

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ABEL CARVAJAL,
Plaintiff,

v.

Case No.:

JEANETTE M. NUÑEZ, in her
individual and official capacity as President of
FLORIDA INTERNATIONAL UNIVERSITY;
Defendant.

**EMERGENCY VERIFIED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND DAMAGES UNDER 42 U.S.C. § 1983**

Plaintiff Abel Carvajal (“Plaintiff” or “Carvajal”) sues
Florida International University (“FIU”), and states:

INTRODUCTION

FIU, after stating that it “will not accept, tolerate, or condone any form of racism and antisemitism at FIU,” recently filed a slew of student conduct charges against several FIU students who participated in an off-campus, private group chat that contained controversial speech. Plaintiff, a law student at FIU, is charged with violating the FIU-2501 Student Conduct and Honor Code, section 1.5.ii, for “Assisting...any act prohibited by this Code,” for his role in being a monitor and participant in the controversial group chat.

Given that FIU’s disciplinary charges against Carvajal and other FIU students are based solely upon legally protected speech, FIU’s actions constitute a content and viewpoint-based punishment of protected speech in violation of the First Amendment and should be immediately enjoined.

This complaint is filed on an emergency basis because FIU’s current actions and baseless disciplinary proceedings chill Plaintiff’s speech. *See Speech First, Inc. v. Cartwright*, 32 F.4th 1110 (11th Cir. 2022).

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343 because this action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983.
2. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant reside in this District and a substantial part of the events giving rise to these claims occurred within this District.

PARTIES

3. Plaintiff Abel Carvajal is a law student at Florida International University, residing in Miami-Dade County Florida.
4. Defendant Jeanette Nuñez is the President of FIU and is sued in her official capacity for declaratory and injunctive relief.
5. Florida International University (“FIU”) is a public university and an arm of the State of Florida. FIU operates in Miami-Dade County, Florida.
6. Defendant Nuñez is sued in her individual capacity for declaratory and injunctive relief, and damages, for directing staff to punish Plaintiff in response to his alleged viewpoints expressed in the group chat.

FACTS

7. During the Fall 2025 semester, FIU received reports concerning a private group chat involving Plaintiff and others, in which participants posted controversial content, including racial remarks.
8. FIU’s Office of Student Conduct and Academic Integrity notified Plaintiff by letter dated March 11, 2026 that it had received information alleging that, during Fall 2025, he “created and managed a group chat where individuals posted statements threatening to harm others,” and charged him with “1. 5.ii. Assisting - Any affirmative act which aids, attempts, promotes, conceals, or facilitates any act prohibited by this Code.”

9. The March 11, 2026 charge letter directed Plaintiff to attend an Information Session on March 17, 2026 at 4:00 pm via Zoom and described his rights within the student conduct process, including notice, presumption of no violation, and a fair and impartial hearing, among others.

10. The alleged speech at issue occurred in a non-curricular, private group chat and was not part of any official University program or classroom instruction; it did not occur in a University forum or University-sponsored event.

11. FIU's Student Conduct and Honor Code (FIU-2501), however, provides that:

Nothing in this Regulation should be interpreted to abridge the right of any member of the University community of rights granted under the United States or Florida Constitution and /or any other applicable law including, but not limited to, the freedom of expression protected by the First Amendment.

(See **Exhibit 1**)

12. On March 10, 2026, FIU's President publicly announced that the University had reviewed 1,200 pages of evidence concerning the private group chat and had initiated charges based on violations of the University's non-discrimination regulation and the Student Code of Conduct, including potential charges of harassment, engaging in threats, and interfering with the rights of others, which may lead to suspension or expulsion.

13. The President's statement further declared that the administration and FIU's Board of Trustees "will not accept, tolerate, or condone any form of racism and antisemitism at FIU," in a statement released on March 10, 2026, at 7:05pm. **See Exhibit 2.**

14. FIU's initiation and pursuit of charges against Plaintiff for off-campus, private speech—including by invoking "Assisting" for creating

and managing a chat in which others posted content—reflects viewpoint discrimination and punishment of speech based on its content, chilling Plaintiff's and other students' First Amendment rights.

15. Plaintiff faces an ongoing threat of disciplinary proceedings, sanctions up to suspension or expulsion, and attendant harms—including stigmatization, academic interruptions, and restrictions on participation in University life—based on his speech. Plaintiff's speech has been chilled entirely by the disciplinary proceeding.

16. A list of the controversial remarks posted in the group chat, include racial slurs, gender-based slurs, antisemitic rhetoric, and anti-LGBTQ language; however, the group chat contained no illegal speech or categories of unprotected speech, such as true threats, incitement, or fighting words.

COUNT 1

Violation of the First Amendment (42 U.S.C. § 1983)

(Declaration Against FIU)

17. Plaintiff realleges paragraphs 1–16.

18. Defendant, acting under color of state law, initiated and is pursuing student conduct charges against Plaintiff based on the content and viewpoint of his off-campus, private speech and monitoring in a group chat that included racial remarks and controversial language. Such speech is presumptively protected by the First Amendment. Punishing or chilling Plaintiff's speech through disciplinary charges, investigation, and potential sanctions constitutes content- and viewpoint-based discrimination in violation of the First Amendment. None of the statements made by any participant in the group chat constitutes true threats. *See Counterman v. Colorado*, 600 U.S. 66, 72 (2023) (holding that a communication must be a serious expression conveying that a speaker means to commit an act of unlawful violence to constitute a true threat).

19. Defendant's application of FIU-2501 § 1.5.ii ("Assisting") to off-campus, private speech is unconstitutionally overbroad and vague as applied to Plaintiff's expression, granting officials standardless discretion to penalize speech based on its perceived offensiveness.

20. Defendant lacks any lawful basis to regulate Plaintiff's off-campus, non-curricular expression in a private forum absent unprotected categories such as true threats or unlawful harassment; the allegations, on their face, target expression, not conduct, and attribute others' threatening statements to Plaintiff through an "assisting" theory tied to his role in creating or managing the chat.

21. Defendant's action has caused and will continue to cause irreparable harm to Plaintiff's constitutional rights, chill his speech, and subject him to the risk of severe sanctions and reputational injury.

22. Defendant President Nunez is also sued in her individual capacity because she directed the deprivation of Plaintiff's constitutional right, namely his freedom of speech, when she acted under color of state law, and personally participated in and directed the constitutional violation. Aside from any FIU custom or policy, Nunez directed her agents to commence the baseless disciplinary proceeding into Plaintiff and to further her viewpoint-based practice and custom of refusing to "accept, tolerate, or condone any form of racism and antisemitism at FIU." See **Exhibit 2**.

23. Plaintiff monitoring the group chat is also a form of protected speech and FIU is proscribed from punishing him for his role as a monitor. The First Amendment protects not only the right to speak but also the right to receive information and ideas.

24. Plaintiff's monitoring and participation in the private, off-campus group chat did not cause a substantial disruption at FIU.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in his favor and grant the following relief:

- a) A declaration that Defendant's initiation and pursuit of student conduct charges against Plaintiff for his off-campus, private speech, including under FIU-2501 § 1.5.ii as applied here, violates the First Amendment;
- b) A preliminary and permanent injunction enjoining Defendant from investigating, charging, adjudicating, or sanctioning Plaintiff for the off-campus, private speech at issue, and from otherwise enforcing FIU-2501 § 1.5.ii to penalize protected expression in similar circumstances;
- c) Damages;
- d) An award of reasonable attorneys' fees and costs under 42 U.S.C. § 1988; and
- e) Such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated within it are true.

/s/ Abel Carvajal

Dated: March 23, 2026

Respectfully submitted,

/s/ Anthony F. Sabatini
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Counsel for Plaintiff

EXHIBIT 1



March 11, 2026

Abel Carvajal
Sent electronically to acarv042@fiu.edu

PERSONAL AND CONFIDENTIAL

Regarding Case Number: 2025404303

Dear Abel:

The Office of Student Conduct and Academic Integrity is in receipt of information concerning your alleged involvement in actions which may constitute a violation of the Florida International University [Student Conduct and Honor Code](#) (Code).

The Allegations:

It was reported during the Fall 2025 semester you created and managed a group chat where individuals posted statements threatening to harm others.

Based upon the above allegation(s), you are being charged with:

1. 5.ii. Assisting - Any affirmative act which aids, attempts, promotes, conceals, or facilitates any act prohibited by this Code.

You are requested to attend an Information Session with me on **Tuesday, March 17, 2026, at 4:00pm via Zoom at the following link: <https://fiu.zoom.us/j/87929958488>**. For instructions and a video tutorial on how to access Zoom meetings, please visit the [Zoom tutorial](#). I encourage you to review this prior to your scheduled Information Session.

If you are unable to attend this scheduled Information Session, you must email **dmparra@fiu.edu** within three (3) business days from the date of this letter to arrange an alternative appointment.

During this Information Session, you will:

- have the opportunity to share your perspective and provide additional information (if you so choose to) regarding these allegation(s);
- be provided information about the summary resolution and hearing processes; and,
- be given access to information supporting the charge(s) available at the time.

**Division of Academic and Student Affairs
Student Conduct**

Neither audio nor video recording of the session is permitted, but if you need any accommodations to participate in the Student Conduct Process, please let me know as soon as possible. You may resolve your case at this Information Session, waiving any applicable disciplinary proceeding rights, or you may select to proceed to a hearing. If this is an Academic Integrity case, your grade in the course will be an Incomplete (IN) until this case has been resolved.

At this Information Session, and throughout the disciplinary process, you have the following rights:

- Reasonable, written notice of the Code charge(s) and the allegations upon which the charge(s) is/are based;
- A presumption that no violation occurred;
- A fair and impartial hearing;
- The right to be accompanied by an Advisor of your choice and expense at any time during the Code process;
 - i. A list of advisors who can help you, for free, is available at: <https://dasa.fiu.edu/all-departments/student-conduct-and-academic-integrity/procedural-advisors/index.html>
- The opportunity to review all relevant information or evidence to be used in the hearing prior to the hearing;
- The ability to participate in the Student Conduct hearing either physically or by contemporaneous alternative means (e.g., Zoom, phone);
- The opportunity to present, or have your advisor present relevant witnesses and information at the hearing;
- The opportunity to question, or have your advisor question witnesses in accordance with the Hearing Procedures;
- Not to provide self-incriminating testimony. Invoking the right against self-incrimination will not be considered as a negative factor in the decision of the Hearing Officer or Hearing Body;
- Receive notification of the decision of the Hearing Body in writing within fourteen (14) Business Days of the hearing;
- Appeal the decision via the process established by the University.

Please refer to the [Student Conduct and Honor Code](#) for a detailed explanation of the student conduct process and for access to the complete Code.

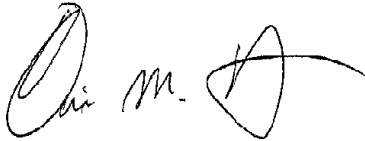
If you fail to attend the Information Session or to reschedule the appointment within three (3) business days of the date of this letter, you will:

- be deemed to waive your right to an Information Session;
- a hearing will be scheduled to resolve this matter; and,

- a hold will be placed on your record (if one has not already been placed). This hold will remain on your record until the case has been resolved (including the completion of any applicable sanctions), ensuring that any relevant transcript notation be assigned before your transcript is released and that your diploma is not conferred. If this is an Academic Integrity case, please note that your hold will not allow you to add/drop classes. If you need to update your enrollment, please contact me.

Finally, a list of resources is attached, but if you have any questions, please do not hesitate to contact me at **dmparra@fiu.edu**.

Sincerely,

A handwritten signature in black ink, appearing to read "Devin Parra". The signature is stylized and includes a large, sweeping flourish at the end.

Devin Parra

Assistant Dean of Students, Student Conduct and Academic Integrity

EXHIBIT 2

FIU News



OFFICE OF THE PRESIDENT

Campus & Community

A message from the President

March 10, 2026 at 7:05pm

Dear Panthers,

I am writing to provide an update on the university's response regarding the abhorrent and extremely disturbing private group chat.

The Office of Civil Rights and the Office of Student Conduct and Academic Integrity have reviewed more than 1,200 pages of evidence and initiated charges based on violations of the university's non-discrimination regulation and the Student Code of Conduct. I want to thank the individuals who have

brought forth additional reports and related information, which have helped with the ongoing investigation.

The university is prohibited from disclosing and discussing information about ongoing investigations and individual students based on the Family Educational Rights and Privacy Act (FERPA), a federal privacy law protecting student education records. The potential and implicated Student Code of Conduct charges we are pursuing include harassment, engaging in threats, and interfering with the rights of others, which carry consequences that may lead to suspension or expulsion from the university.

In addition, William Bejerano, an individual who is not affiliated with FIU but participated in the group chat, has been trespassed from campus by the FIU Police Department and is subject to arrest without further warning should he come onto any FIU property.

Over the past week, several members of FIU's administration and I have met with student leaders from across various student organizations to better understand and address their concerns.

Resources are available to members of the FIU community who feel impacted by the contents of the group chat.

Please find links to additional resources and FIU Student Health & Wellness avenues of support, including our Counseling and Psychological Services (CAPS). Their number is 305-348-2277. Some services are available 24 hours a day. Faculty and staff

resources are available through FIU's Office of Employee Assistance (OEA) at 305-348-2469 or via email at oea@fiu.edu.

If you have any information related to this incident, please report it immediately to report.fiu.edu or call 844-234-7742. You can also contact FIU Police at (305) 348-2626.

The administration and our Board of Trustees will not accept, tolerate, or condone any form of racism and antisemitism at FIU. It saddens me that our university has had to contend with this situation, and I commit to do everything in my power to ensure continued safety for all students, faculty, and staff at FIU.

Sincerely,



Jeanette M. Nuñez

President