



January 29, 2024

Ted Carter
Office of the President
The Ohio State University
University Square South
15 East 15th Avenue, Fifth Floor
Columbus, Ohio 43201

URGENT

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

Dear President Carter:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by the Ohio State University's suspension of the registered student group Central Ohio Revolutionary Socialists (CORS). While CORS's pro-Palestinian political advocacy may be offensive to some, it does not fall into a category of speech unprotected by the First Amendment, which bars OSU from investigating or punishing protected expression. We urge OSU to promptly lift CORS's suspension and cease its investigation in accordance with its constitutional obligations as a public university.

Our concerns arise from OSU's reaction to a CORS's event, *Intifada, Revolution, and the Path to a Free Palestine*, which it was able to hold in a classroom on December 7, 2023, even though room reservations were apparently unavailable at that time because it was "Reading Day" on campus.² On December 6, CORS had posted flyers on campus advertising the event, and the next day, several CORS members went to an otherwise vacant room early to secure it for the event, much in the manner students are able to use classrooms on Reading Day to study. But unbeknownst to CORS until after the event, a university administrator had emailed the group's

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² 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.

leadership on December 6 after seeing its flyer, to tell them classrooms were not available for use by student organizations even on an ad hoc basis on Reading Day or during finals week.³

A few days later, Senior Vice President of Student Life Melissa S. Shivers emailed CORS to express interest in “connecting” with its leaders. She did not suggest any urgency for a meeting (which would have occurred during the exam period), nor did she request a response or convey any concerns about CORS’s activities. Instead, she simply explained that she finds it “helpful to connect with students engaging in various activities and programs.”⁴

On December 11, two social media accounts critical of CORS, Israel War Room and antisemitismtoday, posted to Instagram screenshots from CORS’s website and social media.⁵ The post described CORS as “a school-approved club at [OSU] that openly supports terrorism and calls for the genocide of Jews,” named its student leadership and staff advisor, and called on OSU to disband CORS and hold affiliated students and staff accountable.⁶ It also accused CORS of using a logo and imagery from the Popular Front for the Liberation of Palestine (PFLP) and of “endors[ing] violence as a means of ‘resistance.’”⁷

Almost immediately after the social media post targeting CORS was posted, OSU administrators scheduled a meeting with CORS’s faculty advisor, Rebel Lee Bolton.⁸ During that December 12 meeting, administrators probed CORS’s views regarding the PFLP and the provenance of the CORS’s website, informing Bolton CORS would likely be suspended.

The next day, OSU informed CORS’s student leadership the group was officially suspended pending investigation due to “reasonable cause to believe [the] organization’s activities pose a significant risk of substantial harm to the safety or security of your organization’s members, other members of the university community, or to university property.”⁹ The suspension notice failed to identify CORS’s alleged policy violations or to explain how its past or future activities might “pose a significant risk of substantial harm.”¹⁰ It nevertheless directed CORS to schedule a preliminary meeting with administrators for January 8, 2024, and to send the suspension notice all CORS members.

³ Email from SL Ohio Union Classroom Requests to Rama Mangu and Aria Stenzel, students (Dec. 6, 2023, 7:21 PM) (on file with author).

⁴ Email from Melissa S. Shivers, Senior Vice President, to Katie Zuehlke, Mangu, and Stenzel, students (Dec. 8, 2023) (on file with author).

⁵ Israel War Room (@israelwarroom) and antisemitismtoday (@antisemitismtoday), INSTAGRAM (Dec. 11, 2023), https://www.instagram.com/p/C0t5YPQLHvx/?img_index=5. The two social media accounts made one Instagram post together using the platform’s collaboration feature.

⁶ *Id.*

⁷ *Id.*

⁸ Bolton is no longer serving as CORS’s advisor because she is no longer employed by OSU.

⁹ Letter from Danny Glassmann, Associate Vice President for Student Engagement & Support and Dean of Students, to Mangu (Dec. 13, 2023) (on file with author).

¹⁰ *Id.*

CORS immediately complied with the notice's directives and submitted a petition of reinstatement to the dean of students.¹¹ At the same time, it requested clarification of which policies OSU accused it of violating. OSU declined to provide any information prior to the January 8 preliminary meeting, however.¹²

On December 28, CORS released a public statement and petition regarding its suspension. OSU's student paper reported on the suspension, quoting a university spokesman who said the group was suspended for "disregarding university directives, being non-responsive to meeting requests from the organization's advisors and university leaders, and dissemination of materials that include a logo associated with a designated terrorist organization."¹³

On January 8, three members of CORS's leadership met with Student Conduct Director Kelly Smith and Anti-Hazing Compliance Specialist Becca Hamilton in the Office of Student Conduct.¹⁴ According to Smith and Hamilton, OSU's concerns about CORS arose in response to the December 11 Israel War Room and antisemitismtoday Instagram post, and its suspension rested on four alleged misdeeds:

- First, OSU alleged CORS posted flyers advertising its December 7 event on light poles in violation of a signage policy, which prohibits posting flyers outside the designated indoor bulletin boards and outdoor kiosks.¹⁵ But Smith and Hamilton acknowledged it was reasonable for CORS to be confused about the policy given the abundance of improperly placed flyers on campus.¹⁶ The administrators said OSU enforces the policy only to the extent someone "complains" about a poster.
- Second, OSU alleged CORS violated the room reservation policy by using a classroom for a CORS event on Reading Day. But Smith and Hamilton admitted this was the first time they had ever seen violation of the reservation policy referred to Student Conduct.
- Third, OSU alleged CORS failed to respond promptly to emails from OSU administrators—specifically, the December 6 email regarding room reservations on

¹¹ Letter from Student Leadership of the Central Ohio Revolutionary Socialists to Glassmann and the Office of the Dean of Students (Dec. 15, 2023) (on file with author).

¹² *Id.*

¹³ Josie Stewart & Nicole Nowicki, *Student organization placed on interim suspension for 'disregarding university directives' and use of PFLP logo*, THE LANTERN (Dec. 30, 2023), <https://www.thelantern.com/2023/12/student-organization-placed-on-interim-suspension-for-disregarding-university-directives-and-use-of-pflp-logo/>; see also Dion J. Pierre, *Ohio State University Suspends Extreme Anti-Zionist Socialist Group for 'Posing a Significant Risk'*, THE ALGEMEINER (Jan. 1, 2024, 12:52 PM), <https://www.algemeiner.com/2024/01/01/ohio-state-university-suspends-extreme-anti-zionist-socialist-group-for-posing-a-significant-risk/>.

¹⁴ Specifically, the CORS members who attended the January 8 meeting were Joe Rubel, Aria Stenzel, and Curtis Peace.

¹⁵ See *Temporary Signage Type: TM-6 Temporary Advertisements*, Location THE OHIO STATE UNIV., https://activities.osu.edu/posts/documents/doc_10202016_113655483.pdf [<https://perma.cc/5ZEG-UL5L>].

¹⁶ See the enclosed photographs of random flyers posted by other student organizations in violation of OSU's signage policy taken on Jan. 5, 2024.

Reading Day and Vice President Shivers’s “getting to know you” email—and to unspecified communications from their faculty advisor. Aria Stenzel, one of the CORS members present at the meeting, and one of the two members to whom the December 6 email was sent, said she did not see the email until after CORS’s December 7 event had concluded. CORS said Shivers’s email contained no indication it was time sensitive or even particular to CORS, and that it was unaware of any correspondence from its faculty advisor.¹⁷ Nor did Student Conduct identify any policies or procedures CORS violated in failing to respond to the emails.

- Fourth, OSU alleged CORS used the PFLP’s logo in its posters and social media, with Smith and Hamilton admitting the social media posts were likely “the thing that landed us here.”

On January 17, the three members of CORS’s leadership met with Smith and Hamilton a second time to discuss the possibility of resolving this matter through deferred charges.¹⁸ That would allow CORS to avoid being formally charged for its alleged policy violations if it satisfied several conditions set by OSU. Those conditions would include working with OSU to review CORS’s constitution and define group membership and two additional meetings with Smith and Hamilton to review the group’s progress and the health and safety of its members. Smith also advised choosing a student member to manage the group’s social media accounts to vet the information the group shares publicly.¹⁹

Given the foregoing, and especially the apparent admission that CORS’s protected speech triggered OSU’s actions, its interim suspension and investigation of CORS raise serious constitutional concerns. As a public institution, OSU’s restrictions on student expression must comport with the First Amendment’s “bedrock principle” of viewpoint neutrality, even toward ideas and views many or even most may find offensive.²⁰ The First Amendment not only bars public universities from punishing student groups due to “ideology or the[ir] opinion or perspective,”²¹ it provides “a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends”—a right “crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas.”²²

¹⁷ Rebel Bolton, CORS’s then-faculty advisor, recently confirmed to CORS that she is not aware of any instances in which group members failed to respond to her communications.

¹⁸ *CORS Meeting Notes*, OSU OFFICE OF STUDENT LIFE (Jan. 17, 2023) (on file with author).

¹⁹ *Id.*

²⁰ *Snyder v. Phelps*, 562 U.S. 443, 458 (2011); *Iancu v. Brunetti*, 139 S.Ct. 2294, 2301 (2019); see also *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).

²¹ *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995); see also *Bd. of Regents of the Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217, 221 (2000).

²² *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000).

It is also well-settled that OSU “may not restrict speech or association simply because it finds the views expressed by any group to be abhorrent” or it fears disruption.²³ More than fifty years ago, in *Healy v. James*, the Supreme Court held a public college violated the First Amendment when it refused to recognize a chapter of Students for a Democratic Society (SDS) due to the national organization’s “published aims ... which include disruption and violence.”²⁴ The case arose at a time when a “climate of unrest prevailed on many college campuses,” including “widespread civil disobedience, accompanied by the seizure of buildings, vandalism, and arson,” and SDS chapters had often served as “a catalytic force” for the unrest.²⁵ But the Court drew a “critical line for First Amendment purposes[,]” distinguishing “between advocacy, which is entitled to full protection, and action, which is not.”²⁶

As in *Healy*, CORS’s events, flyers, and social media posts are well within any reasonable understanding of political advocacy the First Amendment protects.²⁷ While issuing true threats, engaging in incitement, or providing material support to terrorist groups is unprotected (and in some cases criminal),²⁸ there is no evidence CORS or its members have done anything other than express political beliefs.

CORS’s use of the PFLP logo on its flyers does not change the analysis. Mere “association with an unpopular organization” is “an impermissible basis upon which to deny First Amendment rights.”²⁹ Philosophical support for or the general endorsement of violence is likewise protected,³⁰ as is speech asserting the “moral necessity for a resort to force or violence.”³¹ And the group’s use of the PFLP’s logo or messaging in its independent political advocacy does not meet the federal standard for providing material support to terrorist organizations,³² which is limited to “activities ... directed to, coordinated with, or controlled by foreign terrorist groups.”³³ It does not reach mere expression of “ideas or opinions in the form of ‘pure political

²³ *Healy*, 408 U.S. at 187–88.

²⁴ *Id.* at 174–75, n.4, 181 (holding that “denial of official recognition, without justification, to college organizations, burdens or abridges” students’ associational rights under the First Amendment).

²⁵ *Id.* at 171.

²⁶ *Id.* at 192.

²⁷ *Meyer v. Grant*, 486 U.S. 414, 425 (1988) (holding that political speech is “an area in which the importance of First Amendment protections is at its zenith”) (internal citations omitted); *see also, e.g., Snyder*, 562 U.S. at 451–52 (“Speech on matters of public concern is at the heart of the First Amendment’s protection.”) (cleaned up).

²⁸ *Unprotected Speech Synopsis*, FIRE, <https://www.thefire.org/research-learn/unprotected-speech-synopsis#:~:text=FIRE%20advocates%20for%20robust%20free,not%20receive%20First%20Amendment%20protection> (last visited Jan. 12, 2024).

²⁹ *Healy*, 408 U.S. at 186.

³⁰ *Watts v. United States*, 394 U.S. 705, 708 (1969).

³¹ *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

³² 18 U.S.C. § 2339(B). The definition of “material support or resources” encompasses “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel ..., and transportation, except medicine or religious materials.” § 2339(A)(b)(1).

³³ *Holder v. Humanitarian Law Project*, 561 U.S. 1, 36 (2010).

speech”—even those which “might be viewed as promoting the [terrorist] group’s legitimacy.”³⁴

OSU may establish and enforce room-reservation and flyer-posting policies as reasonable restrictions on the time, place and manner of speech or expressive activity, but they must be viewpoint- and content-neutral, narrowly tailored to serve a significant government interest, and leave ample alternative channels for communication³⁵—and perhaps most importantly, they may not be enforced selectively, or have the severity of enforcement increase or decrease, based on a speaker’s viewpoint.³⁶ Yet we have grave concerns the latter is what is happening here.

Smith’s and Hamilton’s comment at the January 8 meeting about the prevalence of improperly posted flyers and their admission that enforcement of the signage policy relies on viewpoint-related complaints raise concerns of selective enforcement, not to mention the possibility of an impermissible heckler’s veto.³⁷ Their admission of having never seen a violation of the reservation policy referred to Student Conduct likewise suggests selective enforcement based on CORS’s protected speech. The same is true of OSU’s disproportionate response to CORS’s failure to see the December 6 email about room reservations immediately—especially when OSU has failed to identify any policy CORS allegedly violated by failing to promptly respond. And OSU’s failure to explain how CORS’s actions “pose a significant risk of substantial harm to the safety or security” of students similarly undermines any campus-safety rationale and suggests OSU’s response was instead motivated by the group’s political ideology.

All of this selective application of bureaucratic red tape is redolent of pretextual punishment of CORS’s expression. But perhaps the *coup de grâce* is Smith’s January 8 statement that CORS’s use of the PFLP logo in its materials was likely “the thing that landed us here,” an apparent further admission that it was, indeed, CORS’s protected speech that triggered OSU to take disciplinary action against the group. Such suspension of a student organization like CORS based on the controversial nature of its viewpoints is a serious violation of students’ expressive rights.

We urge OSU to promptly lift CORS’s suspension and cease any further investigation. It must also review its practices to ensure students are not punished for simply exercising their First

³⁴ *Id.* at 26, 32. In concluding that § 2339B’s prohibition on material support passes constitutional muster, the Court noted that its holding “in no way suggests that a regulation of independent speech would pass constitutional muster, even if the Government were to show that such speech benefits foreign terrorist organizations.” *Id.* at 39.

³⁵ *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989); *see also Healy*, 408 U.S. at 192–93.

³⁶ *Frederick Douglass Found., Inc. v. District of Columbia*, 82 F.4th 1122, 1150 (D.C. Cir. 2023) (“[S]elective enforcement of a neutral and facially constitutional law may run afoul of the First Amendment if the government’s prosecutorial choices turn on the content or viewpoint of speech.”); *Bus. Leaders In Christ v. Univ. of Iowa*, 991 F.3d 969, 985–86 (8th Cir. 2021) (selective enforcement of a facially neutral non-discrimination policy against a student group based on its views violates the group’s free speech rights).

³⁷ A facially viewpoint-neutral signage policy ceases to be viewpoint neutral if it can be triggered for enforcement based on a complainant’s reaction to a poster’s content. That turns it into a form of heckler’s veto, where speech is silenced due to potential or actual opposition to the speech. *See Zach Greenberg, Rejecting the ‘heckler’s veto,’ FIRE* (June 14, 2017), <https://www.thefire.org/news/rejecting-hecklers-veto>.

Amendment rights. Given the urgent nature of this matter, we request a substantive response to this letter no later than close of business February 12, 2024.

Sincerely,



Jessie Appleby
Program Officer, Campus Rights Advocacy

Cc: Anne K. Garcia, Senior Vice President and General Counsel
Melissa S. Shivers, Senior Vice President for Student Life
Danny Glassmann, Associate Vice President for Student Engagement & Support and
Dean of Students
Kelly Smith, Director, Student Conduct
Becca Hamilton, Anti-Hazing Compliance Specialist

Encl.

