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September 12, 2025

President Kelly Dampousse

president@txstate.edu

601 University Drive
J.C. Kellam, Room 1020
San Marcos, Texas 78666

Dear President Dampousse,

The Academic Freedom Alliance (AFA) is a coalition of faculty members from across the country and across the ideological spectrum who are committed to upholding the principles of academic freedom and professorial free speech.

Principles of free speech include the right of professors to speak in public on matters of public concern without the threat of sanctions by their university employer. We call upon Texas State University to live up to its free speech commitments and constitutional obligations in the case of Professor Thomas Alter.

Thomas Alter is an associate professor of history at Texas State University. He participated in the [Revolutionary Socialism Conference](#), which had a theme of “toward a revolutionary party.” He spoke to the conference via a [video](#) on September 7, 2025. In his talk, he discussed the growing “working-class resistance” to capitalism and the need for a “revolutionary socialist party.” In the talk he advocates organizing the working-class to “overthrow” the United States government as laid out in the Communist Manifesto, further stating “organizing now prepares the working-class for the ‘revolutionary situation’ when the working-class can ‘take power.’” On September 11, [you announced](#) that his “actions amounted to serious professional and personal misconduct” and “advocates for inciting violence” and that he had been terminated.



I write on behalf of the Academic Freedom Alliance to express our firm view that Professor Alter should suffer no formal consequences as the result of this extramural speech. It is well established that public universities like Texas State University are constrained by the First Amendment of the U.S. Constitution. Professors at state universities enjoy certain First Amendment protections relative to their university employer, and state universities cannot discipline or sanction members of their faculty for constitutionally protected speech. In particular, the U.S. Supreme Court observed in *Connick v. Myers*, 461 U.S. 138, 140 (1983) that “a public employee does not relinquish rights to comment on matters of public interest by virtue of government employment.” The Court has sharply limited when government employers can interfere with such speech. The mere fact that the government disagrees with the content of the speech is no constitutionally valid reason for restricting the private speech of a government employee. As the Court noted in *Rankin v. McPherson*, 483 U.S. 378, 384 (1987), “vigilance is necessary to ensure that public employers do not use authority over employees to silence discourse, not because it hampers public functions but simply because superiors disagree with the content of employees’ speech.” Precisely because the speech at issue here involves an outside activity by a member of the faculty, the university’s constitutional authority to restrict that speech is quite limited.

American First Amendment law protects a great deal of extreme political rhetoric and has adopted a very narrow understanding of what speech can qualify as illegal incitement to violence that might fall outside the scope of First Amendment protections. Alter’s remarks in his address to this conference do not even approach that constitutional line. His private political speech is entirely protected by the First Amendment.

The Supreme Court has been particularly clear that mere advocacy of illegal activity or revolutionary action is fully protected by the Constitution. The leading case is *Brandenburg v. Ohio*, 395 U.S. 444 (1969). In *Brandenburg*, the Court highlighted the well-established state of the law at that point, observing the “principle that the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law.” In an earlier case involving a member of a revolutionary party, the Court emphasized that the “mere abstract teaching of Communist theory, including the teaching of the moral propriety or even moral necessity for a resort to force and violence, is not the same as preparing a group for violent action and



steeling it to such action.” *Noto v. United States*, 367 U.S. 290, 298 (1961). “Mere advocacy” of revolutionary action is constitutionally protected. *Brandenburg*, at 449. The First Amendment requires that “incitement” be understood narrowly to include only instances when the advocacy of the use of force “is directed to inciting or producing imminent lawless action and is likely to incite or produce such action” *Brandenburg*, at 447. Alter’s remarks are a classic example of “mere advocacy” in this constitutional sense. His remarks to a political conference can neither be understood to be directed to inciting imminent lawless action nor likely to produce such action. This sort of advocacy is “too remote from concrete action” to be punishable by state officials, including the president of a state university. *Yates v. United States*, 354 U.S. 298, 321 (1957).

Based on currently available information, the constitutional issues at stake in this case are clear. Texas State University has violated Professor Alter’s First Amendment rights. The Academic Freedom Alliance stands firmly behind Professor Alter in this matter and calls on Texas State University to adhere to its constitutional obligations and to immediately and without prejudice reinstate Professor Alter to the faculty.

Sincerely,

A handwritten signature in dark ink, appearing to be 'KW', followed by a long, sweeping horizontal line that extends to the right.

Keith Whittington

Founding Chair of the Academic Freedom Alliance, David Boies Professor of Law, Yale Law School*

* Affiliation is for identification purposes only