



February 22, 2010

Marye Anne Fox
Chancellor
University of California, San Diego
9500 Gilman Drive # 0005
La Jolla, CA 92093-0005

Dear Chancellor Fox:

I write regarding UCSD's response to the so-called "Compton Cookout." The ACLU agrees that the party was offensive and joins you in condemning the racist stereotypes on which it was based. The ACLU also agrees that the remedy for offensive speech is more speech, not less. The teach-in scheduled for February 24 is an excellent example of countering offensive speech with more speech.

However, we are concerned about press reports that have indicated UCSD is investigating whether party organizers violated the student code of conduct, and that a UCSD spokesman "declined to comment ... on whether UCSD supports the notion of expelling students for offensive or racist speech that is not necessarily illegal." Also, it has been reported that "university staff are working on disciplinary processes with the national arm of the fraternity that allegedly sponsored the party."

As you have acknowledged, the party occurred "off campus" and "was not a UC San Diego student-organization sponsored event." The speech of the organizers, no matter how offensive, is protected by the First Amendment and not a proper subject for investigation. Students should not have to fear investigation of protected speech. As the courts often remind us, First Amendment freedoms demand ample breathing space to survive. The prospect of investigation and possible discipline can exert a chilling effect on First Amendment rights. The university should make clear that students cannot be disciplined or expelled for protected speech. While the national fraternity may take action as a private matter, the university is covered by the First Amendment and should not attempt to do indirectly what it cannot do directly.

We are also concerned that the student government overreacted by shutting down UCSD's student-run television station in response to a single offensive broadcast. While perhaps the student government is entitled to exercise editorial control, it is excessive to shut down all broadcasting in response to a single incident.

Respect for the First Amendment is essential in the struggle for racial equality. The First Amendment exists to prevent a tyranny of the majority against minority speech. The First Amendment protected the speech of the civil rights movement against state repression, as it protects everyone's speech today. We commend UCSD for speaking out strongly against racial bias and urge you to respect the First Amendment in doing so.

Sincerely,

David Blair-Loy
Legal Director

David Blair-Loy, Legal Director