



March 8, 2022

Dr. Adela de la Torre
c/o Britany Santos-Derieg, Chief of Staff
Office of the President
San Diego State University
5500 Campanile Drive
San Diego, California 92182-8000

URGENT

Sent via U.S. Mail and Electronic Mail (bsantosderieg@sdsu.edu)

Dear Dr. de la Torre:

The Foundation for Individual Rights in Education (FIRE), a nonpartisan nonprofit dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses, is concerned by San Diego State University's reassignment of Professor J. Angelo Corlett in response to student complaints about his relevant discussion of racial epithets during class.

While some may have found Corlett's discussion and repetitive mention of epithets uncomfortable or offensive, his reference to these words to discuss the use-mention distinction—particularly between "racial" and "racist" language—was germane to course material in both his "Critical Thinking and Composition" and "Philosophy, Racism, and Justice" courses. Accordingly, this speech falls squarely within the protection afforded to academic freedom under the First Amendment, which is binding on SDSU, and which the university vows to honor. FIRE calls on SDSU to restore Corlett to his courses immediately and to publicly reaffirm its commitment to academic freedom.

I. Corlett's Classroom Discussion

The following is our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

J. Angelo Corlett is a tenured Professor of Philosophy & Ethics at SDSU, where he teaches Philosophy 200: Critical Thinking and Composition, and Philosophy 328: Philosophy, Racism,

and Justice.¹ Critical Thinking and Composition introduces students to “critical thinking and writing,” including “[c]orrect deductive and inductive reasoning,” “[f]allacies,” “[c]ritical appraisal of evidence,” and “[c]onstruction of rebuttals and counter-arguments.”² In Philosophy, Racism, and Justice, students learn “[p]hilosophical concepts and theories of racism and racial justice,” as well as “[a]rguments for and against such theories.”³

On March 1, Corlett held a class discussion concerning the use-mention distinction, which is a foundational concept of analytic philosophy under which it is necessary to distinguish *using* a word or phrase from simply *mentioning* it.⁴ In his discussion, Corlett quoted numerous slurs, including the words “bitch,” “nigger,” and “white trash,” among others. In his Critical Thinking and Composition course, one student vocally objected to Corlett’s quotation of racial epithets, to which Corlett responded that it is not proper linguistics to use coded language when referring to specific slurs.

That evening, Corlett received emails from Monica Casper, Dean of the College of Arts & Letters, stating that SDSU would reassign Corlett from his Critical Thinking and Composition and his Philosophy, Racism, and Justice courses.⁵ Casper stated that SDSU found this necessary on grounds that there assertedly “have been numerous student complaints and it is clear you are not effective in the course.”⁶ Casper asked that Corlett “work with Chair Barbone, cc’ed here, to find a suitable reassignment.”⁷

II. Corlett’s Speech Is Protected by the First Amendment, Academic Freedom

SDSU’s decision to reassign Corlett based on his in-class discussion violates his pedagogical autonomy—which is protected by the basic tenets of academic freedom—to determine whether and how to approach material that may be challenging, upsetting, or even deeply offensive. A faculty member’s right to navigate difficult subjects like the use-mention distinction and racist language is well within the First Amendment’s protection of academic freedom, which under long-settled law binds public universities like SDSU.⁸ The decisions

¹ SAN DIEGO STATE UNIV., COLL. OF ARTS AND LETTERS, J. Angelo Corlett, Ph.D, <https://philosophy.sdsu.edu/people/bios/corlett> (last visited Mar. 7, 2022).

² SAN DIEGO STATE UNIV., CURRICULUM SERVICES, PHIL 200 - Critical Thinking and Composition, https://catalog.sdsu.edu/preview_course_nopop.php?catoid=3&coid=11079 (last visited Mar. 7, 2022).

³ SAN DIEGO STATE UNIV., CURRICULUM SERVICES, PHIL 328 - Philosophy, Racism, and Justice, https://catalog.sdsu.edu/preview_course_nopop.php?catoid=3&coid=11087 (last visited Mar. 7, 2022).

⁴ The Use-Mention Distinction ¶ 2.2, Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/quotation>; Bill Poser, Political Correctness and the Use/Mention Distinction, Language Log, <http://itre.cis.upenn.edu/~myl/languagelog/archives/005349.html>.

⁵ Email from Monica J. Casper, Dean, Coll. Of Arts & Letters, San Diego State Univ., to J. Angelo Corlett, Professor of Philosophy & Ethics, San Diego State Univ. (Mar. 1, 2022, 5:27 PM) (on file with author); Email from Monica J. Casper, Dean, Coll. Of Arts & Letters, San Diego State Univ., to J. Angelo Corlett, Professor of Philosophy & Ethics, San Diego State Univ. (Mar. 1, 2022, 7:08 PM) (on file with author).

⁶ *Id.*

⁷ *Id.*

⁸ *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).

and actions of a public university—including the pursuit of disciplinary sanctions⁹ and maintenance of policies implicating student and faculty expression¹⁰—accordingly must be consistent with the First Amendment.

SDSU’s Freedom of Expression policy reinforces this through additional commitments to free speech and academic freedom, alongside an exposition of the moral and philosophical importance of both:¹¹

Freedom of expression is a tenet of higher education; is integral to the mission of the University and to its students, staff, and faculty; is a central and inviolate freedom to learn and teach; necessary for an educated populace; is a requisite to a free society; is incompatible with the suppression of opinions; is incompatible with prior restraint; encompasses forms of expression other than speech; and defends the expression we abhor as well as the expression we support.

These core commitments are tested in moments like this, when faculty are harshly criticized for unpopular speech. These are also the moments when SDSU must revisit and apply, rather than abrogate, its academic freedom policies.

The academic freedom protected by the First Amendment and promised by SDSU grants faculty members like Professor Corlett substantial breathing room to determine how to approach subjects and materials relevant to their courses. Such matters must be a question left for the faculty member in the classroom—not the administrator, donor, legislator, or other outside authorities.

Pedagogically relevant material for these purposes may include words, concepts, subjects, or discussions that some, many, or most students may find upsetting or uncomfortable, including discussion of America’s fraught and unresolved history of racism and discrimination. Faculty members confronting and examining that history must be free of institutional constraints in navigating these issues.

To this end, expressly referencing racial slurs in a pedagogically relevant context is not uncommon—and is properly protected under the basic tenets of academic freedom. Law professors discuss them when teaching the “fighting words” doctrine;¹² journalism professors discuss how to tell stories that involve them;¹³ and sociology professors discuss the impact of these terms in defining who is welcome in various spaces.¹⁴ Colleges and universities that take

⁹ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

¹⁰ *Dambrot v. Central Mich. Univ.*, 55 F.3d 1177 (6th Cir. 1995).

¹¹ Freedom of Expression policy, SAN DIEGO STATE UNIV., available at https://newscenter.sdsu.edu/ootp/images/freedom_of_expression_policy.pdf (last visited Mar. 7, 2022).

¹² Frank Yan, *Free Speech Professor Takes Heat for Using Racial Epithets in Lecture at Brown*, CHICAGO MAROON, Feb. 9, 2017, <https://www.chicagomaroon.com/article/2017/2/9/free-speech-professor-takes-heat-using-racial-epit>.

¹³ Frank Harris III, *Without Context, N-Word Goes Best Unsaid*, HARTFORD COURANT, Feb. 13, 2018, <https://www.courant.com/opinion/hc-op-harris-ct-teacher-uses-n-word-20180209-story.html>.

¹⁴ See, e.g., Elijah Anderson, *The White Space*, SOCIOLOGY OF RACE & ETHNICITY, 2015 Vol. I pp. 10–21,

their commitment to academic freedom seriously recognize the pedagogically necessary distinction between using a racial slur qua a slur, and “using” the slur in teaching about its ramifications.

Princeton University, for example, defended a professor who said the slur in an anthropology course to discuss cultural and linguistic taboos.¹⁵ Likewise, The New School concluded a professor’s verbatim quotation of James Baldwin’s writing in her class discussion of how his works had been adapted and changed over time did not violate its discrimination policy; the school promised instead “to guide a pedagogical approach that respects academic freedom.”¹⁶ This is precisely the distinction that Corlett was attempted to teach to his students.

A decision by the United States Court of Appeals for the Sixth Circuit concerning the scope of an academic’s in-class speech is illustrative. In *Hardy v. Jefferson Community College*, the Sixth Circuit unequivocally rejected “the argument that teachers have no First Amendment rights when teaching, or that [authorities] can censor teacher speech without restriction[.]” as “totally unpersuasive.”¹⁷ There, a white adjunct instructor teaching “Introduction to Interpersonal Communication” lectured community college students about “language and social constructivism,” and discussed how “language is used to marginalize minorities and other oppressed groups in society.”¹⁸ Students, solicited by the instructor for examples, suggested the words “lady,” “girl,” “faggot,” “nigger,” and “bitch.”¹⁹ The instructor’s use of those words as “illustrations of highly offensive, powerful language” was “clearly” relevant to his lecture exploring the “social and political impact of certain words,” and was not “gratuitously used . . . in an abusive manner.”²⁰

Finding the instructor’s speech protected by the First Amendment, the Sixth Circuit held that expression, “however repugnant,” that is “germane to the classroom subject matter,” including the very words Corlett discussed here, is speech on “matters of overwhelming public concern – race, gender, and power conflicts in our society.”²¹

Corlett’s discussion of epithets was likewise inarguably germane to the subject matter. The difference between calling someone a slur and using the slur to explain concepts about word-choice and racism is no doubt relevant to a class regarding linguistics and composition, and its relevance to a course on philosophy and racism cannot be seriously questioned. Teaching students about this important distinction will almost certainly involve exposing students to

available at https://sociology.yale.edu/sites/default/files/pages_from_sre-11_rev5_printer_files.pdf.

¹⁵ Colleen Flaherty, *The N-Word in the Classroom*, INSIDE HIGHER ED (Feb. 12, 2018), <https://www.insidehighered.com/news/2018/02/12/two-professors-different-campuses-used-n-word-last-week-one-was-suspended-and-one>.

¹⁶ Colleen Flaherty, *New School Drops N-Word Case*, INSIDE HIGHER ED (Aug. 19, 2019), <https://www.insidehighered.com/news/2019/08/19/creative-writing-professor-cleared-discrimination-saying-slur-quoting-james-baldwin>.

¹⁷ 260 F.3d 671, 680 (6th Cir. 2001).

¹⁸ *Id.* at 674.

¹⁹ *Id.* at 675.

²⁰ *Id.* at 675, 679.

²¹ *Id.* at 683.

uncensored and offensive language. The choice of whether and how to do so must lie with each individual faculty member.

Because the discussion at issue here is protected by fundamental principles of academic freedom, reassigning Corlett constitutes impermissible punishment in violation of his core legal rights. SDSU's move also casts a constitutionally impermissible chill over all university faculty—suggesting any professor whose speech is deemed unpopular may face similar censorship.

III. Conclusion

Professor Corlett's in-class discussion employing slurs is well within the breathing room academic freedom affords.²² Accordingly, FIRE calls on SDSU to reinstate Corlett immediately and to publicly clarify that the university respects faculty academic freedom rights.

Given the urgent nature of this matter, we request receipt of a response to this letter no later than the close of business on Friday, March 11, 2022.

Be advised that FIRE is committed to using all of the resources at its disposal to see this matter to a just conclusion.

Sincerely,



Sabrina Conza
Program Officer, Individual Rights Defense Program

Cc: Monica J. Casper, Dean, College of Arts & Letters

²² That freedom does not shield its exercise from criticism, including by students, colleagues, and administrators. Criticism, after all, is a form of “more speech”—the remedy the First Amendment prefers to censorship.