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January 20, 2026

Dr. Kate Polak
Instructor
Department of English
kpolak@fau.edu

Re: Administrative Leave

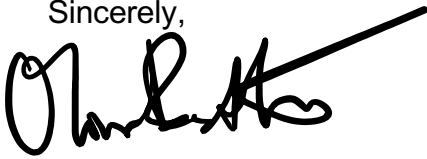
Dear Dr. Polak:

On September 15, 2025, you were placed on administrative leave with pay during the pendency of an investigation pursuant to FAU Board of Trustees and the UFF Collective Bargaining Agreement ("CBA") Articles 17.12(c), University Regulation 5.012, and University Policy 8.2. The University's investigation, conducted by external counsel Alan Lawson, has found "that the nature of several of the posts is such that discipline would be constitutionally permissible based upon their *potential* for harming the University's mission." Specifically, external counsel Lawson opined that those posts "fall well below the University's standards for civility and respect for others, carry the potential for institutional disruption and harm to the University's reputation and mission, and would be understood by most readers as condoning on-campus violence." However, the report has concluded that "although...the *Pickering* balancing test would allow discipline, disciplinary action does not appear warranted under Regulation 5.012 or Article 16 of the CBA."

As of today's date, January 20, 2026, you are no longer on administrative leave with pay. The Investigative Report and Recommendation with appendix are attached for your review. Please communicate with your Chair and Dean for further information about your assignment for the remainder of the Spring 2026 semester, and the University's expectations of civility and professionalism.

Your March 3, 2025, letter of appointment specifically states that "no further notice of cessation of employment is required" following CBA Article 12.2 (b) (5) and (6). As a professional courtesy, however, I want to inform you that the University has decided not to renew your appointment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Oliver Buckton', with a long, sweeping horizontal stroke extending to the right.

Oliver Buckton, Chair
Department of English

Cc: Stephen Engle, Ph.D., Associate Provost, Academic Personnel
Michael J. Horswell, Dean, College of Arts and Letters
Chee Ostinelli, Assistant Vice President
Human Resources Personnel File

INVESTIGATIVE REPORT AND RECOMMENDATION
Florida Atlantic University
Concerning Professor 3 (Administrative Leave – September 2025)

I. EXECUTIVE SUMMARY

Florida Atlantic University retained independent outside counsel to conduct a comprehensive and impartial investigation into concerns arising from social-media statements made by a University faculty member – designated in this report as Professor 3 – who was placed on paid administrative leave in September 2025 under University Regulation 5.012. The investigation’s purpose was to determine, based solely on verified evidence and in conformity with governing University and constitutional standards, whether any conduct violated institutional policies, the UFF-FAU Collective Bargaining Agreement (2025–2028), or applicable law.

The inquiry was administrative and fact-finding in nature. It did not constitute a disciplinary proceeding and carried no presumptive outcome. The investigation asked three related questions: first, whether the social-media activity at issue constituted speech by a private citizen on matters of public concern under the First Amendment to the United States Constitution and Article I, Section 4 of the Florida Constitution; second, whether the content or manner of that speech implicated any University regulation, policy, or professional-responsibility standard; and third, whether the University’s procedural response, including the decision to place the professor on paid administrative leave, complied with Regulation 5.012 and the procedural safeguards set forth in the CBA.

The verified record shows that Professor 3 engaged in expressive activity from personal accounts, using personal devices, outside the scope of assigned duties and without invoking University authority or using University-sponsored platforms. The posts occurred during a period of heightened public attention following the assassination of Charlie Kirk and addressed protest activity, law-enforcement presence on and around campus, and broader political and institutional issues. Although the tone and content of several posts prompted external concern and internal review, the investigation found no evidence that the statements disrupted classroom instruction, student welfare, or University operations.

Applying the public-employee speech framework established in *Pickering v. Board of Education*, 391 U.S. 563 (1968); *Connick v. Myers*, 461 U.S. 138 (1983); *Garcetti v. Ceballos*, 547 U.S. 410 (2006); and *Lane v. Franks*, 573 U.S. 228 (2014), and guided by Eleventh Circuit precedent in *Bishop v. Aronov*, 926 F.2d 1066 (11th Cir. 1991), *Labriola v. Miami-Dade County*, 142 F.4th 1305 (11th Cir. 2025), and *Moss v. City of Pembroke Pines*, 782 F.3d 613 (11th Cir. 2015), the investigation concludes that the expressions at issue qualify as speech

by a private citizen on matters of public concern. On this evidentiary record, counsel concludes that the nature of several of the posts is such that discipline would be constitutionally permissible based upon their *potential* for harming the University's mission. However, the University's regulations and the applicable collective bargaining agreement ("CBA") provide that discipline is only allowable for off-the-job conduct based upon facts demonstrating actual harm to the University's ability to carry out its mission – which has not been demonstrated on the record reviewed.

The University's procedural conduct throughout this matter has been consistent with Regulation 5.012 and Article 16 of the CBA. Professor 3 received written notice of the administrative leave, an opportunity to respond, and the protections associated with representation and participation in an internal review. Her personnel file reflects no prior discipline and documents a record of effective teaching and performance.

Under the governing University regulations and CBA, outside investigative counsel's role in this administrative review does not encompass recommending a specific disciplinary outcome. Florida Atlantic University, as the appointing authority, retains full discretion to assess the matter in light of its operational interests, institutional standards, and broader academic environment, and to determine any next steps consistent with its contractual and constitutional obligations.

II. METHODOLOGY

This investigation proceeded under Florida Atlantic University Regulation 5.012(2) and Articles 16, 17, and 19 of the UFF-FAU Collective Bargaining Agreement (2025–2028), which jointly authorize a neutral inquiry into alleged faculty misconduct while guaranteeing basic procedural fairness and representational rights. The inquiry applied a preponderance-of-the-evidence standard consistent with University policy governing administrative fact-finding rather than criminal or civil adjudication.

The investigation was conducted as a neutral, fact-finding administrative process. Evidence was collected through structured interviews with relevant participants, review and authentication of documentary materials, and examination of social-media screenshots submitted with the complaints. Professor 3 received advance notice of the general topics to be addressed, the right to union representation or other counsel, and a full opportunity to respond, provide context, and identify additional materials for consideration. Credibility assessments were grounded in internal consistency, corroboration across sources, and alignment with contemporaneous documents, not on the political content of any viewpoint expressed.

Legal conclusions were drawn from the evidentiary record and from controlling federal and state authorities. The governing standards for public-employee speech derive from *Pickering*, *Connick*, *Garcetti*, and *Lane* and are informed by Eleventh Circuit

applications, including *Bishop* and *Labriola*, and *Moss*. Standards governing professional conduct, nondiscrimination, and civility reflect *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (recognizing hostile-work-environment sexual harassment as actionable discrimination under Title VII); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998) (addressing employer vicarious liability for sexual harassment by supervisory employees under Title VII); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998); *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998); *Bostock v. Clayton County*, 590 U.S. 644 (2020); and *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999), along with applicable University regulations and policies. Principles of procedural fairness are reflected in Regulation 5.012 and Article 19 of the CBA, including the requirements of timely notice, evenhanded application of rules, fair investigation, and cooperative participation in the process.

The investigator remained impartial throughout and drew no inference beyond the documented record. Every factual statement and conclusion in this report rests on the verified evidentiary record and the institutional and legal framework described above. Ultimate decisions regarding discipline or other outcomes remain with the University.

III. GOVERNING FRAMEWORK

Florida Atlantic University's evaluation of faculty conduct is grounded in a structured hierarchy of authority encompassing University regulation, Board policy, collective bargaining obligations, and constitutional law. Together, these sources define both the University's right to maintain professional standards and each faculty member's correlative rights to academic freedom, due process, and free expression.

A. University Regulation 5.012 - Employee Standards and Disciplinary Procedures

Regulation 5.012 governs both the substantive standards and procedural safeguards applicable to University employees. It requires respect for the rights of others, conduct supportive of the University's mission, faithful performance of duties, and adherence to all regulations and directives. Departures from these standards constitute offenses subject to discipline.

The Regulation embodies a just-cause system. Before imposing discipline, the University must determine that the employee had notice, that the conduct was job-related, that an objective investigation supports a reasonable belief of misconduct, that treatment is consistent with past practice, and that the proposed action is proportionate. Subsection (4)(x) defines conduct unbecoming a public employee as conduct, on or off duty, that adversely affects the employee's ability to perform assigned duties or the University's ability to fulfill its mission. Subsection (4)(qq) requires employees to fully and candidly cooperate with the University's investigations and forbids interference.

Regulation 5.012 further authorizes administrative leave, with or without pay, when continued presence could impair operations or compromise safety, provided written notice issues within two workdays. The Regulation applies to acts both on and off campus when relevant to University functions. In practice, it supplies the procedural backbone for any action taken under the University's Standards of Conduct.

Finally, the Regulation defines conduct unbecoming a public employee as: "Conduct, whether on or off the job, which adversely affects the employee's ability to continue to perform his assigned duties, or the University's ability to carry out its assigned mission."

B. Policy 8.2 – Standards of Conduct

Policy 8.2 establishes the ethical and professional expectations applicable to all University personnel. It emphasizes honesty, integrity, respect, and civility in workplace conduct, requiring employees to avoid behavior that undermines public confidence or impairs collegial relations. The policy functions as a daily expression of Regulation 5.012's broader mandate and must be interpreted consistently with academic-freedom protections. In investigations, it serves as a benchmark for determining whether language or behavior reflects professional judgment or crosses into misconduct inconsistent with the University's stated values.

C. Policy 9.2 – Social Media and Online Conduct

Policy 9.2 governs online activity undertaken by University employees. It recognizes that faculty and staff speaking in a personal capacity enjoy constitutional protection but urges them to exercise discretion and professionalism when engaging in public discourse. The policy distinguishes personal from institutional speech and directs that any review of online content account for context, audience, and intent. Its purpose is not to censor expression but to preserve the boundary between individual viewpoints and institutional representation while maintaining trust in the University's reputation for civility and scholarly engagement.

D. Faculty Handbook (Revised July 2025)

The Faculty Handbook carries regulatory force and articulates both rights and responsibilities associated with academic freedom. It affirms that freedom of inquiry and expression is fundamental to scholarship, while emphasizing corresponding duties of accuracy, restraint, and respect for others' opinions. Faculty may speak as citizens but should clarify that they do not speak for the University. The Handbook defines professional fitness in terms of competence, integrity, and respect toward students and colleagues and reinforces the University's obligations to maintain safety,

nondiscrimination, and the public trust essential to its educational mission. The Handbook also contains a “Mission and Values” statement that expresses the University’s aim to develop in its students “the capacity to make reasoned and discriminating judgments with respect to differing ideas and perspectives,” a respect for “all persons,” “civility in all interactions,” and the provision of “a secure environment for the pursuit of learning.” All faculty are expected to model and foster these values.

E. UFF-FAU Collective Bargaining Agreement (2025–2028)

The Collective Bargaining Agreement supplements these institutional sources with negotiated rights and procedures. Article 5 guarantees academic freedom, requiring that it be exercised responsibly and ethically. Article 16 authorizes administrative leave consistent with University regulations when necessary to protect institutional interests or preserve investigatory integrity. Article 19 establishes the just-cause framework for discipline—requiring notice, fair investigation, proportionality, and consistency with past practice—and favors corrective or educational measures when appropriate. Where the CBA and Regulation 5.012 conflict, the CBA governs for bargaining-unit members. Article 5 further affirms faculty members’ right to freedom of expression in teaching, research, and public discourse, free from institutional censorship or discipline when speaking as citizens, subject to the responsibilities of accuracy, restraint, and respect.

Article 16 of the CBA also sets forth the “just cause” standard for discipline. The article defines just cause as “incompetence” or “misconduct” and provides that “[a]n employee’s activities which fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate interests of the University.”

F. Constitutional and Statutory Principles

As a public institution, FAU must ensure that its disciplinary processes conform to constitutional and statutory standards. Under *Pickering v. Board of Education*, 391 U.S. 563 (1968); *Connick v. Myers*, 461 U.S. 138 (1983); *Garcetti v. Ceballos*, 547 U.S. 410 (2006); and *Lane v. Franks*, 573 U.S. 228 (2014), employee speech is protected when made as a private citizen on matters of public concern and when the employer cannot demonstrate that institutional interests outweigh the expressive value. *Bishop v. Aronov*, 926 F.2d 1066 (11th Cir. 1991) and *Labriola v. Miami-Dade County*, 142 F.4th 1305 (11th Cir. 2025) further hold that universities must base restrictions on demonstrable disruption, not viewpoint disagreement.

In parallel, the Florida Civil Rights Act and Title VII precedents—*Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998); *Bostock v. Clayton County*, 590 U.S. 644 (2020); and *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)—require the

University to prevent unlawful discrimination and harassment while preserving protected speech that merely offends or provokes disagreement.

G. Synthesis

Regulation 5.012 supplies the enforceable standards and procedural foundation. Policies 8.2 and 9.2 apply those standards to professional and online conduct. The Faculty Handbook defines academic freedom and professional fitness, and the CBA guarantees process and proportionality. Constitutional law establishes the outer boundaries of institutional authority. The University must harmonize these sources, protecting faculty expression and fairness while preserving order, safety, and mission fidelity. This balance governs the analyses and recommendations below.

IV. FINDINGS AND LEGAL ANALYSIS: PROFESSOR 3

A. Factual Findings

Professor 3 is a full-time, non-tenure-track faculty member in the College of Arts and Letters. Her appointment is governed by FAU Regulation 5.012; Policies 8.2 and 9.2; the Faculty Handbook (rev. July 2025); and the 2025-2028 UFF-FAU Collective Bargaining Agreement. At the time of the events at issue, her personnel file reflected successful performance and no prior discipline.

In early September 2025, the University received complaints from external and internal sources concerning statements attributed to Professor 3 on her personal Facebook account. The complaints enclosed screenshots of posts and associated comment threads. In those materials, Professor 3 discussed her participation in campus protest activity, commented on law-enforcement presence on and near campus, and expressed views about political and social issues that had drawn intense public attention following the assassination of Charlie Kirk. She also commented on institutional responses to the protest environment and on aspects of her own employment relationship, including compensation and expectations about availability outside regular working hours. While some of the posts do not warrant consideration for discipline, three posts do. Each of the three fall well below the University's standards for civility and respect for others, carry the potential for institutional disruption and harm to the University's reputation and mission, and would be understood by most readers as condoning on-campus violence. All three objectively appear to celebrate the assassination of Charlie Kirk on a college campus. One called him a "lying fuckturd," stating that seeing him shot was a "win" that the author "enjoyed." Another offered to share screenshots and video of "the exact moment," followed by the initialism "lol." The third stated: "Delighting in the death of someone who wished death on us isn't sick. It's self-defense." Another post did state, "I

am not in support of what happened to Charlie Kirk,” but added that “Charlie Kirk was in support of what happened to Charlie Kirk.”

On September 15, 2025, after reviewing the complaints, the University placed Professor 3 on paid administrative leave under Regulation 5.012 and Article 17.12(c) of the CBA. The Notice of Administrative Leave cited concern that her continued presence might adversely affect University operations or safety while the referenced conduct was reviewed. The University verified that the Facebook account in question was personally maintained by Professor 3; that the screenshots accurately depicted posts authored from that account; and that, at the time they were captured, the posts were viewable by audiences beyond her immediate personal network. The University did not attempt to reconstruct or monitor the account beyond the materials submitted.

During her interview, Professor 3 acknowledged authorship of the posts, explained that the statements were composed outside working hours on personal devices, and emphasized that she was not speaking on behalf of FAU. Professor 3 acknowledged responsibility for these posts and explained that they were never intended for public viewing. Rather, Professor 3 believed that the posts would only be viewed by a small group of friends. She explained that the statements pertaining to Charlie Kirk were not intended to condone gun violence or celebrate the death of Kirk as a victim of gun violence—and that the intended audience would have understood that context because they know her and therefore know that she does not support or condone gun violence. During her interview, Professor 3 also acknowledged that her posts could be misunderstood and expressed willingness to accept guidance about the intersection of social-media use and professional responsibilities.

Despite the highly provocative nature of the posts, they were apparently not viewed widely, and the University received only three email complaints regarding them. There may have been other social media expressing concern about Professor 3, and recognizing her affiliation with the University, but none have been provided. The investigation and review are limited to the materials provided, how the posts appear in the record, and the context given by the professor.

Throughout the administrative-leave period, the University reassigned or transitioned her courses so that students experienced no interruption of instruction. It should be noted that Professor 3’s online threat to take legal action against any faculty member covering her classes could have caused disruption. However, the investigation identified no reports of classroom disruption, interference with academic duties, or adverse student impact arising from the posts. No witness reported changes in enrollment, complaints from students in her classes, or other concrete operational effects beyond the need to adjust course coverage while she was on leave.

Except for the threat to sue any University employee who attempted to use her teaching materials to cover her classes, Professor 3 cooperated with the University's process. She responded to all inquiries, and expressed a willingness to follow guidance regarding future social-media use.

B. Legal Policy and Analysis

The issues presented require assessment under both the constitutional framework governing public-employee speech and the institutional standards set forth in Regulation 5.012, related policies, and the CBA. The analysis now proceeds under three inquiries: (1) protected-speech status; (2) consistency with University regulations, policies, and professional-responsibility standards; and (3) procedural compliance with applicable due-process and collective-bargaining provisions.

1. Protected-Speech Inquiry

The governing First Amendment framework derives from *Pickering*, *Connick*, *Garcetti*, and *Lane*, as applied in the university context by *Bishop* and *Labriola*. Together, these decisions require the University to classify the speech, determine whether it addresses matters of public concern, and then balance the employee's expressive interests against the employer's operational interests.

Under *Garcetti*, when public employees speak "pursuant to their official duties," their speech is not protected in the same way as citizen speech. Here, the record shows that Professor 3 posted from a personal Facebook account, using personal devices and personal time, and did not invoke her faculty role or use University-sponsored channels. She did not present the posts as instructional materials or official communications. On this record, the statements are properly classified as speech by a private citizen rather than speech made pursuant to official duties.

Under *Connick* and *Lane*, employee speech involves matters of public concern when it relates to political, social, or other issues of legitimate interest to the community, as opposed to internal personnel grievances. With the exception of the post regarding coverage of her classes, Professor 3's posts addressed national political controversy, law-enforcement presence at public demonstrations, institutional responses to protest, and the broader public climate following the assassination of a prominent political figure. These topics lie at the core of public-concern speech, even when expressed informally or in strongly worded terms. Although some comments also touched on her personal employment conditions, the overall thrust of the posts is directed to public issues and institutional responses rather than purely private matters.

Once speech is classified as private-citizen expression on matters of public concern, *Pickering* and *Bishop* require that the employee's right to speak be balanced

against the employer's interest in maintaining efficient operations, preserving discipline and harmony in the workplace, and protecting the integrity of its mission. In applying that balance, courts in this Circuit have made clear that public employers may not rely on conjecture or generalized reputational concerns alone. In *Moss v. City of Pembroke Pines*, 782 F.3d 613 (11th Cir. 2015), and *Labriola*, 142 F.4th 1305, the Eleventh Circuit emphasized that employer action must rest on evidence of actual or reasonably predicted disruption, such as damaged working relationships, impaired performance, or interference with institutional functions, rather than speculative fears about controversy.

Here, the record shows that complaints were received, that the University took them seriously, and that classes were temporarily reassigned during the administrative-leave period. The investigation uncovered no evidence of disruption to classroom instruction, adverse impact on students, or concrete interference with University operations beyond the administrative steps necessary to manage the leave and course coverage. No witness described changes in enrollment or specific obstacles to departmental functioning caused by the posts.

However, with respect to the wholly unprofessional posts that appear to condone and celebrate gun violence on a college campus, I conclude that the *Pickering* balancing test would allow for disciplinary action over any First Amendment objection, so long as the University determines that discipline is necessary to protect the integrity of its mission. Important to this conclusion are that although Professor 3 stated that she did not intend to communicate beyond a close group of friends, “[w]riting on Facebook is accurately compared to writing a letter to a local newspaper and suggests an intent to communicate to the public.” *Hussey v. City of Cambridge*, 720 F. Supp. 3d 41, 54 (D. Mass. 2024), *aff'd*, 149 F.4th 57 (1st Cir. 2025) (citations and quotations omitted). And, an individual “takes a gamble in posting content on the internet as there is a lack of control one has over its further dissemination.” *Id.*; *see also Duke v. Hamil*, 997 F. Supp. 2d 1291, 1302 (N.D. Ga. 2014) (rejecting argument that government employee should enjoy First Amendment protection because he intended private Facebook post to be viewed “only by close friends and family that had access to his Facebook page,” when “despite his intentions and his quick removal of it, the post became public”). Moreover, “[t]he government’s legitimate interest in avoiding disruption does not require proof of disruption.” *Moss*, 782 F.3d at 622. Rather, the “[r]easonable possibility of adverse harm is all that is required.” That harm includes the University’s “reputation and the public’s trust,” *Duke*, 997 F. Supp. 2d at 1302 (explaining that “a genuine potential for speech to harm a [government employer’s] reputation also justifies an employer taking action before that harm is realized”) (citing *Connick*, 461 U.S. at 151-52). Finally, the value of Professor 3’s speech “is lessened by the inflammatory and insulting manner in which [her] post was written.” *Hussey*, 720 F. Supp. 3d at 55. While even highly offensive personal speech can be protected under the First Amendment, I conclude that celebrating violence using highly unprofessional language—in a Facebook post that could go viral—goes beyond protected political commentary because it carries the very real potential of

undermining legitimate educational interests, and the University's mission, if corrective action is not taken. *Moss*, 782 F.3d at 622; *Duke*, 997 F. Supp. 2d at 1302.

2. Policy and Professional-Standards Review

Separately from the constitutional analysis, the University must determine whether the conduct in question implicates institutional standards. Regulation 5.012(2) requires employees to respect the rights of others, support the University's mission, and comply with applicable policies. Regulation 5.012(4)(x) defines "conduct unbecoming a public employee" as behavior, on or off duty, that adversely affects assigned duties or impairs the University's mission. Policy 8.2 emphasizes integrity, civility, and professionalism; the Faculty Handbook underscores that academic freedom carries responsibilities of accuracy, restraint, and respect; and Policy 9.2 applies these expectations to online conduct by distinguishing personal from institutional speech and prohibiting misuse of University marks, disclosure of confidential information, or misrepresentation of affiliation.

The record shows that Professor 3's posts were authored on a personal social-media account. They did not purport to speak on behalf of FAU, did not use official University channels, and did not disclose confidential information or student-specific data. The comments included strongly worded political views, criticism of law-enforcement and institutional actors, and informal exchanges involving humor and satire – along with the posts discussed above that most readers would view as celebrating and condoning the on-campus assassination of a political figure. Although some readers reported the posts to the University as highly offensive or inconsistent with their expectations of a faculty member, the investigation identified no evidence that the posts impaired Professor 3's instructional performance, adversely affected students, disrupted University functions, or caused institutional harm as of the date of this report.

Under Regulation 5.012(3)(b), disciplinary action may only be taken for an offense that occurs while the employee is off duty if a decision has been made, supported by facts, that the conduct "adversely affects the employee's ability to perform assigned duties, or the University's ability to carry out its mission and purpose." On this record, no such effect is documented. Disciplinary action is not warranted, therefore, unless the University were to at some point in the future make a determination, supported by facts, that the standard in Regulation 5.012(3)(b) has been met. Article 16.1 of the CBA contains a similar provision, only allowing discipline for an employee's activities which fall outside the scope of employment if those activities "adversely affect the legitimate interests of the University."

3. Procedural and Contractual Compliance

Finally, 5.012(6) permits administrative leave with pay when an employee's continued presence may adversely affect operations or safety, and Article 17.12(c) of the CBA provides parallel authority for bargaining-unit faculty. Article 19 requires that any discipline ultimately imposed be supported by just cause, including notice, a fair and objective investigation, substantial proof of job-related misconduct, proportionality in light of the employee's record and the seriousness of the offense, and consistency with past practice.

The record reflects that the University acted within its procedural authority in placing Professor 3 on paid administrative leave, issuing written notice, and affording her the opportunity to respond and participate in this review. The investigation uncovered no deviation from the procedural safeguards of Regulation 5.012 or the CBA. In particular, the decision to use paid administrative leave was consistent with Regulation 5.012's authorization of precautionary measures designed to protect operations and safety while the University evaluates a matter.

C. Conclusions and Recommendations

The constitutional and contractual standards governing public-employee speech require demonstrable evidence that the University's operational interests outweigh a faculty member's expressive rights before discipline may be imposed for protected expression. On the record developed in this administrative review, although counsel has determined that the *Pickering* balancing test would allow discipline, disciplinary action does not appear warranted under Regulation 5.012 or Article 16 of the CBA. Whether the requirements of those provisions are satisfied necessarily depends on judgments about operational impact, institutional interests, and the weight to be given to mitigating or aggravating considerations. Although those judgments ultimately belong to FAU, and not to outside investigative counsel, the investigation has not uncovered facts that would warrant discipline under those provisions (relating to conduct outside the scope of employment).

Notwithstanding this conclusion, Florida Atlantic University retains full discretion to evaluate its operational interests, apply its institutional standards, and determine any next steps, whether disciplinary, corrective, educational, or otherwise, consistent with its constitutional and contractual obligations and its broader academic mission.

A. Appendices (Professor 3)

1. Appendix 1 – Verified Record Materials

The following materials constitute the complete evidentiary record review in the investigation concerning Professor 3:

- i. Social-media posts authored by Professor 3 on a personal Facebook account in early September 2025, concerning protest activity, law-enforcement presence on and near campus, political developments following the assassination of Charlie Kirk, institutional responses to those events, and aspects of her employment relationship (including compensation and expectations regarding availability outside regular working hours).
- ii. Complaint communications received by the University in early September 2025 from external and internal sources, enclosing screenshots of the posts and expressing concern regarding the tone and content of the social-media activity.
- iii. Notice of Administrative Leave with Pay issued to Professor 3 on September 15, 2025 pursuant to Regulation 5.012, Policy 8.2, and Article 17.12(c) of the UFF-FAU Collective Bargaining Agreement.
- iv. Any written response or supporting materials submitted by or on behalf of Professor 3 for inclusion in the closed investigatory record (if provided).

2. Appendix 2 – Key Governing Authorities

Florida Atlantic University Regulation 5.012 (Employee Standards and Disciplinary Procedures): Defines conduct expectations, investigatory authority, “conduct unbecoming,” cooperation obligations, and authorization for administrative leave with pay.

FAU Policy 8.2 (Standards of Conduct): Establishes expectations of integrity, professionalism, civility, and respect for the rights of others.

FAU Policy 9.2 (Social Media and Online Conduct): Applies professional and institutional-responsibility standards to online expression.

UFF-FAU Collective Bargaining Agreement (2025–2028): Article 17.12(c) authorizes paid administrative leave pending investigation; Article 19 sets forth the just-cause framework governing discipline.

Faculty Handbook (Revised July 2025): Articulates academic-freedom principles and corresponding professional responsibilities.

***Pickering v. Board of Education*, 391 U.S. 563 (1968):** Establishes balancing test for public-employee speech on matters of public concern.

***Connick v. Myers*, 461 U.S. 138 (1983):** Limits protection to speech involving matters of public concern.

***Garcetti v. Ceballos*, 547 U.S. 410 (2006):** Holds that employee speech made pursuant to official duties is not constitutionally protected.

***Lane v. Franks*, 573 U.S. 228 (2014):** Confirms protection for speech by public employees when speaking as private citizens on matters of public concern.

***Bishop v. Aronov*, 926 F.2d 1066 (11th Cir. 1991):** Affirms university authority to regulate instructional-context speech when justified by pedagogical or operational interests.

***Labriola v. Miami-Dade County*, 142 F.4th 1305 (11th Cir. 2025):** Reiterates that a public employer must base adverse action on a specific, evidence-supported prediction of disruption, and cannot rely on speculation or generalized fears under the *Pickering* balance.

***Moss v. City of Pembroke Pines*, 782 F.3d 613 (11th Cir. 2015):** Confirms that employers may act on a reasonable, fact-supported prediction of harm, not mere speculation.

***Hussey v. City of Cambridge*, 720 F. Supp. 3d 41 (D. Mass. 2024), *aff'd*, 149 F.4th 57 (1st Cir. 2025):** Treats Facebook posts as public-facing speech and permits employer action based on a reasonable prediction of disruption.

***Duke v. Hamil*, 997 F. Supp. 2d 1291 (N.D. Ga. 2014):** Holds that intended-private social-media posts may be treated as public and support employer action based on potential reputational harm.

***Meritor Sav. Bank v. Vinson*, 477 U.S. 57 (1986):** Defines standards for severe-or-pervasive harassment.

***Faragher v. City of Boca Raton*, 524 U.S. 775 (1998):** Clarifies employer liability for supervisor harassment.

***Burlington Indus. v. Ellerth*, 524 U.S. 742 (1998):** Sets vicarious-liability standards for harassment without tangible employment action.

***Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75 (1998):** Confirms that actionable harassment may occur regardless of parties' sex.

Bostock v. Clayton Cnty., 590 U.S. 644 (2020): Holds discrimination based on sexual orientation or gender identity is discrimination “because of sex.”

Davis v. Monroe Cnty. Bd. of Educ., 526 U.S. 629 (1999): Defines when harassment in educational settings is sufficiently severe, pervasive, and objectively offensive.

V. PROPORTIONALITY AND RISK MITIGATION

The investigation concerning Professor 3 was conducted under a uniform evidentiary standard and consistent procedural framework. Each inquiry examined whether the individual’s conduct, as documented in the closed record, violated University policy, the UFF-FAU Collective Bargaining Agreement, or constitutional limits on public-employee discipline. Throughout the process, the evidence demonstrates that the University acted with restraint, procedural care, and viewpoint neutrality.

The findings reflect that Professor 3’s social-media statements were authored in a personal capacity on matters of public concern during a period of unusual political intensity. The record contains no evidence of targeted harassment or material disruption to University operations. Within this context, *Pickering*, *Bishop*, *Moss*, and *Labriola* caution public employers—particularly universities—against disciplinary decisions based solely on the controversial nature of protected speech, absent a demonstrable showing of operational impairment—although counsel has determined that discipline would be permitted under the Constitution for the reasons explained above. Regulation 5.012 and Article 16 of the CBA are more exacting and require that any discipline be job-related or based upon supported findings of an adverse effect on job performance or on the University’s mission—determinations that rest with the University as appointing authority. They also require any discipline to be proportionate and consistent with past practice.

The proportionality principles embedded in Regulation 5.012 and Article 16 underscore the distinction between precautionary administrative measures and formal discipline. The University’s decision to place Professor 3 on paid administrative leave during the review functioned as a temporary protective measure, not as a punitive sanction. Any further evaluation of potential outcomes, ranging from no action to guidance, counseling, or formal discipline, lies within the University’s discretion, guided by its assessment of operational needs, legal constraints, institutional expectations, and the broader academic environment.

Institutionally, this matter highlights the ongoing challenge many universities face in distinguishing expressive conduct that may offend or alarm from conduct that materially disrupts the institution’s mission or violates defined standards. Forward-looking risk-mitigation efforts may therefore appropriately emphasize preventive and educational strategies rather than reactive sanctions alone. Without making any specific

recommendation, outside counsel notes that the University may, consistent with its prerogatives, consider periodic training for faculty and academic administrators on the intersection of academic freedom, social-media use, and professional responsibility; clarify guidance on when and how personal speech may be perceived as institutional; and continue refining communication channels for reporting concerns so they can be evaluated and addressed at an early stage.

This investigation affirms the University's commitment to balancing constitutional protections with institutional obligations. By adhering to established procedures, maintaining neutrality, and respecting faculty expressive rights, the University reinforces the integrity of its disciplinary framework while preserving the discretion necessary to address future matters involving public expression by members of its academic community.

CERTIFICATION

I hereby certify that the foregoing report and recommendations are based solely on the verified evidentiary record provided by Florida Atlantic University, together with the governing regulations, policies, collective-bargaining provisions, and controlling legal authorities identified herein. All findings, analyses, and conclusions have been prepared independently and reflect an impartial, fact-based evaluation conducted under the preponderance-of-evidence standard. This report is submitted to the University in fulfillment of the investigatory mandate established under Regulation 5.012 and the applicable provisions of the UFF-FAU Collective Bargaining Agreement.

Dated: January 19, 2026

Respectfully submitted,



Alan Lawson

CERTIFIED MAIL, RETURN RECEIPT REQUESTED and EMAIL

September 15, 2025

Dr. Kate Polak
Instructor
Department of English

Re: Notice of Administrative Leave with Pay

Dear Dr. Polak:

Pursuant to FAU Board of Trustees and the UFF Collective Bargaining Agreement (“CBA”) Articles 17.12(c), University Regulation 5.012, and University Policy 8.2, you are being placed on administrative leave with pay, **effective immediately and until you receive further notice from a university official**. The University has received complaints which gives us reason to believe that your continued presence on the job adversely affects university operations, and this action is being taken during the pendency of an investigation. The investigation will include a review of your conduct including, but not limited to, your recent social media posts that the University reasonably believes might disrupt the efficient functioning of the University, and/or jeopardize the safety or welfare of other employees, colleagues, or students.

Sincerely,



Oliver Buckton
Chair, Department of English

Signature indicates acknowledgement of receipt of this Notice of Administrative Leave with Pay, dated September 15, 2025, and does not indicate agreement with the contents of the document.

Name

Date

Cc: Stephen Engle, Ph.D., Associate Provost, Academic Personnel
Michael J. Horswell, Dean, College of Arts and Letters
Chee Ostinelli, Assistant Vice President, Human Resources
Personnel File



Kate Polak

**Kate Polak**1h · 

The only good thing about this is that the emails seem to have abated. In other news, if you are a colleague and are asked to cover my classes, you may want to decline as that will wrap you into an intellectual property lawsuit I will file should I not be reinstated by the end of this week. My courses are my personal intellectual property—no one else can deliver them in the way I crafted.

By the way, if you've got ten minutes to be annoying on my behalf, the numbers are below. Please stress that I JUST want to be reinstated so I can continue to serve my students. I don't want anything further than to return to my life (though I would love an apology from whoever made this error as well)

President Adam Hasner: president@fau.edu
561.297.3450

Vice President Stacy Volnick: <mailto:svolnick@fau.edu>

Associate Vice President for Media Relations Joshua Glanzer
jglanzer@fau.edu
561-297-2676

 48

7 comments



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**Kate Polak**Stories ·  Tyla · 12h · 

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Kate Polak

**Kate Polak**2d · 

Ian and I were making fun of how cars are marketed and speculating on the names of future models. We are through a LOT of options and I had to briefly pull over because I was laughing so hard I was crying. Please feel free to add to the following list:

The Ford F-U50 ("TRUCK NUTS COME STANDARD")

The Dodge DickPuncher ("JUST LIKE THE DODGE BROTHERS DID")

The Toyota TitSlapper ("MOTORBOAT THIS")

The Mazda MILF ("YOU KNOW YOU WANT TO GET IN ONE")

The Kia Cuck ("WE LIKE TO WATCH OTHER CARS")

The Honda MONGO ("LORGE")

   18

11 comments



Like



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**Kate Polak**5d · 

Thanks to one of my amazing colleagues who observed my class this morning, as they relayed an incredible compliment they overheard. A student remarked to a friend that "Whatever is wrong with her, I want it." Can't nobody tell me nothing today 🦊🔥

   82

3 comments



Like



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**Kate Polak**6d • **Michael Gohn**

But how do you really feel

6d

Like

Reply

1 **Kate Polak**

[Michael Gohn](#) look, the most important thing to know about me is I am friends on social media with at least four people who could fire me. And this is still what I do. I am aware of their power and do not try to mess with it too much, but it is their choice about whether or not I stay employed

6d

Like

Reply

1 **Michael Gohn**

I say speak your mind.

6d

Like

Reply

1 **Kate Polak**

[Michael Gohn](#) ain't no one scaring me about \$53k-ish as base. You want to double that? I might get a sense of self-preservation on the financials. Until I see six figures, no gods, no loyalty. But even then, they're fucking with my sanity and my bottom line, which is basic: you don't request my presence, much less expect it, in off hours

6d

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Comment as Claire Rogers





Kate Polak

**Kate Polak**Sep 5 · 

I have been to a number of protests in recent months for obvious reasons, and generally do NOT post photos because of the fascism, but today, watching at least three law enforcement officers take pics specifically of ME (whack away, buddy, no conservatives have ever fucked me and they never will), I'll share today, partly because I'm proud of my students, current and former.

The cop presence was, quite frankly, insane. Our only weapons were a bongo and our voices. THEY HAD FUCKING SNIPERS. ON TOP OF BUILDINGS. FOR A CROWD OF AGING HIPPIES AND YOUNG ADULT STUDENTS. Many of the police were quite heavily armed. Was so delighted to hang with a few former and current students, some great colleagues (though not many—my father remembers to this day the ONE professor who joined the Kent State students during the protests), and a number of lovely people I got to meet. Under the eye of sniper rifles. On the campus I work on. At a peaceful, very chill protest. Fucking DISGUSTING.

Our own administration treated us like enemies today because we don't want our students (or ourselves!) hauled off into gulags.

Note that bikes are NOT allowed in the Breezeway!

I wore my sluttiest professional attire to make sure I looked like a Fox News anchor and yet sneered at all the bootlickers checking me out, and was pleased so many were startled by my disdain for their ineffectual intimidation. You all looked like small men, as did the men who sent you.



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<  **Jo Davis-McElligatt** is in Denton, TX. 
54m · 



Kate Polak · 32m

If anyone wants to see the exact moment, dm me—I've got screenshots and video lol

Reply



Kate Polak · 29m

And I'm gonna note, for anyone concerned about a crackdown, that was already happening before this. I was at a campus protest last Friday and there was at least one officer for every protestor, including SNIPERS AND DRONES. This is coming regardless, so I'm gonna enjoy the wins—having that lying fuckturd get shot right after he made a racist dog whistle is good news

Reply



4



Jo Davis-McElligatt · 26m

[Kate Polak](#) a campus protest with snipers??
??

Reply



1



Kate Polak · 25m

[Jo Davis-McElligatt](#) hang on—got to edit out identifying stuff

Reply

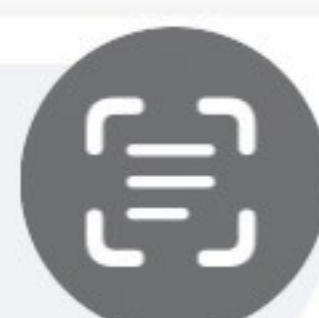


Jo Davis-McElligatt · 25m

[Kate Polak](#) omfg



Write a comment...



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**tamer_rousseau** 3d

Charlie Kirk built his whole career debating 18-year-old college kids whose brains aren't even fully developed. He was 31 years old, but his "opponents" were barely adults. That's not impressive... it's predatory.

23.1K 3.3K 1.5K 175

**kate.polak** 3d

And they were still smarter for the most part!

1

**garthhupka** 4d

Replying to @gamelawkate

**"When you think about it, we should be happy for him, he turned into his favorite thing.
A gun violence statistic."**



21 1

**kate.polak** 4d

Thaaaank you

1



[Back](#)

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Trader Joe's! They are 🔥🔥🔥

**cosmickingpin** 4d

Replying to @that_wolf_lady

Does he have a GoFundMe yet? Wanna buy that man a bottle!



390



6

**kate.polak** 4d

SAME



3

**dizzybee__** 4d

Replying to @kate.polak

You ppl are sick



1



1

**kate.polak** 4d

Delighting in the death of someone who wished death on us isn't sick. It's self-defense



1

**kate.polak** 5d

Reply to unavailable post

Sweet baby Jesus the screm I scrompt

**voters4equality** 5d

RIP Melissa and Mark Hortman, assassinated on June 14, along with their beloved dog Gilbert.



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year-old college kids whose brains aren't even fully developed. He was 31 years old, but his "opponents" were barely adults. That's not impressive... it's predatory.

23.1K 3.3K 1.5K 175



j_be_walking 3d

...

You knew nothing of the Man clearly, because he literally addressed why he wanted to speak with college kids. He was not debating with them, he was having discussions with young voters and allowing them to WILLINGLY ENGAGE in civil discourse. Voters are overwhelmingly idiots, but Charlie's methods of engagement educates the young in dealing with politics.

368 4 1



kate.polak 3d

...



1

More replies to j_be_walking



smitha418 3d

...



[Back](#)

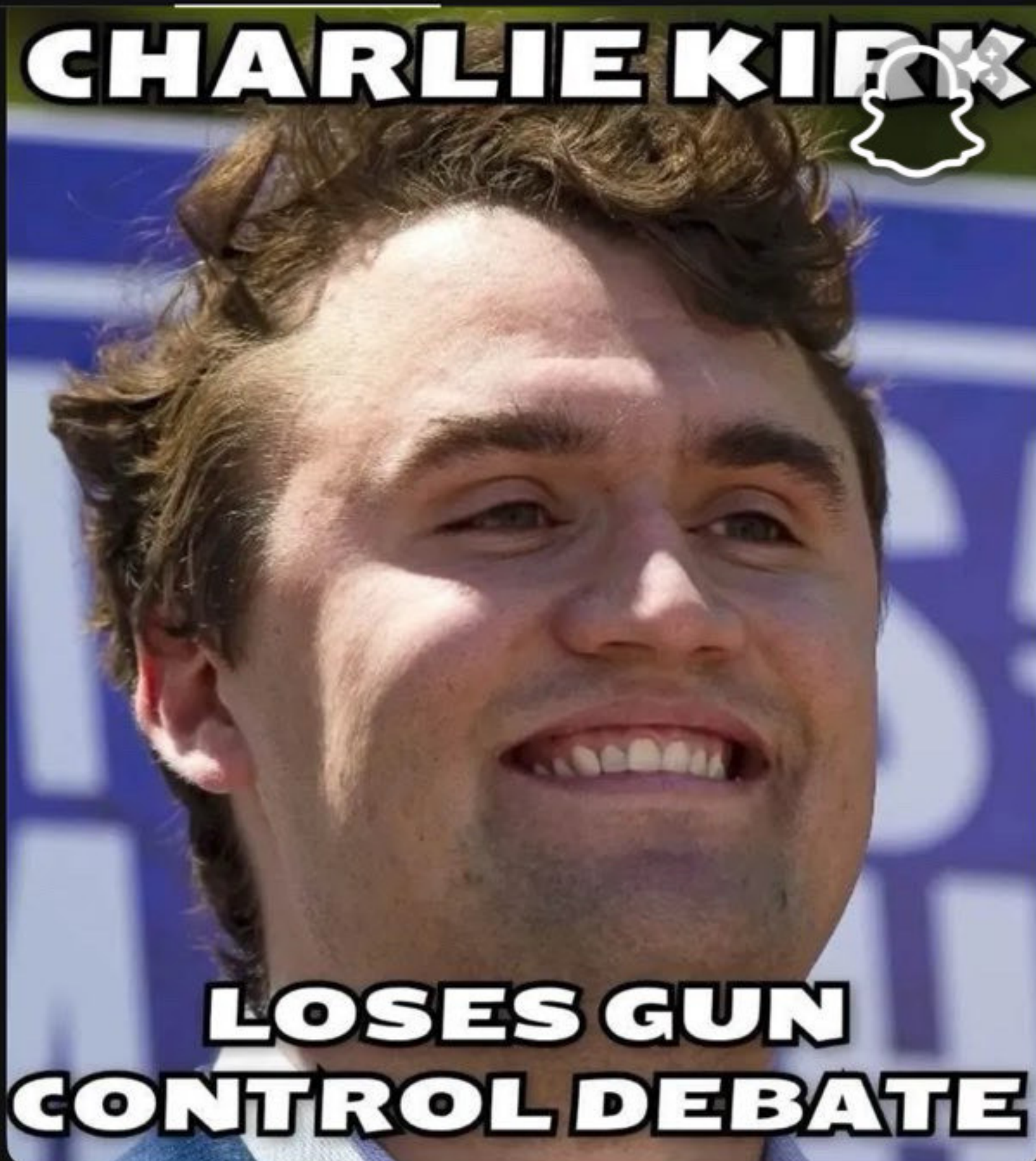
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20 1 2



kate.polak 5d

The scream I scrompt

5



foundationbyfoundation 9/5/25

So how do people blame the gun for gun related killings but only blame the drivers of cars for fatal car crashes? I don't get it.

1 4 1



kate.polak 5d

We actually do blame the cars. That's why you have



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representatives on various platforms, and reached a number that rings three times then goes to a busy signal? Y'all need to correct this mess because this is unprofessional

**kate.polak** 2d

“I am not in support of what happened to Charlie Kirk, but Charlie Kirk was in support of what happened to Charlie Kirk.”

**kate.polak** 09/06/25

Glitter Bug von Glimmer Tum, with my favorite stuffed animal, Punky



threads.com



Subject: Kate Polak (Florida Atlantic) disgusting and unprofessional comment on social media about Charlie Kirk
Date: Sunday, September 14, 2025 at 12:46:38 AM Eastern Daylight Time
From: Danny Willis
To: Chee Ostinelli
Attachments: IMG_9162.png

You don't often get email from alliancedw@gmail.com. [Learn why this is important](#)

EXTERNAL EMAIL : Exercise caution when responding, opening links, or opening attachments.

Kate Polak should be fired for her social media comment and disrespect for human life

4:47



<  **Jo Davis-McElligatt is in Denton, TX.** ...
54m · 



Kate Polak · 32m

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Reply



Kate Polak · 29m

And I'm gonna note, for anyone concerned about a crackdown, that was already happening before this. I was at a campus protest last Friday and there was at least one officer for every protestor, including SNIPERS AND DRONES. This is coming regardless, so I'm gonna enjoy the wins—having that living

i'm gonna enjoy the wins - having that lying fuckturd get shot right after he made a racist dog whistle is good news

Reply  4



Jo Davis-McElligatt · 26m

[Kate Polak](#) a campus protest with snipers??????????????????????????????????????
??

Reply  1



Kate Polak · 25m

[Jo Davis-McElligatt](#) hang on—got to edit out identifying stuff

Reply



Jo Davis-McElligatt · 25m

[Kate Polak](#) omfg



Write a comment...



Subject: Re: Kate Polak's Florida Atlantic University Disgusting and unprofessional social media public comments about Charlie Kirk.
Date: Sunday, September 14, 2025 at 12:43:52 AM Eastern Daylight Time
From: Danny Willis
To: Chee Ostinelli
Attachments: IMG_9162.png

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EXTERNAL EMAIL : Exercise caution when responding, opening links, or opening attachments.

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Reply  4



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Reply



Jo Davis-McElligatt · 25m

[Kate Polak](#) omfg



Write a comment...



On Sat, Sep 13, 2025 at 11:42 PM Danny Willis <alliancedw@gmail.com> wrote:

Subject: FW: Dr Kate Polak
Date: Tuesday, September 16, 2025 at 5:33:43 PM Eastern Daylight Time
From: Chee Ostinelli
To: Stacy Volnick
Attachments: IMG_5283.jpeg, IMG_5284.png, IMG_5274.png, IMG_5273.png, IMG_5285.png

From: Sarah James <sarahjamesfl1981@gmail.com>
Sent: Tuesday, September 16, 2025 12:29 PM
To: hres <hres@fau.edu>
Subject: Re: Dr Kate Polak

EXTERNAL EMAIL : Exercise caution when responding, opening links, or opening attachments.

I'd like to include some additional Facebook screen shots that indicate she is not reflecting well on the university or a positive representative to students in the way she speaks of the university. She has many students as online friends and considers herself a mentor yet is conducting herself in such a way that is reprehensible. Thank you.

On Tue, Sep 16, 2025 at 10:48 AM Sarah James <sarahjamesfl1981@gmail.com> wrote:

HR Dept,

I am writing to bring to your attention deeply concerning public statements made by one of your faculty members, Kate Polak, on social media. This individual has posted remarks celebrating the death of Charlie Kirk, even going so far as to laugh and mock his passing repeatedly online, posting photos which I've attached for reference in case she deletes her posts. There were others as well.

Regardless of one's political views, publicly mocking or celebrating the death of another human being is profoundly unprofessional and disturbing, especially for someone entrusted with educating and mentoring students. Such conduct raises serious questions about judgment, character, and whether this aligns with the standards and values of FAU.


I would like to understand how the university reconciles employing an individual who publicly endorses or trivializes violence and death. It reflects poorly not only on the professor but also on the institution as a whole. Free speech protects one from going to jail for words spoken. However, it does not protect them from repercussions from an employee. Governor DeSantis has made this clear by reiterating this in his recent address to educators and schools regarding the shooting.

Furthermore, an employer can generally fire an employee for an offensive social media post, particularly in at-will employment states such as FL, as long as the post doesn't violate anti-discrimination laws or protected speech rights, such as those regarding labor practices. Offensive posts can be grounds for termination if they damage the company's reputation, create a disruptive work environment, or conflict with company values and policies.

Thank you for your time and attention to this matter. I look forward to your response.



Kate Polak

**Kate Polak**2d · 

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18

11 comments



Like



Comment



Send

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82

3 comments



Like



Comment



Send



Kate Polak



Kate Polak

Sep 5 ·



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**Kate Polak**6d · **Michael Gohn**

But how do you really feel

6d Like Reply

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6d Like Reply

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6d Like Reply

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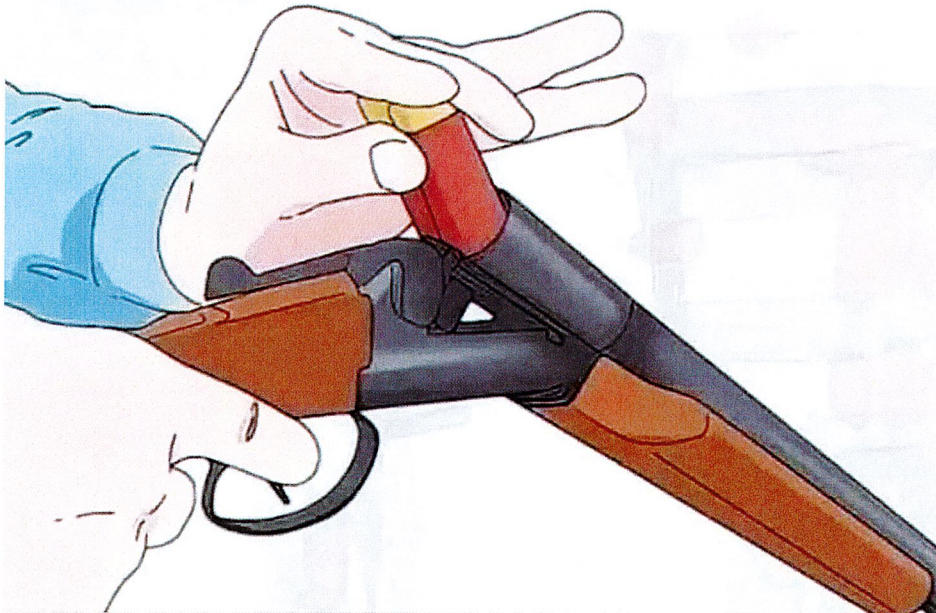


**Kate Polak**6d · 

After the Supreme Court ruling basically evacuating the Fourth Amendment, please remember that while I may not appear physically threatening, I will fistfight gods to keep my folks safe. But also, we need to note the wins. THE NRA SIDED WITH TRANS PEOPLE. I am not a member and never will be because of their abrogation of basic social ethics in allowing so many children to be murdered, but I am going to momentarily BRAPP BRAPP PEW PEW on their behalf for doing the right thing once.

What strange bedfellows we occasionally find in the moral arc of the universe.

We can't wait for God to do everything



Like



Comment




Send

  32

Comment as Claire Rogers



**Kate Polak**22h · 

I was just placed on administrative leave by FAU. So, it's happening again, the same old trauma I already experienced. Good times, good times. If you were involved in this, you have assisted in reactivating my PTSD pretty alarmingly, so thanks for that fun! Once I stop shaking, I'll be contacting my lawyer and my Union.



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Most relevant ▾

**Carly Schneider**
For posts?

22h Like Reply

**Kate Polak**
[Carly Schneider](#) YUP

22h Like Reply

11  **Michael Anes**
[Kate Polak](#) Oh that's ridiculous and horrible and I'm sorry.

22h Like Reply

**Carly Schneider**
[Kate Polak](#) I've been nervous all day worried I'll be suspended over mine.

22h Like Reply



Write a reply...



Comment as Claire Rogers



Joshua Glanzer

From: Sarah James <sarahjamesfl1981@gmail.com>
Sent: Tuesday, September 16, 2025 5:49 PM
To: FAU President; Stacy Volnick; Joshua Glanzer
Subject: Supporting Evidence Concerning Professor Kate Polak's Code of Conduct Violations
Attachments: IMG_5323.jpeg; IMG_5320.jpeg; IMG_5319.jpeg; IMG_5324.jpeg; IMG_5321.jpeg

You don't often get email from sarahjamesfl1981@gmail.com. [Learn why this is important](#)

EXTERNAL EMAIL : Exercise caution when responding, opening links, or opening attachments.

Dear President Hasner, Vice President Volnick, and Mr. Glanzer,

I want to thank you and the administration for responding promptly by placing Professor Kate Polak on administrative leave following her disturbing public comments. I appreciate that Florida Atlantic University is taking this matter seriously.

I did want to make you aware of several additional developments:

- Professor Polak has posted on her Facebook account, encouraging friends and colleagues to spam the administration and to refuse to cover her classes during her absence. She has also threatened legal action despite FL being an at-will employment state.
- She has since deleted many of her posts as well as her Threads account, which suggests she is attempting to conceal her actions. The University Press linked to one screenshot but omitted her own comment beneath the meme, which was highly inappropriate.
- For your records, I have attached relevant screenshots that provide the full context of her remarks. I will include additional screenshots in a reply all to this email as it will only allow me to attach 5 images. I want to include a trigger warning as one of the posts included a screenshot of Kirk right after the bullet hit him. I did not want to see that and felt physically ill after being exposed to that. I'm only sharing it as I think it's important for you to see the degree of inappropriateness in her posts. I also want you to have them should she pursue legal action because in her personal Facebook posts about being placed on leave she has said to her friends that she only posted very tame things, nothing disturbing which is just not true. She restated those false claims to the newspaper.

Given that this is her second time being formally reprimanded by the administration, I urge the university to hold her fully accountable. Her repeated violations of the faculty code of conduct demonstrate a pattern of behavior inconsistent with the professional and ethical standards expected of an educator. I respectfully ask that the university give serious consideration to terminating her employment.

Thank you again for your leadership and for working to uphold the values of Florida Atlantic University.

Sincerely,

Sarah James