



# FIRE

Foundation for Individual  
Rights and Expression

April 10, 2023

Bobby King  
Office of the President  
San Francisco State University  
1600 Holloway Avenue  
San Francisco, California 94132

*Sent via U.S. Mail and Electronic Mail (bobbyking@sfsu.edu)*

Dear Mr. King:

FIRE appreciates your response to our April 6 letter expressing concern that the university is investigating history professor Maziar Behrooz for showing a drawing of the Prophet Muhammad in his class on history of the Islamic world. Unfortunately, your response only heightened our concern about SFSU's commitment to free speech and academic freedom.

You write that SFSU has a duty to assess and respond to complaints. You also said, "An investigation is opened if, accepting the reported conduct as true, it may constitute a violation of the nondiscrimination policy." We agree with this. Of course, SFSU has an obligation to *review* all complaints; however, during this preliminary review, SFSU must determine whether a complaint involves only First Amendment-protected expression before escalating it. Once the university determines the complaint involves only protected expression—such as displaying a pedagogically relevant image in class—and therefore *cannot* violate policy, SFSU should inform the complainant the speech is protected and there is no need for further inquiry. SFSU may offer support to the complainant but must avoid informing the individual who engaged in protected expression of the complaint or inquiry to prevent chilling that individual's speech.

The fact that the university must open an investigation only if, taking the reported facts as true, the actions would violate university policy, is the exact point we made in our letter to you. An initial review should have made clear Behrooz's actions could not be a violation of your public university's nondiscrimination policy because they were protected by the First Amendment, and there is no need for an investigation. Displaying a pedagogically relevant image in class while neither targeting a particular student nor using the image to criticize or discriminate against Muslims and their ideology does not, and cannot, under with the First Amendment, constitute a violation of SFSU's discrimination policy.

Thus, SFSU *must* end this investigation, because as an institution bound by the First Amendment, it cannot continue violating someone's rights just because an investigation has already started. We appreciate that you plan to review your policies, but you also must immediately correct course in this case and publicly reaffirm you will comply with your legal obligation to protect faculty academic freedom.

Sincerely,

A handwritten signature in black ink, appearing to read "Sabrina C.", written in a cursive style.

Sabrina Conza  
Program Officer, Campus Rights Advocacy

Cc: Office of Equity Programs & Compliance