



April 5, 2024

Jimmie M. Woods Sr.
LSU Board of Supervisors
104B University Administration Bldg.
3810 W. Lakeshore Dr.
Baton Rouge, Louisiana 70808

URGENT

Sent via U.S. Mail and Electronic Mail (lsuboard@lsu.edu)

Dear Mr. Woods:

FIRE¹ is concerned about the potential response of Louisiana’s public universities to Governor Jeff Landry’s letter urging them to adopt policies requiring that all student-athletes must be present for the National Anthem at all sporting events—in order to demonstrate “respect for our country”² and “for those that serve to protect us and unite us under one flag,”—or face the potential loss of their athletic scholarships.³ We are all the more concerned that LSU today suggested that it intends to comply with the Governor’s request.⁴

We accordingly write to remind LSU, and all Louisiana public universities, of their duties to the First Amendment,⁵ under which well-established constitutional law bars government actors

¹ 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 mission at www.thefire.org.

² Patrick Magee, *Read Jeff Landry’s letter to LA college boards demanding athletes be present for national anthem*, NOLA.COM, (April 4, 2024), https://www.nola.com/sports/lsu/jeff-landrys-letter-to-louisiana-college-boards-on-anthem/article_7f8873ee-f2c6-11ee-8d89-eb699ee7bec4.html.

³ Jack Baer, *Louisiana Gov. Jeff Landry threatens scholarships after LSU players miss national anthem before Iowa loss*, YAHOO!SPORTS, (April 3, 2024), <https://sports.yahoo.com/louisiana-gov-jeff-landry-threatens-scholarships-after-lsu-players-miss-national-anthem-before-iowa-loss-225624196.html?guccounter=1>; *See also*, Jeff Landry, (@JeffLandry), X (Apr. 2, 2024, 10:15 AM) <https://twitter.com/JeffLandry/status/1775165096945229863>.

⁴ Erin Lowery, *LSU Athletic [sic] Director addresses concerns regarding athletes attending national anthem during games*, WDSU NEWS, (April 1, 2024), <https://www.wdsu.com/article/louisiana-state-university-gov-jeff-landry-national-anthem-concerns/60412175> (“We have reviewed Governor Landry’s letter on the national anthem. At LSU, we have and will always be dedicated to the flag, the anthem and the country. We consistently look at our processes and will do so again. As Louisiana’s flagship university, LSU always strives to represent the higher ideals and values of our students, our state, and our country,” Director of Athletics Scott Woodward said in the issued statement.”).

⁵ *See, e.g., Healy v. James*, 408 U.S. 169, 180 (1972); *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973); *see also Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957); *Keyishian v. Bd. Of Regents*, 385 U.S. 589, 603 (1967).

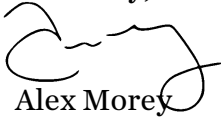
from compelling students to express any particular ideology against their will.⁶ Since 1943, when the Supreme Court held that forcing public school students to pledge allegiance to our nation’s flag was unconstitutional, it has been emphatically clear that Americans are free to choose how, or whether, they demonstrate patriotism.⁷

As the Court explained, “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.”⁸ Those who compel such an act render it a mere “gesture barren of meaning,”⁹ and undermine the very purpose of our national commitment to freedom of expression: “To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous, instead of a compulsory routine, is to make an unflattering estimate of the appeal of our institutions to free minds.”¹⁰

Student-athletes are students first. While participation in college athletics often entails accepting certain responsibilities that can affect expressive activity in ways reasonably necessary for the regular functioning of athletic programs, public universities should honor and protect student-athletes’ expressive rights to the fullest extent possible. The Governor’s request, especially as he has framed it—*i. e.*, that athletes henceforth present themselves for the National Anthem *as an expression of personal respect for particular national symbols*—cannot avoid compelling students to express views they may not genuinely hold, as the request inextricably ties their presence to support of the viewpoint Governor Landry favors.

There is nothing less patriotic than government actors forcing their personal views on fellow citizens. And doing so is definitively unconstitutional in the United States of America. We thus ask LSU, and all of Louisiana’s public universities, to decline the present request to violate their student-athletes’ First Amendment rights.

Sincerely,



Alex Morey

Director, Campus Rights Advocacy

Cc: William F. Tate IV, Louisiana State University President
 Scott Woodward, LSU Director of Athletics
 Richard “Rick” Gallot, Jr., University of Louisiana System President
 Jimmy Clark, Chair, University of Louisiana System Board of Supervisors Chair
 Myron K. Lawson, Southern University System Board Chair

⁶ See *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 632 (1943). (*Barnette* dealt with student expression in the K-12 context and sets the floor for students’ expressive rights at public institutions broadly. At public universities, where students are predominately adults, the First Amendment applies in full.) See also, *Wooley v. Maynard*, 430 U.S. 705, 714 (1977) (“[T]he right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all.”).

⁷ *Id.* at 633–34 (refusing to salute the American flag is an expressive act protected by the First Amendment.).

⁸ *Id.* at 642.

⁹ *Id.* at 633.

¹⁰ *Id.* at 641.