



October 17, 2024

Joel M. Malina  
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Cornell University  
314 Day Hall  
Ithaca, New York 14853

**URGENT**

*Sent via U.S. Mail and Electronic Mail (vp-univrelations@cornell.edu)*

Dear Vice President Malina:

FIRE<sup>1</sup> is concerned by your recent comments at a Hillel-hosted parents' meeting that Cornell will be "scrutinizing" faculty's classroom speech. We strongly urge you to clarify to faculty that they will not face reprimand or discipline for expression in the classroom simply because of its political nature, even when some or many perceive the speech as controversial or offensive.

During the September 30 Zoom meeting with about 200 Jewish parents, an attendee asked you how the university would handle a new faculty hire who allegedly expressed anti-Semitism in the past. In response, you referenced a recent example in which Cornell discovered a junior professor's history of anti-Semitic posts only after extending a formal hiring offer.<sup>2</sup> You told the gathered parents, "There was no reason to withdraw the offer of employment based on that activity, but her in-class activities will be scrutinized, as will all in-class activities of our faculty."<sup>3</sup>

After your comments were reported in the *Cornell Daily Sun*, you clarified in a letter to the editor that "[u]niversity administrators have no purview over classroom instruction, nor should they. Any review of faculty classroom activity appropriately lies with the faculty[.]"<sup>4</sup>

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

<sup>2</sup> Eric Reilly, *Administrators Discuss Disciplining Protesters, Monitoring Faculty in Private Hillel Parents Meeting*, THE CORNELL DAILY SUN (Oct. 2, 2024), <https://cornellsun.com/2024/10/02/administrators-discuss-disciplining-protesters-monitoring-faculty-in-private-hillel-parents-meeting/#>.

<sup>3</sup> *Id.*

<sup>4</sup> Joel M. Malina, *Letter to the Editor: On Academic Freedom and the Hillel Meeting*, THE CORNELL DAILY SUN (Oct. 2, 2024), <https://cornellsun.com/2024/10/02/malina-on-academic-freedom-and-the-hillel-meeting/>.

You explained that your comments were intended to “reference the University’s *Policy Statement on Academic Freedom and Freedom of Speech* and the American Association of University Professors *Statement of Principles on Academic Freedom and Tenure*,” quoting the AAUP statement’s line that professors should “‘be careful not to introduce into their teaching controversial matter which has no relation to their subject,’ and ‘should at all times be accurate, should exercise appropriate restraint, [and] ... show respect for the opinions of others.’”<sup>5</sup>

Comments suggesting administrators are surveilling and “scrutinizing” faculty’s every utterance in the classroom risk chilling instructors’ willingness to engage with students on contentious issues for fear of reprimand or discipline. Inviting that risk contravenes Cornell’s laudable commitment to protect academic freedom and free expression, enshrined in its own policies,<sup>6</sup> as well as the university-endorsed 1960 *Faculty Statement on Academic Freedom and Responsibility*<sup>7</sup> and the AAUP’s 1940 *Statement of Principles on Academic Freedom and Tenure*.<sup>8</sup>

While we appreciate your clarification in the *Cornell Daily Sun* that administrators do not oversee faculty classroom speech, your inclusion of the selectively quoted passage from the AAUP’s 1940 Statement about avoiding controversial material only reinforces the message that faculty need to watch what they say about certain topics.<sup>9</sup> Yet the AAUP’s intended meaning in the quoted passage was altogether different from this common misunderstanding, as it later explained in an Interpretive Comment:<sup>10</sup>

The intent of [the] statement is not to discourage what is “controversial.” Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.

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<sup>5</sup> *Id.* (quoting *1940 Statement of Principles on Academic Freedom and Tenure*, AMER. ASS’N. OF UNIV. PROFESSORS, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure> (last visited Oct. 16, 2024)).

<sup>6</sup> *Cornell Policy Statement on Academic Freedom and Freedom of Speech and Expression*, CORNELL UNIV., <https://deanoffaculty.cornell.edu/policies-procedures/cornell-policy-statement-on-academic-freedom-and-freedom-of-speech-and-expression/> [<https://perma.cc/9DDU-UVHW>].

<sup>7</sup> *Id.* (quoting *Faculty Statement on Academic Freedom and Responsibility*, CORNELL UNIV. (adopted May 11, 1960)).

<sup>8</sup> *1940 Statement of Principles*, *supra* note 5.

<sup>9</sup> Malina, *supra* note 4 (quoting *1940 Statement of Principles on Academic Freedom and Tenure*, AMER. ASS’N. OF UNIV. PROFESSORS, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure> (last visited Oct. 16, 2024)).

<sup>10</sup> *1940 Statement of Principles*, AMER. ASS’N. OF UNIV. PROFESSORS, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

The risk that your comments will chill faculty speech is further heightened because they follow in the wake of a January 2024 directive to faculty to avoid political expression in the classroom,<sup>11</sup> again reinforcing the message that some topics are off-limits in the classroom.<sup>12</sup>

Academic freedom requires breathing room for faculty to “determine what and how to teach,”<sup>13</sup> even when their classroom speech includes words, concepts, subjects, or discussions that some, or even most, students find upsetting or offensive. As a nation, we have traditionally “embrace[d] such a heated exchange of views” on campus, “even (perhaps especially) when they concern sensitive topics ... where the risk of conflict and insult is high.”<sup>14</sup>

But the apprehension that their classroom speech is being scrutinized will “have a chilling effect on faculty, who would naturally fear censure lest they bring a discussion into new and challenging territory, or fail to accurately anticipate students’ reaction to a topic or idea.”<sup>15</sup> “Scholarship cannot flourish in an atmosphere of suspicion and distrust.”<sup>16</sup>

We request a substantive response no later than October 31, confirming that you will clarify to Cornell faculty and instructors that their classroom speech is not being scrutinized and that they will not face reprimand or discipline for speech simply because it is political or offends some students.

Sincerely,



Jessie Appleby  
Program Officer, Campus Rights Advocacy

Cc: Michael Kotlikoff, Interim President  
Ryan Lombardi, Vice President of Student Life  
Donica Thomas Varner, Vice President and General Counsel

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<sup>11</sup> Michael Kotlikoff, *Statement: Important Message for Faculty and Instructors*, CORNELL UNIV. (Jan. 23, 2024), <https://statements.cornell.edu/2024/20240123-important-message.cfm> [<https://perma.cc/AA2U-JBDY>].

<sup>12</sup> FIRE Letter to Martha Pollack (Feb. 8, 2024) (on file with author).

<sup>13</sup> Martha Pollack & Michael Kotlikoff, *Summary / Notes on SA R31 (2022–2023): Mandating Content Warnings for Traumatic Content in the Classroom*, CORNELL UNIV. OFF. OF THE ASSEMBLIES (Apr. 3, 2023), <https://assembly.cornell.edu/resolutions/student-assembly/sa-r31-2022-2023/rejected-president> [<https://perma.cc/D8GW-3VDQ>].

<sup>14</sup> *Rodriguez v. Maricopa Cnty. Comm. Coll. Dist.*, 605 F.3d 703, 708 (9th Cir. 2009).

<sup>15</sup> Pollack & Kotlikoff, *supra* note 13.

<sup>16</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).