

FIRE

Foundation for Individual
Rights and Expression

January 3, 2024

Ann Kirschner
Office of the President
Hunter College
Room 1700E
695 Park Ave, New York 10065

Sent via U.S. Mail and Electronic Mail (president@hunter.cuny.edu)

Dear President Kirschner:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by Hunter College's cancellation of a faculty screening of the documentary "Israelism," over alleged unspecified safety concerns and opposition to the film's content. This censorship has no place at a public college bound by the First Amendment. FIRE calls on Hunter to recommit to its constitutional obligations and refrain from canceling future expressive events.

Our concerns arise out of plans by Hunter's Film and Media and Arabic Studies departments to host an on-campus, open-to-the-public screening of "Israelism" on November 14.² Leading up the event, opponents of the film sent several hundred emails to Hunter calling on it to cancel the screening.³ The morning of the event, Hunter cancelled the screening over the organizers' objections, stating:⁴

The first priority of Hunter College is to ensure the safety of our learning community. ... We seek constructive dialogue that avoids targeting any students, faculty or staff based on their identity: the essence of bigotry. In the current climate, we seek to balance our

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 The following is our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

³ Jennifer Schuessler, *Hunter College Pulls Screening of Film Critical of Israel*, N.Y. TIMES (Nov. 16, 2023), <https://www.nytimes.com/2023/11/16/arts/israel-documentary-hunter-cancel.html>. Hunter has removed this statement from its website.

⁴ *Id.*

commitment to free speech and academic freedom with the danger of antisemitic and divisive rhetoric.

Hunter never disclosed any specific threat to campus safety that informed this decision, and only after widespread media coverage and condemnation from the College Senate did it agree to reschedule the event to December 5.⁵

Hunter's censorship betrays its binding obligation under the First Amendment.⁶ Freedom of speech exists precisely to protect expression that some, or even many, find subjectively offensive, divisive, bigoted, and hateful.⁷ Upholding this principle is vitally important in times of intense disagreement and strife, as academic communities at Hunter and across the nation debate the Israeli-Palestinian conflict. As divisive as this conflict may be, stifling the voices of those seeking to discuss it will only inflame the already-heated campus atmosphere.

While colleges have an important interest in ensuring campus safety, they may not invoke it to squelch debate and discussion. In finding that even the violent reaction of a hostile mob cannot justify cutting off a speaker's protected expression, a federal appellate court proclaimed:⁸

Maintenance of the peace should not be achieved at the expense of the free speech. The freedom to espouse sincerely held religious, political, or philosophical beliefs, especially in the face of hostile opposition, is too important to our democratic institution for it to be abridged simply due to the hostility of reactionary listeners who may be offended by a speaker's message.

Hunter's further refusal to disclose the nature of the alleged threats casts doubt on the legitimacy of the college's claims. If campus safety was in fact jeopardized, Hunter owes its campus community full transparency in how it addressed those threats. But its actions instead suggest true threats were never an issue, but rather opposition to the film's content was the primary motivation for the cancellation.

⁵ Jennifer Schuessler, *Hunter College Reschedules Screening of Film Critical of Israel*, N.Y. TIMES (Nov. 29, 2023), <https://www.nytimes.com/2023/11/29/arts/hunter-college-film-israel.html>.

⁶ *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 and quotations omitted).

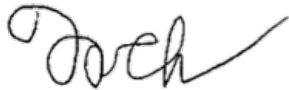
⁷ *E.g.*, *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011) (holding First Amendment protects protesters holding insulting signs outside soldiers' funerals because “[a]s a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”); *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (holding First Amendment protects burning the American flag under the “bedrock principle” that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

⁸ *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 252 (6th Cir. 2018).

Hunter cannot cancel expressive events based on unsubstantiated and undisclosed fears of disruption.⁹ Instead, it must take all reasonable steps to protect expressive events before taking the extreme step of censorship.¹⁰ Otherwise, Hunter rewards those opposed to campus events by giving in to their demands for censorship, leading to more threats against a wider array of expressive activity. To deter illiberal calls for Hunter to stifle more speech on campus, the college must take a principled stance for free speech by firmly resisting demands for censorship, even when it is difficult or unpopular to do so.

FIRE requests a substantive response to this letter no later than the close of business on January 17, 2024, confirming Hunter will uphold the First Amendment rights of its faculty and students by refraining from cancelling their expressive events going forward.

Sincerely,



Zachary Greenberg
Senior Program Officer, Campus Rights Advocacy

Cc: Sarah Chinn, Chair, Hunter College Senate

⁹ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 508 (1969) (establishing that “undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression”). In college contexts, the protections *Tinker* established set the floor for student expressive rights—not the ceiling.

¹⁰ *Bible Believers*, 805 F.3d at 252 (“When a peaceful speaker, whose message is constitutionally protected, is confronted by a hostile crowd, the state may not silence the speaker as an expedient alternative to containing or snuffing out the lawless behavior of the rioting individuals.”).