



Academic Committee

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identification purposes only*

Howard L. Muncy

Director of Operations
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March 21, 2024

Dear Dean Costis Maglaras,

The Academic Freedom Alliance (AFA) is a coalition of faculty members from across the country and across the ideological spectrum who are committed to upholding the principles of academic freedom and professorial free speech.

We are deeply concerned by the investigation that has been launched against Professor Shai Davidai. On February 8, 2024, the Office of Equal Opportunity and Affirmative Action informed Professor Davidai that it has begun such an investigation based on complaints that he harassed members of the community. The explicit grounds for those complaints are a series of social media posts criticizing the political statements and activities of various students and student groups. The EOAA asserts that “your public commentary since October 2023 . . . is perceived to be anti-Palestinian/Arab.”

I write on behalf of the Academic Freedom Alliance to express our firm view that the university’s actions represent an egregious violation of the principles of freedom of expression and due process to which Columbia University has contractually committed itself.

The [Faculty Handbook](#) at § 70 states that faculty “may not be penalized by the University for expressions of opinion or association in their private or civic capacity.”

The social media posts are a form of what the [American Association of University Professors](#) calls “extramural speech.” Extramural speech is a protected form of freedom of expression. When professors “speak or write as citizens, they should be free from institutional censorship or discipline.” As the AAUP has emphasized, “The controlling principle is that a faculty member’s expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member’s unfitness for the position.”

Private speech on controversial social and political topics can sometimes be heated, ill-tempered, ill-considered, and broadly offensive. We do not hold such extramural speech to the standards that we would properly expect from speech in the classroom or from scholarly research.

Harassment policies cannot be used as a backdoor means to censor, suppress, and punish unpopular political speech. When a professor’s racially charged postings on a university forum set off wide-ranging controversy and condemnation, the Ninth



Circuit in *Rodriguez v. Maricopa County Community College District*, 605 F.3d 703, 710 (9th Cir. 2010) questioned whether “a college professor’s expression on a matter of public concern, directed to the college community, could ever constitute unlawful harassment” given First Amendment protections. What is true of an on-campus email list is all the more true of a public social media platform. It would require extraordinary circumstances for a public social media post to constitute the kind of “severe, pervasive, and objectively offensive” conduct that “effectively denies a person equal access to the University’s education program or activity.” If such public exchange of political views can result in administrative investigations of members of the faculty, then the Handbook’s promise that faculty will not be disciplined for their private expressions of opinion rings hollow. Administrative offices might well receive complaints regarding the protected political speech of members of the faculty, but the administration has a responsibility to dismiss such complaints without subjecting members of its faculty to inappropriate and burdensome investigations or putting them under the threat of discipline or even termination. Whether social media posts constitute harassment do not raise difficult questions of fact that require extended investigations. The protocols that guide campus administrators should be consistent with the university’s contractual commitments to freedom of expression.

We call on the university to immediately end its investigation of Professor Davidai and to take whatever corrective steps are necessary to ensure that such investigations do not occur in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "KW", with a long horizontal flourish extending to the right.

Keith Whittington
Founding Chair, Academic Committee, Academic Freedom Alliance
William Nelson Cromwell Professor of Politics, Princeton University (for identification purposes only)

cc. Professor Shai Davidai
Sarah Walton Kinney, Associate Director, EOAA
Luisanne Liz, Associate Director, EOAA
Felice B. Rosan, General Counsel