



Academic Freedom Alliance stands with USD Law Professor in China Controversy

Mar 22, 2021 | Press Release

FOR IMMEDIATE RELEASE

March 22, 2021

Academic Freedom Alliance stands with USD Law Professor in China controversy

PRINCETON, NJ – The Academic Freedom Alliance (AFA) released a statement of solidarity today regarding the case of University of San Diego Law Professor Tom Smith, who is facing allegations of harassment after publishing a [blog post](#) about the Chinese government's handling of COVID-19. This is the AFA's first statement on an academic freedom case since its [launch earlier this month](#). The AFA's statement in full follows below.

Academic freedom includes the right of professors to publish blog posts on matters of general public concern without the threat of investigations and sanctions by their university employer. Unfortunately, the University of San Diego Law School is not respecting that basic principle.

On March 10, 2021, University of San Diego Law Professor Tom Smith published [a blog post](#) on a group law blog, The Right Coast, of which he is the editor. Smith's post reacted to [an opinion piece](#) published in The Wall Street Journal criticizing the World Health Organization's ability to remain independent from the government of China in its investigation of the origins of COVID-19. After quoting two paragraphs from the WSJ piece, Professor Smith added a paragraph of commentary asserting that anyone who does not believe that the virus escaped "from the lab in Wuhan" was "swallowing whole a set of Chinese cock swaddle." He later added an update emphasizing that "Chinese" in that phrase referred to "the Chinese government." The reference seems quite clear within the context of the post.

The Asian Pacific American Law Student Association at USD filed a formal complaint to the school calling, among other things, for Professor Smith's "[termination](#)." The dean of the law school released a letter to the school characterizing the blog post as a form of "bias" that had "an adverse impact on our community" and noting that "university policies specifically prohibit harassment, including the use of epithets, derogatory comments, or slurs based on race or national origin, among other categories." The dean

promised that "there will be a process to review whether university or law school policies have been violated." A separate letter was sent to the faculty objecting to the use of "offensive language" and declaring that "there is no place for language that demeans a particular national group." These letters make clear that the dean has already prejudged the proper outcome for any disciplinary process on charges of alleged harassment.

This investigation is a clear threat to Professor Smith's academic freedom. Blog posts are a form of what the [American Association of University Professors](#) calls "extramural speech." Extramural speech is a protected form of academic freedom. 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." The [University of San Diego](#) embraces those principles, declaring that the university would "uphold the highest standards of intellectual inquiry and academic freedom."

Not only is the interpretation of Professor Smith's phrasing as a slur based on race or national origin a tendentious misreading of the blog post in question, but the suggestion that a single phrase in a single blog post commenting on the behavior of the Chinese government and international health agencies can trigger the procedures of the university's harassment policy sends a chilling message to all faculty. The Academic Freedom Alliance calls upon USD leadership to adhere to its academic freedom principles by rescinding its denunciation of Professor Smith and terminating all disciplinary proceedings against him based on his March 10, 2021 blog post.

[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 principle of academic freedom. The AFA's members agree to defend faculty members' freedom of thought and expression regardless of their viewpoint or the content of what they express. In addition to providing solidarity, the AFA will offer legal support to select faculty whose academic freedom is threatened.

Learn More About the Academic Freedom Alliance

No one, at any academic institution, should fear suppression or retaliation for speaking out publicly in any form. We encourage you to join the movement in supporting the flourishing of intellectual life and the pursuit of knowledge and truth at institutions of higher learning.



The Academic Freedom Alliance is an alliance of college and university faculty members who are dedicated to upholding the principles that are required for scholars to fulfill their vocation as truth-seekers and for colleges and universities to be faithful to their mission as truth-seeking institutions.



© 2021 Academic Freedom Alliance. All Rights Reserved.