

March 12, 2025

Kent Fuchs  
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University of Florida  
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Gainesville, Florida 32611-3150

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

Dear Interim President Fuchs:

FIRE, a nonpartisan nonprofit that defends free speech,<sup>1</sup> is concerned by the University of Florida's reported investigation into College of Medicine-Jacksonville Professor Mobeen Rathore for his social media posts regarding Israel. The First Amendment bars UF or any of its colleges from investigating or punishing protected speech, such as Rathore's posts. Accordingly, we urge UF to end its investigation into Rathore for these posts.

UF's investigation of Rathore came to light on February 25, when WOKV reported a university statement that UF was determining whether the posts "fall outside of free speech protections applicable to public employees or violate state or federal law or university policies or regulations" and had concerns the messages "may be considered threatening" to staff and community members.<sup>2</sup> The posts—which contained depictions of current conditions in Gaza, allegations that the Israeli military is committing "war crimes" and "ethnic cleansing," and criticism of the Zionist movement<sup>3</sup>—had drawn public criticism.<sup>4</sup> UF or UFCOM-J has yet to contact Rathore directly about his posts.

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<sup>1</sup> For more than 20 years, FIRE has defended freedom of expression, conscience, and other individual rights on America's university campuses. You can learn more about our mission and activities at [thefire.org](https://thefire.org). We appreciate that UF is one of the few institutions in the country whose policies earn a "green light" rating from FIRE.

<sup>2</sup> *UF investigating Jacksonville doctor's Israel-related posts to see if they violate laws, policies*, 104.5 WOKV (Feb. 25, 2025, 7:13 PM), <https://www.wokv.com/news/local/uf-investigating-jacksonville-doctors-israel-related-posts-see-if-they-violate-laws-policies/N56NLVUTBVBWZHQTRZKMYPJQDQ/>. This announcement came after reports of critics saying Rathore's social media activity could have a "detrimental effect." The following is our understanding of the pertinent facts. We appreciate you may have additional information to offer and invite you to share it with us.

<sup>3</sup> *Id.*

<sup>4</sup> *"Detrimental effect": Local doctor receives criticism for Israel-related social media posts*, ACTIONNEWSJAX, (Feb. 21, 2025, 9:54 AM), <https://www.actionnewsjax.com/news/local/detrimental-effect-local-doctor-receives-criticism-israel-related-social-media-posts/KRQO3RCWZZCYRMSS2J44IJSP6M/>.

The First Amendment, which binds public institutions like UF,<sup>5</sup> protects the rights of faculty members to comment on matters of public concern as private citizens.<sup>6</sup> A government employer simply cannot penalize an employee for speaking as a private citizen on pressing public issues unless it demonstrates that its interests “as an employer, in promoting the efficiency of the public services it performs through its employees” outweigh the interests of the employee, “as a citizen, in commenting upon matters of public concern.”<sup>7</sup> UF has not even alleged—let alone demonstrated—that Rathore’s posts disrupted the learning environment.

Even if Rathore’s posts could somehow be considered within the scope of his job duties,<sup>8</sup> many U.S. circuit courts have recognized protection for a wealth of faculty expression,<sup>9</sup> including “speech related to matters of public concern, whether that speech is germane” to the classroom or not.<sup>10</sup>

Political speech, including commentary on global conflicts, receives the highest level of First Amendment protection even if others view it as anti-Semitic, racist, religiously bigoted, or otherwise hateful or offensive.<sup>11</sup> That some may find Rathore’s posts offensive does not remove them from constitutional protection. Whether potentially offensive speech is protected involves “a legal, not moral analysis.”<sup>12</sup> The Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted merely on the basis that others find it offensive. This is no less true for social media posts than it is for burning the American flag,<sup>13</sup> wearing a jacket emblazoned with the words “Fuck the Draft,”<sup>14</sup> or publishing a parody advertisement depicting a pastor losing his virginity to his mother in an outhouse.<sup>15</sup>

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<sup>5</sup> *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.’”).

<sup>6</sup> *Connick v. Myers*, 461 U.S. 138, 140 (1983) (public employees do not “relinquish First Amendment rights to comment on matters of public concern by virtue of government employment.”).

<sup>7</sup> *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968).

<sup>8</sup> Government employee speech, as a general rule, may not be protected if it occurs pursuant to their normal job duties. *Garcetti v. Ceballos*, 547 U.S. 410 (2006).

<sup>9</sup> *Demers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014); *see also Buchanan v. Alexander*, 919 F.3d 847 (5th Cir. 2019).

<sup>10</sup> *Meriwether v. Hartop*, 992 F.3d 492, 507 (6th Cir. 2021) (in the college setting, “there are three critical interests at stake (all supporting robust speech protection): (1) the students’ interest in receiving informed opinion, (2) the professor’s right to disseminate his own opinion, and (3) the public’s interest in exposing our future leaders to different viewpoints.”).

<sup>11</sup> “Core political speech” is at the very heart of the First Amendment, where its protection is “at its zenith.” *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999). *See also Matal v. Tam*, 582 U.S. at 218, 220 (2017).

<sup>12</sup> *Animal Legal Def. Fund v. Reynolds*, 353 F. Supp. 3d 812, 821 (S.D. Iowa 2019).

<sup>13</sup> *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag is protected by the First Amendment because of the “bedrock principle” that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

<sup>14</sup> *Cohen v. California*, 403 U.S. 15, 25 (1971).

<sup>15</sup> *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

UF Health cites concern that community members may find Rathore's posts threatening.<sup>16</sup> However, legally speaking, only true threats that seriously express an intent to commit unlawful violence to a particular individual or group of individuals lose First Amendment protection.<sup>17</sup> Even rhetorical hyperbole and the endorsement of violence generally remain protected political speech.<sup>18</sup> Rathore's posts do not approach meeting this standard, given they consist entirely of commentary on actions by a foreign government and do not call for any action against an individual or group.

Finally, even if Rathore receives no formal punishment, a publicly announced investigation into clearly protected expression itself violates the First Amendment by "chill[ing] or silenc[ing] a person of ordinary firmness from future First Amendment activities."<sup>19</sup> Instead, the university should have first undertaken a cursory review to determine whether the posts constitute protected expression, without ever notifying Rathore or the public about this review. Here, such a review would have quickly clarified the protected nature of Rathore's posts without imposing an impermissible chilling effect on faculty and student speech.<sup>20</sup>

Of course, Rathore is not shielded from every consequence—including criticism by students, faculty, or the broader community—of his expression. Criticism is a form of "more speech," the remedy to offensive expression that is far preferable to censorship.<sup>21</sup> However, the First Amendment limits the *types* of consequences that may be imposed and who may impose them.

We request a substantive response to this letter no later than the close of business on Thursday, March 14, 2025, confirming UF will end its investigation into Rathore for his social media activity and not pursue disciplinary sanctions in this matter.

Sincerely,



Aaron Corpora  
Program Officer, Campus Rights Advocacy

Cc: Ryan Fuller, Interim Vice President and General Counsel  
Eric H. Conde, Senior Associate Dean for Administrative Affairs  
Steve Orlando, Associate Vice President, Communications  
Angela Toelle, Administrative Specialist

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<sup>16</sup> ActionNewsJax.com News Staff, *supra* note 4.

<sup>17</sup> *Virginia v. Black*, 538 U.S. 343, 359 (2003).

<sup>18</sup> *Watts v. United States*, 394 U.S. 705, 708 (1969) (man's statement, after being drafted to serve in the Vietnam War—"If they ever make me carry a rifle the first man I want to get in my sights is L. B. J."—was rhetorical hyperbole protected by the First Amendment, not a true threat to kill the president).

<sup>19</sup> *Mendocino Envtl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

<sup>20</sup> See, e.g., *Levin v. Harleston*, 966 F.2d 85, 89 (2d Cir. 1992) (holding threat of discipline implicit in college president's creation of ad hoc committee to study whether professor's outside speech could be considered misconduct "was sufficient to create a judicially cognizable chilling effect on [the professor's] First Amendment rights"); *White v. Lee*, 227 F.3d 1214, 1228 (9th Cir. 2000).

<sup>21</sup> *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).