

December 10, 2024

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GSU General Counsel  
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Dr. Barbara J. Johnson  
Dean, Perimeter College  
Decatur Campus, Ste. SA 3200  
3251 Panthersville Rd.  
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[REDACTED]

**Re: Unconstitutional Speech Restrictions on Georgia State  
University Perimeter College, Clarkston Campus**

Dear Dr. Blake, Dr. Johnson, and Ms. Heyward:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. Stephen Atkerson contacted us regarding a couple of onerous Georgia State University (GSU) restrictions infringing on his constitutional right to free speech on the campus.

Atkerson has frequently visited the Clarkston Campus of GSU Perimeter College to share the merits of his Christian faith with interested students in the free speech area on campus. In conducting this expressive activity, Atkerson does not speak loudly or use amplification. He does not preach. Rather, he has friendly one-on-one conversations with willing participants.

On several of these visits, Atkerson met with a particular student, Simon Walde, to discuss the Bible and various aspects of Christianity. They agreed to continue their conversation on April 9, 2024, and because it was raining that day, Walde invited Atkerson to sit at a table with him just outside the dining area where they could talk. But several minutes later, the student engagement coordinator and three armed police officers abruptly ended their conversation, demanding Atkerson leave the table and go back to the free speech area immediately.

Atkerson questioned the directive, asking why he could not have a conversation when invited to do so by a student. The director explained that GSU rule required he remain in the free speech area to have any conversations. She added that Atkerson must also refrain from approaching students, even within the free speech area. Fearing arrest, Atkerson complied with these GSU restrictions.

But Atkerson was and remains troubled by the undue encroachment on his free speech. Through counsel and this letter, he seeks relief from these rules as well as the ongoing violation of his constitutional rights.

### LEGAL ANALYSIS

A government entity bears the burden of justifying a speech restriction. *Ranch House, Inc. v. Amerson*, 238 F.3d 1273, 1283 (11th Cir. 2001). GSU cannot meet this burden regarding the restrictions described. They are unconstitutional.

#### The First Amendment Protects Atkerson's Religious Speech

Atkerson wants to share his Christian faith with others on the GSU campus through friendly discussions.

Religious speech is constitutionally protected. *Capital Square Review and Advisory Board v. Pinette*, 515 U.S. 753, 760 (1995) (plurality). “[F]ar from being a First Amendment orphan, [religious expression] is as fully protected under the Free Speech Clause as secular private expression.” *Id.* Indeed, religious expression “holds a place at the core of the type of speech the First Amendment was designed to protect.” *DeBoer v. Vill. of Oak Park*, 267 F.3d 558, 570 (7th Cir. 2001).

Conversational speech is also safeguarded. “In a face-to-face encounter there is a greater opportunity for the exchange of ideas and propagation of views.” *City of Dallas v. Stanglin*, 490 U.S. 19, 25 (1989). Consequently, oral dissemination of religious views falls under the Free Speech clause. *Heffron v. Int'l Soc'y for Krishna Consciousness, Inc.*, 452 U.S. 640, 647 (1981). *See Good News Club v. Milford Central School*, 533 U.S. 98, 111 (2001) (finding religious instruction, prayer, and discussion and recitation of the Bible are protected speech); *id.* at 121 (Scalia, J., concurring) (“A priest has as much liberty to proselytize as a patriot.”); *Widmar v. Vincent*, 454 U.S. 263, 269 (1981) (religious worship and discussion are forms of speech and association protected by the First Amendment).

GSU's restrictions on Atkerson's conversational religious speech contravene these constitutional protections.

## **GSU's Restriction on Invited Conversations Violates Free Speech**

At a bare minimum, a speech restriction occurring on public property must be reasonable. *Arkansas Educ. Television Comm'n v. Forbes*, 523 U.S. 666, 679 (1998). The reasonableness analysis focuses on whether the limitation is consistent with the purpose of the forum and surrounding circumstances. *Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.* 473 U.S. 788, 809 (1985).

While this bar is not high, GSU plainly fails to clear it with its non-sensical prohibition on invited, consensual conversations on campus. The government cannot curb speech in whatever way it likes. *Forbes*, 523 U.S. at 682. In *Bd. of Airport Comm'rs of Los Angeles v. Jews for Jesus*, the Supreme Court struck down a ban on evangelistic conversations in an airport terminal because no conceivable government interest could justify it. 482 U.S. 569, 575 (1987). *See also Huminski v. Corsones*, 396 F.3d 53, 92-93 (2d Cir. 2005) (singling out individual for speech exclusion held to be not "reasonable" in any type of forum).

In a similar way, GSU's ban on consensual conversations violates Atkerson's right to free speech.

## **GSU's Restriction on Approaching Individuals in Free Speech Area Violates Free Speech**

The legal scrutiny attached to the restriction taking place in the "free speech" area is especially heightened, making the restriction there especially dubious. Upon establishing that space as a free speech zone, "the state must respect the lawful boundaries that it has itself set." *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). The area is a designated public forum for speech. *See Cornelius*, 473 U.S. at 802 (designated public fora is created by government settling aside particular public spot for speech purposes).

An imposition on speech taking place in a designated public forum must be a valid time, place, or manner restriction. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983). Keeping speakers from approaching would-be listeners does not meet this description. To survive constitutional challenge, the restriction must be narrowly tailored to serve a significant government interest and leave open ample alternative channels of communication. *Id.* And the ban on approaching listeners fails in both respects.

Sufficient narrowly tailoring requires the restriction squelch no more speech that necessary to address a legitimate concern. *Frisby v. Shultz*, 487 U.S. 474, 479

(1988). There is no legitimate concern for preventing consensual conversations in an area set aside for free speech.

Moreover, GSU's restriction does not leave Atkerson with alternative means for conveying his message. The First Amendment protects the right of citizens to reach the minds of willing listeners. *Heffron*, 452 U.S. at 654. The no-approach-people restriction eliminates this opportunity. Allowing someone to stay back and speak from behind a table does not satisfy the obligation. *See City of Ladue v. Gilleo*, 512 U.S. 43, 56-57 (1994) (alternatives to posting signs on residential property held inadequate).

GSU's rule on approaching people in the free speech area is not a reasonable time, place, or manner restriction.

**DEMAND**

To avoid further infringement on Atkerson's constitutional rights, he seeks timely relief from the GSU rules discussed herein. Specifically, Atkerson demands written assurance from GSU that university officials will immediately refrain from 1) prohibiting consensual conversations on GSU campus in the dining area or elsewhere and 2) prohibiting speakers in the free speech from approaching others.

We respectfully ask you respond to this letter by December 30, 2024, confirming Atkerson is no longer subject to these unconstitutional restrictions.

Sincerely,



Nate Kellum  
Senior Counsel

cc: Stephen Atkerson