



November 13, 2020

Andrew Hamilton
Office of the President
New York University
70 Washington Square South
New York, New York 10012

Sent via Electronic Mail (andrew.hamilton@nyu.edu)

Dear President Hamilton:

FIRE¹ is concerned about the threat to academic freedom posed by New York University's (NYU's) investigation into Professor Mark Crispin Miller. Even accepting as true the allegations of faculty members that precipitated the investigation, those allegations stem from expression protected under NYU's promises of free expression and academic freedom policies. FIRE calls on NYU to cease its investigation with all due haste and to reassure Miller that it will refrain from taking disciplinary action against him.

I. Dean Launches Investigation into Professor Miller at the Request of Media Faculty

The following is our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us. Please find enclosed an executed waiver authorizing you to share information with FIRE. However, if the facts here are substantially accurate, the investigation into Professor Miller must end in a finding that his teaching and expression is fully protected by institutional policy.

Professor Mark Crispin Miller is a tenured professor in the Department of Media, Culture, and Communication (DMCC) at NYU and has been since 1997. He regularly teaches courses on advertising, film, and propaganda.

On September 20, a student in Miller's propaganda course took to Twitter to criticize some of the in-class statements and sources Miller cited. The particular class session she referenced focused on media coverage surrounding the efficacy of masks in combating the coronavirus

¹ As you will recall from prior correspondence, the Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

pandemic.² At least one of these tweets called on NYU to discipline or fire Miller.³ Rodney Benson, chair of the DMCC, responded to one of the student's tweets, assuring her that he and other members of the department "have made this a priority and are discussing next steps."⁴ A number of Twitter users also replied to the student's thread, some counseling her to drop the course⁵ and others criticizing the tweets and expressing support for Miller.⁶

On September 23, Benson emailed Miller with screenshots of some of the responses to the student's tweets, many critical of the student, asking whether Miller was "part of this."⁷ Miller replied that he does not use Twitter⁸, that he had not asked anyone to weigh in on the issue online, and that he only recognized the name of one of the individuals who had replied to the tweets.⁹ The student who wrote the initial tweets has since dropped the course.

On October 6, in response to the student's criticisms, Miller posted a piece on his personal blog outlining the material he shared with his class, noting the criticism he received, and expressing concerns about the threat to academic freedom that would arise from an investigation into the content of his course.¹⁰ The post included a link to a petition urging NYU to respect academic freedom, which has garnered over 17,000 signatures.¹¹

On October 21, members of the DMCC faculty sent a letter ("the DMCC Faculty Letter") to Dean Jack H. Knott and Provost Katherine Fleming calling on NYU leadership "to publicly

² Julia Jackson (@julia_jacks), TWITTER (Sept. 20, 2020 10:49 PM), https://twitter.com/julia_jacks/status/1307874464743534592.

³ Julia Jackson (@julia_jacks), TWITTER (Sept. 20, 2020 11:04 PM), https://twitter.com/julia_jacks/status/1307878284370358277.

⁴ Rodney Benson (@rodneybensonyu), TWITTER (Sept. 21, 2020 11:55 AM), <https://twitter.com/rodneybensonyu/status/1308072330493558786>.

⁵ See, e.g., realStephenWalker (@modcarpet), TWITTER (Sept. 22, 2020 10:32 PM), <https://twitter.com/modcarpet/status/1308595002164105218>; Ruth Davis (@ruthdavis2000), TWITTER (Sept. 21, 2020 10:39 AM), <https://twitter.com/ruthdavis2000/status/1308053168341778434>.

⁶ See, e.g., Lucius Black (@luciusblack12), TWITTER (Sept. 21, 2020 9:31 PM), <https://twitter.com/LuciusBlack12/status/1308217261015138306>; Jonathan Folland (@JonathanFolland), TWITTER (Sept. 21, 2020 9:48 PM), <https://twitter.com/JonathanFolland/status/1308221512634241025>; Peter Ziegler (@pziegler1986), TWITTER (Sept. 21, 2020 9:31 PM), <https://twitter.com/pziegler1986/status/1308217212860354561>.

⁷ Email from Rodney Benson to Mark Crispin Miller (Sept. 23, 2020 9:11 AM) (on file with author).

⁸ While Miller himself does not use Twitter, his assistant does tweet out links to each of his blog posts.

⁹ Email from Miller to Benson (Sept. 23, 2020 11:45 AM) (on file with author).

¹⁰ MCM, *NYU must affirm MCM's academic freedom (PETITION)*, NEWS FROM UNDERGROUND (Oct. 6, 2020), <https://markcrispinmiller.com/2020/10/nyu-must-affirm-mcms-academic-freedom-petition>. Miller had posted about the situation on his blog before October 6, but did not call for any action or include a petition in his earlier posts. See MCM, *NYU's letter to my students*, NEWS FROM UNDERGROUND (Sept. 21, 2020), <https://markcrispinmiller.com/2020/09/nyus-letter-to-my-students>; MCM, *The tweets attacking me*, NEWS FROM UNDERGROUND (Sept. 21, 2020), <https://markcrispinmiller.com/2020/09/the-tweets-attacking-me>. While the October 6 blog post has 46 comments and could be presumed to have reached a wider audience, the September 21 posts include only one comment between them.

¹¹ *Under attack at NYU, Mark Crispin Miller needs your support for academic freedom*, CHANGE.ORG, <https://markcrispinmiller.com/2020/10/nyu-must-affirm-mcms-academic-freedom-petition> (last visited Nov. 6, 2020).

support the NYU community and undertake an expedited review, as per the Faculty Handbook and Title IV, of Professor Miller’s intimidation tactics, abuses of authority, aggressions and microaggressions, and explicit hate speech, none of which are excused by academic freedom and First Amendment protections.”¹²

The primary concerns outlined in the DMCC Faculty Letter include the petition to support Miller’s academic freedom and that Miller was “conducting an email campaign against the department.”¹³ The faculty members also allege that Miller creates an “unsafe learning environment” and charge him with responsibility for the social media backlash against his former student’s September Twitter thread.¹⁴ The letter also references previous allegations against Miller, for which he had already been investigated.¹⁵

On October 29, Dean Knott, heeding the calls of the DMCC faculty, launched an investigation into Miller.¹⁶ LaRue Allen, the Vice Dean of Faculty Affairs of the Steinhardt school, is handling the investigation. Miller met with Knott and Allen telephonically on November 2. They indicated that the allegations in this letter triggered a requirement that they investigate, but that the process would follow the procedures outlined in the faculty handbook and would be completed by the end of the semester. Miller has not been provided with written notice of the specific allegations against him, other than the letter from the DMCC faculty.

II. Professor Miller’s Pedagogical Decisions in His Propaganda Course Are Protected by Academic Freedom

Professor Miller’s September 20 session of his propaganda course, focusing on issues surrounding the media portrayal of the efficacy of masks in stopping the spread of the coronavirus, amounted to no more than the presentation of pedagogically-relevant material and discussion clearly protected by basic tenets of the academic freedom NYU promises to its faculty. Because the DMCC Faculty Letter does not otherwise contain credible allegations of harassment or discrimination, NYU must end the investigation without disciplining Miller.

A. *NYU promises its faculty members the protections of academic freedom.*

While NYU is a private institution not bound by the First Amendment, it is bound by the promises it makes to its students and faculty.

In its “Statement in Regard to Academic Freedom and Tenure,” NYU provides:

Academic freedom is essential to the free search for truth and its free expression. Freedom in research is fundamental to the

¹² Letter from DMCC Faculty to Dean Jack H. Knott and Katherine Fleming (Oct. 21, 2020) (on file with author).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* These allegations arose from comments Professor Miller made online concerning transgender individuals. The investigation did not result in discipline.

¹⁶ Email from Dean Jack H. Knott to Miller (Oct. 29, 2020 9:46 AM) (on file with author).

advancement of truth. Freedom in teaching is fundamental for the protection of the rights of the teacher in teaching and of the student in learning. . . . Teachers are entitled to freedom in the classroom in discussing their subject, but they should not introduce into their teaching controversial matter that has no relation to their subject.

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 discipline¹⁷

The American Association of University Professors (AAUP), in 2013, issued a statement concerning faculty members' right to determine how to teach their courses, defining freedom in teaching:

The freedom to teach includes the right of the faculty to select the materials, determine the approach to the subject, make the assignments, and assess student academic performance in teaching activities for which faculty members are individually responsible, without having their decisions subject to the veto of a department chair, dean, or other administrative officer.¹⁸

Having made these promises to its faculty, NYU is both morally and contractually bound to uphold them. As a New York court recently explained, private colleges and universities must adhere to their own commitments to students and faculty.¹⁹ *See also McAdams v. Marquette Univ.*, 2018 WI 88, ¶84 (2018) (private Catholic university breached its contract with a professor when it punished him for a personal blog post because, by virtue of its adoption of the 1940 AAUP Statement of Principles on Academic Freedom, the blog post was “a contractually-disqualified basis for discipline”).

B. NYU may not punish Miller for the content of his propaganda course.

As an institution that promises its faculty academic freedom and freedom of expression, NYU may not investigate or punish Miller for the pedagogically-relevant content of his course.

Academic freedom, at its core, protects the right of faculty members to discuss pedagogically-relevant material in their classes. This expressive freedom is particularly salient at

¹⁷ N.Y. UNIV., FACULTY HANDBOOK, at 31 (Oct. 15, 2020), https://www.nyu.edu/content/dam/nyu/provost/documents/facultyHandbook/October2020revision/10.15.20_Faculty_HandbookCLEAN.pdf.

¹⁸ *Statement on the Freedom to Teach*, AAUP (Nov. 7, 2013), https://www.aaup.org/file/2013-Freedom_to_Teach.pdf.

¹⁹ *Awad v. Fordham Univ.*, 117 N.Y.S.3d 800 (Sup. Ct. 2019) (refusal to recognize a chapter of Students for Justice in Palestine was contrary to the university's mission statement guaranteeing freedom of inquiry).

institutions of higher education, which the United States Supreme Court has identified as “peculiarly the marketplace of ideas,” where the “essentiality of freedom . . . is almost self-evident.” *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).²⁰ This necessarily entails the right to discuss material that others may find offensive.

The United States Court of Appeals for the Sixth Circuit’s ruling in *Hardy v. Jefferson Community College* is instructive. There, an adjunct instructor teaching “Introduction to Interpersonal Communication” lectured students about “language and social constructivism,” discussing how “language is used to marginalize minorities and other oppressed groups in society.”²¹ Students, asked by the instructor to provide examples, suggested the words “lady,” “girl,” “faggot,” “nigger,” and “bitch.”²² The Sixth Circuit found that the instructor’s use of those words was “clearly” relevant to his lecture exploring the “social and political impact of certain words” and was not “gratuitously used . . . in an abusive manner.”²³ Accordingly, it remained protected expression.²⁴

This standard is widely accepted. For example, the United States Court of Appeals for the Ninth Circuit held that “a teacher may require a student to write a paper from a particular viewpoint, even if it is a viewpoint with which the student disagrees, so long as the requirement serves a legitimate pedagogical purpose.” *Brown v. Li*, 308 F.3d 939, 953 (9th Cir. 2002). More importantly, NYU’s own academic freedom policy recognizes that faculty members “are entitled to freedom in the classroom in discussing their subject,” so long as they do not persistently “introduce into their teaching controversial matter *that has no relation to their subject.*”²⁵

While Miller’s colleagues complain about “the way in which he engages discussion around controversial views and non-evidence based arguments,” Miller’s lecture and reference to additional sources the students could consult about the issue of mask-efficacy and COVID-19 is pedagogically relevant to his course on propaganda. It is also timely, as the United States continues to grapple with how to manage the virus. Academic freedom entitles Miller to engage in “discussion around controversial views,” including discussing the competing schools of thought on mask-wearing, even if his colleagues view those discussions to be unsupportable. An educator of college-aged students is likewise free to assign materials espousing views some students disagree with, and students—who are adults—are capable of coming to their own conclusions, including those that do not comport with Miller’s views.

²⁰ Again, while the First Amendment does not bind NYU, jurisprudence interpreting the First Amendment’s guarantee of freedom of expression provides a useful baseline for what students and faculty reasonably expect from institutions that, like NYU, promise expressive freedoms.

²¹ *Hardy v. Jefferson Cmty. College*, 260 F.3d 671, 674 (6th Cir. 2001).

²² *Id.* at 675.

²³ *Id.* at 679.

²⁴ *Id.*

²⁵ FACULTY HANDBOOK, *supra* note 17 (emphasis added).

There is no contention that this material is irrelevant to Miller’s course. The study of media and propaganda touches on a broad range of subject matter, and will almost inevitably venture into sometimes-uncomfortable territory and include topics on which many students will have varying beliefs. That students may experience discomfort, and even anger, in the course of their studies should have no bearing on a professor’s right to present materials in class and select relevant sources.

Although the student who criticized the course on Twitter and the authors of the DMCC Faculty Letter clearly found Miller’s course content objectionable, their objections to his views or discussions—without more—do not give NYU license to investigate or penalize Miller for his teaching methods.

Students, of course, must be free to engage with professors regarding course content and to register their concerns with the administration or general public. But NYU remains obligated to address such complaints in a way that does not infringe on faculty rights.

C. Miller’s extramural expression is protected speech.

The DMCC Faculty Letter criticizes not only Miller’s in-class speech, but also his expression outside of the classroom context. In particular, the letter focuses on his use of “explicit hate speech” online and charges him with responsibility for some of the negative social media response to the student’s tweets.

i. Extramural expression, including online criticism of a student, is protected under NYU’s commitment to academic freedom.

A recent decision from the Wisconsin Supreme Court—which also addressed a faculty member’s online criticism of a student—is illustrative in explaining the contours of extramural freedom and their binding nature in the context of private institutions.²⁶

Marquette University, a private Catholic university, had adopted the 1940 Statement of Principles on Academic Freedom—the same standard adopted by NYU.²⁷ A member of the faculty, aggrieved by a graduate student instructor’s exchange with an undergraduate student about whether LGBTQ rights were an “appropriate” topic of class discussion, criticized the instructor on his personal blog, providing a link to the instructor’s contact information and assailing her attitude as “totalitarian.”²⁸ The university punished the professor, citing the blog post as falling short of the university’s “standards of personal and professional excellence.”²⁹

But the Wisconsin Supreme Court held that the university’s commitment to academic freedom rendered the professor’s blog post “a contractually-disqualified basis for

²⁶ *McAdams v. Marquette Univ.*, 914 N.W.2d 708, 731 (Wis. 2018).

²⁷ *Id.* at 730.

²⁸ *Id.* at 713–14.

²⁹ *Id.* at 714.

discipline.”³⁰ Citing the AAUP’s *amicus curiae* brief,³¹ the court explained that “the doctrine of academic freedom comprises three elements: teaching; research; and extramural comments.”³² The blog post, an “expression made in [the professor’s] personal, not professorial, capacity,” fell into the “extramural” category.³³ Such remarks are protected under a commitment to academic freedom unless the remark “clearly demonstrates the faculty member’s unfitness for his or her position” in light of their “entire record as a teacher and scholar.”³⁴ This “stringent standard” is “[s]o strict, in fact, that extramural utterances rarely bear upon the faculty member’s fitness for the position.”³⁵

Miller’s position here is remarkably similar to the scenario addressed in *McAdams*. Both concerned a faculty member’s use of a personal blog to criticize a position taken by a student at their institution, and both involve claims that the faculty member’s criticism yielded harassment by third parties. Yet here, unlike in *McAdams*, it was the student who first leveled public criticism, leading Miller to respond to the public accusations against him. Just as students must be free to engage in robust criticism of faculty members at their institution, faculty members must be free to respond to their critics, provided that response itself does not employ otherwise unprotected expression.

Further, the allegation regarding the negative replies on a student’s Twitter thread is not that Miller made any of these comments or asked others to do so, only that some Twitter users replied negatively. In order to punish Miller for harassment, the allegedly harassing expression must have been *his* expression or come at his direction, as freedom of expression does not permit guilt by association.

ii. Miller’s extramural comments, alleged to amount to ‘hate speech,’ are protected expression.

While some examples of hateful expression may fall into the few exceptions to the First Amendment—such as “true threats” or “incitement”—the Supreme Court has repeatedly held that there is no exception to the First Amendment for expression others view as hateful.³⁶ The Court recently and expressly reaffirmed this principle, refusing to establish a limitation on speech viewed as “hateful” or demeaning “on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground.”³⁷ Indeed, the court has long held that the principle of

³⁰ *Id.* at 737.

³¹ Brief for AAUP as Amicus Curiae Supporting Plaintiff–Appellant, *McAdams v. Marquette Univ.*, 914 N.W.2d 708, available at https://www.aaup.org/sites/default/files/McAdams_Marquette_Feb2018.pdf.

³² *Id.* at 730.

³³ *Id.*

³⁴ *Id.* at 731–32, citing AAUP, POLICY DOCUMENTS AND REPORTS, COMMITTEE A STATEMENT ON EXTRAMURAL UTTERANCES 31 (11th ed. 2014)).

³⁵ *Id.* at 732 (cleaned up).

³⁶ See, e.g., *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992) (striking down an ordinance that prohibited placing on any property symbols that “arouse[] anger, alarm or resentment in others on the basis of race, color, creed, religion or gender”).

³⁷ *Matal v. Tam*, 137 S. Ct. 1744, 1764 (2017).

freedom of speech does not exist to protect only non-controversial expression. Rather, it exists precisely to protect speech that some or even most members of a community may find controversial or offensive. Speech cannot be restricted simply because it offends others, on or off campus. *See, e.g., Texas v. Johnson*, 491 U.S. 397, 414 (1989) (“If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”).

For example, in holding that a student newspaper’s political cartoon depicting the Statue of Liberty and Goddess of Justice being raped by police officers was protected speech, the Supreme Court explained that “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’” *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973). The Court reiterated this fundamental principle in *Snyder v. Phelps*, 562 U.S. 443, 461 (2011), proclaiming that “[a]s a Nation we have chosen . . . to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”

This principle does not waver in the context of universities that promise students and faculty freedom of expression, whether the speech is a “heated exchange of views” on race³⁸ or a “sophomoric and offensive” skit depicting women and minorities in derogatory stereotypes.³⁹ If the state could punish expression it deems to be hateful, it would imperil a broad range of political speech and academic inquiry, and such an exception would unquestionably be used against those it would be intended to protect. For example, when the University of Michigan briefly enacted an unconstitutional prohibition against hate speech, it was almost universally used to punish students of color who offended white students.⁴⁰

Again, there are no specific allegations of unprotected expression listed in the DMCC Faculty Letter, only a vague allegation of “explicit hate speech,” which remains protected expression. NYU cannot continue to investigate Miller with no indication that any of his speech is unprotected.

³⁸ *See, e.g., Rodriguez v. Maricopa Cty. Cmty. Coll. Dist.*, 605 F.3d 703, 705 (9th Cir. 2009) (faculty member’s use of system-wide listserv to send “racially-charged emails” was not unlawful harassment, as the First Amendment “embraces such a heated exchange of views,” especially when they “concern sensitive topics like race, where the risk of conflict and insult is high”).

³⁹ *Iota Xi Chapter of Sigma Chi Fraternity v. George Mason Univ.*, 993 F.2d 386, 388–92 (4th Cir. 1993).

⁴⁰ “[M]ore than twenty cases were brought by whites accusing blacks of racist speech; the only two instances in which the rule was invoked to sanction racist speech involved punishment of speech by a black student and by a white student sympathetic to the rights of black students, respectively; and the only student who was subjected to a full-fledged disciplinary hearing was a black student charged with homophobic and sexist expression.” Thomas. A. Schweitzer, *Hate Speech on Campus and the First Amendment: Can They Be Reconciled?*, 27 CONN. L. REV. 493, 514 (1995) (citing Nadine Strossen, *Regulating Racist Speech on Campus: A Modest Proposal*, 1990 DUKE L.J. 484, 557–58 (1990)); *see also Doe v. Univ. of Mich.*, 721 F. Supp. 852, 869 (E.D. Mich. 1989) (striking down the university’s speech code as unconstitutional).

D. The DMCC Faculty Letter contains no credible, specific allegations of discriminatory harassment.

The DMCC Faculty Letter also accuses Professor Miller of creating an “unsafe learning environment.” Although the authors do not reference a specific policy violation, to the extent this allegation refers to a charge of discriminatory harassment, it too is misplaced.

Properly defined, discriminatory harassment is not protected expression and falls outside the protections provided by academic freedom. In *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999), the Supreme Court set forth the definition of hostile environment harassment in the educational setting. In order for conduct (including expression) to constitute actionable harassment, it must be (1) unwelcome, (2) discriminatory on the basis of gender or another protected status, and (3) “so severe, pervasive, and objectively offensive that it can be said to deprive the victim[] of access to the educational opportunities or benefits provided by the school.”⁴¹ By definition, this includes only extreme and typically repetitive behavior—conduct so serious that it would prevent a reasonable person from receiving his or her education.

But as the American Association of University Professors (AAUP) has noted, “[o]verly broad interpretations of what constitutes a ‘hostile environment’ are increasingly undermining academic freedom.”⁴² Arguing that “[a]dministrations often view academic freedom as an obstacle to policies that have already been promulgated instead of as a foundational tenet of higher education that should shape institutional policy,” the AAUP has instead urged universities to promulgate sexual harassment policies that “distinguish speech that fits the definition of a hostile environment from speech that individuals may find hurtful or offensive but is protected by academic freedom.”⁴³

It is hard to imagine how the DMCC Faculty Letter presents any credible grounds to investigate Miller for discriminatory harassment. There are only two allegations included in the letter that describe specific facts against which to judge whether Miller has engaged in discriminatory harassment. The first allegation, involving comments Miller made online about transgender individuals, has already been investigated by NYU. He was not disciplined, and there is no suggestion that those comments related to any particular student. The second allegation, involving negative replies to a student’s Twitter thread, concerns speech by *other* people—not Miller.

⁴¹ *Id.* at 650.

⁴² *The History, Uses, and Abuses of Title IX*, AM. ASS’N OF UNIV. PROFESSORS (June 2016), <https://www.aaup.org/file/TitleIXreport.pdf>.

⁴³ *Id.*

E. Investigations into clearly-protected expressive and academic activity have an impermissible chilling effect.

We remind NYU that an investigation of constitutionally protected speech can itself have an unacceptable chilling effect on expression, even if no formal punishment is ultimately meted out.

In *Levin v. Harleston*, for example, The City College of The City University of New York launched an investigation into a tenured faculty member’s offensive writings on race and intelligence, announcing an ad hoc committee to review whether the professor’s expression—which college President Harleston stated “ha[d] no place at [the college]”—constituted “conduct unbecoming of a member of the faculty.” 966 F.2d 85, 89 (2d Cir. 1992). The United States Court of Appeals for the Second Circuit upheld the district court’s finding that the investigation constituted an implicit threat of discipline and that the resulting chilling effect constituted a cognizable First Amendment harm. The investigation here similarly presents a cognizable violation of NYU’s promises to Professor Miller, and all of its faculty, of their rights to freedom of expression and academic freedom.

III. NYU Must End Its Investigation into Professor Miller Without Disciplining Him

NYU’s response to the DMCC Faculty Letter is irreconcilable with its promises that faculty members enjoy academic freedom and freedom of expression. We call on NYU to cease its investigation and to reassure Miller, and the broader university community, that it will refrain from taking disciplinary action against faculty who abide by NYU policy.

We request receipt of a response to this letter no later than the close of business on November 20, 2020.

Sincerely,



Katlyn A. Patton
Program Officer, Individual Rights Defense Program and Public Records

Cc: Dr. Jack H. Knott, Dean, NYU Steinhardt School of Culture, Education, and Human Development
Dr. LaRue Allen, Vice Dean of Faculty Affairs, NYU Steinhardt School of Culture, Education, and Human Development

Encl.

Authorization and Waiver for Release of Personal Information

I, Mark Crispin Miller, do hereby authorize New York University (the "Institution") to release to the Foundation for Individual Rights in Education ("FIRE") any and all information concerning my employment, status, or relationship with the Institution. This authorization and waiver extends to the release of any personnel files, investigative records, disciplinary history, or other records that would otherwise be protected by privacy rights of any source, including those arising from contract, statute, or regulation. I also authorize the Institution to engage FIRE and its staff members in a full discussion of all information pertaining to my employment and performance, and, in so doing, to disclose to FIRE all relevant information and documentation.

This authorization and waiver does not extend to or authorize the release of any information or records to any entity or person other than the Foundation for Individual Rights in Education, and I understand that I may withdraw this authorization in writing at any time. I further understand that my execution of this waiver and release does not, on its own or in connection with any other communications or activity, serve to establish an attorney-client relationship with FIRE.

If the Institution is located in the State of California, I request access to and a copy of all documents defined as my "personnel records" under Cal. Ed. Code § 87031 or Cal. Lab. Code § 1198.5, including without limitation: (1) a complete copy of any files kept in my name in any and all Institution or District offices; (2) any emails, notes, memoranda, video, audio, or other material maintained by any school employee in which I am personally identifiable; and (3) any and all phone, medical or other records in which I am personally identifiable.

This authorization and waiver does not extend to or authorize the release of any information or records to any entity or person other than the Foundation for Individual Rights in Education, and I understand that I may withdraw this authorization in writing at any time. I further understand that my execution of this waiver and release does not, on its own or in connection with any other communications or activity, serve to establish an attorney-client relationship with FIRE.

I also hereby consent that FIRE may disclose information obtained as a result of this authorization and waiver, but only the information that I authorize.

DocuSigned by:

Mark Crispin Miller

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Signature

11/12/2020

Date