



July 26, 2024

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Sent via U.S. Mail and Electronic Mail (dinars@fiu.edu)

Dear Dean Dinar:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned about Florida International University's reaction to test questions Adjunct Professor Mario Reyes used in his Terrorism and Homeland Security course, which FIU announced it would review in reaction to social media complaints.² As use of the questions is clearly a legitimate pedagogical practice that the First Amendment protects, we urge FIU to cease its review of Reyes's course materials and to refrain in the future from investigating its faculty's protected pedagogical choices.

The incipient social media post, which several X accounts circulated, featured screenshots of Terrorism and Homeland Security test questions that Reyes used,³ including:

- 1.) Terrorism began with two Zionist organizations, the Irgun Zvai Leumi and ____.
- 2.) In which country did the Zionists purchase land to create their new homeland?
- 3.) When Israelis practice terrorism, they often refer to it as ____.

¹ For more than 20 years, the Foundation for Individual Rights and Expression has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our mission and activities at thefire.org.

² The recitation of facts here reflects our understanding of pertinent events, based on public information. We appreciate that you may have additional information to offer and invite you to share it with us.

³ A prior syllabus for this course states its course objectives as including describing, discussing, and assessing motivations, ideologies, and tactics of terrorist groups, as well as differentiating between different terrorist groups. *Course Syllabus*, DSC4012 Terrorism and Homeland Security, FL. INT'L UNIV. (last visited July 17, 2024), https://goglobal.fiu.edu/faculty-staff/syllabi-assessments/_assets/pdfs/dsc-4012-fall2020-syllabus.pdf [<https://perma.cc/8TQL-NL4K>].

The answers to the questions were “Stern Gang,” “Palestine,” and “military actions,” respectively, all of which came from the course’s required textbook, *Terrorism and Homeland Security* by Jonathan White and Steven Chermak.⁴

On June 26, Florida state representative Randy Fine quote-tweeted a pro-Israel account that had posted Reyes’s questions. Fine wrote that he would be speaking to FIU as soon as possible because there “is no room” for asserted “#MuslimTerror at Florida’s state universities.”⁵ Fine later tweeted he had indeed spoken to FIU and the Florida Board of Governors about the test questions and implied Reyes would face discipline.⁶

On June 27, FIU responded to the X account StopAntisemitism’s post sharing the questions, stating the university had “already started a review of the circumstances.”⁷ The next day, Fine posted an update suggesting he had learned that Reyes was not being disciplined and characterizing FIU as “circling the wagons and describing rank antisemitism in its classes as an ‘unfortunate and tragic’ mistake for which no accountability is needed.”⁸

Even if FIU’s review does not result in any formal discipline of Reyes, as Fine suggests is the case, we remain concerned it will chill Reyes’s and other faculty members’ pedagogical autonomy—despite FIU’s obligation as a public institution bound by the First Amendment to honor the basic tenets of academic freedom, which protect Reyes’s selection of test questions.⁹ In warning against casting “a pall of orthodoxy over the classroom,” the Supreme Court called academic freedom “a special concern to the First Amendment” with a “transcendent value to all of us and not merely to the teachers concerned.”¹⁰ Faculty members accordingly retain the

⁴ Jonathan R. White & Steven M. Chermak, *Terrorism and Homeland Security* chs. 8-9, at 9, 14 (10th Ed. Test Bank 2022).

⁵ Rep. Randy Fine (@VoteRandyFine), X (June 26, 2024, 4:10 PM), <https://x.com/VoteRandyFine/status/1806057556374155362> [<https://perma.cc/84MD-A3SJ>]. Several other X accounts were circulating the screenshots as well. *See, e.g.*, Documenting Israel, (@DocumentIsrael), X (June 26, 2024, 3:18 PM), <https://x.com/DocumentIsrael/status/1806044290310639945> [<https://perma.cc/XM2M-6DSD>].

⁶ Rep. Randy Fine (@VoteRandyFine), X (June 26, 2024, 5:24 PM), <https://x.com/VoteRandyFine/status/1806076210255945785> [<https://perma.cc/2CJN-3JEQ>].

⁷ FIU (@FIU), X (June 27, 2024, 3:19 PM), <https://x.com/FIU/status/1806406985077731455> [<https://perma.cc/KJN6-KSHY>].

⁸ Rep. Randy Fine (@VoteRandyFine), X (June 28, 2024, 9:33 AM), <https://x.com/VoteRandyFine/status/1806682387759124990> [<https://perma.cc/4GQX-3CEW>].

⁹ *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). FIU’s Academic Senate similarly recognizes the importance of protecting academic freedom, which it describes as “the freedom and responsibility of faculty in their role as teachers, researchers, citizens in the academic community, and collegial governance systems and processes,” and emphasizes the right of faculty members to pursue a “course of study” and to teach “unhindered by pressures from internal or external groups.” About, FIU FACULTY SENATE, <https://facultysenate.fiu.edu/about/> [<https://perma.cc/75RS-Z9LR>].

¹⁰ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

right to determine whether, when, and how to approach material that may be challenging, upsetting, or even deeply offensive, but nonetheless germane to the topic of the course.

The questions at issue from Reyes' Terrorism and Homeland Security course are plainly pedagogically relevant, and in particular (among other things) test students' understanding of the content in the assigned textbook.¹¹ The first pertains to what the textbook describes as the counter-argument to the "conventional narrative" about the rise of the Palestinian Liberation Organization, a group many consider to be a terrorist organization.¹² The second touches on Zionist activists purchasing land in the area that under the British Mandate of the time was called Palestine.¹³ And the third refers to the text's discussion of historic views of terrorism.¹⁴

Rather than publicly announcing a review of faculty pedagogical choices when a complaint arises, FIU should first *privately* consider whether the complaint, on its face, is limited to pedagogical choices that the First Amendment protects. If so, it should—again, privately, without speech-chilling public statements—close the matter. We urge FIU in that regard to remain mindful of what public announcements suggest about its administration's view of academic freedom on campus, as other FIU faculty members who observe this situation are likely to self-censor for fear of triggering a similar controversy.

We request a substantive response to this letter no later than Friday, August 9, confirming FIU will not conduct public reviews or investigations into faculty members' protected pedagogical choices going forward, and that FIU will cease any existing review of Reyes's test questions.

Sincerely,



Graham Piro
Fellow, Faculty Legal Defense Fund

Cc: Kenneth A. Jessell, President, FIU
Elizabeth Béjar, Provost, FIU

¹¹ The American Association of University Professors (AAUP), whose gold-standard statements on faculty rights have been cited for nearly a century, defines freedom in teaching to include faculty's right to determine how to teach their courses, including how to assign materials, "without having their decisions subject to the veto of a department chair, dean, or other administrative officer." *Statement on Online Education*, AAUP (Jan. 2024) (quoting *Statement on the Freedom to Teach*, AAUP, Nov. 7, 2013) <https://www.aaup.org/report/statement-online-education#:~:text=The%20Freedom%20to%20Teach%2C%20a,for%20which%20faculty%20members%20are> [<https://perma.cc/7URF-95KA>].

¹² White & Chermak, *supra* note 4, at 226.

¹³ *Id.* at 223.

¹⁴ *See, e.g., id.* at 217.