



**FINAL INVESTIGATORY REPORT**  
**INVESTIGATION I-1914**

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August 17, 2020

**Final Investigatory Report: Investigations I-1914**  
**Respondent: Timothy Boudreau, Associate Professor – Journalism**  
**Employer: Central Michigan University**

**INTRODUCTION AND FACTS:**

Central Michigan University (CMU) hired Timothy Boudreau (Respondent) as a regular faculty member on August 16, 2001. On August 16, 2007, CMU awarded Respondent tenure and promotion to Associate Professor.

As a tenured Professor, Respondent is a bargaining unit member of the Michigan Education Association (MEA) affiliated CMU Faculty Association (Faculty Association). The 2019-2024 CMU/CMUFA *Agreement (Agreement)* along with Respondent’s individual appointment letter and department bylaws govern Respondent’s employment relationship with CMU.

The *Agreement* provides various due process protections to bargaining unit members when CMU investigates complaints of misconduct. These due process protections are outlined in Article 16 of the *Agreement*. Article 15 of the *Agreement* also provides that CMU will not discipline a bargaining unit member without “just cause.” The present matter arises out of a complaint of misconduct against Respondent by a former CMU student (Complainant) enrolled in Journalism 404, Law of Mass Communication, taught by Respondent in Spring 2018.

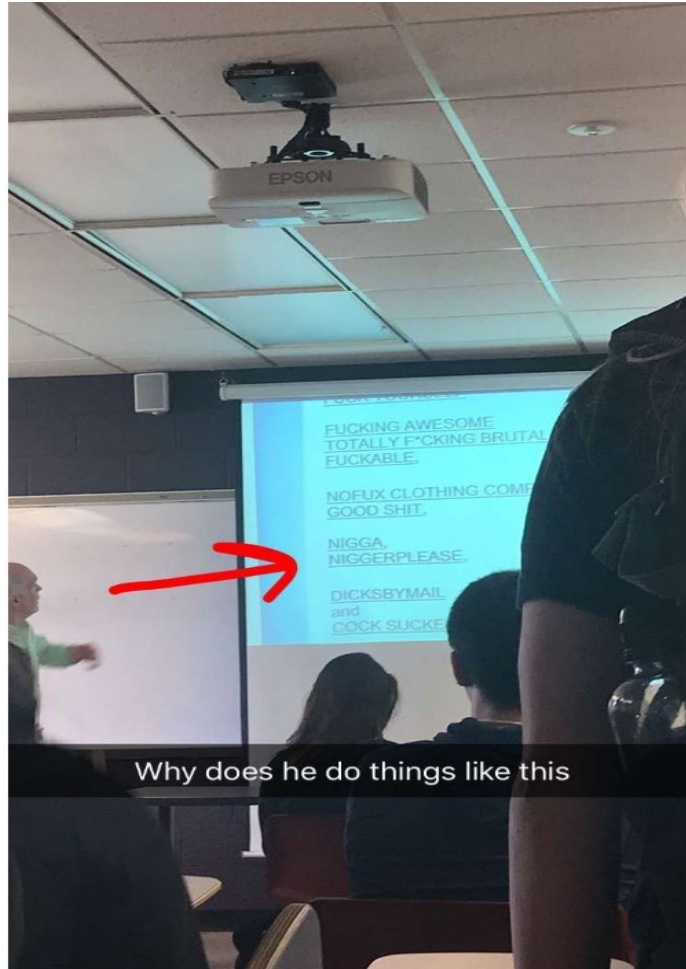
CMU has a comprehensive Protocol prohibiting harassment and discrimination at the University (CMU’s Protocol). CMU’s Protocol prohibits harassment or discrimination based on age, color, disability, ethnicity, familial status, gender, gender expression, gender identity, genetic information, height, marital status, national origin, political persuasion, pregnancy, childbirth or related medical conditions, race, religion, sex, sex-based stereotypes, sexual orientation, transgender status, veteran status, or weight. CMU’s Protocol authorizes the Office of Civil Rights and Institutional Equity (OCRIE) to investigate claims of harassment and discrimination within CMU’s community. OCRIE may conduct a joint investigation with other departments charged with evaluating employees’ performance, such as Faculty Personnel Services (FPS) or Human Resources (HR). OCRIE applies a preponderance of the evidence standard to its consideration of the complaint. At the conclusion of the investigation, OCRIE makes written findings, which it provides to the Complainant and the Respondent.

Traditionally, the present complaint would be investigated under CMU’s Protocol in conjunction with Faculty Personnel Services under the terms of the *Agreement*. However, CMU’s Protocol includes a provision that requires complaints to be submitted within 90 calendar days of the date the alleged acts of discrimination became known or should have become known to the complainant. Here, the 90 calendar day limitation is expired. Although the terms and conditions of CMU’s Protocol do not apply, CMU is nonetheless empowered to investigate the complaint under Articles 15 and 16 of the *Agreement*.


In the wake of protests arising out of the deaths of George Floyd, Breonna Taylor, and Ahmaud Arbery, CMU began receiving expressions of concern related to experiences of racism from current and former students. Complainant expressed one such concern about Respondent via Instagram. Complainant tagged CMU in the following post:




Complainant additionally included one picture and two short video clips with the Instagram post. In the picture, Respondent appears with a list of examples he created showing submitted business names projected onto a pull-down white-screen. The picture appeared as follows:



In the two short video clips, Respondent can be heard saying the N-word several times. The videos provided in Complainant's Instagram posts appeared as follows:

  
pav-6C58330D-50A9  
-4F0F-886D-3AA449X

  
pav-6D1F3F94-7100  
-4DC7-BAD6-45F62B

Complainant's Mother also shared a Facebook post describing her daughter's experience (pictured below).

**Lisa Mills**  
June 22 at 6:19 PM · Instagram ·

I am so very proud of my daughter who finally feels empowered to stand up for not just herself but for other students who may have the same unwelcome experience.

While attending CMU her junior year Skyler had a white professor that used the N word on multiple occasions while teaching. She would send me video and photos of his lectures. I was FURIOUS to say the least. I contacted a friend in news who was willing to follow up with the story however, all my daughter wanted to do was get out of this class and not have her grade affected.

The lecture that hurt her the most was a story he told about the CMU basketball team that her uncle played on. He said the coach didn't want players to act like n\*ggers in the classroom but act like n\*ggers on the court". See exhibit #3. He was repeating a story in a lesson that got a coach fired so I guess he felt it was appropriate to repeat it for his lesson. I believe Skyler was only one of two African Americans in the classroom that semester. Unfortunately she had him for two different classes.

Sometimes in the midst of chaos strength is born. Good for you Skyler!!!

I'm asking my friends to please repost this or simply tag CMU.  
[#centralmichiganuniversity](#) [#stopracism](#) [#notslick](#) [#blm](#)

Repost [@skymmills\\_](#) with [@get\\_repost](#)

Since we are exposing racists, let me introduce you to [@cmuniversity](#) professor Tim Boudreau who freely uses the n-word in class whether it be providing examples or quoting an individual. I know I wasn't the only student of color who felt humiliated and insecure by his racially insensitive statements.

**TIM BOUDREAU**  
Chairperson  
boudrit@c  
mich.edu  
Moore Hall  
449  
989-774-2354

**Education**  
Ph.D. Southern Illinois  
University  
MAJMC University of  
Florida  
BA Central Michigan  
University

**Courses Taught**  
• Media & Society  
• Law of Mass  
Communication

38 19 Comments 6 Shares

CMU commenced an investigation into Complainant's allegation on July 7, 2020, and placed Respondent on paid administrative leave during the investigation process.

On July 8, 2020, CMU interviewed Complainant along with her Mother to gather additional details and information regarding her complaint. In her interview, Complainant noted that there was nothing in Respondent's syllabus that warned enrolled students that the course would include the use of derogatory racial slurs or other controversial language. In fact, Respondent's syllabus contained the following provisions:

This part is based on the CMU policy: All CMU students are encouraged to help create an environment during class that promotes learning, dignity and mutual respect for everyone. Students who speak at inappropriate times, sleep in class, take frequent breaks, interrupt class by coming in late or leaving early, engage in loud or distracting behavior, text during class, use cell phones, headphones or pagers, use inappropriate language, are verbally abusive, openly disrespect others, or behave aggressively toward others could be asked to leave the class and subjected to disciplinary action under the *Code of Student Rights, Responsibilities and Disciplinary Procedures*.

In short, respect yourself and others, and use common sense.

\* \* \*

**Diversity:** At Central Michigan University we are a diverse community that shares our experiences with others. Through special programs and events, we find opportunities to express ourselves as a group and introduce others to the richness of our experiences. We work to build bonds, not walls. We celebrate the many ties we have as a multicultural community. Central Michigan University continuously strives to enhance the diversity of its community and to encourage opportunities to bring different perspectives and backgrounds to the University.

Complainant reported that Respondent used the N-word when teaching the class about *Dambrot v. Central Michigan University*, 839 F. Supp. 477 (E.D. Mich. 1993). Complainant also noted that Respondent used the N-word when he provided examples of impermissible license plates or business names. Complainant stated that Respondent did not provide any sort of verbal warning prior to his use of the N-word or other derogatory terms creating a racially hostile learning environment in his class. Complainant expressed that she experienced significant personal turmoil after Respondent's use of the N-word. Complainant contemplated withdrawing from CMU, but decided she was too close to graduation to make such a significant change. Complainant was one of two Black students in Journalism 404 in Spring 2018. Complainant witnessed White students using the N-word and laughing after Respondent's use of the racial slur.

On July 24, 2020, CMU interviewed Respondent regarding the present complaint. Respondent noted that he has taught Journalism 404, Law of Mass Communication, since 2006 and was involved

in the drafting process for the Master Course Syllabus (MCS). Respondent did not recall the last time the MCS was revised, but believed it is currently being revised by the Department of Journalism.

Respondent confirmed that he has used the N-word and other derogatory terms while teaching Journalism 404. Respondent also confirmed that he has provided examples of business names in Journalism 404 that contained racially derogatory and other explicit terms. Respondent confirmed that he has used homophobic slurs during his teaching of material associated with the Westboro Baptist Church. Respondent noted that he believes it is important not to censor the facts of a case or situation because the field of Journalism emphasizes truth in reporting and he doesn't believe it is appropriate to "sugar coat" language. Despite Respondent's belief in the importance of using the uncensored language when he is teaching, he confirmed that he censored himself on one occasion after a Black student requested that he not use the N-word. Respondent also confirmed that he did not include what are known as "trigger warnings" on his syllabi nor had he done any research or professional development involving the pedagogy or effect of introducing the N-word or other ethnic or homophobic slurs into his coursework.

In his interview with CMU, Respondent noted his belief that he provides warnings on his syllabi and in class regarding the use of offensive language in Journalism 404 though he could not recall specifics of when he did that. Respondent noted that he couldn't say with certainty that he provided a warning each day of class where offensive language was used.<sup>1</sup> There was not a warning contained in the syllabus for Journalism 404 in Spring of 2018 or any other semester Respondent provided to CMU. Complainant reported that she does not recall ever hearing a "trigger warning" from Respondent.

### **QUESTIONS ASKED:**

The present investigation presents several important questions for CMU to examine. These questions are:

1. Is the conduct, as alleged, protected by the conventions of Academic Freedom?
2. If not, is Respondent's behavior misconduct?
3. If so, what is the appropriate sanction for Respondent's misconduct?

#### **1. Respondent's use of racial slurs is not protected by the conventions of Academic Freedom.**

The conduct as alleged is that in 2018, Respondent (a White faculty member) used the N-word (fully articulating the racial slur rather than the widely recognized synonym "N-word") in a class of mostly White students and two Black students. CMU concludes that, given the cruel, dehumanizing, traumatic history of the N-word, there is no unfettered, unqualified freedom to utter the uncensored racial slur in an academic space. Where it may have relevance in relation to the instructional foundation for the subject matter being taught, it may enjoy some protection. But here, in relation to

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<sup>1</sup> Respondent was asked by Armistead if he did it at the beginning of the semester, at the beginning of the class period when he intended on including the words, immediately before uttering them, etc. He did not recall specifically, just saying "I'm sure I did."



the subject matter taught in this case, the availability of the more inert, relatively harmless alternative, and the complete lack of any attention paid by the Respondent to the pedagogy and effect of introducing that word in class, CMU cannot agree that Respondent is granted license *a priori* to decide the use is within his rights alone under the ambit of Academic Freedom.

The 1940 AAUP statement on Academic Freedom establishes:

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of Academic Freedom because of religious or other aims of the institution should be clearly stated.
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

That statement has been, for 80 years, the lodestar of institutional aspirations manifesting the purpose of public education and for anchoring the expansive freedoms of speech and thought associated with the university environment. Within the academy, the conventions of Academic Freedom established by the AAUP have, for administration and faculty alike, created broad, loosely defined boundaries within which the conduct of faculty within the classroom may be either judged or sanctified. Those freedoms, however, are not absolute and unqualified.

Here CMU confronts the treacherous, destructive, cruel and dehumanizing institutional nature of the N-word. The N-word in the American lexicon is for many a cruel, dispiriting weapon that steals dignity, incites fear, destroys standing, and forcibly imposes subjugation. Given the N-word's individual history of racism and oppression, it warrants consideration by CMU whether it stands apart from the broad immunity established by Academic Freedom.

The N-word, for some, induces a trauma unlike any other word to a group whose vulnerability is as obvious to the speaker as the color of their skin. There can be no misunderstanding of its

applicability as there might be with other trigger words involving violence, rape, loss, or other trauma. The population most affected by the trauma of the N-word is generally readily identifiable. CMU is mindful that faculty, under a theory of Academic Freedom, are not free in their utterances to discriminate against students in the classroom; they are not granted immunity from sexual harassment in an academic space, free to engage in threatening behavior, or as in the instant case, free to create a hostile learning environment. Respondent, who has power over Complainant, is not permitted to create a hostile educational environment because of the color of her skin by using the N-word.

The die is then cast for analysis, given that there are specific limitations to Academic Freedom and the contents of speech within the classroom, about whether the cavalier, arbitrary use of the N-word is protected. Here CMU concludes it is not where such conduct creates a hostile environment who are enrolled in the class.

Utterance of the uncensored racial slur was not required in the academic space of JRN 404. The difference struck by the teacher speaking the full racial slur instead of replacing it with “the N-word” was not essential to the lesson. Respondent admitted in the investigation that he had been cautioned at least once by a Black student that the word was offensive and, in that case, stopped using it. Respondent’s personal indulgence of a whim, a thrill, a frolic and detour through the complex and brittle emotions surrounding our nation’s most electrified word cannot be guaranteed without context by the convention of Academic Freedom. Academic Freedom does not carry with it the right to randomly visit trauma to students engaged in discovery – the special compact between learner and teacher (who is vested with real or perceived power in that relationship) must be more robust than that or an institution fails in its mission to transform lives for the better.

Simply put – in the case at hand, CMU finds that Respondent’s use of the N-word, unsupported by any research or professional development by Respondent related to the pedagogy or effect introducing that controversial word to the lesson, falls outside the liberties enshrined by Academic Freedom. Respondent is not permitted to recklessly or negligently visit trauma on a subset of his students because of the color of their skin. The fact is, he created a hostile environment for a Black student in his class. He offered no reason why the articulation of the full N-word was necessary to the lesson he presented.

## **2. Respondent’s use of racial slurs is misconduct.**

CMU finds that Respondent’s conduct was consistent with an extreme indifference to, or reckless disregard for, the academic environment of others. Respondent’s conduct in purposefully using the N-word in class without consideration to the disparate impact it would foreseeably have on students of differing racial backgrounds is, without a doubt, willful behavior done by him with extreme disregard for the academic environment of others. It is conduct likely to cause foreseeable harm.

In arguing *Brown v. Board of Education of Topeka*, 347 U.S. 483, a seminal case in this country’s history relating to equal treatment of people in an academic setting, Chief Counsel for the NAACP and future U.S. Supreme Court Associate Justice Thurgood Marshall argued that the doctrine of “separate but equal” was, on its face, unconstitutional. The Court agreed with him.

In using the N-word, repeatedly, in class without any pedagogical foundation, Respondent irreversibly created a separate classroom for the two Black students in the class. In fact, Complainant poignantly shared with investigators that:

you can't imagine what it felt like to be in that space and hear that word coming from a White faculty member to a mostly White class. It was like he was giving them permission to use the word....I loved CMU, but after that moment I went home and remember telling my mother I didn't want to come back.

Complainant's standing in the class, and presumably that of other Black students in numerous other sections over the years, was in that moment diminished without any possible remedy.

CMU finds Respondent's reckless indifference and complete lack of preparation or exploration in the pedagogy of teaching the N-word to be misconduct.

**3. CMU feels that the only appropriate sanction for Respondent's misconduct is termination of his employment.**

The sanction most fitting the gross indifference, the consequence, and Respondent's own admissions that his use of the N-word (and other uncensored racial and homophobic slurs) was regular and that he did not believe in "sugar coating" the word, is termination of his employment.

CMU's faith in Respondent is irrevocably shaken and its ability to faithfully trust future students to his care and mentoring is forever fractured.

**GOVERNING LEGAL AUTHORITY:**

The U.S. Supreme Court and courts throughout the United States have a long history of analyzing protections afforded by the First Amendment of the United States Constitution in the context of public employment.

In *Pickering v. Board of Education*, 391 U.S. 563 (1968), a teacher in Township High School District 205 wrote a letter to a local newspaper, complaining about the way the Board of Education handled past proposals to raise revenue. The Board of Education terminated Pickering, citing that his letter contained false statements and was detrimental to the efficient operation and administration of the schools of the district. The Board of Education executed Pickering's termination pursuant to an Illinois statute allowing termination "in the interests of the school." Pickering sought review in state court claiming that his letter was protected by the First and Fourteenth Amendments. The state trial court and Supreme Court of Illinois sided with the Board of Education and upheld Pickering's termination. Pickering appealed to the U.S. Supreme Court, which reversed and remanded the decision of the Supreme Court of Illinois. The U.S. Supreme Court declared that Pickering's statements regarded matters of public concern and did not interfere with the performance of his teaching duties,

and as such, were entitled to the same First Amendment protection as those of the general public. Additionally, the U.S. Supreme Court explained that absent proof that any falsehoods (as alleged by the Board of Education) were knowingly and recklessly made and interfered with the operation of the schools, Pickering's First Amendment rights outweighed the Board of Education's interest in limiting a teacher's contribution to public debate.

In *Connick v. Myers*, 461 U.S. 138 (1983), the U.S. Supreme Court distinguished *Pickering* by adding additional considerations on the nature of a public employee's expression. Sheila Myers was employed as an Assistant District Attorney in New Orleans with the responsibility of trying criminal cases. Harry Connick was the elected District Attorney. Connick notified Myers that she was being transferred to another section of the criminal court. Myers refused to accept the transfer and instead raised concerns about the transfer with colleagues throughout the District Attorney's office, which included Myers preparing and distributing a questionnaire concerning the office transfer policy, office morale, the need for a grievance committee, levels of confidence in supervisors, and whether employees felt pressured to work in political campaigns. Connick terminated Myers' employment citing her refusal to accept the transfer and insubordination in her preparation and distribution of the questionnaire. Myers sued for wrongful termination in violation of her First Amendment right to free speech. The lower courts sided with Myers and Connick appealed to the U.S. Supreme Court. The U.S. Supreme Court applied the *Pickering* analysis of balancing between the interests of the employee's First Amendment right to comment on matters of public concern and the State's interest in promoting the efficiency of the public services it performs through its employees. The U.S. Supreme Court distinguished Myers' speech from the speech in *Pickering* by noting that it did not relate to a matter of public concern, but instead upon her personal interest, and therefore the State (Connick) was afforded significant latitude in maintaining the efficiency of the workplace.

The *Pickering* and *Connick* cases combined to establish the Pickering Connick Test to determine an employee's free-expression rights. The Pickering Connick Test has two parts. The first part of the test is to determine whether a public employee's speech is on a matter of public concern. The second part of the test requires courts to balance the employee's right to free speech and the employer's interest in an efficient workplace that is free from disruption.

For several decades, the Pickering Connick Test served as the primary manner of analysis for the level of protection afforded to speech by public employees. However, the U.S. Supreme Court significantly altered the long-standing Pickering Connick Test in the case of *Garcetti v. Ceballos*, 547 U.S. 410 (2006). Richard Ceballos was a Deputy District Attorney for the Los Angeles County District Attorney's Office. Ceballos suspected that an affidavit used as the basis for a search warrant contained serious misrepresentations, which prompted him to contact the Los Angeles deputy sheriff who swore to the affidavit to discuss his concerns. Ceballos was unsatisfied with the deputy sheriff's explanations, and in turn, disclosed his beliefs to his supervisors and recommended the case in question be dismissed. Ceballos' supervisors declined to dismiss the case and Ceballos' was called to testify by the defense. After Ceballos' testified for the defense, he claimed that he was subject to a series of retaliatory actions including transfer to a less desirable position, transfer to another courthouse, and denial of a promotion. Ceballos brought an employment grievance, which was denied, and then sued under 42 U.S.C. § 1983 alleging violation of his First Amendment rights to free speech. The District

Court granted summary judgment, which was reversed by the Ninth Circuit Court of Appeals. The U.S. Supreme Court reversed the Ninth Circuit Court of Appeals, ruling that public employees do not have a First Amendment protection for speech issued as part of their official duties. Justice Anthony Kennedy stated, “when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”

In the case of *Dambrot v. Central Michigan University*, 839 F. Supp. 477, Keith Dambrot challenged the constitutionality of CMU’s “Discriminatory Harassment Policy” under the First Amendment and contested CMU’s decision to decline renewal of his employment contract. Dambrot was CMU’s Men’s Head Basketball coach. In a closed-door meeting with his team (players and assistant coaches), many of whom were Black, Dambrot used the N-word. Eventually, a former student-athlete brought his concerns about Dambrot’s use of the N-word to CMU’s Affirmative Action Office. CMU investigated the incident and suspended Dambrot without pay for five days. News of the incident spread and students throughout CMU expressed frustration with Dambrot’s behavior. CMU declined to renew Dambrot’s employment contract. The United States District Court for the Eastern District of Michigan struck down CMU’s “Discriminatory Harassment Policy” for unconstitutional over-breadth and vagueness. While the U.S. District Court struck down CMU’s policy, they nonetheless upheld CMU’s decision not to renew Dambrot’s contract noting that his use of the N-word in speeches to motivate his players did not fulfill the first prong of the Pickering Connick Test because his speech was not on a matter of public concern.

### **REVIEW OF ACADEMIC SCHOLARSHIP:**

In preparing to answer for CMU the question of whether Respondent’s behavior is misconduct, investigators sought resources readily available to anyone with access to a computer, the worldwide web, and a web browser.

The first search on the string “literature review on teaching the N-word” on Google provided a robust tableau of resources heralding the virtues – both ways – of either teaching the uncensored use of the N-word, or demurring and not giving full voice to racial slur. A sample of first page of approximately 251,000,000 web results is below:

[Teaching the N-word - The American Scholar  
theamericanscholar.org › teaching-the-N-word](http://theamericanscholar.org/teaching-the-N-word)

**Teaching the N-word.** A black professor, an all-white class, and the thing nobody will say. By Emily Bernard | September 1, 2005. Once riding in old Baltimore,.

[Discussing Sensitive Topics in the Classroom | Facing History ...  
www.facinghistory.org › mockingbird › discussing-sen...](http://www.facinghistory.org/mockingbird/discussing-sen...)

To Kill a Mockingbird, like many literary works, includes both language and topics that require careful consideration from **teachers** and students. We believe the ...

[Huck Finn Teachers Guide: Huck Finn in Context: The ... - PBS](#)  
[www.pbs.org › wgbh › teachers › huck › section1\\_2](#)

N\*gg\*r<sup>2</sup> (also spelled n\*gg\*r): a **word** that is an alteration of the earlier neger, n\*gg\*r derives from the French negre, from the Spanish and Portuguese negro, from ...

[Good teachers use the N-word - The Hechinger Report](#)  
[hechingerreport.org › good-teachers-use-the-N-word](#)

Aug 21, 2018 - Despite attempts to bury it, the **N-word** remains ubiquitous in our society, so **teachers** must explain its context and history to students.

[Teaching the N-word - Rethinking Schools](#)  
[rethinkingschools.org › articles › teaching-the-N-word](#)

**Teaching the N-word.** By Michelle Kenney. My students—black, white, Latina/o, Vietnamese, and CambodianÑall sighed and rolled ...

[Straight Talk About the N-word | Teaching Tolerance](#)  
[www.tolerance.org › magazine › fall-2011 › straight-tal...](#)

Among many young people today—black and white—the **N-word** can mean friend. Neal A. Lester, dean of humanities and former chair of the English department ...

[Toolkit for “Straight Talk About the N-word” | Teaching Tolerance](#)  
[www.tolerance.org › magazine › toolkit-for-straight-tal...](#)

Aug 30, 2011 - While some believe there's a place for the **word**, it is offensive to most people in public discourse. In addition, the debate activity should be guided ...

[A Collaborative Dialogue on the N-word in a University ... - jstor](#)  
[www.jstor.org › stable › trajincschped.28.2.0210](#)

This article is a collaboration between a black student and white teacher about the use of the **N-word** in a university classroom. The authors share their persona...by L. Gee - 2018 - [Related articles](#)

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<sup>2</sup> “\*” inserted by the author of this report, Armistead.

[Two professors on different campuses used the N-word last ...](#)  
[www.insidehighered.com › news › 2018/02/12 › two-p...](#)

Feb 12, 2018 - He asked, for example, what students thought about a student wiping her feet on the American flag, or what they thought was worse -- a white ...

[Teaching & the N-word: Questions to Consider - Koritha Mitchell](#)  
[www.korithamitchell.com › teaching-and-the-N-word](#)

Mar 23, 2018 - Below, you'll find my "Class Covenant," which is typically on the last page of the course policies for every class I **teach**, especially those that don't ...

The next search string "teaching the N-word in college classes" yielded similar results with some identical hits on the first page:

[Huck Finn Teachers Guide: Huck Finn in Context: The ... - PBS](#)  
[www.pbs.org › wgbh › teachers › huck › section1\\_2](#)

N\*gg\*r (also spelled n\*gg\*r): a **word** that is an alteration of the earlier neger, n\*gg\*r derives from the French negre, from the Spanish and Portuguese negro, from ...

[Discussing Sensitive Topics in the Classroom | Facing History ...](#)  
[www.facinghistory.org › mockingbird › discussing-sen...](#)

To Kill a Mockingbird, like many literary works, includes both language and topics that require careful consideration from **teachers** and students. We believe the ...

[Two professors on different campuses used the N-word last ...](#)  
[www.insidehighered.com › news › 2018/02/12 › two-p...](#)

Feb 12, 2018 - He asked, for example, what students thought about a student wiping her feet on the American flag, or what they thought was worse -- a white ...

[Professor is suspended for using the N-word in class in ...](#)  
[www.insidehighered.com › news › 2019/02/01 › profes...](#)

Feb 1, 2019 - He was discussing language in a James Baldwin essay. Given the slur's potential to throw learning off **course**, is it ever worth using in the ...

[Teaching the N-word - The American Scholar](#)  
[theamericanscholar.org › teaching-the-N-word](#)

**Teaching the N-word.** A black professor, an all-white **class**, and the thing nobody will say. By Emily Bernard | September 1, 2005. Once riding in old Baltimore,.

[Straight Talk About the N-word | Teaching Tolerance](#)  
[www.tolerance.org › magazine › fall-2011 › straight-tal...](#)

Among many young people today—black and white—the **N-word** can mean friend. Neal A. Lester, dean of humanities and former chair of the English department ...

[The N Word | Teaching Tolerance](#)  
[www.tolerance.org › learning-plan › the-N-word-1](#)

How does language effect our **classroom** community? How do our similarities and differences impact the relationships we have with people inside and outside ...

[Teaching the N-word - Rethinking Schools](#)  
[rethinkingschools.org › articles › teaching-the-N-word](#)

**Teaching the N-word.** By Michelle Kenney. My students—black, white, Latina/o, Vietnamese, and Cambodian all sighed and rolled ...

[Teaching The N Word With Socratic Seminar](#)  
[learn.teachingchannel.com › video › teaching-the-N-word](#)

**Teaching the N Word** is a delicate subject for **teachers**. Watch how one **class** uses Socratic Seminar to engage students in a lesson surrounding the **N Word**.

[Point/Counterpoint: The N-word in educational settings | The ...](#)  
[theithacan.org › opinion › point-counterpoint-the-n-wo...](#)

Sep 19, 2019 - Racial epithets have a space in the **classroom** Mahad Olad Paul Zwier is a law professor at Emory University.

A lay person’s review of the ample resources available in just a few key-strokes using just basic imagination of likely search strings establishes firmly that resources were easily available to Respondent to investigate the effect of his choice to use “non sugar-coated” words when voicing the N-word in class. Had Respondent engaged in even the most rudimentary of options leading to discovery or awareness, he might have discovered Randall Kennedy’s thoughtful 2002 treatise on [The Strange Career of a Troublesome Word](#) exploring the history and impact of the use of the N-word in America.



Had Respondent explored the 2019 entry from the [Ithacan](#), Cornell's student newspaper, relating to a Point/Counter-Point on the N-word, he might have encountered this thoughtful passage from John Turner, a Black student who is the Opinion page editor of that paper:

This situation (debating the propriety of using the N-word in an academic setting) is the definition of white privilege. White individuals have the luxury of choosing what language is appropriate and what is not. Black individuals do not have this luxury. Historically, our voices have been continuously disregarded.

White privilege is not being affected by racial slurs in the same way people of color are. That is why the word "cracker" will never have the same implications as the N-word. **White privilege is claiming ignorance of the N-word's inappropriate nature because when I, as a black individual, am subjected to this word, I am not only subjected to the history of the word but also its racial implications that are still prevalent today.** Black people cannot afford to be ignorant. As numerous news stories on police brutality have shown, ignorance at the hands of racist individuals can cost black people their lives.

Had Respondent scratched the surface even as remotely as did his investigators, he might have encountered any number of resources informing him as an educator of the concept of teaching race in the [Trauma Informed Classroom](#).

The reality is, as an academician who is tenured and has at his disposal all of the trappings normally associated with tenured faculty (job security and flexibility, the expectation of scholarly production and creative activity, opportunities for sabbatical to explore in depth matters relating to academic interest or import), Respondent admits he has done no research on the effect of using racial slurs in the classroom.

This lack of engagement by Respondent contributes to CMU finding that his choice to use uncensored racial slurs arises more from personal indulgence than from pedagogy or academic effectiveness. It is in Respondent's personal choice to indulge his desire to incite, that CMU also finds misconduct. It is impossible to defend the ponderous and irrevocable effect the use of the N-word had on students at CMU in the absence of pedagogical theory, research, or exploration. It is impossible to eliminate, in the absence of any record of deliberation or academic exploration by Respondent on the purpose and effect of using the N-word, the possibility that Respondent was merely trying to "get away with" the exact behavior he was teaching (in *Dambrot v. Central Michigan University*, 839 F. Supp. 477) which resulted Dambrot's suspension and eventual non-reappointment at CMU.

Respondent purports his use of the N-word, is because "he doesn't believe in sugar coating it" but does nothing to consider the effect of that choice on the learners in his charge. A responsible academic does not create a hostile environment for learning by unnecessarily using the racial epithet instead of its inert substitute – the "N-word." The indifference demonstrated therein by Respondent is evocative of the Zimbabwean proverb from the Shona tribe "The tree remembers; the axe forgets." CMU finds a callous disregard in his lack of preparation and care for the students in his charge.

## ANALYSIS:

In general, faculty members are afforded wide latitude in the presentation of their class materials and the way they teach. This latitude is not unchecked. CMU expects faculty members to maintain a high level of professionalism, to treat students with dignity and respect, and to teach in an inclusive manner that acknowledges the diversity of CMU's students.

The present investigation surrounds Respondent's use of the N-word in his teaching of two cases, *Dambrot v. Central Michigan University*, 839 F. Supp. 477, and *Matal v. Tam*, 137 S. Ct. 1744. The question here is not whether it is permissible or appropriate to teach these two cases in Journalism 404, Law of Mass Communication. The question here is whether it is appropriate to use the uncensored forms of racial slurs or other denigrative language in the classroom. Said another way, is the use of uncensored slurs pedagogy or personal titillation. An examination of the entire circumstances suggests it is the latter.

Respondent has taught Journalism 404, Law of Mass Communication, since 2006. In the current investigation, Respondent provided CMU investigators with the past 7 semesters of syllabi from this course (which covers the semester in question – Spring 2018). Neither *Dambrot* nor *Matal* appear in any of the syllabi provided by Respondent.

When asked whether *Dambrot* was a “media case,” he stated that it was not and that he teaches it in the general First Amendment section of the course since it involves a campus speech code. *Dambrot* was decided by the United States District Court for the Eastern District of Michigan on November 26, 1993. While this case applied to Central Michigan University, there was an earlier case that set the precedent as the first federal challenge to a university speech code heard by the very same court as *Dambrot*. On September 22, 1989, in *Doe v. University of Michigan*, 721 F. Supp. 852, the United States District Court for the Eastern District of Michigan struck down the University of Michigan's speech code as overbroad, vague, and viewpoint discrimination. Doe was a psychology student in the University of Michigan's graduate program specializing in biopsychology<sup>3</sup>. Doe sought to enjoin the enforcement of the University of Michigan's speech code as an unconstitutional chilling of his First Amendment right to free speech and as overbroad and vague. The United States District Court for the Eastern District of Michigan agreed and struck the University of Michigan's policy as unconstitutional. *Doe v. University of Michigan* is the seminal case for federal challenges to university speech codes.

The United States Supreme Court has not issued an opinion on university speech codes. However, in the case of *R.A.V. v. St. Paul*, 505 U.S. 377, the Supreme Court struck down a city ordinance that made it a crime to place a burning cross or swastika anywhere “in an attempt to arouse anger or alarm on the basis of race, color, creed, or religion.” The Court's decision, citing violation of the First Amendment, overturned a cross-burning conviction.

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<sup>3</sup> Interdisciplinary study of the biological bases of individual differences in personality traits and mental abilities.

Despite these two cases serving two primary precedents, and appearing in the class materials Respondent assigns, he nonetheless seems to focus more heavily on *Dambrot* in his instruction of campus speech codes. Regardless of Respondent’s rationale for his pedagogical decision to focus his instruction on *Dambrot* rather than *Doe v. University of Michigan* or *R.A.V. v. St. Paul*, he exceeded the bounds of pedagogy when he indulged his own personal amusement in using the N-word. There was no pedagogical grounding in using the N-word rather than the censored form. In fact, Respondent admitted in his interview with investigators that he has not reviewed any of the available scholarship on the pedagogy of teaching offensive language and subjects.

Another example of Respondent’s personal indulgence is his instruction surrounding the case of *Matal v. Tam*, 137 S. Ct. 1744. *Matal v. Tam*. Involved an Asian-American rock band that attempted to trademark their band’s name as “The Slants”, language considered to be a racial slur. The band had their trademark dismissed by the USPTO for being “disparaging” under Section 2(a) of the Lanham Act. The U.S. Supreme Court unanimously agreed that Section 2(a) of the Lanham Act “offends a bedrock First Amendment principle: Speech may not be banned on the ground that it expresses ideas that offend.” This decision cleared the way for offensive language to be trademarked. Since the Supreme Court’s ruling in *Matal*, the USPTO has seen a large influx of applications to trademark racially offensive language and symbols. Respondent provided examples of some of these offensive trademarks in class (pictured earlier in this report). In going over the examples of offensive trademarks, Respondent again used the N-word. Respondents use of racial slurs, including the N-word, in his instruction serves no purpose other than to indulge his own personal pursuits in prodding the bounds of what is appropriate. In fact, some of the offensive trademarks submitted after *Matal* were submitted by individuals seeking to keep them out of the realm of visible circulation. For example, Curtis Bordenave filed a trademark application for the N-word the same day as the *Matal* decision. Bordenave filed to use the language in association with retail store services, namely the sale of general merchandise. Bordenave’s goal was to keep the N-word out of circulation through enforcement of his trademark rights against its use.

In the context of his choice to fully articulate the slur rather than substitute the “N-word” for purposes of the lesson being presented, Respondent’s use of the N-word (and other racial and homophobic slurs) was not, in that moment, speech on a matter of public concern. Moreover, Respondent’s speech is not protected by the established bounds of Academic Freedom. Academic Freedom is designed to protect open discourse, scholarly pursuits, the marketplace of ideas, and other hallmarks of effective and innovative education. However, Academic Freedom is not a safety net for every abhorrent act perpetrated by a university employee. Academic Freedom does not permit a university employee to engage in discrimination or harassment, to threaten or intimidate, or any other number of behaviors that involve, at a basic level, only speech. Respondent’s use of the N-word (and other racial and homophobic slurs) is similarly not protected under Academic Freedom or by the First Amendment since, manifest as it was in this circumstance, it does not involve a public concern but is instead representative of a personal indulgence. Moreover, Respondent’s use of the N-word (and other racial and homophobic slurs) also creates a hostile learning environment that undermines CMU’s mission, vision, and values.

In 1957's *Sweezy v. New Hampshire*, 354 U.S. 234, the U.S. Supreme Court first addressed the concept of academic freedom though some earlier cases mention it. In *Sweezy*, the Court reversed the conviction of a Marxist economist for refusing to answer questions by the attorney general concerning the political content of a lecture he delivered at the University of New Hampshire. The plurality acknowledged the freedom of teachers and students, but Justice Felix Frankfurter, a former Harvard Law School professor, authored a concurrence that went further. Frankfurter said that academic freedom protects an institution's First Amendment right to decide on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study. Two decades later, the majority in *Regents of the University of California v. Bakke* (1978) cited the same language, noting that academic freedom is a "special concern of the First Amendment." Here, CMU also has the academic freedom to determine how various subjects are taught. CMU's analysis in the present matter is that Respondent's use of the N-word is beyond the bounds of appropriate instruction and instead is actionable misconduct.

### **CONCLUSION AND DISCIPLINARY DETERMINATION:**


Respondent's behavior in creating a hostile learning environment for a Black student in his class is severe misconduct that CMU cannot allow in its academic environment. CMU's vision statement is:

Central Michigan University, an inclusive community of scholars, is a national leader in higher education inspiring excellence and innovation.

CMU has as its core values integrity, respect, compassion, inclusiveness, social responsibility, excellence and innovation. Here, Respondent's behavior not only fell short of these core values, but also severely undermined them.

This is not an easy conclusion for CMU to reach. Academic Freedom is essential to the purpose of a university. CMU, in reaching this conclusion, does not abandon its commitment to Academic Freedom nor does it abandon its support for faculty to engage their students with vigor and passion in stretching the boundaries of conventional wisdom and knowledge. However, Respondent created a hostile learning environment through his reckless use of the N-word (and other racial and homophobic slurs) in his instruction. There was no defensible reason for Respondent's choice to use uncensored racial slurs. CMU will not permit such hostility to go unchecked and, as such, the Employer finds separation of employment to be the appropriate sanction.

Respectfully submitted,

  
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Dennis Armistead, J.D.  
Executive Director, Faculty Personnel Services  
Central Michigan University

cc: Dr. Mary Schutten, Executive Vice President and Provost  
Dr. Elizabeth Kirby, Interim Dean College of the Arts & Media  
FA Representatives