



FIRE

Foundation for Individual
Rights and Expression

March 29, 2023

Martha E. Pollack
Office of the President
Cornell University
300 Day Hall
Ithaca, New York 14853

URGENT

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

Dear President Pollack:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ writes to urge you not to implement the Cornell Student Assembly's recommendation mandating trigger warnings for "traumatic" content in the classroom.² Were Cornell to impose such a policy, it would not only violate the university's clear commitments to open inquiry, but also constitute a gross infringement of faculty members' academic freedom to discuss pedagogically relevant material in class in the manner of their choosing.

On March 23, Cornell's Student Assembly passed a resolution urging the administration to adopt policies requiring instructors to provide advance notice of certain material deemed "triggering" in the classroom.³ The resolution defines "triggering" material as "a range of

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² *Resolution 31: Mandating Content Warnings for Traumatic Content in the Classroom*, CORNELL UNIV. STUDENT ASSEMBLY (presented Mar. 23, 2023), available at https://assembly.cornell.edu/sites/default/files/resolution_31_-_content_warnings.pdf [<https://perma.cc/GP5X-HXTG>] [hereinafter *Mandating Content Warnings*].

³ Gabriella Pacitto, Student Assembly Passes Resolution to Mandate Content Warnings in Classroom, Heated Discussion of Slating for Upcoming Elections, CORNELL DAILY SUN (Mar. 27, 2023), <https://cornellsun.com/2023/03/27/student-assembly-passes-resolution-to-mandate-content-warnings-in-classroom-heated-discussion-of-slating-for-upcoming-elections>. The recitation of facts here reflects our understanding of the pertinent facts based on public information. We appreciate that you may have additional information to offer and invite you to share it with us.

topics, including but not limited to: sexual assault, domestic violence, self-harm, suicide, child abuse, racial violence, transphobic violence, homophobic harassment, etc.”⁴

While Cornell certainly must ensure students do not face discriminatory harassment in the classroom, its commitments to open inquiry and academic freedom preclude it from requiring faculty to deliver content warnings before presenting students any potentially triggering material.

Cornell “affirms the importance of extending to all students and employees the core values of free and open inquiry and expression and recognizes employees’ right to communicate freely outside of the scope of their Cornell employment in their capacity as private citizens.”⁵ Cornell’s definition of academic freedom also evokes these core values:

Freedom of expression in the classroom on matters relevant to the subject and the purpose of the course and of choice of methods in classroom teaching; from direction and restraint in scholarship, research, and creative expression and in the discussion and publication of the results thereof; to speak and write as a citizen without institutional censorship or discipline.

Cornell’s policies laudably reflect our nation’s broader commitment to academic freedom. In warning against “laws that cast a pall of orthodoxy over the classroom,” the Supreme Court called academic freedom “a special concern to the First Amendment” and cited its “transcendent value to all of us and not merely to the teachers concerned.”⁶

Yet the Student Assembly’s resolution would jeopardize these critical commitments. First, academic freedom provides faculty pedagogical autonomy to determine whether and how to introduce or approach material that may be challenging, upsetting, or even deeply offensive to some students. This freedom requires faculty receive substantial breathing room to determine how to approach subjects and materials relevant to their courses, including whether or not to provide a content warning prior to introducing those topics. A blanket requirement that faculty provide warnings for content categories prescribed by others violates their right to pedagogical autonomy.

The resolution’s vague and overbroad definition of “triggering” content would also indisputably chill teaching. The resolution defines triggering material as “a range of topics, including **but not limited to**: sexual assault, domestic violence, self-harm, suicide, child abuse, racial violence, transphobic violence, homophobic harassment, etc.”⁷ This definition is overbroad, sweeping within its ambit a limitless amount of speech protected by Cornell’s free

⁴ *Mandating Content Warnings*, *supra* note 2.

⁵ *Cornell Policy Statement on Academic Freedom and Freedom of Speech and Expression*, CORNELL UNIV., available at <https://theuniversityfaculty.cornell.edu/the-new-faculty-handbook/statement-on-academic-freedom-and-freedom-of-speech-and-expression> [<https://perma.cc/52XG-VSEW>].

⁶ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967). Although Cornell is not bound by the First Amendment, faculty will reasonably interpret the university’s commitment to freedom of expression and academic freedom to be in line with the First Amendment’s protections.

⁷ *Mandating Content Warnings*, *supra* note 2 (emphasis added).

expression and academic freedom policies. The resolution is also unacceptably vague, failing to provide faculty sufficient notice of which content may—or may not—be sufficiently “triggering” to earn a warning. For example, faculty may question whether they must provide a trigger warning when teaching about slavery, the civil rights movement, certain court cases, or even The Bible if a student might be upset by the content.⁸

Of course, even if Cornell is not considering adopting this initiative, its significant popularity raises broader issues of how students perceive their relationship to Cornell’s mission to “discover, preserve and disseminate knowledge, to educate the next generation of global citizens, and to promote a culture of broad inquiry throughout and beyond the Cornell community.”⁹ FIRE is here to help Cornell if it seeks to educate its students about the importance of free expression and academic freedom.

We respectfully request a substantive response by Wednesday, April 5, 2023, confirming Cornell will not implement this misguided proposal.

Sincerely,



Sabrina Conza
Program Officer, Campus Rights Advocacy

⁸ The resolution’s adoption into policy would necessarily mean that failure to comply will have consequences—unlawfully chilling faculty academic speech.

⁹ *University Mission*, CORNELL UNIV., available at <https://www.cornell.edu/about/mission.cfm> [<https://perma.cc/E6VN-Q3R4>].