



November 19, 2025

Michael D. Cavin, Executive Director
Board of Educational Examiners
Iowa Department of Education
701 E Court Ave, Suite A
Des Moines, Iowa 50309

Sent via U.S. Mail and Electronic Mail (mike.cavin@iowa.gov)

Dear Mr. Cavin:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech, writes to express serious concern that the Iowa Department of Education (DOE) is investigating and threatening to revoke the license of teachers for comments they made on personal social media accounts regarding the assassination of political activist Charlie Kirk. While some of these comments may have caused offense or controversy, the First Amendment does not permit the government to revoke a citizen's eligibility for employment based on disapproval of the views they express outside the scope of their official duties. Any attempt to revoke or suspend an educator's license for such expression amounts to unconstitutional viewpoint discrimination and exceeds the permissible exercise of the DOE's licensing authority.

FIRE was horrified by Charlie Kirk's fatal shooting as he spoke at a Turning Point USA event at Utah Valley University on September 10—above all for the devastating loss suffered by his family and friends but also given our mission to defend free speech and open debate on campus and beyond, to which violence is never an acceptable response. Consistent with that mission, FIRE is also deeply concerned by government reactions to public discussion of the shooting, including the actual or threatened punishment of public employees for off-duty comments about this matter of significant public interest.

On September 19, 2025, you sent the enclosed letter to all superintendents of Iowa school districts stating that “[r]ecent comments regarding the assassination of Charlie Kirk made on social media have raised concerns regarding professionalism among Iowa educators,” and that “condoning political or any type of violence is reprehensible and has no place in Iowa education.” The letter suggested that educators who made comments about Kirk could face discipline under the Iowa Standards of Professional Conduct and Ethics, and “encouraged” administrators to file complaints with the Board of Educational Examiners, promising that “[a]ll submitted complaints will receive a comprehensive investigation.” We are aware that

complaints have been filed about teachers who posted comments related to Kirk on social media because the September 19 letter led the complainants to believe filing a complaint was required.

It is well-established that Americans do not surrender their First Amendment rights when they take up government employment.¹ That principle applies with even greater force when the government acts not as workplace manager, but—like the DOE—as a regulator that decides who may participate in a licensed profession.

Unlike a school district evaluating an employee’s fitness to continue teaching at a particular school based on the extent to which their speech might have disrupted the educational environment—including their relationships with coworkers, students, and parents²—the DOE is threatening to suspend or revoke teachers’ licenses, precluding their future employment at *any* public school or accredited private school.³ The DOE is thus acting as a regulator, wielding its licensing power to investigate and punish citizens for the views they express in their private lives. In this context, general First Amendment principles apply, sharply limiting the DOE’s authority.

The Supreme Court has squarely rejected the notion that a state can “reduce a group’s First Amendment rights by simply imposing a licensing requirement,” recognizing that “regulating the content of professionals’ speech poses the inherent risk that the Government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information.”⁴ Such speech is not “exempt from ordinary First Amendment principles.”⁵

Under those principles, any restriction of speech based on its content is presumptively unconstitutional.⁶ Viewpoint-based restrictions are even more disfavored. The Supreme Court has called viewpoint discrimination an “egregious” form of censorship, declaring the

¹ *Lane v. Franks*, 573 U.S. 228, 236 (2014).

² Even when the government acts in its capacity as direct supervisor, it has limited authority to discipline employees for what they say as private citizens on matters of public concern. In *Pickering v. Board of Education*, the Supreme Court held that a government employer may discipline its staff for such speech only if it proves that its interest “in promoting the efficiency of the public services it performs through its employees” outweighs that of the employee “as a citizen, in commenting upon matters of public concern.” 391 U.S. 563, 567 (1968) (First Amendment protected a public-school teacher from discipline for his letter to a local newspaper criticizing his school board, even considering the board’s concern the criticism would “foment controversy”). The *Pickering* test demands a concrete, fact-specific showing of how the employee’s speech affected the operation of the workplace where they are employed. Even when the government satisfies the test, its authority extends only to discipline within that specific employment relationship—not to broader punishment or censorship beyond that context. *Pickering* is not the proper framework for determining the constitutionality of a state’s potential disqualification of a citizen’s ability to pursue a licensed profession.

³ See Iowa Admin. Code r. 281-12.4(8).

⁴ *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 771, 773 (2018).

⁵ *Id.* at 773. The Court stated the First Amendment affords less protection for professional speech in two circumstances: (1) requirements that professionals disclose factual, noncontroversial information in commercial speech, and (2) regulations of professional *conduct* that incidentally burden speech. *Id.* at 768. Neither of those exceptions applies here, as the DOE is investigating off-duty, non-commercial speech.

⁶ *Id.* at 766.

“government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”⁷ But that is exactly what the DOE is doing by investigating teachers for the views they expressed outside of school about a public figure. However objectionable some may find those comments, they are core political speech protected by the First Amendment.⁸ Even speech perceived to hope for, celebrate, or express indifference to a public figure’s death does not fall into any First Amendment exception.⁹

The DOE cannot justify its actions by invoking standards of professional conduct or ethics. To begin with, the provisions cited in the September 19 letter do not apply to comments an employee makes on a personal social media account, outside of work, on a matter unrelated to their school. Iowa Administrative Code rule 282-25.3(6) addresses “unethical practice *toward other members of the profession, parents, students, and the community.*” (Emphasis added.) Comments about Charlie Kirk, a national political figure, do not involve any conduct directed “toward” anyone in the school community. Nor do off-duty social media posts unrelated to any member of that community fall within any of the specific violations listed in the rule, all of which concern conduct undertaken in an employee’s official capacity or non-expressive conduct like improperly accepting gifts. That includes subsection d., the provision highlighted in your letter, which explicitly applies only to “*conducting professional business* in such a way that the practitioner repeatedly exposes students or other practitioners to unnecessary embarrassment or disparagement.” (Emphasis added.) It should go without saying that employees are not “conducting professional business” when they post about a national news story on a personal social media account outside of work.

More to the point, all state laws and policies are subordinate to the Constitution and must be construed consistent with the First Amendment. In *Keyishian v. Board of Regents*, the Supreme Court invalidated a New York law banning employment in the state educational system of any person who made “seditious” utterances or advocated the violent overthrow of government, holding the law was “plainly susceptible of sweeping and improper application,” including “prohibit[ing] the employment of one who merely advocates the doctrine in the abstract.”¹⁰ And in FIRE’s own case *Diei v. Boyd*, the U.S. Court of Appeals for the Sixth Circuit held that a pharmacy student at a public university was protected from discipline for social media posts about sexuality and other topics unrelated to the pharmacy profession, despite the university’s argument that the discipline served a legitimate interest of training students to “comport with the norms” of the profession.¹¹

⁷ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

⁸ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (It is a “bedrock principle underlying the First Amendment” that officials cannot restrict speech simply because some find it “offensive or disagreeable.”); *Connick v. Myers*, 461 U.S. 138, 145 (1983) (“[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection”).

⁹ See, e.g., *Rankin v. McPherson*, 483 U.S. 378, 381 (1987) (holding unconstitutional a police department’s termination of an employee who, after hearing that President Ronald Reagan had been shot, expressed contempt for his welfare policies and stated: “If they go for him again, I hope they get him.”).

¹⁰ 385 U.S. 589, 599 (1967).

¹¹ *Diei v. Boyd*, 116 F.4th 637, 646 (6th Cir. 2024).

Likewise, the DOE has no power to wield professional regulations to disqualify a teacher from educational employment over constitutionally protected speech. Whatever authority Iowa possesses to ensure professional competence in the practice of teaching, it does not extend to controlling teachers' speech or beliefs as private citizens, particularly on topics unrelated to a teacher's job duties.

Importantly, an investigation of constitutionally protected speech can itself violate the First Amendment, even if it concludes in favor of the speaker. The question is not whether the government metes out formal punishment, but whether its actions in response to the speech "would chill a person of ordinary firmness from continuing in the protected activity."¹² Investigations into protected expression can meet this standard.¹³ Your September 19 letter singles out a disfavored viewpoint for investigation and carries a threat of discipline that is likely to deter teachers and other public employees throughout the state from expressing any view in their personal lives that might meet the disapproval of state officials.¹⁴

FIRE calls on the DOE to immediately cease all investigations of public-school teachers arising from constitutionally protected speech. We respectfully request a substantive response by December 3, 2025.

Sincerely,



Aaron Terr
Director of Public Advocacy

Cc: Chad Janzen, Chair, Iowa Board of Educational Examiners

Encl.

¹² *Williams v. City of Carl Junction*, 480 F.3d 871, 878 (8th Cir. 2007).

¹³ *See, e.g., White v. Lee*, 227 F.3d 1214, 1228–29 (9th Cir. 2000); *Levin v. Harleston*, 966 F.2d 85, 89–90 (2d Cir. 1992).

¹⁴ *See Conant v. Walters*, 309 F.3d 629, 636–39 (9th Cir. 2002) (affirming order enjoining government from initiating investigations of physicians solely based on protected speech).



McKenzie Snow, Director

Kim Reynolds, Governor
Chris Cournoyer, Lt. Governor

September 19, 2025

To: Superintendents of Iowa School Districts

Re: Condoning Political Violence on Social Media

Recent comments regarding the assassination of Charlie Kirk made on social media have raised concerns regarding professionalism among Iowa educators. As the Iowa Department of Education and its leaders have stated numerous times, condoning political or any type of violence is reprehensible and has no place in Iowa education.

All educators are expected to maintain professionalism and not bring disparagement or embarrassment to their fellow staff, students or communities. Standard six of the [Iowa Standards of Professional Conduct and Ethics](#) was developed in Iowa Administrative Code (Iowa Administrative Code rule 282-25.3(6)) specifically for this purpose:

25.3(6) *Standard VI—unethical practice toward other members of the profession, parents, students, and the community*

Many impacted Iowa schools have taken local actions to address such behaviors. In addition, and especially if local discipline has been taken, administrators are encouraged to file a complaint with the Board of Educational Examiners citing:

25.3(6) d. *Conducting professional business in such a way that the practitioner repeatedly exposes students or other practitioners to unnecessary embarrassment or disparagement.*

Additional standards may apply in a specific situation, which may be included in the initial complaint.

Complaints may be submitted by any licensed educator with firsthand knowledge of the event, or by parents and/or guardians of students in schools who have been affected. All submitted complaints will receive a comprehensive investigation by the Board staff, and assured due process for all involved.

The complaint form is available at the Iowa Department of Education's [Ethics and Complaints webpage](#).

In addition, you may contact Executive Director Mike Cavin (Mike.Cavin@iowa.gov) or Board of Educational Examiners Attorney Beth Myers (Beth.Myers@iowa.gov) for additional information regarding the complaint process. All completed complaints should be submitted to BoEE.Complaints@iowa.gov.

Respectfully,

Michael D. Cavin, Executive Director
Board of Educational Examiners

Ensuring all students experience a world-class education.