

F. M. KIRBY FOUNDATION SOLICITATION EVALUATION FORM

DATE: February 27, 2024

REQUEST DATE: February 16, 2024

Program Area: Public Affairs/Society Benefit

Grant Type: Board Grant

APPLICANT:

Foundation for Individual Rights and Expression, Inc.
510 Walnut Street, Suite 900
Philadelphia, PA 19106

CONTACT: Mr. Greg Lukianoff, President

AMOUNT REQUESTED: \$150,000

BUDGETED AMOUNT: \$150,000

NATURE OF REQUEST: General Operating Support and Support of Expansion Campaign

GRANT HISTORY

SUPPORT: 2001-2023

OF APPROVED GRANTS: 23

TOTAL DOLLARS: \$1,135,000

LAST GRANT DATE: 06/30/2023

LAST GRANT AMOUNT: \$75,000

FYE DATE: 06/30

AFS DATE: 10/16/2023

Year Approved	Approved Amount	Approval Date	Grant Purpose
2023	\$75,000	06/30/2023	General Operating Support
2022	\$75,000	02/28/2022	General Operating Support
2021	\$70,000	02/26/2021	General Operating Support
2020	\$70,000	02/28/2020	General Operating Support
2019	\$75,000	02/28/2019	General Operating Support

LAST SITE VISIT DATE: November 2017

ENDORSEE: N/A

FINANCIAL ANALYSIS COMMENTS: The FY24 expense budget for the Foundation for Individual Rights and Expression (FIRE) projects a 6% increase over the prior year actuals. The FY24 revenue budget projects a 3% decrease from the prior year actuals. FIRE’s FY24 budget includes the release of ~\$12.8 million from cash reserves to supplement the budget as the

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organization scales up to an approximately \$36M annual organization. In addition to the \$23.5M they plan to raise this year, they are in the process of a \$100M capital campaign, for which they have raised over \$71M in the past two years. Those funds will replace the reserves they are tapping into as part of their expanding programming. The FY23 audit shows unrestricted net assets totaling \$37.1M, and a cash position is \$3.3M. This is a significant decrease from FY22, which is attributable to the cash reserve release noted previously. Investments are valued at \$35.5M. Total endowment value is \$24,386 and consists of one fund to support operations. Financial assets available for general expenditures within 12 months are \$41.7M. As per the FY23 audit, supporting services represented 13.3% of functional expenses. FMKF last approved a grant to FIRE in FY23. The amount accounted for less than 1% of grants and contributions. In FY24, FIRE is seeking a \$150K grant - \$75K general operating support and \$75K in support of its expansion campaign.

ORGANIZATION DESCRIPTION: The Foundation for Individual Rights in Education was founded in 1999 to combat censorship and due process violations on college campuses. In 2022, they changed their name to the Foundation for Individual Rights and Expression (FIRE) and expanded their mission to defend and promote free speech for all Americans. While that expanded mission has broadened FIRE’s focus, their purpose remains much the same: defending individuals and promoting the principles of free expression. In order to do so, they coordinate efforts both on and off campus to advocate for those whose expressive rights have been violated; educate the public about the importance of expressive rights; and mobilize everyday Americans to generate action and begin the campaign to change our culture.

EMILY PRINCE COMMENTS: Every day, free speech comes under attack: people face cancellation campaigns, college students shout down speakers with whom they disagree, government officials clamp down on criticism, and online service providers kick users off their platforms for spreading “misinformation.” While those actions are troubling enough, they are matched by a culture that is increasingly chilled. Indeed, nearly 6 in 10 Americans feel that our nation’s democracy is threatened because people are afraid to voice their opinions, and 62% of Americans say they have political views they’re afraid to share. This represents a serious challenge for our country. If we lose free speech – not only as a right, but also as a practice – our ability to pursue truth, our potential to innovate, our capacity for progress, and so much more is at risk. As FIRE enters its 25th year in business, they are leading the charge to protect free speech for all Americans – both as a legal right and a cultural value. Through its work, FIRE has:

- Won more than 650 direct advocacy victories on behalf of individuals whose rights were violated.
- Won more than 400 policy change victories.
- Secured victories in 28 cases that involved litigation or FIRE threatening litigation and filed more than 100 *amicus curiae* briefs in key First Amendment cases.
- Secured rights-protective legislation in nearly 20 states affecting tens of millions of students.
- Produced cutting-edge research, such as their annual College Free Speech Rankings, and stimulated further research related to freedom of speech and academic freedom through its Free Inquiry Grant Program.
- Coordinated widespread outreach, including distributing educational resources nationwide; hosting annual conferences; launching initiatives aimed at encouraging activists; and more.

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- Reached millions of Americans through outreach in top media outlets, groundbreaking books, documentary films, social media, podcasts, and more.

While the above achievements cover FIRE's entire storied history, by almost any measure, 2023 was a milestone year for the organization. Through public advocacy, litigation, and legislative efforts, they directly defended individuals whose expressive rights had been violated, worked to protect and secure First Amendment precedent, and promoted rights-friendly public policy and social outcomes. Of their 20 new litigations cases, they secured nine significant victories, on issues ranging from challenges to DEI regulations to unconstitutional bans on protected speech in county parks. They filed 39 briefs – more than ever before – and built out their legal network to nearly 500 members. FIRE attorneys also continued training the next generation of free speech legal talent through a paid, 10-week fellowship for four current law students. Meanwhile, the Campus Rights Advocacy team tackled an unprecedented level of demand and achieved 109 campus victories as the Legislative and Policy Team helped pass four rights-protective bills, while helping defeat nine bills that threatened individual rights across the country.

FIRE has been in aggressive growth mode for several years now, currently employing more than 100 employees and reaching a \$36M budget. With those resources, FIRE is focused on achieving the following annual outputs and outcomes:

- 30 simultaneous litigation matters, 25 *amicus* briefs filed, and Legal Network growth of 25%.
- 4 model bills introduced and the defeat of at least 5 bills that threaten free speech rights.
- 5 leading research publications, 100 op-eds, videos, or podcasts produced, and 350 media interviews, leading to 10K media mentions, 350 citations, and 4M website sessions.
- 5 FIRE-organized annual events and 30 public mobilization resources/opportunities leading to 50K actions taken in support of FIRE and free speech.

We can be certain that an investment in FIRE is an investment in free speech – period. In the past year, there were numerous national debates about free expression, whether it involved online censorship, its impact on democratic pluralism, its role in partisanship, the threat of government abuse, or the incredible collapse of higher education. FIRE was front and center for every single one of those conversations, acting as a nonpartisan advocate for free expression. When FIRE announced its expansion off campus in June 2022, it was part of a planned \$75M campaign that included \$25M in operational growth and \$50M in public awareness expenditures. That campaign was set to run from the start of 2022 to the end of 2024 – FIRE engaged ECP in conversations last year about the possibility of campaign support in FY24. As FIRE reaches the final year, they have learned significant lessons about the demand for their advocacy, the efficacy of awareness spending, and the need for creative outreach – they had outsized success with a two-minute sports-themed ad that aired nationally on NBC during a Saturday night USC vs. Notre Dame college football game and resulted in four times as many email signups and donations as the weekend before. In addition, they have met or nearly met many of their goals for the effort, including the number of cases taken on and individuals recruited to the movement. FIRE has therefore adjusted its expectations, ended plans for previous forms of public outreach and advertising in favor of higher impact advertising and outreach, and set new goals for what is needed in the next several years to reach a new national platform. Therefore, the new campaign goal is \$100M.

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In FY24, a general operating grant of \$75K would help FIRE to continue its current critical work, while an additional \$75K towards its expansion would provide additional resources to build the organization into an even more impactful advocate for free speech. Therefore, I recommend a grant of \$150K allocated for the above purposes.

RECOMMENDATION: In FY24, I recommend a \$150K grant – \$75K general operating support and \$75K in support of the expansion campaign.

JUSTIN J. KICZEK COMMENTS: We have supported FIRE for 24 years, which is almost their entire existence; we have been doing so almost exclusively in the form of general operating support. Over these decades, we were supporting an organization squarely focused on free speech on the college campus. Given our interest in higher education (and higher education-supporting organizations, like ACTA), there was a logic to using our support of FIRE to buttress the free speech culture of American higher education.

While campuses are often ground-zero for free speech controversies, the chill of censorship and questioning of the First Amendment itself has spread far beyond college squares and academic classrooms. Furthermore, some chapters of America's previous foremost defender of the 1A, the ACLU, have ceded ground of First Amendment battles in favor of throwing their weight behind other progressive causes (<https://www.nytimes.com/2021/06/06/us/aclu-free-speech.html>). This said, I was glad to be reminded by ECP's 1/23/23 site visit report that FIRE works with groups like Institute for Justice, Cato, and ACLU to refer cases and at times partner in litigation.

Thus, we find FIRE trying to emerge as the most widely recognized champion for free speech in this country. This increased grant request comes as FIRE attempts to become a household non-profit name (like ACLU, Red Cross, United Way, etc.). Their advertising has helped in this regard, but perhaps even more helpful is the way in which speech is on the front page of the news almost every day, whether it be with congressional grilling of college presidents like Claudine Gay, the controversial "public squares" of places like Twitter (excuse me, X.com), or the role of DEI on college campuses. In other words, the First Amendment is being contested in many aspects of American life and FIRE's expansion could not be better timed.

The growth here has been rather explosive, so we should keep a close eye and ask good questions to make sure they do not overshoot in their goal-setting and staff building. What is FIRE's plan for sustainability? Do they imagine moving into a chapter / affiliate model like the aforementioned "name-brand" non-profits? If not, do they have the capacity to litigate free speech issues all over the county? What is a higher priority: changing the culture at large or protecting the law through litigation? I sense FIRE is better poised to do the former than the latter, in terms of scale.

All this said, I remain impressed with the way FIRE has re-defined its work, while still leaning into its strength as a defender of campus free speech. The additional one-time grant is designed to, in their words, endow "our newest programs, aid our public awareness campaigns, and give us the ability to react to fast-moving opportunities." In other words, we are helping fuel operational growth and replenish reserves. With education and mobilization being the two highest projected expenses for FY24, we can infer that FIRE aims to continue to build new audiences and public awareness in the years ahead.

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RECOMMENDATION: I recommend a \$150,000 grant, with \$75,000 in general operating support and \$75,000 in support of the expansion campaign.

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DISPOSITION:

- Declination
- Hold for review on/about:
- Approval for: **\$150,000**
- Recommended Grant Payment(s):
2024:
2025:
2026:
- Hold for Board Review: **April 26, 2024**
- Payee Other Than Addressee:
- Insert Information:
General Operating Support - \$75,000
Support of Expansion Campaign - \$75,000
- Other:

Initials: JK

Date: 03/27/2024

Check # _____

Date: _____