Force, Speech Code, Sexual Misconduct Policy to Grads*, CORNELL DAILY SUN (Oct. 31, 2017), <https://cornellsun.com/2017/10/31/pollack-details-task-force-speech-code-sexual-misconduct-policy-to-grads/>.

<sup>11</sup> *Watts v. United States*, 394 U.S. 705, 708 (1969).

<sup>12</sup> *Noto v. United States*, 367 U.S. 290, 297–98 (1961).