

July 11, 2025

Guy Bailey
Office of the President
University of Texas Rio Grande Valley
1201 West University Drive
Edinburg, Texas 78539

Sent via U.S. Mail and Electronic Mail (President@utrgv.edu)

Dear President Bailey:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by the University of Texas Rio Grande Valley's decision to remove Professor Clyde Barrow from teaching and place him on leave without providing the specific allegations against him and apparently in retaliation for criticizing university administrators and operations, in violation of his First Amendment and due process rights.² We urge the university to provide Barrow with details concerning the allegations and to be mindful of the First Amendment's robust protections for faculty expression.

On May 15, 2025, Barrow received a notice that UTRGV was placing him on investigative leave with pay and relieving him of all of his teaching duties.³ The letter also banned him from visiting campus and informed him that his access to UTRGV information resources was being removed.⁴ The notice did not specify what prompted the suspension beyond the university's purported need to investigate "allegations of possible violations of the Rules and Regulations of the Board of Regents... and UTRGV's policies, and/or inappropriate conduct."⁵

Barrow has repeatedly asked for specifics about the allegations against him to no avail. On May 19, Barrow emailed Dean Jose Davila asking what the allegations were, what rules he

¹ For more than 25 years, FIRE has defended freedom of expression and other individual rights on America's university campuses. You can learn more about our mission and activities at thefire.org.

² The recitation of facts here reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us. To these ends, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

³ Notification of Leave with Pay During Investigation from Dr. Jose Davila-Montes, Dean, College of Liberal Arts, to Clyde Barrow, professor (May 15, 2025) (on file with author).

⁴ *Id.*

⁵ *Id.*

purportedly violated, and how long the investigation would take.⁶ Davila responded by telling Barrow that the investigation “is being conducted by HR through its established processes,” and did not answer any of Barrow’s questions about the nature of the allegations.⁷ Barrow subsequently forwarded his questions to two representatives in UTRGV’s Department of Human Resources, but again did not receive a response to his questions.⁸ On July 1, upon receiving the teaching schedule, Barrow observed that he had not been assigned any courses for the upcoming fall semester.⁹

Barrow has been an outspoken critic of the leadership of his college at UTRGV, raising concerns about potential retaliation. On April 16, just one month before his suspension, Barrow emailed Dongkyu Kim, the interim chair of the College of Liberal Arts, copying the college’s Executive Committee, about Kim’s conduct of departmental meetings.¹⁰ Barrow wrote that the meetings were “unfocused, undisciplined, and disorderly,” and dealt too much with “tangential trivia” instead of “important issues.”¹¹ He added that he had heard many faculty complain about Kim’s oversight of the meetings, citing “poor quality of leadership and meeting management,” and emphasized that the complaints he heard were directly about Kim.¹²

Five days later, Barrow shared criticisms of proposed class assignment and curriculum changes with Kim and the political science faculty, arguing that the changes lowered academic standards.¹³ Later that night, in response to an email from Kim about changes in workload for faculty at the college, Barrow described the changes as “idocracy” and argued that they placed too much of a burden on faculty without fair compensation.¹⁴ Around the same time, Barrow also brought up his criticisms of the proposed policy changes in faculty meetings.¹⁵ Just three weeks later, he found himself suspended with no insight into the rationale for the discipline.

It has long been settled law that the First Amendment binds public universities like UTRGV,¹⁶ such that its actions and decisions—including the pursuit of disciplinary sanctions¹⁷—must

⁶ Email from Barrow to Davila-Montes (May 19, 2025, 10:48 AM) (on file with author).

⁷ Email from Davila-Montes to Barrow (May 22, 2025, 9:58 AM) (on file with author).

⁸ Email from Barrow to Debra Torres, HR Bus. Partner, and Aubrey Murray, Emp. Rel. Manager (May 22, 10:26 AM) (on file with author).

⁹ Fall 2025 Teaching Schedule (July 1, 2025) (on file with author).

¹⁰ Email from Barrow to Dongkyu Kim, Interim Chair, Dora Sallie Maldonado, Admin. Assistant et al. (Apr. 16, 2025, 4:53 PM) (on file with author).

¹¹ *Id.*

¹² *Id.*

¹³ Email from Barrow to Kim and full-time political science faculty (Apr. 21, 2025, 8:07 PM) (on file with author).

¹⁴ Email from Barrow to Kim and full-time political science faculty (Apr. 21, 2025, 9:35 PM) (on file with author).

¹⁵ Minutes of Faculty Meeting (May 2, 2025) (on file with author).

¹⁶ *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 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).

¹⁷ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

comply with the First Amendment. UTRGV accordingly cannot punish Barrow, in his capacity as a faculty member, solely for speech that others find uncivil or offensive critical of school policies.

As a primary matter, the First Amendment protects the right of professors to speak as private citizens on issues of public concern.¹⁸ Courts have held that public employees speak in their personal capacities when their speech is not “ordinarily within the scope of an employee’s duties,” even if the speech “concerns those duties.”¹⁹ Considering that public universities today do not primarily employ faculty members to voice their opinions about university policies, Barrow clearly spoke as a private citizen, as his emails were not within the scope of his normal employment duties. And his emails touched on a matter of public concern, which includes speech that “can be fairly considered as relating to any matter of political, social, or other concern to the community[.]”²⁰ He discussed the functioning of a college that is part of a taxpayer-funded university with an enrollment of more than 34,000 students.²¹ UTRGV’s smooth functioning is of major concern to both local and national observers who may look to enroll at the university. The fact UTRGV has not specified what allegations prompted its suspension of Barrow, coupled with the temporal proximity to Barrow’s criticisms of university leadership, strongly suggests that UTRGV is retaliating against Barrow for his protected commentary.

Nor does Barrow’s speech become punishable even if his emails expressed vitriol towards specific administrators. Courts recognize that in the context of a public university, “conflict is not unknown ... given the inherent autonomy of tenured professors and the academic freedom they enjoy.”²² While institutions understandably prefer civility, “the desire to maintain a sedate academic environment does not justify limitations on a teacher’s freedom to express himself on political issues in vigorous, argumentative, unmeasured, and even distinctly unpleasant terms.”²³

Given UTRGV administrators’ roles as public officials and community leaders, university leaders will necessarily receive criticism from various sources. This includes criticism from university employees, whose informed commentary on the sufficiency of institutional leadership/policies is central to public debate.²⁴ Restricting faculty criticism solely on the basis that it is uncivil stifles this debate by excluding a key perspective from the conversation. Indeed, a primary “function of free speech ... is to invite dispute,” and speech “may indeed best

¹⁸ *Pickering v. Board of Educ.*, 391 U.S. 563, 572 (1968).

¹⁹ *Lane v. Franks*, 573 U.S. 288, 240 (2014).

²⁰ *Snyder v. Phelps*, 562 U.S. 443, 453 (2011).

²¹ News and Internal Communications, *UTRGV hits enrollment milestone, retains title as Texas’ best university*, THE NEWSROOM (July 9, 2025), <https://www.utrgv.edu/newsroom/2024/08/26/first-day-of-fall-2024-semester.htm>.

²² *Hulen v. Yates*, 322 F.3d 1229, 1239 (10th Cir. 2003).

²³ *Rodriguez v. Maricopa Cty. Cmty. Coll. Dist.*, 605 F.3d 703, 709 (9th Cir. 2009) (cleaned up).

²⁴ In establishing a public school teacher’s First Amendment right to speak out about school budgetary issues, the Supreme Court explained how “[t]eachers are, as a class, the members of a community most likely to have informed and definite opinions as to how funds allotted to the operations of the schools should be spent” and thus it is “essential that they be able to speak out freely on such questions without fear of retaliatory dismissal.” *Pickering*, *supra* note 18. Professors have a similarly strong interest in raising misconduct allegations with their universities without suffering reprisals.

serve its high purpose when it induces a condition of unrest” or “stirs people to anger,” as speech is “often provocative and challenging,” carrying “profound unsettling effects[.]”²⁵

Suspending Barrow indefinitely without a hearing or without notice of the allegations also raises significant due process issues. The Board of Regents’ Rules and Regulations for the University of Texas system establish that tenured faculty members accused of “serious misconduct” must receive “appropriate due process required by state law.”²⁶ This process includes “written notice of the allegations against the faculty member together with an explanation of the evidence supporting dismissal and an opportunity for the faculty member to respond to the allegations in a hearing with a designated administrator.”²⁷ By suspending Barrow and barring him from teaching classes without providing him with written notice of the allegations and the opportunity to defend himself, UTRGV violates both the Board of Regents’ policy and basic conceptions of due process. These procedural safeguards ensure fairness and impartiality in misconduct proceedings by instilling confidence in institutions, complainants, respondents, and members of the public that the results are accurate. UTRGV’s failure to provide Barrow any meaningful rationale for his suspension casts doubt on the legitimacy of its disciplinary process and must be rectified immediately.

We request a substantive response to this letter no later than July 28, 2025, confirming that UTRGV will provide Barrow with the substance of the complaints against him and, if the complaints implicate his protected expression as a faculty member, reinstate him to his position as a faculty member.

Sincerely,



Graham Piro

Faculty Legal Defense Fund Fellow

Cc: Jose Davila, Dean, College of Liberal Arts
Samantha Allen, Vice-President for Human Resources
Dr. Luis Zayas, Provost
Dongkyu Kim, Department of Political Science

Encl.

²⁵ *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949).

²⁶ *Rules and Regulations Sec. 6*, Rule 31008: Termination of a Faculty Member, UNIV. OF TEX. SYS. <https://www.utsystem.edu/board-of-regents/rules/31008-termination-of-faculty-member> [<https://perma.cc/RR3W-XGNT>].

²⁷ *Id.*