

January 29, 2026

Geoffrey S. Mearns
Office of the President
Ball State University
Administration Building, Room 101
Muncie, Indiana 47306

URGENT

Sent via Next Day Delivery and Electronic Mail (president@bsu.edu)

Dear President Mearns:

FIRE, a nonpartisan nonprofit that defends free speech,¹ is concerned by Ball State University's disciplinary charges against students Cooper Archer, Sam Allen, Scarlet Overfelt, Micah Peck, Alex Bordenkecher, Lilly Bass, and Paige Otto merely for attempting to visit your office. These charges are based on vague and overbroad school policies that must be modified. We urge Ball State to drop the charges against these students and amend its policies to clarify exactly what conduct is prohibited.

On November 19, 2025, twelve students, including Archer, Allen, Overfelt, Peck, Bordenkecher, Bass, and Otto, visited the Administration Building at approximately 4:45 PM to speak with you about the university's investment in companies with ties to Israel.² Several of the students held signs.³ The doors to the President's Office suite were locked, but Vice President of Student Affairs Ro Anne Royer Engle and Assistant Vice President Tiffany Peters met the students in the hallway outside the office and asked them to leave the building. The students argued they had a right to be present in the building during business hours. Royer-Engle and Peters gave the students paper to write notes for you. At 5:00 PM, Royer-Engle and Peters again asked the

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

² Video: Interaction between Royer Engle and students in the Administration Building (Nov. 19, 2025) (on file with author). To the extent the five unnamed students also present on November 19 face the same disciplinary charges as the seven students listed here, we urge Ball State to drop the charges against these students as well. The recitation here reflects our understanding of the pertinent facts. We appreciate that you may have additional information and invite you to share it with us. To this end, please find enclosed executed privacy waivers authorizing you to share information about this matter.

³ *Id.*

students to leave, and the students complied. The students remained outside the building—at a distance greater than 50 feet—peacefully protesting until 5:30 PM.

On December 9, Director of Student Conduct Kayleigh Richardson notified Archer, Allen, Overfelt, Peck, Bordenkecher, Bass, and Otto that the university was charging each of them with three violations of the Code of Student Rights and Responsibilities.⁴ Specifically, the students were charged with Failure to Comply (for failing to immediately comply with Royer Engle’s requests to leave the building), Disorderly Conduct (for allegedly disrupting office operations with their presence in the hallway), and Other Policy Violations (for allegedly violating the Non-Commercial Expressive Activity policy by holding an “assembl[y], protest[], or demonstration[]” inside the Administration Building).⁵

On December 18, the University Review Board (URB) found Archer responsible for all three alleged violations. The URB found that the students’ “expressive activity” began at the Scramble Light⁶ and “more likely than not ... continued ... in the Administration Building.”⁷ It concluded that the students “caus[ed] a disruption” when they congregated outside the locked doors of the President’s Office due to “the totality of the individuals in the group.”⁸ By “pulling on the door, raising their voice[s] to those in the lobby and in the office,” the students “created a reasonable fear for those working and visiting the building which disrupted the normal operations of the offices in the Administration Building.”⁹ The URB also determined that the students delayed compliance with Royer Engle’s multiple directives to leave the building.¹⁰

Because Archer was already on conduct probation, the URB suspended him and barred him from campus through May 8, 2026.¹¹ Vice President for People and Culture Mark Liebling denied Archer’s appeal on January 5, 2026.¹²

The university subsequently held hearings for Allen, Overfelt, Peck, Bordenkecher, Bass, and Otto in January 2026. On January 27, Associate Vice President for Student Affairs T.J. Brecciaroli found each of the six students responsible for all three alleged violations, placed them on conduct probation, and ordered each of them to complete ten hours of community

⁴ Letter from Kayleigh Richardson, Director of Student Conduct, to Sam Allen, student (Dec. 9, 2025) (on file with author). Identical letters were sent to Archer, Bordenkecher, Overfelt, Peck, Bass, and Otto.

⁵ *Id.* The students received initial notification of potential charges on December 1, which included Obstruction or Disruption among the then-potential charges but omitted Failure to Comply. *See, e.g.*, letter from Richardson to Micah Peck, student (Dec. 1, 2025) (on file with author).

⁶ The Scramble Light is an intersection and popular meeting spot on Ball State’s campus. *Scramble Light*, BALL STATE UNIV., <https://www.bsu.edu/map/landmarks/scramble-light>.

⁷ Letter from Richardson to Cooper Archer, student (Dec. 19, 2025) (on file with author).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Letter from Mark Liebling, Vice President for People and Culture, to Archer (Jan. 5, 2026) (on file with author).

service and a 1500-word reflection paper.¹³ Brecciaroli found that the “group moved from a protest at a campus intersection into the interior of the University Administration Building ... well within the 50-foot boundary established by the Non-Commercial Expressive Activity Policy”; Royer Engle “issued a clear, verbal directive to ... the group to vacate the building”; and the students’ “continued presence inside the building caused significant disruption to University business.”¹⁴ He determined that Royer Engle’s provision of paper to the students was merely a de-escalation tactic, and that the students were not acting as “individual[s] seeking access to an administrator” but rather “entered [the building] and remained as part of a coordinated group.”¹⁵

FIRE has serious First Amendment concerns about Ball State’s pursuit of discipline against these students based on vague and overbroad policies. Specifically, Ball State’s Non-Commercial Expressive Activity and Assembly policy bans “assemblies, protests, or other demonstrations” within 50 feet of particular types of buildings without defining what constitutes an assembly, protest, or demonstration.¹⁶ The policy fails to provide any standard for distinguishing a small group of students from an “assembly,” leaving students without “fair notice of what is prohibited” and encouraging arbitrary and discriminatory enforcement.¹⁷ Students chanting and waving signs outdoors could reasonably believe they were fully complying with the policy when they cease chanting to walk indoors. In fact, that appears to be exactly what happened in this situation. The students were careful to remain more than 50 feet from the building when demonstrating outside but did not believe they were actively “protesting”—and therefore not violating the policy—when they entered the building to visit your office.

The Disorderly Conduct policy also raises constitutional concerns. It defines disorderly conduct as “[b]ehavior that is disruptive, including but not limited to public indecency, urination, or nudity, noise ordinance violation, or breach of peace, to campus life/activities or the community surrounding the University.”¹⁸ A policy penalizing expressive conduct that is merely “disruptive” extends beyond the “substantial disruption” standard that applies even in K-12 schools and sweeps in a wide variety of protected expression.¹⁹ With only limited

¹³ Letter from T.J. Brecciaroli, Vice President for Student Affairs, to Allen (Jan. 27, 2026) (on file with author). Identical letters were sent to Overfelt, Bass, and Otto. Peck and Bordenkecher received nearly identical letters, with the exception that their probation extends through Jan. 27, 2027, rather than May 2, 2026. See letter from Brecciaroli to Peck (Jan. 27, 2026) (on file with author); letter from Brecciaroli to Alex Bordenkecher, student (Jan. 27, 2026) (on file with author).

¹⁴ Letter from Brecciaroli to Allen (Jan. 27, 2026), *supra* note 13 at 2.

¹⁵ *Id.* at 2–3.

¹⁶ See *Non-Commercial Expressive Activity and Assembly on University Property*, § 3.4.5, BALL STATE UNIV. (revised Jul. 1, 2025) (on file with author).

¹⁷ *United States v. Williams*, 553 U.S. 285, 304 (2008); *Lopez v. Bay Shore Union Free Sch. Dist.*, 668 F.Supp.2d 406, 420 (E.D.N.Y. 2009) (“[E]ven public school codes of conduct should not be so vague as to force a person of ‘common intelligence’ to guess what conduct the rule proscribes.”).

¹⁸ *Code of Student Rights and Responsibilities*, § 4.2.4 Disorderly Conduct, BALL STATE UNIV. OFFICE OF STUDENT CONDUCT (revised Jun. 2025) (on file with author).

¹⁹ *Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 799 (1984); *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 215 (3d Cir. 2001) (restriction on speech “creating an intimidating, hostile or offensive

legitimate application—to speech that substantially and materially disrupts university operations—the disorderly conduct standard’s potential for unconstitutional applications outweighs Ball State’s legitimate objectives to maintain administrative operations. The subjective and undefined boundaries of “disruptive” conduct also render the standard unconstitutionally vague because it fails to provide students fair notice of precisely what is prohibited, thereby encouraging arbitrary and discriminatory enforcement. Here, it appears that the students entering the building and attempting to visit your office is the conduct that Ball State has deemed disruptive, rather than any specific conduct the students engaged in while inside the building. The mere fact that office staff left their other tasks to speak with visitors cannot be considered punishable disruption when students also seemingly have the right to enter the Administrative Building to speak with administrators during business hours.

In addition to rescinding or dropping these students’ sanctions, FIRE urges Ball State to amend its policies to provide students and the URB greater clarity as to what conduct is prohibited by the Non-Commercial Expressive Activity and Assembly policy and the Code of Student Rights and Responsibility. Specifically, the university should amend the Disorderly Conduct policy to define disorderly conduct as activities that cause a *material and substantial disruption* to university functions and activities. The substantial disruption standard is enshrined in Indiana state law²⁰ and already used by Ball State in its Non-Commercial Expressive Activity policy.²¹ The university should standardize its policies by adopting the same language in the Disorderly Conduct policy.

Likewise, the university should release further guidance clarifying that the Non-Commercial Expressive Activity policy restricts any activity that would cause a material and substantial disruption to university functions and activities within 50 feet of the listed facilities, regardless of whether that activity is deemed to be a protest. By relying on the disruptive nature of conduct near administrative offices and classrooms to define what is prohibited, students and administrators would not be left to guess whether any group of students should be deemed an assembly or demonstration. For example, blasting music from a speaker just outside administrative offices is likely substantially disruptive, regardless of whether the expression is a protest. This change would also communicate to students that nondisruptive forms of protest are still permitted within 50 feet of offices and classrooms.

environment” was overbroad because it was not limited to speech that caused a substantial disruption); *see also Tinker v. Des Moines Ind. Cnty. Sch. Dist.*, 393 U.S. 503, 513 (1969) (K-12 schools may only prohibit on-campus student speech that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others”). *Tinker*’s application to K-12 students, who have fewer First Amendment rights than college-aged adults, along with the holding in *Healy v. James*, 408 U.S. 169 (1972), that the First Amendment applies with equal force on public college campuses as in the broader community, means students at universities have more expressive rights than K-12 students. In the university context, the protections described by the Court in *Tinker* are the floor for student expressive rights, not the ceiling.

²⁰ Ind. Code § 21-39-8-10 (2024).

²¹ *Non-Commercial Expressive Activity and Assembly on University Property*, § 4, *supra* note 13 at 6.

We request a substantive response to this letter no later than February 12, confirming Ball State will drop the charges against the students, lift any imposed sanctions, and revise its policies to clearly communicate to students precisely what is prohibited conduct.

Sincerely,



Jessie Appleby
Program Counsel, Campus Rights Advocacy

Cc: Sali Falling, Vice President and General Counsel
Mark Liebling, Vice President of People and Culture
Kaleigh Richardson, Director of Student Conduct
TJ Brecciaroli, Associate Vice President of Student Affairs and Dean of Students and
Title IX Coordinator

Encl.