

September 17, 2025

Greg Kegel  
Office of the Chancellor  
Montana State University-Northern  
P.O. Box 7751  
Havre, Montana 59508-7751

**URGENT**

*Sent via U.S. Mail and Electronic Mail (greg.kegel@msun.edu)*

Dear Chancellor Kegel,

FIRE, a nonpartisan nonprofit that defends free speech,<sup>1</sup> is alarmed by Montana State University-Northern's decision to put Professor Samantha Balemba-Brownlee on leave pending an investigation for her Facebook comments regarding the assassination of political activist Charlie Kirk.<sup>2</sup> The posts read: "Holy shit! Someone shot Charlie Kirk in the neck! Not condoning violence, but maybe people are sick of the garbage he spews, perhaps?"; "He was a misogynistic, racist, homophobic, xenophobic asshole. He spread hate. He harmed society. He cut down women at every turn. No, I do not mourn the man,"; and "Update: He died. Aw shucks. Thoughts and prayers."<sup>3</sup>

While many may be offended by Balemba-Brownlee's comments in the wake of Kirk's assassination, her comments are nonetheless protected speech. As a public university bound by the First Amendment,<sup>4</sup> MSUN must refrain from punishing protected political expression—even that which may be viewed as poorly timed, tasteless, inappropriate, or

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<sup>1</sup> For 25 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](http://thefire.org).

<sup>2</sup> Letter from Greg Kegel, Chancellor, to Samantha Balemba-Brownlee, professor (Sept. 11, 2025) (on file with author) (disciplined for "alleged unacceptable conduct and negatively representing the University."). The recitation of facts here reflects our understanding of the pertinent information. We appreciate that you may have additional information and invite you to share it with us. To these ends, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

<sup>3</sup> Aneesa Coomer, *MSU-Northern professor's comments about Charlie Kirk's death spark controversy*, KRTV (updated Sept. 12, 2025, 7:43 PM), [<https://perma.cc/Y4AB-JSJ6>].

<sup>4</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.'") (internal citation omitted).

controversial. Accordingly, we urge MSUN to end the investigation into Balemba-Brownlee and restore her to her position.

Popular expression rarely needs protecting. It is in moments of controversy that commitments to free speech are put to the test.<sup>5</sup> The Supreme Court has long held that free speech principles protect expression others may deem offensive, uncivil, or even hateful.<sup>6</sup> This includes expressing vitriol about public figures and engaging in rhetorical hyperbole that may reference violence.<sup>7</sup>

The Supreme Court has made this point clear in a context similar to the current situation regarding comments about Kirk's killing. In *Rankin v. McPherson*, a police department fired one of its employees who, after hearing that President Reagan had been shot, expressed contempt for his welfare policies by stating: "If they go for him again, I hope they get him."<sup>8</sup> The Court held that the employee's firing was unconstitutional, noting that whether listeners found her statement of "inappropriate or controversial character" was "irrelevant" to its constitutional protection.<sup>9</sup> This type of harsh criticism is undoubtedly "core political speech," where free speech protection is "at its zenith."<sup>10</sup> While the employee's statements in *Rankin*, like Balemba-Brownlee's comments about Kirk, may widely be viewed as inappropriate, uncivil, and hateful, those characterizations do not justify "discipl[ing] a college teacher for expressing controversial, even offensive, views."<sup>11</sup>

Additionally, comments about the death of a prominent national political activist, whose assassination occurred at an event held on an American university campus, unquestionably deal with matters of public concern, which include speech that relates "to any matter of political, social, or other concern to the community[.]"<sup>12</sup> Comments that violate no law and that are publicly made to others,<sup>13</sup> like Balemba-Brownlee's posts, about issues that are

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<sup>5</sup> Whether speech is protected by the First Amendment is "a legal, not moral, analysis." *Animal Legal Def. Fund v. Reynolds*, 353 F. Supp. 3d 812, 821 (S.D. Iowa 2019).

<sup>6</sup> See *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning American flag is protected by First Amendment, the "bedrock principle underlying" the holding being that government actors "may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable"); see also *Cox v. Louisiana*, 379 U.S. 536, 557 (1965) (fears that "muttering" and "grumbling" white onlookers might resort to violence did not justify dispersal of civil rights marchers); *Cohen v. California*, 403 U.S. 15, 25 (1971); *Matal v. Tam*, 582 U.S. 218 (2017).

<sup>7</sup> *Watts v. United States*, 394 U.S. 705, 708 (1969) (draftee's statement that "[i]f they ever make me carry a rifle the first man I want to get in my sights is L. B. J." was First Amendment-protected rhetorical hyperbole).

<sup>8</sup> 483 U.S. 378, 381 (1987).

<sup>9</sup> *Id.* at 387.

<sup>10</sup> *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414 (1988)).

<sup>11</sup> *Vega v. Miller*, 273 F.3d 460, 467 (2d Cir. 2001).

<sup>12</sup> *Snyder v. Phelps*, 562 U.S. 443, 453 (2011) (quoting *Connick*, 461 U.S. at 146).

<sup>13</sup> See *Hardy v. Jefferson Cnty. Coll.*, 260 F.3d 671, 674 (6th Cir. 2001) ("The purpose of the free-speech clause ... is to protect the market in ideas, broadly understood as the public expression of ideas, narratives, concepts, imagery, opinions—scientific, political, or aesthetic—to an audience whom the speaker seeks to inform, edify, or entertain.") (citing *Swank v. Smart*, 898 F.2d 1247, 1250-51 (7th Cir. 1990) (citation omitted)).

currently gripping the entire country cannot be grounds for investigation.<sup>14</sup> Because faculty members do not surrender their “First Amendment rights to comment on matters of public interest by virtue of government employment,” Balemba-Brownlee’s extramural online speech remains protected.<sup>15</sup>

Balemba-Brownlee’s speech about Kirk’s assassination is clearly protected. To be sure, this principle does not shield Balemba-Brownlee from every consequence of her speech—including criticism by other students, faculty, or the broader community. Criticism is a form of the “more speech,” the remedy that the First Amendment prefers over censorship.<sup>16</sup> But MSUN’s obligations under the First Amendment limit the *types* of consequences it may impose, and investigating faculty for their protected expression clearly violates that commitment.

If MSUN chooses to ignore its free speech obligations and punish protected faculty speech, it will open the door to censorship of countless views on campus and chill others from sharing their opinions.<sup>17</sup> Both of these outcomes are unacceptable at an institution bound by the First Amendment.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on September 23, 2025, confirming MSUN will end the investigation into Balemba-Brownlee’s speech and restore her to her position.

Sincerely,



Marie McMullan  
Program Officer, Campus Rights Advocacy

Cc: Jennifer Brown, Provost and Vice Chancellor for Academic Affairs

Encl.

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<sup>14</sup> See also *Graziosi v. City of Greenville Miss.*, 775 F.3d 731, 737 (5th Cir. 2015) (citing *Garcetti v. Ceballos*, 547 U.S. 410, 419; *Pickering v. Bd. of Educ.*, 391 U.S. 563, 572) (Commentary by “public employees is welcome as they occupy trusted positions in society ... and are the members of a community most likely to have informed and definite opinions on matters of import to the community”) (cleaned up).

<sup>15</sup> *Connick*, 461 U.S. at 140.

<sup>16</sup> See *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).

<sup>17</sup> The First Amendment bars any “adverse government action against an individual in retaliation for the exercise of protected speech activities” which “would chill a person of ordinary firmness from continuing to engage in that activity.” *Keenan v. Trejeda*, 290 F.3d 252, 258 (5th Cir. 2002).