



August 14, 2025

Sent by U.S. Mail and Electronic Mail

Harrison Keller
Office of the President
University of North Texas
1155 Union Circle, #311425
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president@unt.edu

Re: University of North Texas System's "Pause" on Drag Performances

Dear President Keller:

The Foundation for Individual Rights and Expression (FIRE)¹ and the American Civil Liberties Union (ACLU) of Texas² write to urge the University of North Texas System to rescind its March 28 system-wide “pause” on campus drag performances. As a recent decision from the U.S. District Court for the Southern District of Texas confirms, the First Amendment protects drag performances, including in public university venues.³ By censoring a genre of protected expression because UNT disagrees with what it perceives as the “ideology” of drag shows, UNT violates the First Amendment, Texas law, and its own policies.

UNT explicitly recognizes “that freedom of expression and public assembly are fundamental rights of all persons and are essential components of the education process,” and that students, faculty, and staff are “free to exercise those rights to assemble and engage in expressive activity in a constitutionally protected manner subject only to the content neutral regulations necessary to

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

² The American Civil Liberties Union of Texas is a leading civil rights organization in the Lone Star State. You can learn more about us at <https://www.aclutx.org/>.

³ *Texas A&M Queer Empowerment Council v. Mahomes*, 772 F.Supp.3d 792 (S.D. Tex. 2025).

fulfill the mission and obligations of the University[.]”⁴ UNT’s ongoing and indefinite system-wide pause on drag shows contradicts these promises and violates the First Amendment, which UNT, as a public university, is obligated to uphold.⁵ UNT must immediately end this “pause.”

UNT’s “Pause” on Drag Performances

In February, the Texas A&M Board of Regents passed a resolution purporting to ban drag shows from campus venues.⁶ To justify the ban, Texas A&M claimed drag shows “mock” and “demean” women and are “offensive.” The resolution also asserted that drag shows “promote gender ideology,” pointing to President Trump’s January 20 Executive Order vaguely tying federal funding to a refusal to “promote gender ideology.”⁷

In late March, UNT System Chancellor Michael Williams issued a similar directive, announcing an immediate “pause” on drag performances on campus and at state-funded facilities, including theatres historically open to student groups for expressive activity.⁸ Williams said that UNT’s Board of Regents supported this move, and that the university had to balance its responsibility to obey state and federal law and executive orders with its “duty to carry out [its] core missions of teaching, learning and research.”⁹ But rather than offer any persuasive justification for this sweeping restriction on constitutionally-protected expressive activity, Williams announced that UNT would wait to find out the results of pending litigation against other Texas universities before providing more details.¹⁰

This ongoing and open-ended “pause” on drag performances has already forced student groups, including the GLAD Queer Alliance and UNT Gammas, to

⁴ 07.006 *Free Speech and Public Assembly on Campus Grounds*, UNIV. OF N. TEX. (Nov. 3, 2009), https://policy.unt.edu/sites/policy.unt.edu/files/07.006%20Free%20Speech%20and%20Public%20Assembly%20on%20Campus%20Grounds_0.pdf [<https://perma.cc/2LN2-WBT5>].

⁵ *Healy v. James*, 408 U.S. 169, 180 (1972) (“[S]tate colleges and universities are not enclaves immune from the sweep of the First Amendment.”) (internal citation omitted).

⁶ Exhibit 1 to Verified Complaint, *Texas A&M Queer Empowerment Council*, 772 F.Supp.3d 792 (No. 25-992), <https://www.thefire.org/research-learn/exhibit-1-texas-am-queer-empowerment-council-v-mahomes-et-al>.

⁷ Exec. Order No. 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/documents/2025/01/30/2025-02090/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal>.

⁸ Hannah Everett, *University pauses drag performances to comply with executive orders*, NORTH TEXAS DAILY (Mar. 28, 2025), https://www.ntdaily.com/news/university-pauses-drag-performances-to-comply-with-executive-orders/article_3450ec05-4aaf-4c5e-a4e2-afd9cb7d8c59.html.

⁹ *Id.*

¹⁰ Alyssa Fields, *University of North Texas Is the Latest Texas College to Ban Drag Performances*, DALLAS OBSERVER (Apr. 3, 2025), <https://www.dallasobserver.com/news/university-of-north-texas-the-latest-school-to-ban-drag-shows-22044165>.

either move their already-scheduled expressive events off campus or cancel them entirely.¹¹

Like Texas A&M’s Ban on Drag Performances, UNT’s “Pause” on Drag Performances Violates the Constitution

On March 24, Judge Rosenthal of the U.S. District Court for the Southern District of Texas preliminarily enjoined the Texas A&M Board from enforcing a ban on drag performances.¹² The decision affirms that the First Amendment protects drag performances, just as it has long protected other forms of theatrical expression, and that the student organization challenging the ban is likely to prevail in arguing that the public university’s ban violates the First Amendment.¹³ Further, as Judge Rosenthal stressed, the “Board cannot assert both that the performance promotes an ideology and that it is not expressive conduct.”¹⁴

As the decision explains, banning a drag show “because it offends some members of the campus community is precisely what the First Amendment prohibits.”¹⁵ To that end, the court held that Texas A&M’s drag ban likely amounted to unconstitutional viewpoint discrimination by suppressing expression based on the subjective judgments of campus officials.¹⁶ Judge Rosenthal also held that the Texas A&M drag ban imposed an unconstitutional prior restraint, prohibiting “expressive conduct before it takes place, in a forum that is designated for a wide range of speech and conduct.”¹⁷

The court further held the Texas A&M Board’s justifications for imposing a sweeping ban on protected speech failed strict scrutiny. It rejected Texas A&M’s reliance on Title IX, observing that “the record contains no evidence of a correlation between drag shows and the harassment of female students at any university.”¹⁸ Equally unpersuasive, Judge Rosenthal concluded, was the Board’s reliance on the January 20 Executive Order, noting there is no evidence the Executive Order “specifically refers to or applies to drag shows.”¹⁹

Just as the Texas A&M drag performance ban violates the Constitution, so does the UNT “pause” on drag shows. First, the UNT “pause” is a classic prior

¹¹ *Id.*

¹² *Texas A&M Queer Empowerment Council*, 772 F.Supp.3d 792.

¹³ *Id.* at 802–03, 810.

¹⁴ *Id.* at 802.

¹⁵ *Id.* at 812.

¹⁶ *Id.* at 805.

¹⁷ *Id.* at 807.

¹⁸ *Id.* at 809.

¹⁹ *Id.* at 812.

restraint: It banishes expression from public forums “in advance of actual expression.”²⁰

Second, the pause on drag shows also constitutes unconstitutional viewpoint discrimination. The pause comes just a year after UNT’s Office of General Council canceled UNT’s University Program Council’s Drag Show and the University Libraries’ Campus Pride Week, in anticipation of complying with the explicitly anti-DEI Texas Senate Bill 17.²¹ In the directive announcing the pause this year, UNT again cited its desire to comply with state and federal laws and executive orders promoting certain views on gender, including the January 20 Executive Order “Gender Ideology Extremism,” to justify prohibiting drag performances that do not promote those same views on gender. But government officials cannot silence expression because they or other government officials disagree with the ideology, real or perceived.²²

Third, UNT cannot justify banning an entire class of protected expression from campus performance venues on the basis that such expression might cause offense. Regarding subjective distaste for or disagreement with drag shows as a genre of theatrical performance, the Supreme Court has repeatedly declared that it is a “bedrock First Amendment principle” that the government cannot discriminate against “ideas that offend.”²³ In the same way that some people may not appreciate UNT allowing students, staff, or visitors to engage in prayer on campus or wear t-shirts supporting rival universities, the fear that such speech may be “offensive” to some is not a constitutionally permissible reason to ban it.

Nor can the Board invoke President Trump’s executive order on “gender ideology” as cover for censorship. As Judge Rosenthal explained, the federal EO has nothing to do with drag performances.²⁴ Indeed, Texas A&M’s misplaced reliance on the EO helped doom its ban by underscoring its viewpoint discrimination.²⁵ UNT’s reliance on the same rationale for its indefinite pause on drag shows is misplaced. And in any event, public universities must not subvert their constitutional obligations to the president’s wishes.

²⁰ *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 553 (1975); *Texas A&M Queer Empowerment Council*, 772 F.Supp.3d at 807.

²¹ Valerie Muñoz, *University of North Texas System To ‘Pause’ Drag Shows on Campus*, TEXAS SCORECARD (Mar. 31, 2025), <https://texasscorecard.com/state/university-of-north-texas-system-to-pause-drag-shows-on-campus>.

²² *Texas A&M Queer Empowerment Council*, 772 F.Supp.3d at 806 (quoting *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)).

²³ *Iancu v. Brunetti*, 588 U.S. 388, 393 (2019) (quoting *Matal v. Tam*, 582 U.S. 218, 223 (2017)).

²⁴ *Texas A&M Queer Empowerment Council*, 772 F.Supp.3d at 806, 812.

²⁵ *Id.* at 805–06.

Finally, UNT's drag pause is also unconstitutionally vague because it fails to give students adequate notice of what kinds of performances are prohibited. While the district court held Texas A&M's ban was likely unconstitutionally vague because its definition of drag performances did not define its key terms, such as "vulgar" or "sexualized," UNT's directive to "pause" drag performances defines *none* of its terms—let alone what constitutes a prohibited drag performance.²⁶ The lack of any criteria renders the current "pause" all the more dangerous to free expression, giving campus officials unchecked discretion to silence any performance they find disagreeable. If the Texas A&M Board's ban was void for vagueness, then UNT's "pause" undoubtedly is too.²⁷

End the "Pause" on Drag Shows and Uphold the Freedom of Expression that the First Amendment and Texas Law Guarantee

Not only does the First Amendment compel UNT to immediately end the "pause" on drag shows, so does Texas law and UNT System policy. In 2019, the Legislature passed a campus free expression law, cementing broad protection for expressive activity at Texas's public universities.²⁸ That law mandates, among other things, that public universities not "deny [a student] organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization."²⁹ UNT's free speech policies echo this mandate for viewpoint neutrality, as the campus free speech law requires.³⁰

The Board must restore meaning to those words, meet its promise of robust free expression at UNT System campuses, and comply with the First Amendment and Texas law. First Amendment protections, no matter the viewpoint expressed, are "nowhere more vital" than at public universities and colleges.³¹ And when university officials censor speech under arbitrary and subjective justifications—as UNT has done here—it simply invites more censorship. Suppressing protected expression is no way to meet UNT's mission to "empower[] its students to thrive in a rapidly changing world," let alone the First Amendment's guarantees for student expression at public universities.³²

²⁶ *See id.* at 809–10.

²⁷ *See id.* at 809.

²⁸ Tex. Educ. Code § 51.9315.

²⁹ *Id.*

³⁰ 07.006 *Free Speech and Public Assembly on Campus Grounds*, *supra* note 4.

³¹ *Healy*, 408 U.S. at 180.

³² 03.001 *Mission Statement of the Univ. of North Texas*, UNIV. OF N. TEX., https://policy.unt.edu/sites/policy.unt.edu/files/03.001%20Mission%20Statement%20of%20the%20University%20of%20North%20Texas_0.pdf [<https://perma.cc/8Y64-W6AJ>].

August 14, 2025

Page 6 of 6

We call on UNT to meet its constitutional obligations and immediately rescind its ban on drag performances at UNT System campuses. We respectfully request a response to this letter by the close of business on August 27, 2025.

Regards,

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Foundation for Individual Rights and
Expression

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