



January 23, 2024

Naydeen González-De Jesús
Office of the President
San Antonio College
1819 North Main Avenue
San Antonio, Texas 78212

Sent via U.S. Mail and Electronic Mail (sac-pres@alamo.edu)

Dear President González-De Jesús:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by San Antonio College's overly restrictive handling of a campus teach-in about the Israeli-Palestinian conflict.² We are encouraged to see the event eventually proceeded at a later date, and that the Alamos College District is investigating the situation. But we write to remind you that as a public college, any decisions SAC makes concerning expressive events must be viewpoint- and content-neutral consistent with the First Amendment, which—in contrast to what appears to have happened here—bars public college administrators from treating some events more harshly than others due to the viewpoints expressed.

Our concerns arise from the postponement of an event titled “Teach-In for Palestine,” scheduled for October 24, 2023,³ which students and faculty in the history department organized as an educational session for students about the history of the Israeli-Palestinian conflict.⁴ On October 24, 100-200 students attended the event to participate in the teach-in,

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 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.

³ Josh Peck, *Students and admin say SAC president violated free speech rights over Palestine event*, TEX. PUBLIC RADIO (Dec. 12, 2023), <https://www.tpr.org/education/2023-12-12/students-and-admin-say-sac-president-violated-free-speech-rights-over-palestine-event>.

⁴ Zachary-Taylor Wright, *San Antonio College president faces biting criticism over free speech*, MY SAN ANTONIO (Dec. 15, 2023), <https://www.mysanantonio.com/news/local/article/palestine-san-antonio-college-president-18557079.php>.

which intended to feature pro-Palestinian activist Moureen Kaki.⁵ But before the event could begin, Vice President for Academic Success Cassandra Rincones stood up and told students in attendance the session would not proceed as planned. Rincones said this was because it had generated student complaints reflecting confusion about the organizers’ use of the term “Teach-In” and discomfort over their use of “for Palestine.”⁶ When faculty organizers later asked if they could change the event name to “Palestine 101” and hold it October 30, Rincones acquiesced, and the event ultimately occurred on that date.⁷ On November 1, a group of SAC administrators wrote you to express having felt unduly pressured by you to cancel the event.

On October 25, between the event’s original date and eventual occurrence, you remarked during a meeting with members of student government that events must reflect multiple viewpoints to “show both points of view, not to dismiss one side or the other, but to include.”⁸ On Nov. 21, you sent SAC’s student body an email apologizing for “misunderstandings” regarding the event and citing issues with compensating Kaki for her appearance as the reason for the initial cancellation. These explanations, coupled with Rincones’ statements on the original event date regarding student confusion, offer shifting rationales that suggest you initially cancelled the event based on concern over the viewpoints the speaker would have expressed. Such viewpoint-based justification would be a clear violation of the First Amendment.

It has long been settled law that the First Amendment binds public colleges like SAC, such that its actions and decisions must comport with constitutional constraints.⁹ And political speech is where First Amendment protections are at their “zenith.”¹⁰ This means SAC is significantly restricted in how it can regulate expressive events—especially those focused on political issues—because freedom of expression “embraces [the] heated exchange of views,” even when they concern topics “where the risk of conflict and insult is high.”¹¹

This means SAC administrators may not treat some events more harshly than others based on the viewpoints expressed at them. Such viewpoint discrimination is “an egregious form” of censorship antithetical to freedom of speech.¹² Postponing the event and requiring it to be renamed because of vague concerns about student confusion raises serious concerns about the potential pretextual targeting of this event because of the viewpoints expressed.

⁵ Peck, *supra* note 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *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).

¹⁰ *Meyer v. Grant*, 486 U.S. 414, 425 (1988).

¹¹ *See, e.g., Rodriguez v. Maricopa Cty. Cmty. Coll. Dist.*, 605 F.3d 703, 705 (9th Cir. 2009) (faculty member’s use of system-wide listserv to send “racially-charged emails” was not unlawful harassment).

¹² *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).

There is also a separate and independent First Amendment concern with your statement that events must reflect all sides of a political issue, which is an unconstitutional requirement to impose on students and faculty organizers. The First Amendment bars SAC from appointing itself arbiter of which views students can and cannot express, particularly on a topic of substantial global and political significance.¹³ The United States Court of Appeals for the Fifth Circuit, whose decisions bind Texas public colleges, has held “the right of the faculty and students to hear a speaker ... cannot be left to the discretion of a university president on a pick and choose basis.”¹⁴

Public college administrators also cannot force event organizers to “show both points of view” for the additional reason that it compromises the ability of organizers to hold expressive events to advocate for specific viewpoints by unconstitutionally compelling speech.¹⁵ For example, it would undermine an event featuring a pro-abortion speaker if organizers had to give equal time to a pro-life speaker. This requirement would infringe the liberty of event organizers—students or faculty—to follow the dictates of their own consciences in inviting speakers to their events to present specific points of view, as the First Amendment both prevents the government from prohibiting speech and “may prevent the government from compelling individuals to express certain views.”¹⁶

Given how matters unfolded in this instance, we request a substantive response to this letter no later than close of business February 6, 2024, confirming SAC will approach expressive campus events on viewpoint-neutral terms.

Sincerely,



Graham Piro
Program Officer, Campus Rights Advocacy

Cc: Mike Flores, Chancellor of the Alamo Colleges District
Roberto Zárate, Chair, Board of Trustees
Cassandra Rincones, Vice President for Academic Success

¹³ *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

¹⁴ *Brooks v. Auburn Univ.*, 412 F.2d 1171, 1172 (5th Cir. 1969). See also *Hurley v. Irish-Am. Gay, Lesbian, and Bisexual Grp. of Bos.*, 515 U.S. 557 (1995) (“Disapproval of a private speaker’s statement does not legitimize use of the Commonwealth’s power to compel the Speaker to alter the message by including one more acceptable to others.”).

¹⁵ Compelled speech is anathema to the First Amendment, which protects “both the right to speak freely and the right to refrain from speaking at all.” *Wooley v. Maynard*, 430 U.S. 705, 714 (1977).

¹⁶ *United States v. United Foods, Inc.*, 533, U.S. 405, 510 (2001); see also *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 634 (1943) (“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”).