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FIRE QUARTERLY

SUMMER 2021

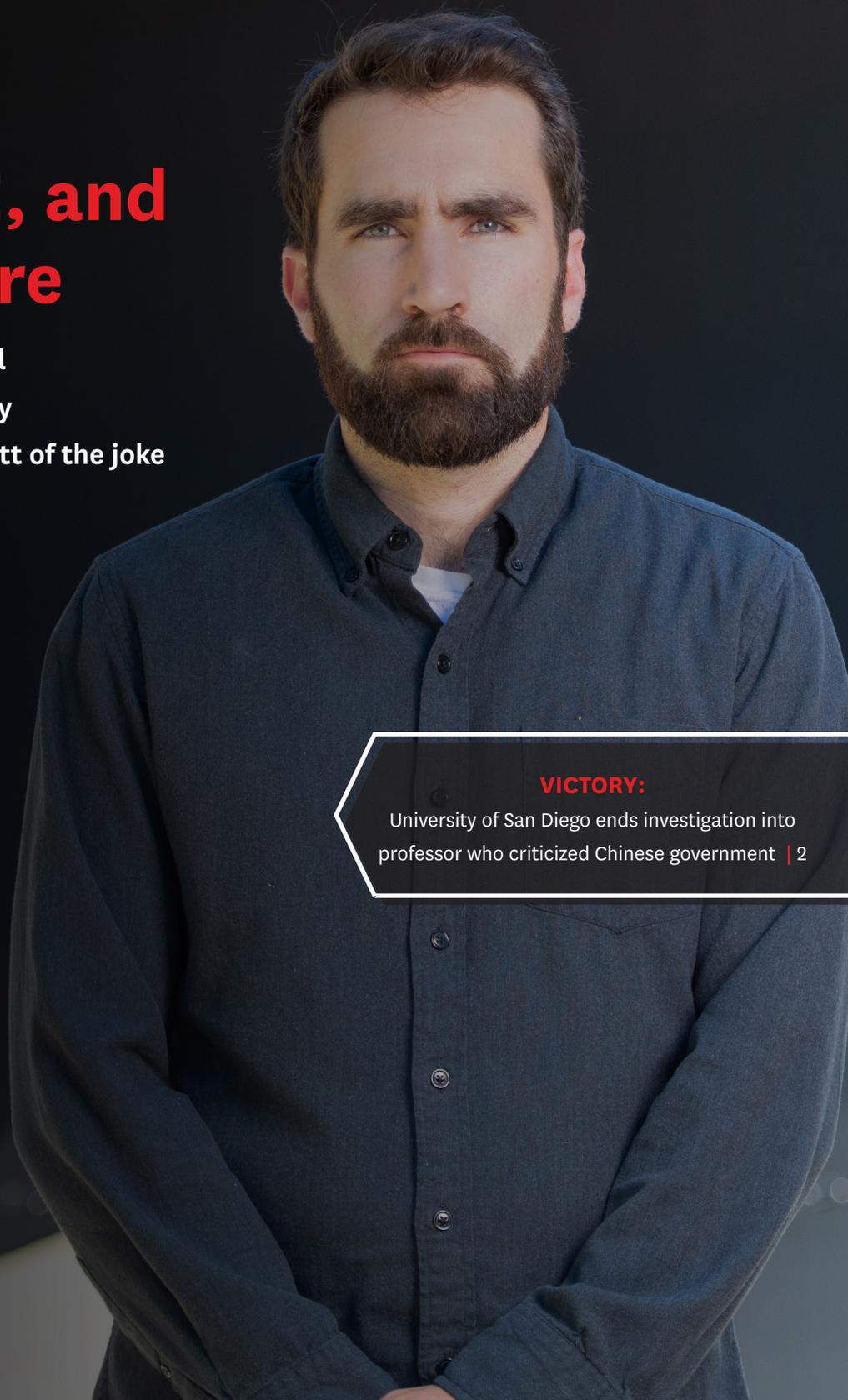
Satire, FIRE, and Stanford's ire

How one man's satirical email
put his graduation in jeopardy
— but made Stanford the butt of the joke

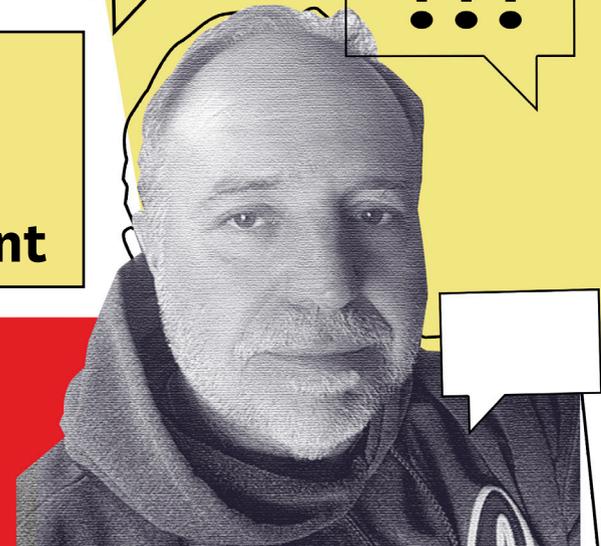
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VICTORY:

University of San Diego ends investigation into
professor who criticized Chinese government | 2



University of San Diego ends investigation into professor who criticized Chinese government



It took two months, two letters from FIRE, and almost 1,500 emails from FIRE supporters, but the University of San Diego finally backed off its investigation into a professor who criticized the Chinese government in a personal blog post.



In March, professor Thomas Smith posted to his blog an excerpt of a Wall Street Journal article criticizing the Chinese government's response to the COVID-19 pandemic: "If you believe that the coronavirus did not escape from the lab in Wuhan," Smith wrote, "you have to at least consider that you are an idiot who is swallowing a whole lot of Chinese cock swaddle."

After the post prompted cries of racism from student groups, the university opened an investigation into Smith's reference to "Chinese cock swaddle." In response to the criticism, Smith updated the post to clarify that he was referring to the Chinese government, not to Chinese people.

FIRE first wrote to USD on March 22 urging the university to end its investigation into Smith's speech, which is protected by the university's commitments to free expression and academic freedom. We wrote again in April, after the university responded that it would continue to review the matter.

In May, USD Vice President and Provost Gail F. Baker released a statement to the campus community, explaining that Smith's commentary is protected by the university's academic freedom policy, as FIRE's letters explained.

"Academic freedom lies at the core of the mission of the University of San Diego," Baker wrote. "At the same time, we are committed to providing an educational environment that honors the dignity of every individual. Those two commitments can and must co-exist. It is important that members of the university community exercise their freedom in a responsible fashion, attentive to the impact of their protected opinions and sensitive to all members of the community, especially those who may feel vulnerable, marginalized or fearful that they are not welcomed. Members of the university community may feel an obligation, and certainly have the freedom, to criticize opinions that they believe demean the dignity of others."

USD called for a "more speech" approach when individuals are offended by others' speech, something that FIRE has advocated for time and time again.

FIRE launched a publicity campaign on Smith's behalf, securing news coverage on ABC 10 News in San Diego, Newsweek, The New York Post, Reason, and Breitbart — as well as an op-ed in The San Diego Union-Tribune by FIRE's Adam Goldstein and UCLA law professor Eugene Volokh. FIRE's Take Action campaign, an email campaign urging supporters to contact the school directly, was our most successful to date, with 1,489 individual emails.

Although we appreciate that USD eventually came to the correct conclusion, the university's decision to leave Smith in the dark for months as it investigated what was clearly protected speech is impermissible and has almost certainly caused a chilling effect on the university's students and faculty who wish to express their opinions.

President who hassled student reporter, muzzled professors fired

In the last edition of the FIRE Quarterly, we introduced you to Haskell Indian Nations University student and FIRE plaintiff Jared Nally, who was told by the then-president of his institution, Ronald Graham, that he couldn't engage in basic acts of journalism. In March, FIRE wrote to the Bureau of Indian Education, the federal agency that operates Haskell, to report this and other rights violations by Graham, including chastising his "detractors" and forbidding faculty employees from expressing opinions about the administration.



VICTORY: Rutgers Law Student Bar Association rescinds critical race theory requirement following public pressure



Promote critical race theory or lose funding?

It's the question student group leaders grappled with after Rutgers Law School-Camden's Student Bar Association passed the unconstitutional amendment in November, requiring any group hoping to receive more than \$250 in university funding to hold an event on their chosen topic "through the lens of Critical Race Theory, diversity and inclusion, or cultural competency."

After facing public pressure from FIRE, SBA leaders met with the Rutgers administration and sent an email to the Rutgers Law student body May 23, announcing that they rescinded the Nov. 20 amendment to the SBA constitution.

The SBA presidents cited FIRE's letter to Rutgers, which called on the school to immediately rescind the condition and commit to distributing funds in a viewpoint-neutral manner. They added:

"We think – and we hope, we can still create change, still fight for what is right, and pass this amendment, or something similar again."

As a public university, Rutgers is bound by the First Amendment, which prohibits discrimination based on viewpoint. The SBA's amendment was blatantly unconstitutional because it made funding conditional upon the promotion of an ideology and would discriminate against any student group that objects to the "lens" of critical race theory or wishes to remain neutral.

Nick DeBenedetto, the president of Rutgers Law-Camden's Federalist Society chapter, said he was happy to see that the amendment was scrapped.

"I am happy to see that the SBA has chosen to rescind the amendment," he told FIRE. "This decision respects the First Amendment rights of all Rutgers Law students and restores the free and open status quo that student organizations used to enjoy."



Dartmouth drops cheating charges against med students, apologizes for flawed investigation

Dartmouth's Geisel School of Medicine announced in June that it dropped all charges against more than a dozen medical students investigated for cheating after they were accused of accessing online course material during remote exams.

FIRE and the Electronic Frontier Foundation, a nonprofit organization defending civil liberties in the digital world, first alerted Dartmouth in March that there was not enough evidence to charge the students, and raised concerns about reports of due process violations. Geisel dean Duane Compton apologized to the accused students and the entire Geisel student body: "We will learn from this and we will do better," he wrote, adding that the school is committed to "rebuilding the trust we recognize has been lost among some students during this process."

It was a process in which Dartmouth appeared to gravely misunderstand, or willfully ignore, the highly complicated data it used as the basis of its accusations against the students. EFF reviewed the data Dartmouth said constituted definitive evidence of cheating, and found that it showed no such thing.

Dartmouth then made matters worse by failing to provide accused students the due process that might have brought technical discrepancies to light before the controversy became international news: FIRE's advocacy was covered by The Boston

Globe, Fox News, New York Post, Daily Mail, and others.

Students said they were given less than 48 hours to prepare a defense based on highly complicated technical data that would have required expert analysis to fully vet, and then denied access to that data — data that could have exonerated them — altogether. Some accused students reported being coerced into confessing after administrators assured them that a swift admission of responsibility — even if they were innocent — would lead to leniency.

It did not. Students were harshly punished with transcript marks, suspension, and even expulsion.

Now, Dartmouth must employ policies that safeguard students' basic rights. When students are accused of misconduct, fair and transparent procedures that respect those rights must be followed. Dartmouth's fresh commitment to "rebuilding trust" should start with promising a fair process to all future students who may find themselves facing a similar misconduct allegation.



FIRE's Alex Morey led our efforts to protect due process at Dartmouth.

When it comes to trust, due process provides it: Giving everyone involved confidence that when a school reaches a result in a misconduct investigation, it's a fair one. FIRE will monitor Dartmouth's policies to ensure that, from now on, students can trust them.



Satire, FIRE, and Stanford's ire

How one man's satirical email put his graduation in jeopardy — but made Stanford the butt of the joke



Hours after FIRE sounded the alarm, Stanford University dropped an investigation into a law student who sent a satirical email to peers, poking fun at the Federalist Society. FIRE's advocacy generated widespread media coverage that galvanized Twitter users on student Nicholas Wallace's behalf. The pressure caused Stanford to release a hold on Wallace's diploma that threatened his ability to graduate.

"I am going to continue to work to make sure Stanford does not subject another student to this kind of abuse of process again," said Wallace. "No student should ever face the threat of a degree hold for exercising their free speech rights."

Wallace said he's thankful for those who advocated on his behalf: "I am immensely grateful to FIRE for their support over the past few days, and their ongoing advocacy for students' free speech rights."

Wallace landed in hot water after the school received a complaint in March from an officer of the law school's chapter of the Federalist Society, alleging that a satirical email Wallace sent to peers in January violated university policy. Wallace's degree was placed on hold in late May after the complainant confirmed that he wanted the university to move forward.

FIRE wrote to Stanford in June — days before Wallace's graduation — demanding that the university release the hold and refrain from further investigation into or sanctions against Wallace. FIRE also asked Stanford to commit to screening student complaints to determine whether they involve protected speech before initiating investigations into student expression.

"Wallace should have been prepping for finals and graduation, not having to defend his expressive rights," said FIRE attorney Adam Steinbaugh. "Satire isn't a crime, and 'investigating' satire is farcical. It shouldn't take a Twitter firestorm for Stanford to realize that its actions against Wallace ran contrary to its institutional values."

Slate journalist Mark Joseph Stern wrote an article highlighting Wallace's plight and FIRE's letter to Stanford that prompted an outcry on Wallace's behalf from Twitter users, including Hawaii Sen. Brian Schatz. Other outlets that featured Wallace's story

include The New York Times, The Washington Post, and The Stanford Daily.

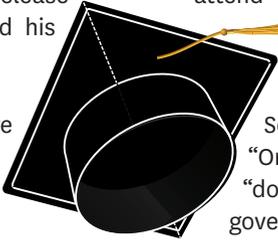
The investigation began months after Wallace sent a Jan. 25 email to a student listserv purporting to invite students to attend a fictional Federalist Society event — to be held 19 days earlier, on Jan. 6 — at which Missouri Sen. Josh Hawley and Texas Attorney General Ken Paxton, both members of the Federalist Society, would be the keynote speakers. The event, the "Originalist Case for Inciting Insurrection," would discuss "doing a coup" and the "classical system of installing a government." The email further said Hawley and Paxton would discuss "violent insurrection" as "an effective approach to upholding the principle of limited government."

Two months later, an officer of Stanford Law's student chapter of the Federalist Society filed a complaint against Wallace, claiming that he "defamed" Hawley, Paxton, and the student group, because he "impersonated" the group and insinuated that they would promote violence. After the Federalist Society officer confirmed to Stanford administrators on May 22 that he wanted to proceed with his complaint, Stanford initiated an investigation into Wallace and put a hold on his diploma two weeks before his law school graduation on June 12.

As FIRE's letter explained, the email is protected by Stanford's own promises of free expression and by California law. Not only did Wallace send the email 19 days after the Capitol violence took place, but he also sent it to a commentary-focused listserv and not the listserv for campus announcements that is used to promote genuine Federalist Society events.

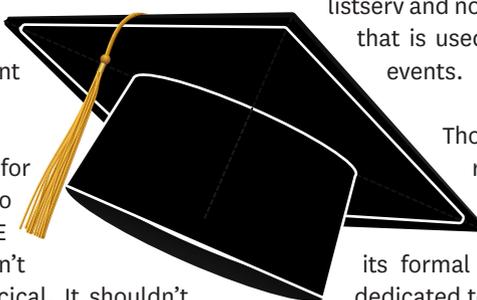
Though a private institution and thus not required by the Constitution to protect free speech, Stanford promises free expression to its students both in its formal policies and on a website specifically dedicated to promoting the school's commitment to free expression. Additionally, a California law dubbed the "Leonard Law" bars most private colleges from disciplining students for any speech that would be protected by the First Amendment. Satire might hurt the feelings of its target, but it is protected speech under principles of freedom of expression.

Congrats on your graduation, Nick!



“ No student should ever face the threat of a degree hold for exercising their free speech rights. ”

Nicholas Wallace,
Student





FIRE to Cornell:

Requiring faculty diversity statements violates academic freedom

An explosion of racial justice protests in the summer of 2020 led many universities to launch anti-racism initiatives. One such initiative at Cornell University generated a proposal that jeopardizes faculty members’ freedom of speech and academic freedom.

The proposal requires that all faculty candidates for renewal or promotion and tenure submit a statement of contributions to diversity, equity, and inclusion (extending an existing requirement of new applicants for faculty positions). On top of that, faculty would be required to attend DEI workshops and include a DEI-related question in course evaluations.

FIRE wrote to Cornell in June. Cornell responded that the university “will be sure to take [FIRE’s] viewpoints into consideration as the process moves forward.”

Cornell makes strong commitments to the academic freedom and expressive rights of its faculty — including freedom from restraint in scholarship and research, and “freedom to engage in reasoned opposition to messages to which one objects.” And yet, the proposed educational requirement has the express goal of requiring faculty to adopt certain viewpoints about structural racism, systemic bias, privilege, and related concepts.

Cornell must eliminate its universal DEI-statement mandate and ensure that any faculty education programs are consistent with the university’s robust promises of free expression and academic freedom.

Cornell’s restrictive events policy rains on everyone’s parade

Each month, FIRE designates a particularly restrictive speech policy as our Speech Code of the Month. We’ve been running the feature since 2005, but June’s selection, Cornell University’s policy on “Elevated Risk & High Risk Events,” stands out.

The policy forces students to file a form in order to hold events meeting any of the following criteria:

- Has a similar event caused any form of disruption at Cornell in the past?
- Has a similar event caused any form of disruption on another campus?
- Has a similar event been characterized as elevated or high risk, or problematic by any media?
- Are there historic reasons why there may be opposition to the event?
- Has there been litigation, including a Supreme Court case, connected to the topics of the event?

Those highly subjective criteria apply to just about any event.



What topic hasn’t been described as “problematic” by someone in any media, been connected to any litigation, or involved some opposition? If administrators can decide which events should’ve been classified as high risk and registered in advance, then it’s the exchange of ideas that is actually at high risk at Cornell.

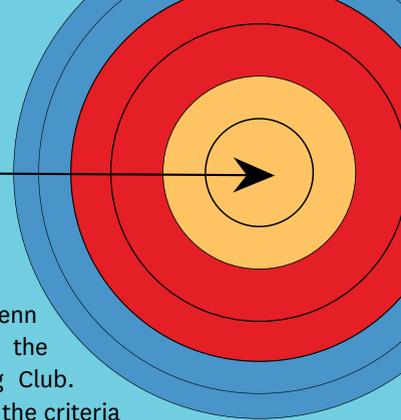
Students and faculty agree: Cornell’s partnership with Peking University threatens expression

Cornell’s events policy isn’t the only reason the university caught bad press lately. In late May, Cornell announced its decision to move forward with a controversial dual-degree program between its School of Hotel Administration and China’s Guanghua School of Management at Peking University. When the proposal was first raised in February, faculty members challenged the university’s ability to protect academic freedom in a program based out of a country with severe restrictions on speech.

The Faculty Senate voted in March to reject a resolution on the Peking University proposal and Cornell’s Student Assembly also released a resolution “Calling Upon Cornell to Uphold its Ethical Guidelines for International Engagements.” Cornell’s community also cited the university’s 2019 guidelines for international programs, which state that partnerships should be “consistent with Cornell University values, including our commitment to purposeful discovery; free and open inquiry and expression.”

Cornell claims the new program will not violate these guidelines, but its students and faculty disagree. If universities intend to expand in countries with severe censorship laws, they should be prepared to explain how they will protect their values and their communities. FIRE will be watching to see if Cornell can do so.

BULLSEYE: UPenn's Hunting, Archery, and Shooting Club finally approved after FIRE's intervention



In the previous FIRE Quarterly, we introduced you to students who spent more than a year in limbo as the University of Pennsylvania refused to recognize their outdoor sporting group. After pressure from FIRE and with help from FIRE Legal Network attorney Patricia Hamill, the university finally relented and processed the group's registration.

"We are pleased that Penn finally hit the mark," said FIRE Senior Program Officer Zach Greenberg. "However, the approval is long overdue. It should not take a year for a university to make good on its promises to uphold students' rights."

In March 2020, a group of Penn students applied to register the Hunting, Archery, and Shooting Club. Despite the students meeting all the criteria for club recognition, their application languished for over a year, even as other groups received approval. Penn claimed that due to the "nature of the group's mission," it could not make an approval decision until the university returned to normal operations because of concerns that the group would need to meet in person — despite its approval of other groups that intended to meet in person, such as the surfing club.



University of Pennsylvania hunting club organizers Krzysztof Wojtak, Richard "Alex" Martino, and Chris Choe worked with FIRE to defend their free association rights.

A delayed approval meant that the club was denied the full array of university resources to fundraise, advertise, host virtual events, and grow its membership, and prevented the group from meaningfully participating within the Penn community. Penn's refusal to process the application violated the university's own policies, which state that the university "affirms, supports and cherishes the concepts of freedom of thought, inquiry, speech, and lawful assembly."

Since April, the club has been able to meet virtually as an official group, recruit interested peers, and plan ahead.

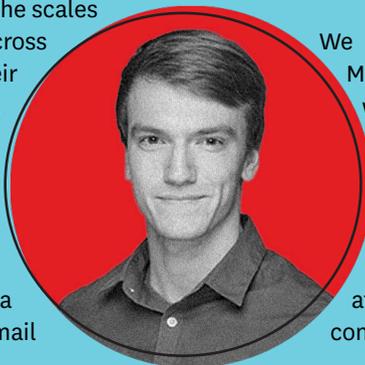
"We would also like to thank FIRE, our counsel Patricia Hamill and Joe Jesiolowski, and everyone else who supported us along the way," club members said.

FIRE expands outreach to alumni

FIRE is excited to announce that we are strengthening our outreach efforts. Alumni have enormous potential to disrupt the campus incentive structure and rebalance the scales in favor of individual rights. There are alumni across the country who want to make a difference at their alma maters but lack support and organization. By coordinating targeted alumni campaigns, FIRE can bring their voices together and work to encourage reform.

Just recently, FIRE kicked off an alumni campaign at Williams College. We hosted a webinar in June for alumni, created an email

update list, and are helping concerned alumni organize to stand up for free speech at their alma mater.



We are pleased to announce that Connor Murnane, FIRE's new Alumni Relations Officer, will lead the effort at Williams as well as schools across the country. Connor comes to FIRE from the American Council of Trustees and Alumni where he served as the Director of Communications. If you are interested in spearheading alumni efforts at your school, please contact Connor at connor.murnane@thefire.org or at 215-717-3473.

Pushed out of teaching, Central Michigan University journalism professor has his own story to write

Professor Timothy Boudreau settles with CMU — and speaks out for the first time.

Professor Timothy Boudreau sat at a table in a Mexican restaurant just off Central Michigan University's campus. Munching on tortilla chips was a group not often seen at La Señorita restaurant, or anywhere, really.

Joining Boudreau were a handful of students, a Detroit Satanist — and five members of the controversial Westboro Baptist Church.

The unconventional bunch was refueling after a 2018 panel for Boudreau's journalism law class. His goal: teach students about the importance of the First Amendment, using firsthand experiences from people whose speech is threatened.

"I think students, college students in particular, should be challenged on their beliefs," he said. "That's why I brought in controversial speakers."

Boudreau graduated from CMU in 1981 and returned to teach after two decades as a journalist, becoming the chair of CMU's journalism department. He invited people to class that the local newspaper called "radical," twice inviting Westboro members. A local street preacher was a common fixture. The Satanic Temple's Jex Blackmore, known for organizing history's largest Satanic gathering, was a more recent addition to his repertoire of radicals — each of whom tested the limits of protected speech in America.

That's what Boudreau wanted his students to think critically about. Uncontroversial speakers don't necessarily have to rely on the First Amendment. It's the people on the fringes — attacked, vilified — who most depend on its protections to defend their rights, their very voices.

Administrators bristled when Boudreau invited the matriarch of "the most hated family in America," Shirley Phelps-Roper. They set restrictive parameters, barring media, making attendees show I.D., and forbidding students from recording the panel — all in the name of safety.

"We have to balance the pedagogy, the exchange of free thought, with figuring out how to keep people safe," CMU administrator Dennis Armistead told a local newspaper.

But Boudreau no longer wrangles with administrators to bring speakers to campus. Nor does he introduce street preachers or Satanic leaders to his students via Zoom.

Today, he's out of a job.

The firestorm ignited by a nine-second video and photos posted to social media quickly engulfed his career. The resulting investigation pushed him out of the profession he loves — and sparked a First Amendment controversy of its own.

His transgression: teaching students that sometimes even ugly speech is protected by the First Amendment. And for that lesson, Boudreau drew from CMU's own history.

In 1992, CMU's head basketball coach told his mostly-black team that he wanted the players to "play like niggers on the court," but not to act like "niggers in the classroom." As outrage spread amongst students and alumni, he was fired.

The coach filed a lawsuit in 1993. The United States Court of Appeals for the Sixth Circuit rejected some of his claims, deciding the remarks were not protected because they "served to advance no academic message." At the same time, it struck down as unconstitutional one of the speech policies CMU cited in firing the coach.

First Amendment cases can be tricky, turning on details Boudreau felt were important to explore with his students — especially in a journalism law class.

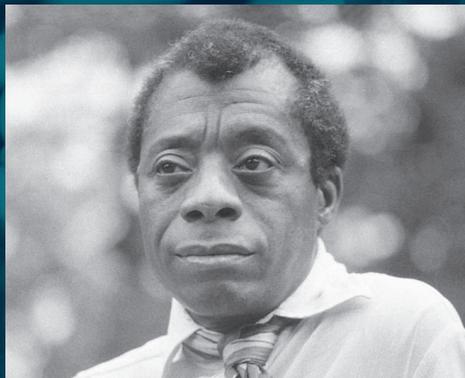
A national issue

FIRE defends professors fired or investigated for mentioning the slur in their teaching.

An Emory University professor faced termination for more than a year after referencing the slur in 2019 while discussing systemic racism with students. At the same time, The New School in New York City charged a professor with racial discrimination for quoting iconic black writer James Baldwin's use of the term.

FIRE advocated on behalf of both professors, and both returned to the classroom.

Mentioning slurs in a relevant academic setting is generally protected by the First Amendment and faculty members' academic freedom rights, even if students find those materials upsetting



A professor at The New School was charged with racial discrimination for quoting iconic black writer James Baldwin.

or offensive. FIRE takes no position on whether professors should use the term — it's up to professors to thoughtfully determine whether its use is germane to their instruction.

On June 22, 2020, an alumna who graduated the previous year posted a nine-second video to Instagram of Boudreau teaching his class about the CMU case: "Since we are exposing racists, let me introduce you to @cmuniversity professor Tim Boudreau who freely uses the n-word in class whether it be providing examples or quoting an individual."

Word spread quickly, and both detractors and supporters spoke out. Some believed the term should never be used, full stop. Others thought it depended on the context. Boudreau, who was tenured in 2007, believes decisions about how to teach the highly-specific details of First Amendment cases should be left up to instructors, who are closest to the students.

Two days after the video circulated, CMU pledged an investigation. After 15 years teaching media law to 1,500 students — and not a single complaint to his knowledge — Boudreau assumed he'd give context to the clip and move on.

So he was surprised when the provost asked him to apologize and never use the term again. The former, he'd happily do. The latter went against his beliefs on how to teach First Amendment law. He agreed to "weigh very carefully" its use in the future. But a blanket ban?

"The very nature of the course involves offense, often ugly language," he said. "That's inevitable. I don't know how you can teach the course effectively while dancing around those terms."

But if he was surprised before, he was stunned when CMU made its next move.

"Two hours later, I was suspended from the university, told to stay away from campus, from students, turn in my I.D.," he said. "I felt like I was a criminal."

Boudreau had unceremoniously joined the ranks of speakers he had taught about for a decade and a half: those who faced punishment for their speech.

Suspended pending a formal investigation, Boudreau submitted a case to FIRE, which worked with his union counsel to threaten a lawsuit if CMU didn't live up to its constitutional obligations and promises of academic freedom.

"Universities have a legal and moral obligation to prevent discrimination on campus, but that difficult task cannot be accomplished in an atmosphere where one social media post is given more weight than a professor's entire career," said FIRE attorney Greg H. Greubel.

In August, CMU finalized its investigative report. At the helm was Dennis Armistead — the same administrator who clashed with Boudreau over bringing controversial speakers to campus. The same disagreements, the same power struggle.

CMU's report faults Boudreau for creating a hostile learning environment by not only vocalizing, but displaying the slur in his teaching." The report criticized Boudreau for citing a case that disparages CMU and suggested Boudreau used the term for "titillation" — rather than a desire to teach the First Amendment without distortion or sanitization. With an empty nod to academic freedom, Armistead recommended Boudreau be terminated. On Sept. 1, CMU obliged.

FIRE and Boudreau's union counsel filed an appeal, arguing that the term played "a key role" in the case he was teaching, and that firing a tenured professor for discussing relevant materials is a violation of academic freedom.

CMU denied the appeal a month later. The one-page letter was signed by a familiar name: Dennis Armistead.

Continuing the fight

"I knew FIRE had my back, so to speak, that they were going to defend me right to the bitter end," Boudreau said. "There were times I really felt down, felt miserable. I felt like throwing in the towel and just giving up. They are a great ally to have, a tremendous ally."

Earlier this year, Boudreau entered into a settlement agreement with CMU. Boudreau cannot comment on the terms, but can speak out against how his university treats academic freedom — and those who dare exercise it. He has no desire to return to the classroom but remains concerned by how quickly a professor can go from engaging in the profession they love, to feeling like a criminal. All without ever committing a crime.

He still wants to prove that you can speak to your opponents, rather than cancel them. You can have your differences and still see their humanity. It's a notion he says is lacking today; it's the lesson he tried to teach at La Señorita.

He said Phelps-Roper, the other Westboro members, the Satanist, and the students were friendly with each other. Their differences, immense. But Boudreau said they saw each other's humanity. In the end, Phelps-Roper quietly paid the check for the entire group.

Friends? Probably not. But fellow humans? It's a start.

"I disagree with probably 99.99% of what Shirley and Westboro Baptist believe, but we managed to get along and treat people with respect," Boudreau said. "It doesn't mean that you shouldn't argue vehemently against what they're promoting, but it does suggest that there's more to it than what we see in the media."

It's the lesson he tried to teach for 15 years, one CMU administrators never grasped.

"We all talk about free speech, but when you exercise it, when you engage in it in the United States, there's a price," he said. "You pay a price. Freedom isn't free. Well — free speech isn't either. It can cost you. It can hurt."

GREEK RUINS:

FIRE calls on Bloomsburg to restore 17 Greek chapters disbanded without due process

FIRE is telling Bloomsburg University of Pennsylvania to hold its (Trojan) horses after it disbanded its entire Greek life system without due process. In June, FIRE called on the university to reinstate its Greek life system and respect student due process rights by allowing any group accused of misconduct a fair hearing.

“Bloomsburg wrongly served as judge, jury, and executioner for 17 student groups whose only crime is having Greek letters in their name,” said FIRE Program Officer Zach Greenberg, author of FIRE’s letter. “Its decision to unilaterally punish innocent students for conduct they did not commit amounts to guilt by association — an egregious practice that has no place at any institution of higher education.”

The decision stems from an attempt to address several recent incidents of misconduct. Bloomsburg President Bashar W. Hanna sent a letter to the Fraternity and Sorority Life community earlier this year, warning that any “future significant violation of Greek specific rules or Code of Conduct violations will result in the cancelation of the entire FSL community at Bloomsburg University.”

FIRE responded with a letter arguing that Hanna’s threat amounted to guilt by association, which is banned by the First Amendment and has been decried by the U.S. Supreme Court as “a philosophy alien to the traditions of a free society and the First Amendment itself.”

Despite these concerns, Bloomsburg officially rescinded its recognition of all 17 Greek chapters on campus in May, alleging that there were repeated incidents of misconduct. At least one sorority, Phi Iota Chi, has no recent history of misconduct and was not facing any allegations of misconduct when it was unilaterally disbanded.

“Our vast network of alumni has stood by our active sisters through the years and continues to do so as we respectfully request that the university reconsider this blatantly unfair action which makes it impossible for our organization to exist either on or off campus,” Phi Iota Chi told FIRE. “We hope that the university will respect the constitutional and due process rights of all its students, including those who belong to Greek organizations.”

Not only did the Bloomsburg administration proclaim the entire FSL community guilty by association, but it also denied Phi Iota Chi due process. This is contrary to the promises of both the Fourteenth Amendment, which applies to Bloomsburg as a public university, and the university’s own Student Code of Conduct. The code states that student groups must receive written notice of any alleged violations and are also entitled to a hearing before being sanctioned. Neither of these rights were afforded to Phi Iota Chi before the group was disbanded.

“Bloomsburg would rather sacrifice its students’ rights than go to the trouble of giving the chapters a fair hearing,” said Greenberg. “Students’ rights may not be discarded by public universities bound by the U.S. Constitution, and Bloomsburg’s own policies recognize the administration’s unjust actions. We call on the university to reinstate Greek life and restore its students’ rights immediately.”



Phi Iota Chi was disbanded despite no recent history or allegations of misconduct.

FIRE notches western wins as legislative team prepares to hit the road again

FIRE's Legislative and Policy team has had a busy 2021, not only fighting to expand the space for free expression on campus, but also defending against bills that threaten academic freedom and due process.

Most notably, FIRE observed a wave of bills that sought to regulate discussions of race and gender in higher education. The proposals, which backers argued would fight discriminatory teachings, were often so broad that they threatened to ban certain teachings entirely. FIRE has engaged where necessary to balance these dueling concerns.

In Idaho, the issue came to a front when Boise State University temporarily halted all 55 sections of a required diversity course after a legislator anonymously raised unfounded allegations of discriminatory teaching in the classroom. The legislature acted by introducing a series of bills that would have stifled academic freedom and by imposing harsh budget cuts on the university. Of the bills, only HB 377 became law. FIRE wrote to legislators to ensure that the bill would not cast a pall of orthodoxy over the classroom. Here, legislators listened. Rather than blacklisting certain concepts, the final version of the bill bars universities from compelling students to “personally affirm, adopt, or adhere to” a list of ideas on race and gender. While the final bill avoided statutory censorship, threats to academic freedom across the state remain, including the budget cuts and a newly formed task force from the lieutenant governor investigating alleged discriminatory teaching in Idaho K-12 and higher education classrooms

While defending academic freedom has been a major focus this year, FIRE also won a surprising defensive victory in Nevada, where campus sexual misconduct legislation (SB 347) originally included several provisions that would have gutted student due process rights. Following FIRE's engagement, several of the bill's most problematic provisions were removed, including those that would have instructed schools to do away with live hearings, ban cross examination, and withhold exculpatory evidence.

With FIRE's help, campus free speech bills were enacted in several states. In North Dakota, FIRE was vital in securing passage of HB 1503. The law adopts the U.S. Supreme Court's speech-protective definition of student-on-student harassment set forth in *Davis v. Monroe County Board of Education*, prohibits free speech zones, protects student organizations and guest speakers from viewpoint discrimination, and guarantees academic freedom in the classroom.



Joe Cohn Legislative and Policy Director, FIRE



Tyler Coward Legislative Counsel, FIRE

FIRE also had success in Montana, helping two important bills become law. HB 349 codifies the *Davis* definition of harassment and prohibits public colleges from discriminating against student organizations based on the exercise of their association rights, while HB 218 bans free speech zones on public campuses and provides a cause of action.

Lastly, FIRE won another victory in Utah, where HB 159 — codifying *Davis* in state law — was enacted after years of advocacy.

‘Stop talking right now’: University of Oklahoma training shows instructors how to censor students

At the University of Oklahoma, a virtual anti-racism workshop taught instructors how to root out more than just racism. The workshop shows how to eliminate disfavored but constitutionally protected expression from the classroom and guide assignments and discussion into preferred areas — all for clearly ideological and viewpoint-based reasons. Attendees were taught how to “steer” students from certain topics, and even certain sides of topics. Said one workshop leader: “I, in

this case, usually look for my students who might be, like, entertaining the idea of listening to a problematic argument. Then I say, ‘we don't have to listen to that.’”

FIRE's reporting generated coverage from *Newsweek*, *Fox News*, *Reason*, *The Daily Wire*, and local coverage in Oklahoma. FIRE's video on the case amassed more than 300,000 views on Twitter as of press time.



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BUT WAIT! There's more...



FIRE is excited to introduce our 2021 summer interns:

Emma, Robert, Barrett, Emily, Rohan, Sofia, and Lewis. These students are joining FIRE fresh from student governments, activity boards, and campus press rooms at a time of heightened student activism. We will arm them with the training necessary to foster productive dialogue about difficult topics, to fight for their rights in the face of opposition, and to persuade their peers to join the cause.

Apply today to attend FIRE's 2021 Faculty Network Conference

We're delighted to invite applications to attend our Faculty Network Conference, scheduled for Oct. 14-16 in Chicago. The conference will bring together a diverse group of faculty for a weekend of presentations and discussions of core issues affecting academic freedom and faculty rights. Faculty attendees are eligible to receive a stipend of up to \$750 to assist with the costs of travel and lodging. Interested faculty can email facultyoutreach@thefire.org with any questions.

JUST CONFIRMED!

President of the University of Chicago Robert Zimmer will be the keynote speaker.

Nadine Strossen contributes to Free Speech Out Loud

FIRE Advisory Council member and former ACLU President Nadine Strossen contributed to Free Speech Out Loud, FIRE's podcast dedicated to famous First Amendment court opinions that serve as the backbone of the free speech rights we enjoy today. Strossen read the opinion in *West Virginia v. Barnette*, on whether a compulsory flag-salute law for school children violates the Constitution.

[Listen at thefire.org/outloud](http://thefire.org/outloud)