



Dr. Robert A. Brown
President
One Silber Way
Boston, Massachusetts 02215

February 14, 2022

Mr. Aaron Terr, Program Officer
Individual Rights Defense Program and Public Records
Foundation for Individual Rights in Education
510 Walnut Street, Suite 1250
Philadelphia, PA 19106

Dear Mr. Terr,

I am writing in response to your letters of December 21, 2021, and January 22, 2022, in which you claim that BU's "Preventing Harassment and Discrimination" training module provided by the education vendor EverFi (now Vector Solutions) contravenes the University's promises of free expression in that it compels faculty "to express agreement with the university's views on questions of social and political concerns."

I disagree with your contention that the training requires faculty to personally affirm viewpoints that may conflict with their own beliefs, thereby constituting "compelled speech" under First Amendment jurisprudence. While I understand the point you are trying to make, there is a wide gulf between the *Burnette* Court's prohibition on requiring Jehovah's Witnesses to publicly salute the flag and BU's requirement that faculty members privately click through a testing module, choosing the University's preferred answer. It should be obvious to anyone reviewing the training that the "correct" answers to the vignettes on bystander intervention represent the *University's* view of appropriate interventions and not the view of the faculty member taking the training. I suspect that is the reason that not a single Boston University faculty member has come forward to complain that this training constitutes compelled speech, though some have certainly indicated that they do not agree with the general premise of the training.

While I believe you are raising a non-problem in this instance, we are aligned on the importance of freedom of expression and academic freedom at Boston University. Therefore, to be sure there is absolutely no confusion about the meaning of the responses to the bystander intervention vignettes, we have added the following language (shown in the fourth paragraph on the attached) to the Provost's Welcome page at the start of our training modules. I trust that this action will bring closure to this matter.

Sincerely,

A handwritten signature in blue ink that reads "R.A. Brown".

Robert A. Brown
President

Attachment

Provost's Welcome Letter

Welcome to the EVERFI Preventing Harassment and Discrimination: Non-Supervisors with Title IX/Clery Module, which is intended for Boston University Faculty and Staff Non-Supervisors. This course should take approximately 130 minutes (2 hours, ten minutes) to complete.

Boston University is committed to providing a respectful environment in which to work and study that is free from sexual misconduct, harassment, and discrimination.

One important aspect of this commitment is the need for all members of our community to have a full understanding of the University's policies on sexual misconduct, harassment, and discrimination, what constitutes such conduct, and how to properly respond to reports or observations of such conduct.

Another important aspect of this commitment is to empower members of the community to become active bystanders, able to intervene in workplace situations that, while not necessarily illegal, undermine the University's efforts to create a culture of inclusivity and belonging. To that end, the training includes vignettes that ask what you should do in situations that the University believes involve harmful stereotypes. The "correct" answer (that will allow you to move on to the next slide) represents the University's judgment as to the response that best aligns with the University's goals and objectives.

Our commitments are the reason for this training, which is intended to provide you with essential information on the policies, procedures, resources, and contacts available to you as an employee, as well as to outline your responsibilities when students or others turn to you for advice or counsel. It provides guidance to employees designed to assist in recognizing, preventing, and responding to sexual misconduct, harassment, discrimination, and bias in the workplace or involving students. And, it shares critical information about other key workplace concerns, including hostile work environments, retaliation, making reports, allyship and bystander intervention, and the roles and obligations of an employee to create a safe and respectful workplace.

We thank you for your participation in this training and for your dedication to maintaining a safe and supportive environment for our students, faculty, and staff.

Jean Morrison
University Provost and Chief Academic Officer