

Statement by the Society of American Law Teachers Urging the Colorado Board of Regents To Protect Academic Freedom by Refusing to Fire Professor Ward Churchill for his Exercise of Free Speech

The Society of American Law Teachers (SALT), the largest membership organization of law professors in the United States, issues this statement¹ emphatically urging the Colorado Board of Regents to reject the recommendation of CU President Hank Brown to fire Ward Churchill. In so doing, the Regents would show the people of this country that the leaders of academia in Colorado are willing to uphold basic principles of freedom of speech, due process, and academic freedom and that they refuse to bow to political pressure aimed at silencing dissenting voices. As the Supreme Court has noted in the past, “The absence of such voices would be a symptom of grave illness in our society.” *Sweezy v. New Hampshire*, 354 U.S. 234 (1968).

Professor Churchill’s case presents an opportunity for the Colorado Board of Regents to publicly recognize that due process principles and the freedom of university professors as public intellectuals to criticize public policy are essential both to academia and to our democracy. The investigation of Professor Churchill and the recommendation to fire him call into question those basic principles. The “free and unhindered debate on matters of public importance” constitutes a “core value of the Free Speech Clause of the First Amendment.” *Pickering v. Board of Education of Township High School District 205, Will County*, 391 U.S. 563 (1968). SALT’s commitment to academic freedom and an open and democratic society compels us to issue this statement opposing Professor Churchill’s firing.

Professor Churchill’s entire academic career has been devoted to researching and documenting governmental misconduct, both with regard to its treatment of American Indians and other minority groups and as to its illegal activities through agencies such as the F.B.I. He is acknowledged to be a prolific scholar who offers a different perspective on American history and politics – one that presents a critical, and often unflattering, view of the conduct of the American government. Precisely because they are so controversial, his are the kind of views that should be given the greatest, not the least, protection. Yet, the record in Professor Churchill’s case indicates that exactly the opposite has occurred – Professor Churchill’s work has been singled out and scrutinized through a process that, itself, fails to comport with basic principles of institutional integrity and due process.

The initial investigation of Professor Churchill’s extensive scholarship began only after Professor Churchill made politically unpopular statements. After politicians publicly declared he should be fired for those remarks, the University of Colorado (CU) undertook an investigation into his scholarship – long after the scholarship had already been thoroughly reviewed through the University’s own promotion and tenure process. Many of the allegations solicited by the University in this process were based upon critiques of

¹ The vote on this statement was unanimous. One member of the SALT Board of Governors abstained from the vote (and did not participate in either the decision to write the statement or its drafting) due to a conflict of interest.

Professor Churchill's work that had been in the public domain for many years before CU's investigative process began and had never before drawn the University's attention.

The report of the University's investigative committee has itself become the basis for two separate research misconduct charges filed against its members, and CU's own Privilege and Tenure (P&T) Appeals Panel flatly rejected many of its conclusions. The remaining charges upheld by the P&T Appeals Panel are contested by Professor Churchill. More importantly, a majority of the Appeals Panel recommended only a 1- year suspension and demotion. Yet, President Brown disregards the results of CU's own process to advocate that Professor Churchill be fired.

While the CU investigative committee claims that it took great care to avoid the speech which precipitated the furor over Ward Churchill, there is no way to divorce the review of his scholarship from the public controversy which caused it. If Professor Churchill may be dismissed on the basis of the charges found valid by CU's P&T Appeals panel, charges which he contests, scholars critical of the status quo who teach in the Colorado system, as well as throughout the country, should not rest easily. For if the same standards and a similarly flawed process were applied to all scholars, many of them might lose their jobs as well. The message that a dismissal in this case sends to all academics who engage in work that questions the status quo is that they continue that work at their peril. If they continue to publish politically unpopular ideas, then, like Professor Churchill, they may find their scholarship put under a microscope, their livelihood threatened, and due process and fundamental fairness considerations put aside by administrators who lack the courage and conviction to protect academic freedom when it matters most, when unpopular individuals and ideas are in the crosshairs.

SALT believes that a procedurally flawed and politically motivated process cannot produce a just result. For that reason, we urge the CU Board of Regents to reject the recommendation of President Brown to fire Professor Churchill and, in so doing, to publicly confirm its commitment to our most precious freedom – the ability to express dissenting views without fear of reprisal.