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## Student Writers Mock 'Safe Spaces' Idea; Can The University Retaliate Against Them?

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August 26, 2017

*The Koala* is a student newspaper at the University of California San Diego (UCSD). In 2015, it unexpectedly became the center of a legal dispute that still rages.

As you may recall, the silly notion that students needed “safe spaces” on campus where they could go to escape the trauma of controversial ideas sprouted in 2015. A great many students and administrators took the idea seriously. What could be more important than for college students to feel safe? In an era when feelings trump reality, who could be so crass as to poke fun at this idea?

Well, the student writers at *The Koala* could. They suggested that what the university really needed was an Unsafe Space and you can read their short, satirical piece [here](#).

Naughty Koala! You don't mock progressives and get away with it.

Shortly after the “Unsafe Space” piece was published, the UCSD student government enacted a so-called “Media Act.” It defunded all student media groups and although not explicitly aimed at *The Koala*, it was obviously meant to silence its dissident (even if only satirical) voice.

If we have learned anything about “progressive” students and administrators over the last few years, it is that they can't take a joke. Nothing is funny if it's aimed at their political or sociological beliefs. Filmmaker Ted Balaker has made that point in his documentary “Can We Take a Joke?” which he [recently wrote about](#) for the James G. Martin Center for Academic Renewal.

A question that probably never crossed the minds of the student government officers in their zeal to retaliate against a group that offended their political sensibilities was whether a government-run university can get away with such conduct. But that question did occur to the students behind *The Koala*, who filed suit in federal district court against the chancellor of UCSD, Pradeep Khosla for violating their rights under the First Amendment.

The federal courts, led by the Supreme Court's overwhelmingly pro-free speech jurisprudence, have generally been strong defenders of the rights of student journalists. In this case, however, the judge dismissed their complaint. Now it's on appeal to the Ninth Circuit, where the students have the backing of both the Foundation for Individual Rights in Education (FIRE) and the Cato Institute.

Discussing the case on [Cato@Liberty](#), legal scholar Ilya Shapiro writes, “There is a longstanding, constitutionally based tradition of public universities serving as conduits for

freedom of expression, a tradition that UCSD has unceremoniously abandoned. By providing funding to certain groups and not others, the university is effectively restricting certain members of the public from a public forum, in blatant violation of the First Amendment.”

In the *amicus curiae* brief that Cato and FIRE have submitted to the Ninth Circuit, the lawyers point out that if college officials think they can crack down on unwanted speech by student journalists (especially criticism of themselves) by defunding them under some pretext, they will eagerly do so. The brief points to a memo written by the general counsel of the California State University System immediately after a 2005 decision by the Seventh Circuit that “appears to signal that CSU campuses may have more latitude than previously believed to censor the content of subsidized student newspapers.”

Why university officials should have any interest in censoring the content of student newspapers is, sadly, easy to understand: They think they know what speech is good and what speech is bad. Crucially, however, under the First Amendment, they are not allowed to make such decisions. The First Amendment requires public university officials to maintain a stance of viewpoint neutrality when it comes to funding or not funding speech on campus.

The Ninth Circuit is notorious for its leftism, but the Supreme Court precedents are so clear that even if the judges dislike The Koala for making fun of the “safe spaces” craze, I would bet that they will reverse the district court’s erroneous ruling. This crack in the First Amendment needs to be repaired.