

November 18, 2025

Safa R. Zaki
Office of the President
Bowdoin College
5700 College Station
Brunswick, Maine 04011

URGENT

Sent via Overnight Mail and Electronic Mail (zaki@bowdoin.edu)

Dear President Zaki:

FIRE, a nonpartisan nonprofit that defends free speech,¹ is concerned by Bowdoin College's investigation into student Finley Rhys for an email he sent to Bowdoin Conservatives about Charlie Kirk's murder. While Rhys's email may have offended the recipients, it is also unquestionably protected by Bowdoin's strong and laudable free expression promises and accordingly cannot be grounds for official sanctions. We urge Bowdoin to uphold its commitment to free speech and drop the charge against Rhys.

On September 14, Rhys replied to an email invitation from the Bowdoin Conservatives for a vigil honoring Charlie Kirk with the phrase, "RIP to bro 🐻." ² On September 16, a Campus Safety and Security officer met with a student organizer from Bowdoin Conservatives about the upcoming vigil. ³ At this meeting, the student reported receiving Rhys's email. ⁴ Another student from the organization reported receiving the same email, which the student characterized as a "threat." ⁵ The latter student also told campus security that Rhys's language was "unkind." ⁶ On

¹ For more than 25 years, FIRE has defended freedom of expression and other individual rights on America's college campuses. You can learn more about our mission and activities at thefire.org.

² The expression "RIP to bro" is commonly used to satirize an unfortunate situation. *See, e.g.*, Rjthetriad, RIP to bro, FACEBOOK, <https://www.facebook.com/watch/?v=1241378107487395> (using the phrase in reference to defenders who missed tackles due to the player's skill move in the Madden NFL 25 video game). The recitation of facts here reflects our understanding of the pertinent information. We appreciate that you may have additional information to offer 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.

³ Paul Hansen, *Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Sept. 19, 2025, 3:45 PM) (on file with author).

⁴ *Id.*

⁵ Bill Harwood, *Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Sept. 19, 2025, 4:00 PM) (on file with author).

⁶ Hansen, *supra* note 3.

September 24, an officer emailed Rhys, asking him to explain what he had meant by the email.⁷ Rhys replied, “I am not entertaining this.”⁸ The officer replied, “Thank you for the response, which we will document.”⁹ Then, on October 7, campus safety followed up by asking one of the Bowdoin Conservatives’ members to document his interpretation of Rhys’s email.¹⁰ That student said the email contained a “mocking crying cat emoji.” The student also “interpreted this message as a direct threat to [their] life.”¹¹

This nearly two-month long inquiry culminated on November 11, when Associate Dean for Community Standards and Case Management James Riley notified Rhys he was being charged with “conduct that is unbecoming of a Bowdoin student” for his September 14 email.¹²

As popular expression rarely needs protecting, an institution typically finds its commitment to free speech tested in moments of controversy. Unfortunately, Bowdoin failed this test with respect to Rhys’s email. While Bowdoin is a private college not bound by the First Amendment to grant students freedom of expression, it makes independent promises to the same effect, enshrining “free expression of widely varying views” as an integral part of the college community.¹³ Based on this strong commitment, students have every reason to believe their rights—and Bowdoin’s response to complaints—would be substantially the same as the rights they enjoy off campus under the First Amendment, which protects merely offensive expression. If its promises are to have any force or meaning, then, Bowdoin may not punish Rhys’s speech solely because recipients of his email found its contents offensive.

The Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted or punished on the basis that others find it to be offensive or hateful.¹⁴ This core free speech principle is why authorities cannot outlaw burning the American flag,¹⁵ punish the wearing of a jacket emblazoned with the words “Fuck the Draft”¹⁶ or penalize a parody ad depicting a pastor losing his virginity to his mother in an outhouse.¹⁷ In ruling that the First Amendment protects protesters holding insulting signs outside of soldiers’ funerals, the Court

⁷ Paul Hansen, *Supplement Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Sept. 28, 2025, 2:32 PM) (on file with author).

⁸ *Id.*

⁹ *Id.*

¹⁰ Bill Harwood, *Supplement Case Report*, BOWDOIN COLL. OFF. OF SAFETY & SEC. (Oct. 15, 2025, 12:56 PM) (on file with author).

¹¹ *Id.*

¹² Letter from James Riley, Associate Dean for Community Standards and Case Management, to Finley Rhys, student (Nov. 11, 2025) (on file with author).

¹³ *The Bowdoin Learning Community*, BOWDOIN COLL., https://www.thefire.org/sites/default/files/2025/04/The%20Bowdoin%20Learning%20Community%20_%20Bowdoin%20College.pdf (last visited Nov. 14, 2025).

¹⁴ *Matal. v. Tam*, 582 U.S. 218, 244 (2017).

¹⁵ *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

¹⁶ *Cohen v. California*, 403 U.S. 15, 25 (1971).

¹⁷ *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

reiterated this fundamental principle, remarking that “[a]s a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”¹⁸

This principle is especially applicable to college campuses, which courts recognize are necessarily dedicated to open debate and discussion. Take, for example, a student newspaper’s front-page publication of a “political cartoon ... depicting policemen raping the Statue of Liberty and the Goddess of Justice” and use of a vulgar headline (“Motherfucker Acquitted”).¹⁹ These words and images, published many years ago at the height of the Vietnam War, were no doubt deeply offensive to many at the time. Not only were the waning days of Vietnam a time of deep polarization and unrest, but the newspaper’s use of profanity and reference to rape would have been far more shocking to the Americans of half a century past. The Supreme Court nevertheless recognized that “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”²⁰

While Rhys’s email clearly upset the College Conservatives who read it, Bowdoin may not punish Rhys for “conduct that is unbecoming of a Bowdoin student.” While the college may have its own values, those values explicitly include an affirmative commitment to free speech. That commitment protects students who dissent from this standard. For Bowdoin’s promise of free speech to mean anything, it *must* include speech that is offensive and controversial.

Nor may Bowdoin punish Rhys for any supposedly unprotected “threat” in his email. While true threats are not protected by speech principles, Rhys’s statement, “RIP to bro,” simply cannot be construed as a threat, and certainly comes *nowhere near* meeting the legal standard of a true threat, a statement through which “the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.”²¹ This standard requires that the speaker consciously disregard a substantial risk that their speech would place another in fear of serious physical harm.²² The true threats exception does not include speech that amounts to rhetorical hyperbole, the endorsement of violence,²³ or the assertion of the “moral propriety or even moral necessity for a resort to force or violence.”²⁴ Here, Rhys was not trying to communicate his intent to commit *any* action, let alone unlawful violence. Rather, he used a phrase commonly understood as a sarcastic expression of sympathy to mock the death of Kirk. Nothing in his email could reasonably be considered a threat against the organizers, notwithstanding their gross misinterpretation of his words. While offensive expression made with the intent to intimidate or threaten physical

¹⁸ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

¹⁹ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

²⁰ *Id.* at 667–68 (1973).

²¹ *Virginia v. Black*, 538 U.S. 343, 359 (2003).

²² *Counterman v. Colorado*, 600 U.S. 66 (2023).

²³ *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).

²⁴ *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

violence against another person is not protected, the use of offensive expression *without more* remains protected speech.²⁵

When a student is accused of engaging in what is clearly protected speech, as Rhys was here, it is critical that Bowdoin refrain from investigating that speech, even if it ultimately resolves its investigation in favor of the speaker. Launching investigations into speech that cannot be punished is an example of making the process the punishment. Recognizing this, when courts consider this question, they consider not whether formal punishment is meted out, but whether the institution's actions in response to the protected speech "would chill or silence a person of ordinary firmness from future First Amendment activities[.]"²⁶ Such investigations into protected expression chill speech—and effectively constitute censorship—because of the implicit threat of discipline.²⁷ Not only will the student being investigated begin to self-censor, but other students made aware of the situation will reasonably fear that engaging in similar speech will result in discipline, and self-censor accordingly.

Rhys's email is fully protected by Bowdoin's clear institutional free expression promises. While Bowdoin may not engage in official investigations or punishments regarding such expression, the principle of free expression does not shield the speaker from every consequence from his 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.²⁸ However, free speech principles limit the *types* of consequences that may be imposed and who may impose them.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on November 19, 2025 confirming Bowdoin will immediately end its investigation into the email and clear Rhys of any wrongdoing.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: James Riley, Associate Dean for Community Standards and Case Management

Encl.

²⁵ *Black*, 538 U.S. at 347–48.

²⁶ *Mendocino Env'tl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

²⁷ *Levin v. Harleston*, 966 F.2d 85, 89 (2d Cir. 1992); *Speech First, Inc. v. Fenves*, 979 F.3d 319, 333 (5th Cir. 2020).

²⁸ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).