

# A Test of Free Expression

A Reaction to Censorship Objects: Waivers, Signs, & Curtains

/ / / / / / / / / / The FL3TCH3R EXHIBIT



Written by Carrie A. Dyer

A Test of Free Expression



## A Test of Free Expression

The decision by East Tennessee State University (ETSU) to require a waiver for viewing The FL3TCH3R Exhibit at the Reece Museum raises significant concerns about access to and the perception of artistic expression. The waiver, intended to address the exhibit's challenging themes, imposes unnecessary barriers that undermine the principles of free speech and academic freedom enshrined in Tennessee law. This policy not only impacts the public's ability to engage with the exhibit but also fails to protect the artists and the exhibit itself from unwarranted scrutiny, contradicting the university's responsibility to foster an environment for open dialogue and intellectual growth.

### **A Barrier to Free Expression and Engagement**

The waiver requirement sends an implicit message that the artwork on display is inherently harmful or risky, discouraging potential visitors and eroding the foundational purpose of the Reece Museum as a space for critical reflection and diverse perspectives (O'Brien, 2012). Art, by its very nature, often challenges comfort zones and provokes meaningful dialogue. It provides a medium through which complex social, political, and personal themes can be explored. By imposing a waiver, ETSU risks suggesting that such challenges are something to be feared rather than embraced, creating a chilling effect on free speech and artistic expression (U.S. Const. amend. I.).

The logistical and psychological barriers introduced by the waiver disproportionately affect access to the exhibit. Visitors may feel intimidated by the legal language or view the waiver as an unnecessary hurdle, particularly those unfamiliar with such formalities. This creates a selective form of engagement, privileging individuals who are comfortable navigating legal disclaimers while potentially alienating others. As a result, the exhibit's potential to reach and resonate with a broader audience is significantly diminished.

### **The Misinterpretation of Responsibility**

The legal framing of the waiver implies that the university might bear responsibility for emotional or intellectual discomfort caused by the exhibit's content. This perspective directly conflicts with the principles outlined in Tennessee Code Annotated § 49-7-2405, which affirms that public universities must not shield individuals from controversial or challenging ideas (Tennessee Code Annotated, 2023). The waiver suggests an institutional attempt to avoid controversy rather than fulfilling the university's role as a champion of free expression. This not only undermines the credibility of the Reece Museum but also compromises the artists' voices by framing their work as something that requires disclaimers or disclaimers to be "safe."

Art is protected as a form of speech under both the First Amendment and Tennessee law, and institutions of higher education have a duty to facilitate—not inhibit—access to such expression (McCormick, 1984). By

distancing itself from the exhibit through legal disclaimers, ETSU undermines the integrity of its commitment to intellectual freedom and artistic exploration.

### **The Failure to Protect Artists and The FL3TCH3R Exhibit**

The waiver requirement also raises concerns about how The FL3TCH3R Exhibit and its contributing artists are being supported and protected by the institution (O'Brien, 2012). The exhibit, which features national and international artists addressing socially and politically engaged themes, relies on the trust that its venue will provide a platform for their work to be seen, heard, and respected. By imposing a waiver and distancing itself from the content of the exhibit, ETSU effectively isolates the artists, leaving their work vulnerable to mischaracterization and censorship.

This lack of institutional support is especially troubling given the vital role of The FL3TCH3R Exhibit in fostering dialogue on critical issues. The exhibit was created as a space for artists to challenge, provoke, and inspire, and its very mission is undermined when its host institution prioritizes shielding itself from controversy over defending the importance of the work on display. By failing to take a clear stance in support of the exhibit, ETSU risks diminishing the credibility of its commitment to academic and artistic freedom.

### **Implications for the Future**

The broader implications of this waiver policy extend beyond The FL3TCH3R Exhibit. If such measures become commonplace, they set a troubling precedent for how controversial or challenging material is handled in academic and cultural institutions. This could lead to future restrictions on art, literature, and programming that address sensitive or divisive topics, stifling the diversity of perspectives that are essential to the university's mission. Over time, such practices could erode public confidence in ETSU's ability to foster a robust and inclusive intellectual environment.

Requiring waivers also discourages artists and creators from contributing their work to institutions like the Reece Museum (O'Brien, 2012). The presence of legal disclaimers suggests that their work is inherently problematic or controversial, rather than a vital part of the cultural and academic dialogue. This not only disrespects the artists but also limits the richness and diversity of the perspectives presented within the university community.

### **The Role of Tennessee Code Annotated § 49-7-2405**

Tennessee Code Annotated § 49-7-2405 explicitly states that public higher education institutions must protect the right to engage with challenging and controversial ideas without institutional censorship (Tennessee Code Annotated, 2023). The waiver requirement directly conflicts with this legal mandate, as it implies that the university seeks to shield itself and its visitors from the very discomfort that the law recognizes as essential to intellectual growth.

Instead of waivers, ETSU should affirm its commitment to free expression by fostering open dialogue about the themes explored in the exhibit. Providing contextual resources, hosting discussions, and encouraging

engagement with the works would not only align with the university's obligations under Tennessee law but also demonstrate its dedication to supporting artistic and intellectual freedom.

The decision to require a waiver for The FL3TCH3R Exhibit raises critical questions about ETSU's role as a facilitator of free expression and its responsibility to protect artists and their work. By imposing unnecessary barriers and distancing itself from the exhibit's content, the university undermines the principles of free speech and academic freedom that are essential to its mission. ETSU must carefully reconsider the implications of this policy and take steps to ensure that its actions align with Tennessee law and its own stated commitments. Upholding these principles will not only preserve the integrity of The FL3TCH3R Exhibit but also reaffirm the university's role as a champion of intellectual and cultural exploration.

### **References**

McCormick, J. P. (1984). *The freedom of artistic expression: Essays on culture and legal censorship*. Oxford University Press.

O'Brien, D. (2012). *Cultural policy: Management, value, and modernity in the creative industries*. Routledge.

Reece Museum. (2024). *About the FL3TCH3R Exhibit*. East Tennessee State University.

Tennessee Code Annotated § 49-7-2405 (2023). *Free speech and expression on public university campuses*. Retrieved from <https://law.justia.com/codes/tennessee/2021/title-49/chapter-7/part-24/section-49-7-2405/>.

U.S. Const. amend. I.