



March 12, 2025

William F. Tate

Office of the President

Louisiana State University

3810 West Lakeshore Drive

Baton Rouge, Louisiana 70808

Sent via U.S. Mail and Electronic Mail (president@lsu.edu)

Dear President Tate:

FIRE¹ is concerned by Louisiana State University's removal of law professor Ken Levy from the classroom because of remarks he made during a class session on January 14, 2025. Although Levy's remarks may have offended some who heard them, LSU must stand behind its faculty members when its commitment to the First Amendment is tested. We urge LSU to recommit to academic freedom by ending its investigation into Levy and clearing his record of all allegations resulting from this incident.

During the first course of his Administration of Criminal Justice (ACJ) class on January 14, Levy was walking through the syllabus when he arrived at his policy on recording in class.² While describing his policy prohibiting recording in class, Levy said, "You're not allowed to record me, and you're certainly not... If you're secretly recording me and it's helping you, God bless you. You're not allowed to do that. But you may not forward that to anybody. If you do, I can put you in jail, I mean I have the authority."³ He continued on, sarcastically suggesting students "forward my shit to the governor, like I generally don't have a problem, I would love to become a national celebrity based on what I said in this class," before adding in a mocking

¹ As you will recall from past correspondence, the Foundation for Individual Rights and Expression (FIRE) is a nonpartisan, nonprofit defending freedom of expression and other individual rights on America's college campuses. You can learn more about our mission and activities at thefire.org.

² Ryan Quinn, *Déjà vu: An LSU law professor who discussed Trump in class faces blowback*, INSIDE HIGHER ED. (Jan. 30, 2025), <https://www.insidehighered.com/news/faculty-issues/academic-freedom/2025/01/30/deja-vu-lsu-prof-who-talked-trump-class-faces>. The following recitation reflects our understanding of the pertinent facts, which is based on publicly available information. We appreciate that you may have additional information to offer and invite you to share it with us.

³ A student did record the class, however, including both Levy's warning against recording and his criticism of Governor Jeff Landry and President Donald Trump. Elizabeth Bourgeois, *HEAR THE TAPES: What the LSU law professor said that got him kicked out the classroom*, WAFB (Jan. 30, 2025), <https://www.wafb.com/2025/01/30/hear-tapes-what-lsu-law-professor-said-that-got-him-kicked-out-classroom/>.

tone, “like ‘fuck the governor.’”⁴ Some of the students in the class laughed at this comment, and Levy acknowledged that “taken out of context, I might seem like a bit of an asshole.”⁵

At another point in the 90 minute class, Levy added that he was aware that the class had probably heard that he was a “big lefty,” and that he “couldn’t believe that fucker won,” referring to Trump.⁶ “Those of you who like him, I don’t give a shit, you can have, you’re already getting ready to say in your evaluations, ‘I don’t need his political commentary,’” he added while students laughed.⁷ “No, you need my political commentary, you above all others need my political commentary.”⁸

Levy received notice on January 17 that LSU was relieving him of his teaching duties, “effective immediately, pending an investigation into student complaints of inappropriate statements made in your class during the first week of the Spring Semester 2025.”⁹ Levy’s status has since oscillated between being allowed to teach and being removed from the classroom. On Feb. 20, after weeks of back and forth concerning Levy’s status in the classroom, Louisiana’s First Circuit Court of Appeal vacated the part of the lower court’s order that ordered LSU to reinstate Levy after a two-day evidentiary hearing.¹⁰ Levy just appealed that decision to the Louisiana Supreme Court.

LSU has publicly stated that the situation is “not a question of academic freedom,” but is rather about “inappropriate conduct in the classroom.”¹¹ “Our investigation found that Professor Levy created a classroom environment that was demeaning to students who do not hold his political view, threatening in terms of their grades, and profane,” a spokesman for the university said.¹² Some students in class may have taken offense to Levy’s commentary in the moment, and others, including political figures, may have taken offense when his remarks were publicized. But the First Amendment restricts when and how LSU may penalize faculty expression.¹³ The Supreme Court has held that academic freedom is of “special concern to the

⁴ *Id.* Levy was likely referencing a recent incident involving fellow LSU professor Nicholas Bryner, who had addressed students in his class who may have voted for Donald Trump the day after the election. Bryner urged those potential Trump supporters to act in ways that made others feel comfortable. Bryner also added that he believed the election was “a pretty big rejection of that idea that we should be governed by experts.” This gained national attention after Governor Landry wrote to the LSU Board of Supervisors calling on the board to “look into the matter[.]” See FIRE Letter to Louisiana State University, November 27, 2024, FIRE (Nov. 27, 2024), <https://www.thefire.org/research-learn/fire-letter-louisiana-state-university-november-27-2024>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Quinn, *supra* note 2. Levy taught two more classes on January 14 and 16 before being removed from teaching.

¹⁰ Ryan Quinn, *This law professor’s job has become a legal drama*, INSIDE HIGHER ED (Feb. 20, 2025) <https://www.insidehighered.com/news/faculty-issues/academic-freedom/2025/02/20/lsu-law-professors-job-has-become-legal-drama>.

¹¹ Jack Brook, *Court upholds suspension of LSU professor who vulgarly criticized Trump and Louisiana Governor*, ASSOC. PRESS (Feb. 4, 2025), <https://apnews.com/article/louisiana-professor-free-speech-trump-vulgar-language-782071efc12907ad94d02f5acbea7c06>.

¹² *Id.*

¹³ *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses

First Amendment,” as “[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned.”¹⁴ Any argument that faculty have no First Amendment rights when teaching, or that the government can censor faculty speech without restriction, is therefore “totally unpersuasive.”¹⁵

As an initial matter, Levy made his comments concerning his in-class no-recording-or-distribution policy during an introductory lecture where he was informing students about his teaching policies, which he has wide discretion to do in a manner of his own choosing. As LSU’s Policy Statement on Academic Freedom, Free Speech, and Tenure states, academic freedom applies to “teaching, research, outreach and university governance.”¹⁶ Merely informing his class about his recording policy (in a clearly facetious way) is a prerequisite for Levy to teach his class.

And while some students may have disapproved of Levy’s political comments in the moment, they clearly do not amount to unprotected harassment or any other forms of unprotected speech.¹⁷ His remarks were, instead, an attempt to make clear his own personal biases in a humorous, irreverent way that students might find engaging and memorable. There is no indication that Levy’s comments targeted any individual student. Nor did Levy demand that students adopt his perspective on political issues. He merely suggested that those on the other side of the political spectrum from him may benefit from hearing his point of view. At no point did Levy threaten students’ grades as LSU alleged in its public statements about the matter.¹⁸

Indeed, even a cursory look at the context of Levy’s remarks (especially when one considers students’ laughter in response) makes clear that Levy intended them as rhetorical hyperbole. The First Amendment has long protected such “political hyperbole,” because of the country’s “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”¹⁹

To be sure, LSU’s policy statement on academic freedom, free speech, and tenure acknowledges that teachers “should not introduce information or topics which have no relation to the subject

than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

¹⁴ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

¹⁵ *Hardy v. Jefferson Cmty. College*, 260 F.3d 671, 680 (6th Cir. 2001).

¹⁶ Policy Statement 15: Academic Freedom, Free Speech, and Tenure, LSU OFF. OF ACAD. AFF. (initially issued April 22, 2020), https://www.lsu.edu/policies/ps/ps_15.pdf [<https://perma.cc/8DH3-2NR9>].

¹⁷ The Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted on the basis that others find it to be offensive. See, e.g., *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag was protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”); *Cohen v. California*, 403 U.S. 15, 25 (1971) (overturning the punishment of a man who wore a jacket emblazoned with the phrase “Fuck the Draft” to a courthouse); *R.A. V. v. City of St. Paul*, 505 U.S. 377 (1992) (striking down an ordinance that prohibited placing on any property symbols that “arouse[] anger, alarm or resentment in others on the basis of race, color, creed, religion or gender”).

¹⁸ Brook, *supra* note 11.

¹⁹ *Watts v. United States*, 394 U.S. 705, 707-708 (1969).

being instructed.”²⁰ But Levy made these fleeting comments while explaining the rules of his course—not as a distraction from the course content—and about then-president-elect Trump when discussing the relationship between the course and politics.

Academic freedom necessarily embraces the breathing room for faculty members to make fleeting, non-disruptive comments in class, and certainly allows faculty members to determine how best to explain their course policies and course overviews to their students. That some students in class or members of the public may find Levy’s comments offensive or obnoxious is not enough to render his speech unprotected. Even offensive in-class speech remains protected when it is pedagogically relevant.²¹ A diverse faculty body will have varying political views and teaching styles, and no instructor is obliged to conform to a prim and proper teaching style to avoid offending law students, all of whom are adults. And Levy’s absurd suggestion—to law students who had already taken Criminal Law and were now starting a course on Criminal Procedure—that he was authorized to unilaterally arrest and jail anybody who violates his no-recording-or-distribution policy cannot be reasonably interpreted as anything but a harmless joke, just one of dozens Levy told in that class. The students’ laughter merely confirms this point.

Finally, under LSU policy, faculty must “be afforded due process that includes ability [sic] to present supporting materials in disagreements on appropriate academic freedom, free speech, or freedom of expression.”²² Due process necessarily entails the right to have time to prepare a defense with access to relevant evidence, a meaningful hearing process, and timely and adequate notice of the charges against the professors.²³ Yet LSU denied Levy *all* of these opportunities, as it gave Levy no notice, no hearing, and no opportunity to defend himself. Removal from the classroom should be a method of last resort used only in the most extreme circumstances—such as when there is a threat to physical safety. Nothing of the sort is alleged in Levy’s case.

LSU must uphold academic freedom on campus. To do any less is to violate both the admirable principles found in LSU’s policies and the university’s First Amendment obligations. We request a substantive response to this letter no later than March 26, 2025.

Sincerely,



Graham Piro
Faculty Legal Defense Fund Fellow

Encl.

²⁰ Policy Statement 15, *supra* note 16.

²¹ *See, e.g., Hardy v. Jefferson Community College*, 260 F.3d 671, 680 (6th Cir. 2001) (rejecting “the argument that teachers have no First Amendment rights when teaching, or that [authorities] can censor teacher speech without restriction[,]” as “totally unpersuasive.”).

²² Policy Statement 15, *supra* note 20.

²³ *Due Process on Campus*, FIRE, <https://www.thefire.org/research-learn/due-process-campus>.