



February 2, 2024

Linda G. Mills  
Office of the President  
New York University  
70 Washington Square South  
New York, New York 10012

**URGENT**

*Sent via U.S. Mail and Electronic Mail (office.president@nyu.edu)*

Dear President Mills:

FIRE<sup>1</sup> is concerned by New York University's continued disregard for its own policies promising students and faculty free expression and academic freedom. FIRE has written NYU on multiple occasions both privately and publicly over the past year concerning its public discipline of undergraduate students, graduate students, and faculty for their expression.<sup>2</sup> The university's reported suspension of Adjunct Professor Amin Husain for his pro-Palestinian advocacy at a teach-in at The New School is the latest in a line of disturbing developments at a university that promises its faculty wide latitude in expressing themselves but fails to honor those promises when tested.<sup>3</sup> We urge NYU to reinstate Husain and refrain from punishing faculty for their protected expression.

Husain attended a teach-in at The New School on November 17, 2023, where he said "ungovernability" is the best strategy for pro-Palestinian advocates and that Israeli land "isn't

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<sup>1</sup> As you may recall from previous correspondence, the Foundation for Individual Rights and Expression is a nonpartisan nonprofit dedicated to defending freedom of speech, expression, and conscience, and other individual rights on campus. You can learn more about our recently expanded mission and activities at [thefire.org](https://www.thefire.org).

<sup>2</sup> See, e.g., Aaron Corpora, *FIRE asks NYU to reinstate chemistry professor whose firing caused furor and to ensure that adjuncts like him have academic freedom*, FIRE (Oct. 27, 2022) <https://www.thefire.org/news/fire-asks-nyu-reinstate-chemistry-professor-whose-firing-caused-furor-and-ensure-adjuncts-him>; FIRE Letter to New York University School of Law, October 16, 2023, *available at* <https://www.thefire.org/research-learn/fire-letter-new-york-university-school-law-october-16-2023>; FIRE Letter to New York University, February 2, 2023, *available at* <https://www.thefire.org/research-learn/fire-letter-new-york-university-february-2-2023>.

<sup>3</sup> The recitation here reflects our understanding of the pertinent facts, which is based on public information. We appreciate that you may have additional information to offer and invite you to share it with us.

for Jews.”<sup>4</sup> On December 7, he appeared at another New School teach-in where he denied reports that Hamas had beheaded babies and raped women during its October 7 attacks on Israel, saying “We know it’s not true.”<sup>5</sup> He also said New York City was a “Zionist City,” and joked that he had won the “honors” of being deemed anti-Semitic several times,<sup>6</sup> in reference to an online petition calling for his dismissal from NYU because of his asserted “hate speech against Jews.”<sup>7</sup> After news outlets reported on Husain’s comments, NYU suspended him on Jan. 25, 2024.<sup>8</sup>

While some may find Husain’s comments offensive, even deeply so, NYU nonetheless permits them through its promises that faculty members “are citizens, members of a learned profession, and officers of an educational institution,” and when “they speak or write as citizens, they should be free from institutional censorship or discipline[.]”<sup>9</sup> These promises are also vital to NYU’s accreditation, as the Middle States Commission on Higher Education requires an accredited institution to uphold “a commitment to academic freedom, intellectual freedom, freedom of expression[.]”<sup>10</sup> These promises preclude NYU from punishing Husain for his protected expression.

That’s because NYU’s promises align with principles applicable to public university employees, which secure faculty rights to speak as private citizens on matters of public concern,<sup>11</sup> even in ways others find offensive.<sup>12</sup> Husain’s speech falls squarely within both those protections, and NYU’s policies. To wit, Husain clearly spoke at the teach-in in his capacity as a private citizen, the “critical” determinant of which is “whether the speech at issue is itself ordinarily within the scope of an employee’s duties.”<sup>13</sup> Husain spoke at The New School in his personal capacity and not on behalf of NYU, as there was no indication his attendance was part of his job. And his speech was unquestionably on a matter of public concern, which, includes anything that “can

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<sup>4</sup> Francesca Block, *NYU Professor Tells Students of Hamas Atrocities: ‘We Know It’s Not True,’* THE FREE PRESS (Jan. 25, 2024), <https://www.thefp.com/p/nyu-prof-tells-students-hamas-atrocities-untrueu>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Demand the Dismissal of NYU Professor Amin Hussain for Promoting Hate Speech*, CHANGE.ORG (Oct. 17, 2023) (last visited Feb. 2, 2024) <https://www.change.org/p/demand-the-dismissal-of-nyu-professor-amin-hussain-for-promoting-hate-speech>.

<sup>8</sup> *Statement by NYU Spokesperson John Beckman Regarding Amin Husain*, N.Y. UNIV. (Jan. 25, 2024) <https://www.nyu.edu/about/news-publications/news/2024/january/statement-by-nyu-spokesperson-john-beckman-regarding-amin-husain.html> [<https://perma.cc/A6WF-6HV2>].

<sup>9</sup> *Academic Freedom*, Section II: The Case for Academic Freedom, N.Y. UNIV., <https://www.nyu.edu/faculty/governance-policies-and-procedures/faculty-handbook/the-faculty/other-faculty-policies/academic-freedom.html> [<https://perma.cc/YM2J-KQUJ>].

<sup>10</sup> *Standards for Accreditation and Requirements of Affiliation*, Standard II, Ethics and Integrity, Criteria, MIDDLE STATES COMM’N ON HIGHER EDUC., <https://www.msche.org/standards/fourteenth-edition/> [<https://perma.cc/ZRD3-B2LW>].

<sup>11</sup> *See Connick v. Myers*, 461 U.S. 138, 140 (1983).

<sup>12</sup> *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011) (in holding that the First Amendment protects protesters holding insulting signs outside of soldiers’ funerals, the Supreme Court remarked 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”).

<sup>13</sup> *Lane v. Franks*, 573 U.S. 288, 240 (2014).

be fairly considered as relating to any matter of political, social, or other concern to the community[.]”<sup>14</sup> The October 7 attacks in Israel, and Israel’s military response, which have dominated headlines across the world in recent months, surely qualify.

Were there any question (there isn’t), the Supreme Court has held that even speech that touches on violent topics regarding matters of public concern is protected. In *Rankin v. McPherson*, the Court held free speech principles protected a police department employee who, on hearing President Reagan had been shot, expressed contempt for his policies on welfare and remarked: “If they go for him again, I hope they get him.”<sup>15</sup> The Court explained that, even if others find the statements to be of an “inappropriate or controversial character,” that is “irrelevant” to whether the statement addresses matters of public concern.<sup>16</sup>

More broadly, it is vital NYU refrain from punishing speech it finds offensive given the “bedrock principle underlying” freedom of expression: that speech may not be limited “simply because society finds the idea itself offensive or disagreeable[.]”<sup>17</sup> It is this counter-majoritarian principle that protects “insulting, and even outrageous, speech in order to provide adequate breathing space” to public debate,<sup>18</sup> recognizing that those with authority “cannot make principled distinctions” between what speech is sufficiently offensive to suppress.<sup>19</sup> The need for NYU to honor its commitments is all the more important given Husain was commenting on issues of political importance, where the protections of free speech principles are “at their zenith.”<sup>20</sup>

We request a substantive response to this letter no later than close of business on Monday, February 12, confirming NYU will restore Husain to his previous teaching duties and refrain from punishing faculty for their protected expression.

Sincerely,



Graham Piro  
Program Officer, Campus Rights Advocacy

Cc: Aisha Oliver-Staley, General Counsel

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<sup>14</sup> *Snyder*, 562 U.S. at 453.

<sup>15</sup> 483 U.S. 378, 381 (1987).

<sup>16</sup> *Id.* at 387.

<sup>17</sup> *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

<sup>18</sup> *Boos v. Barry*, 485 U.S. 312, 322 (1988) (cleaned up).

<sup>19</sup> *Cohen v. California*, 403 U.S. 15, 25 (1971).

<sup>20</sup> *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414 (1988)).