

November 7, 2025

Günther Jikeli
Borns Jewish Studies Program
Indiana University
Global and International Studies Building 4010
355 North Eagleson Avenue
Bloomington, Indiana 47405

Sent via U.S. Mail and Electronic Mail (gjikeli@iu.edu)

Dear Interim Director Jikeli:

FIRE¹ is concerned by the IU Borns Jewish Studies program's viewpoint-based discrimination against graduate student Sabina Ali and the department's new Zoom background policy.² While Ali's expression may have offended some, it is also unquestionably protected by the First Amendment. We therefore urge you to revise the new policy and refrain from further retaliation against students' expression.

On September 19, Ali attended a Jewish Studies Program graduate-faculty workshop via Zoom with her camera off. This meant her Zoom profile photo—a drawing of a woman wearing a keffiyeh with a Palestinian flag in the background and the words “Free Palestine” at the top—was displayed to viewers in lieu of her video stream.³ During the workshop, you asked her to change her profile picture or to activate her camera.⁴ After she declined to do either, you removed her from the workshop.⁵ The removal led most of the attendees to walk out of the physical room, and they re-convened at another location and created a new call to which they invited Zoom attendees.⁶

¹ As you may recall from prior correspondence, FIRE is a nonpartisan nonprofit that defends free expression, conscience, and other individual rights on America's university campuses. You can learn more about our mission and activities at thefire.org.

² 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.

³ Email from Günther Jikeli, Borns Jewish Studies Program Interim Director, to Jewish Studies doctoral students (Sept. 19, 2025, 9:49 AM) (on file with author).

⁴ *Id.*

⁵ Email from Claire Richters, student, to Jikeli (Oct. 13, 2025, 7:52 AM) (on file with author).

⁶ *Id.*

Later that day, you emailed the department, describing Ali's profile picture as featuring a "Palestinian terrorist."⁷ You said you felt your responsibility was "to make sure that everyone feels safe and not under attack by messages."⁸

On October 3, approximately two weeks later, you emailed Ali denying her request for funding to travel to the American Academy of Religion's Annual Meeting.⁹ You made this decision despite a departmental committee's unanimous vote to authorize the funding, marking a departure from the usual process in which the director ratifies the committee's decision.¹⁰

On October 9, the Jewish Studies Program sent an invitation for another workshop to doctoral students that banned "profile or background images, slogans, or symbols."¹¹ The invitation also said such imagery could "distract from scholarly discussion or make others feel unwelcome."¹²

FIRE has repeatedly reminded IU that as a public university bound by the First Amendment,¹³ it may not punish students for their protected expression. Ali's choice of profile photo is protected by the First Amendment and therefore cannot serve as the basis for any adverse university action.

The Supreme Court has made clear that while schools can punish "material and substantial interference" with instruction,¹⁴ they cannot punish the "silent, passive witness" of expression in the classroom.¹⁵ Indeed, the Court was clear that even where symbolic expression may distract other students from classwork, and even where the expression's subject is emotionally charged, that expression remains protected by the First Amendment and may not lead to administrative sanction.¹⁶ Ali's Zoom profile photo is analogous, in our digital age to the symbolic expression of wearing a black armband the Court considered in *Tinker*.¹⁷ She did not

⁷ Email from Jikeli, *supra* note 3

⁸ *Id.*

⁹ Email from Jikeli to Ali (Oct. 3, 2025, 2:25 PM) (on file with author).

¹⁰ Email from Richters, *supra* note 5.

¹¹ Email from Jewish Studies Program to Jewish Studies doctoral students (Oct. 9, 2025, 12:55 PM) (on file with author).

¹² *Id.*

¹³ *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)).

¹⁴ *Tinker v. Des Moines*, 393 U.S. 503, 512 (1969) (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)). While *Tinker* involved minor students in high school, the speech of university students cannot be restricted more than that of high school students. *See Tinker*, 393 U.S. at 515 (Stewart, J., concurring). Therefore, the protections described by the Court in *Tinker* are the floor for student expressive rights, not the ceiling. Even under *Tinker*'s disruption standard, Ali's profile picture does not rise to the level of a punishable disruption.

¹⁵ *Tinker*, 393 U.S. at 514.

¹⁶ *Id.* at 518.

¹⁷ The Court there considered the case of students wearing black armbands to protest the United States's involvement in the Vietnam War. *Id.* at 510.

materially disrupt the lecture. Rather, it was your reaction to the photo that caused the disruption—only *after* you removed Ali from the meeting did other attendees walk out.¹⁸ Your efforts to censor Ali proved far more disruptive than the profile photo.

Although you suggested some attendees may have felt unsafe or “under attack by” seeing Ali’s profile picture, the First Amendment protects subjectively offensive expression—including symbolic expression¹⁹—particularly on university campuses. Many or most Americans would find a satirical advertisement depicting a pastor losing his virginity to his mother in an outhouse to be more offensive than Ali’s drawing, yet the Supreme Court made clear that such an ad was protected expression.²⁰ For IU to argue that expressing the message “Free Palestine” is beyond the pale flies in the face of decades of strong case law making clear the First Amendment gives wide berth for speech, especially for political expression.²¹

Because Ali’s profile picture is clearly protected expression under the First Amendment, the Jewish Studies Program’s actions against her were unconstitutional. 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.”²² Removing Ali from the meeting constituted one such adverse action, and courts have long held that retaliatory removal of funding on the basis of expression is also unconstitutional.²³ While you did not explicitly cite Ali’s profile picture as the basis for removing funding, the proximity of your decision to the incident and the fact that overriding the faculty committee’s recommendation is exceedingly rare constitute strongly suggestive evidence that Ali’s protected expression motivated your decision. Indeed, that is the message others have taken from the moves; graduate students in the program report fearing continued access to institutional resources will depend on their political viewpoints.²⁴ IU cannot continue to sanction Ali or other graduate students for expressing disfavored viewpoints during departmental events.

The department’s apparent ban on “profile or background images, slogans, or symbols” for fear they could “make others feel unwelcome” invites further viewpoint discrimination. To ensure citizens are not discriminated against for the views they express, the First Amendment does not allow for policies that provide administrators unbridled discretion to determine what

¹⁸ Email from Richters, *supra* note 5.

¹⁹ *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

²⁰ *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

²¹ *See Novoselsky v. Brown*, 822 F.3d 342, 356 (7th Cir. 2016).

²² *Keenan v. Trejeda*, 290 F.3d 252, 258 (5th Cir. 2002); *see also Rosenberger v. Rectors & Visitors of the Univ. of Va.*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”). Viewpoint discrimination is “the greatest First Amendment sin.” *Honeyfund.com, Inc. v. Governor*, 94 F.4th 1272.

²³ *Rosenberger*, 515 U.S. at 836.

²⁴ Email from Richters, *supra* note 5.

constitutes a policy violation.²⁵ And where it seeks to regulate speech based on its content, the government must have “some sensible [and viewpoint-neutral] basis for distinguishing” what content is permissible.²⁶ This is true even where the policy does not, on its face, enumerate specific restricted viewpoints.²⁷ Here, the Jewish Studies Program purports to ban all profile photos (including those of a person’s face), all background slogans, and all background images. Because Zoom will always display the person’s IU profile photo, and attendees will always have a background, the policy suggests administrators will look for those backgrounds that they feel “distract from scholarly discussion” or “make others feel unwelcome.” This policy offers administrators no viewpoint-neutral, objective basis for distinguishing between permissible photos or backgrounds and violations of this policy. If this policy is a requirement for participation in workshops, it is unconstitutional.²⁸

The First Amendment certainly does not shield a speaker from every consequence of his or her expression, including criticism by students, faculty, or the broader community. Criticism is a form of “more speech,” the remedy to offensive expression that free speech principles prefer to censorship.²⁹ However, the First Amendment limits the *types* of consequences that may be imposed and who may impose them, and IU has overstepped those bounds.

We request a substantive response to this letter no later than the close of business on November 21, 2025, confirming IU will refrain from further retaliation against Ali and will respect graduate students’ First Amendment rights going forward.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: Pamela Whitten, President
David A. Reingold, Chancellor, IU Bloomington
David Daleke, Dean, IU Bloomington Graduate School
Anthony Prather, General Counsel

²⁵ See *Minn. Voters Alliance v. Mansky*, 585 U.S. 1 (2018) (invalidating ill-defined ban on “political” attire in non-public forum because the “indeterminate prohibition” precluded fair enforcement).

²⁶ *Id.* at 12, 16.

²⁷ *Id.* at 12.

²⁸ See *id.* at 12.

²⁹ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).