



September 9, 2024

Joseph James Echevarria  
Office of the President  
University of Miami  
230 Ashe Building  
1252 Memorial Drive  
Coral Gables, Florida 33124

*Sent via U.S. Mail and Electronic Mail (j.echevarria@miami.edu)*

Dear Acting President Echevarria:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned by the University of Miami's August 22 announcement that Senior Lecturer Rachida Primov "came at odds with University policies prohibiting political advocacy in the classroom" for wearing "a sash in class with the word Palestine on it."<sup>2</sup> As an institution that commits itself to free expression and intellectual inquiry, UM does not need, nor should it have, any policy that prohibits nondisruptive political expression by faculty or students, including classroom expression. We urge UM to revise any such restrictive policy to ensure faculty and students can freely express themselves in all areas on campus.

UM maintains a commitment "to the principle of free expression, and academic freedom, including the exchange of political viewpoints and ideas, for all members of its community."<sup>3</sup> Members of the UM community enjoy these "free speech and academic freedom protections, even when speech or expression is offensive."<sup>4</sup> Not only is UM morally obligated to abide by

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<sup>1</sup> For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our expanded mission and activities at [thefire.org](https://thefire.org).

<sup>2</sup> University of Miami (@univmiami), INSTAGRAM (Aug. 22, 2024), [https://www.instagram.com/p/C-\\_p57KOFkx/?hl=en&img\\_index=1](https://www.instagram.com/p/C-_p57KOFkx/?hl=en&img_index=1) [<https://perma.cc/QHM7-DLQJ>]. UM has not disclosed the specific policies at issue. We appreciate that you may have additional information to offer and invite you to share it with us.

<sup>3</sup> *2024-2025 Faculty Manual*, Ethical Matters, Social Media and Political Activities Policy, Policy, UNIV. OF MIAMI, 107 (June 1, 2024), [https://fs.miami.edu/\\_assets/pdf/facultysenate/Documents/FacultyManual.pdf](https://fs.miami.edu/_assets/pdf/facultysenate/Documents/FacultyManual.pdf) [<https://perma.cc/6LC5-U8A2>].

<sup>4</sup> *Id.* at Ethical Matters, Faculty Policy on Title IX Sexual Harassment, Definitions, 138.

these commitments, but such commitments lead students and faculty to reasonably believe UM confers rights commensurate with those protected by the First Amendment.

Notably for present purposes, UM’s website specifically lists “[s]ilently wearing ... distinctive clothing” as an example of expression that complies with UM policy.<sup>5</sup> Primov appears to have done exactly that by wearing the “Palestine” sash. If UM would not prohibit a professor from wearing a shirt festooned with the American flag, there can be no justification for deeming Primov in violation of university policy for her Palestine sash.

Many U.S. circuit courts have recognized protection for a great deal of faculty expression,<sup>6</sup> including “all classroom speech related to matters of public concern, whether that speech is germane to the contents of the lecture or not.”<sup>7</sup> This is because the Supreme Court has recognized that higher education depends on “wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, rather than through any kind of authoritative selection.”<sup>8</sup>

This is especially true of political expression, which lies at the core of what the First Amendment protects. Its protection is especially necessary in times of intense disagreement on global affairs<sup>9</sup>—even when “offensive” to some<sup>10</sup>—and necessarily and frequently encompasses “sensitive topics” like ethnicity or religion, “where the risk of conflict and insult is high.”<sup>11</sup> In the university context, “dissent is expected and, accordingly, so is at least some disharmony,”<sup>12</sup> neither of which affords administrators justification to restrict or chill speech.

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<sup>5</sup> *Know the Code*, Freedom of Expression, UNIV. OF MIAMI, <https://doso.studentaffairs.miami.edu/student-conduct/know-the-code/index.html#:~:text=The%20University%20supports%20and%20protects,that%20conflict%20with%20their%20ownn> [<https://perma.cc/K8N5-PKF4>].

<sup>6</sup> *Demers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014); *see also Buchanan v. Alexander*, 919 F.3d 847 (5th Cir. 2019); *Adams v. Trs. of Univ. of N.C.-Wilmington*, 640 F.3d 550 (4th Cir. 2011). While UM, as a private university, is not bound by the First Amendment, courts’ interpretations of free speech principles should inform its commitment to upholding student and faculty free speech rights and its students’ and faculty’s reasonable expectation of what those rights encompass.

<sup>7</sup> *Meriwether v. Hartop*, 992 F.3d 492, 507 (6th Cir. 2021) (in university classrooms, “there are three critical interests at stake (all supporting robust speech protection): (1) the students’ interest in receiving informed opinion, (2) the professor’s right to disseminate his own opinion, and (3) the public’s interest in exposing our future leaders to different viewpoints.”).

<sup>8</sup> *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967) (cleaned up).

<sup>9</sup> *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999).

<sup>10</sup> *See, e.g., Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667-68 (1973) (a student newspaper’s front-page publication of a “political cartoon ... depicting policemen raping the Statue of Liberty and the Goddess of Justice” and use of a vulgar headline (“Motherfucker Acquitted”)—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest, but were nonetheless protected under the First Amendment).

<sup>11</sup> *Rodriguez v. Maricopa Cnty. Comm. Coll. Dist.*, 605 F.3d 703, 708-09 (9th Cir. 2009).

<sup>12</sup> *Higbee v. E. Mich. Univ.*, 399 F. Supp. 3d 694, 704 (E.D. Mich. 2019).

To be sure, universities have a critical interest in ensuring classroom discussions are not disrupted, but that interest does not justify a blanket prohibition on political expression in the classroom. A university may justify some restrictions on a professor’s expression when its interest “in promoting the efficiency of the public services it performs” outweighs the employee’s interest “in commenting upon matters of public concern.”<sup>13</sup> But the mere “desire to maintain a sedate academic environment does not justify limitations on a teacher’s freedom to express [themselves] on political issues in vigorous, argumentative, unmeasured, and even distinctly unpleasant terms.”<sup>14</sup>

By publicly announcing that Primov’s expression violated university policy, UM has certainly chilled other faculty and students from engaging in protected expression out of fear of discipline. This announcement was even more ominous given that UM neither specified what policies Primov allegedly violated nor defines what constitutes “political advocacy in the classroom.” This leaves administrators free to make that determination based on their own subjective views rather than on any objective basis.

None of this, however, shields Primov or any other speaker from every consequence of his or her expression—including criticism by students, faculty, or the broader community. Such is a form of the “more speech” remedy that our nation prefers over censorship.<sup>15</sup> However, free speech principles limit the *types* of consequences that may be imposed and who may impose them.

We request a substantive response to this letter no later than close of business on September 23, 2024, identifying which UM policies prohibit “political advocacy in the classroom” and confirming that UM will revise any policy that restricts political expression to bring any such policy in line with UM’s laudable commitment to free speech. FIRE would be happy to assist in making these revisions free of charge, in accordance with our charitable mission.

Sincerely,



Haley Gluhanich  
Senior Program Officer, Campus Rights Advocacy

Cc: Aileen M. Ugalde, Senior Vice President and General Counsel

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<sup>13</sup> *Pickering v. Bd. of Educ.*, 391 U.S. 563, 576-78 (1968). To justify the restriction or punishment, the school must demonstrate the speech “impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, or impedes the performance of the speaker’s duties or interferes with the regular operation of the enterprise.” *Rankin v. McPherson*, 483 U.S. 378, 388 (1987); *see also Nichols v. Dancer*, 657 F.3d 929, 933 (9th Cir. 2011).

<sup>14</sup> *Rodriguez*, 605 F.3d at 705.

<sup>15</sup> *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis., J, concurring).