



July 24, 2019

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President
American University in Cairo
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Sent via U.S. Mail and Electronic Mail (officeofthepresident@aucegypt.edu)

Dear President Ricciardone:

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. FIRE also works to protect the academic freedom and expressive rights of American students and faculty at institutions accredited by American agencies.

FIRE is concerned that the state of academic freedom at American University in Cairo (AUC) falls short of the standards required by its accreditation by the Middle States Association of Colleges and Schools. Our concern arises in light of the university's treatment of Adam Duker and the revocation of his position as Abdulhadi H. Taher Chair in Comparative Religion. While Duker resigned from AUC following the university's efforts to interfere with his teaching and contract, his resignation does not end the university's responsibility to maintain academic freedom. To mitigate the damage caused by its actions, AUC must reform its practices and publicly reassure its community that it will not again undermine faculty rights.

I. Facts

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. To that end, please find enclosed a waiver authorizing AUC to disclose any pertinent information it might have that would impact our analysis.

On February 16, 2016, Adam Duker accepted an employment offer from Provost Sherif Sedky to teach at AUC in a tenure-track appointment beginning July 1, 2016. As stated in his signed offer, Duker accepted the position of Assistant Professor and Abdulhadi H. Taher Chair in

Comparative Religion in AUC's Department of History in the School of Humanities and Social Sciences.

Duker voiced concerns about academic freedom at AUC shortly after joining the faculty, after Department of History Chair Michael Reimer complained about the syllabus for Duker's Fall 2016 World Religions course. On August 31, 2016, Reimer pressed Duker to devote more time to covering Buddhism and Hinduism in the course, writing that "one of the major aims of the endowment of the Abdulhadi Taher family was to ensure that students in the Middle East were exposed to the religious beliefs and practices of the Asian religions, because of the ignorance and prejudice about them which is still, sadly, all too widespread, as well as the inherent spiritual insights and values of these faiths."¹ According to Duker, Reimer also suggested in meetings that he would have Duker removed from teaching at AUC over their disagreements about the class, and he asked that Duker remove two planned lectures focusing on pop music, religious satire, and the musical *The Book of Mormon*.

On October 18, Reimer notified Duker that the Department's Catalog and Curriculum Committee would approve Duker's proposed Spring 2017 course only if he made certain changes to the syllabus. Reimer prohibited Duker from showing the film *Super Size Me*,² a PG-13 documentary about the fast food industry often shown in U.S. high schools, because of "offensive" elements including "a graphic medical procedure, and some frank discussion of sexual relations [between] the protagonist and his girlfriend."³

Reimer wrote, "Our sense is that a prof should not require a film w identifiably offensive elements, altho it may be offered as 'enrichment' for students who have been forewarned," and told Duker that he might be able to show the film with the "offensive elements" removed. Reimer also asked that the word "Christianity" be removed from the beginning of the course name.⁴

When Duker suggested that he could provide an anonymous poll to students to discern which parts of the film would be objectionable and work around their sensitivities, Reimer balked, saying there had been a committee "decision . . . that it is better to be safe than sorry." He added, "What you cannot do is show the film in its entirety, even if your students tell you it's okay. These are the kinds of issues that can easily spill out of the classroom, and can cause the [Department] and AUC considerable trouble." When Duker opposed the restriction on academic freedom grounds, Reimer conceded that Duker's concern was "valid" and told Duker that he would share his comments with the committee. Reimer added, "There are a variety of potentially conflicting obligations we have here."⁵ Duker chose to assign the film as a homework assignment rather than show it in class.

¹ Emails between Adam Duker and Michael Reimer, et al. (Aug. 30–31, 2016) (on file with author).

² Sexual activity is not depicted in the film, and the "frank discussion of sexual relations" focuses on the effect of a fast food diet on the documentary subject's sexual relationship with his partner.

³ Emails between Adam Duker and Michael Reimer, et al. (Oct. 18–23, 2019) (on file with author).

⁴ *Id.*

⁵ *Id.*

On January 9, 2017, Tarek Taher, manager of his father Abdulhadi Taher's endowment at AUC, contacted you to express his interest in "learning more about the program with the purpose of insuring [*sic*] that it is indeed fits [*sic*] within his vision and start a dialogue and discussion."⁶ He also requested a copy of Duker's lectures. Nathaniel Bowditch, Dean of the School of Humanities and Social Sciences, shared with Taher copies of the syllabus for Duker's World Religions classes as well as a lecture.

Taher and Duker also began to privately discuss the Taher Chair in mid-January, focusing specifically on Taher's request that Duker use a different translation of the Qur'an, one that used "Allah" instead of "God." Duker stated his intention to continue use of his current choice but offered that he is "always looking for texts that balance readability with accuracy."⁷

At your request, Duker met with Tarek Taher and his wife at their home in Miami on January 23, 2017, to discuss Taher's concerns and thoughts about the endowment. Duker reports that Taher recounted to him a dream he had in which a celestial being voiced concerns to him about the Taher Chair. Taher explained that, due to this dream, he wanted to pre-approve Duker's lectures, and he asked that Duker proselytize for Islam in class. Despite Duker's refusal to allow Taher control over his lectures and syllabus, Duker felt that the meeting ended amicably with his reassurance to Taher that Duker hoped to honor Abdulhadi Taher's legacy.

On July 11, 2017, Provost Ehab Abdel-Rahman informed Duker that the position of Abdulhadi Taher Chair had been revoked. Abdel-Rahman wrote via email:

After numerous conversations with Mr. Tarek Taher, he has formally requested that he no longer wants the Abdulhadi Taher Endowed Professorship in Comparative Religions. To honor his request, we will stop funding of that professorship as of July 1, 2017. Nate Bowditch, Dina AboulFoutouh [*sic*], myself and the president were highly involved in this conversations [*sic*]. Going forward, kindly remove any reference to this endowed professorship. This may include but not limited to removing reference to it on websites, email signature, business cards, etc...⁸

When Duker pointed out his contract granted him the professorship, Abdel-Rahman wrote that "[t]he donor has cancelled the endowed professorship." Duker expressed his shock at the decision, noting that in their meeting Taher "did not say at anytime that the Professorship was cancelled, nor that he intended to cancel the Professorship," and he asked for documentation of Taher's request.⁹

⁶ Emails among Tarek Taher, Adam Duker, Nathaniel Bowditch, and Francis Ricciardone (Jan. 9–12, 2017) (on file with author).

⁷ Emails between Adam Duker and Tarek Taher (Jan. 11–18, 2017) (on file with author).

⁸ Emails between Ehab Abdel-Rahman and Adam Duker, et al. (July 11, 2018) (on file with author).

⁹ *Id.*

Abdel-Rahman responded that it was a “surprise” that Taher “d[id] not want his family name to be associated with this Professorship” and told Duker that he “will remain a faculty member in AUC but [is] no longer the Abdulhadi H. Taher Chair of Comparative Religions as this Professorship no longer exists.” That evening, Abdel-Rahman warned Duker not to contact Taher again. He wrote: “It is of the best interest of the university that you seize [*sic*] any communication with Mr. Taher. VP Dina Abulfotuh and anyone she may designate are the only authorized people to contact Mr. Taher at the moment.”¹⁰ Duker reports that he was informed by Interim Dean Robert Switzer in a meeting about his loss of the Taher Chair position that it was revoked over his failure to present Islam more favorably than other faiths in class.

After this time, Duker continued to publicly refer to himself as Assistant Professor and Abdulhadi H. Taher Chair in Comparative Religion, the title Duker and AUC agreed to in his contract, which had not been formally modified or rescinded.

On October 20, 2018, Duker revisited his frustrations with AUC’s attempts to revoke his position as Taher Chair, writing to Associate Professor Pascale Ghazaleh and Switzer that he “was inclined to let ‘sleeping dogs lie’ (so to speak)” but Ghazaleh had requested that Duker send them “a summary of [his] position regarding the Taher Chair.” That afternoon, Switzer replied, writing that Duker’s “view on this directly contradicts and contravenes the position of the Provost.” He also warned, “It is not an option open to you, or to anyone else, to use a title or attest to holding a position at this university that does not exist. I trust you will abide by this, whatever your personal views.”¹¹

The next month, Duker experienced a troubling incident while taking students in his Comparative Religions course on the biannual “Sacred Spaces of Cairo” field trip, which included visits to the Ben Ezra Synagogue, the Hanging Church, and the al-Rifai and Sultan Hassan Mosques. Prior to the tour, Duker informed AUC security of his scheduled trip. On November 27, during their first stop at the Ben Ezra Synagogue, Duker reports that the trip quickly deviated from its usual trajectory when he and his students were approached by 15–20 armed members of Egypt’s police and state security, as well as three women who claimed to work for the country’s Ministry of Antiquities.¹² They demanded that Duker and his students leave the synagogue, and one of the Ministry of Antiquities employees reportedly asked a student if Duker was attempting to convert his students to Judaism, repeatedly referenced Abdulhadi Taher, and mentioned to Duker that they knew his phone number and that his wife had recently given birth.

Duker and his students attempted to leave, but two of the students were briefly detained by security officials. Most of Duker’s students left for a nearby café at his insistence, but a

¹⁰ *Id.*

¹¹ Emails among Adam Duker, Robert Switzer, and Pascale Ghazaleh (Oct. 18, 2018) (on file with author).

¹² Duker doubts that these officials were actually from the Ministry of Antiquities, due to their interactions with the present state security officers, knowledge of Duker’s personal information, and references to the Taher family.

handful of students remained and acted as witnesses and translators for Duker, who does not speak Arabic. One official warned Duker that he was likely to be arrested, and a senior police officer and a Ministry of Antiquities official demanded that he join them in an interrogation room. Duker refused multiple times, stating that he would speak to them only in public or at AUC. Eventually, after making multiple phone calls, the officials allowed Duker and his remaining students to leave. The incident lasted roughly 45 minutes.

That weekend, Duker temporarily left Cairo out of concern for the safety of his family. While traveling, Duker was contacted by several of his students, who reported that they had been contacted by Dean of Students George Marquis and General Counsel Sunanda Holmes. Marquis and Holmes interviewed students about the incident at the Ben Ezra Synagogue, and asked if Duker's behavior exposed the students to risk. Duker was not informed by AUC's administration at the time that there was an investigation into the Sacred Spaces tour. According to Duker, he contacted Marquis and Holmes, who confirmed that they were investigating the trip, but Holmes did not attend the meeting she and Duker had scheduled to discuss the investigation.

In December, Duker revisited discussions about his position and title with AUC's leadership, writing to Abdel-Rahman that he looked forward to meeting to discuss "potential changes" to his contract in person. Duker suggested that counsel from AUC attend the meeting; Duker's attorney planned to attend because Duker felt "this may end up in court."¹³ He stated that he hoped to reach a "mutually-satisfactory offer of compensation for the chair," but felt it necessary to bring his attorney "as this hope has gone unanswered for nearly two years now."¹⁴ At Abdel-Rahman's suggestion, Duker scheduled a meeting with Holmes, who later missed their planned meeting, citing a scheduling error.

On December 21, Switzer informed Duker that he was conducting an initial investigation into Duker's continued use of the Taher Chair title. He wrote:

You have made use of the title "Abdulhadi H. Taher Chair of Comparative Religions" not only in the signature section of emails sent on your university email account . . . but also in at least one other place: a poster publicizing a talk at AUC by Rev. John Ashley Null on Nov. 18, 2018 in the History Department conference room.

Your use of this title appears to be in clear contravention of emails sent to you from Ehab Abdel Rahman, AUC Provost, on July 11[,] 2017 and on Nov. 26, 2018. On July 11[,] 2017, the Provost informed you that the donor had clearly indicated to AUC that he did not want his family name associated with this position, that this endowed Professorship would no longer be supported, and was cancelled. The Provost further clarified, "As of your contract, you will

¹³ Emails among Adam Duker, Director of Academic Affairs Projects Kathleen O'Neill, and Ehab Abdel-Rahman (Dec. 3–5, 2018) (on file with author).

¹⁴ *Id.*

remain a faculty member in AUC but you are no longer the Abdulhadi H. Taher Chair of Comparative Religions as this Professorship no longer exists.”

As you may also be aware, Mr. Taher has learned of the poster mentioned above for Rev. Null’s talk on Nov. 18, and the appearance on it of the title “Abdulhadi H. Taher Chair of Comparative Religions” under your name, as “host and moderator” of the talk, and has written to the university expressing his deep concern over the continued use of the title. This has been cause of considerable embarrassment, and possible further damage, to the university.¹⁵

Duker emailed Abdel-Rahman on January 20, 2019, again asking that they meet to seek a resolution regarding the Taher Chair. He pushed back against Switzer’s investigation, adding that “[i]t is not misconduct to refer to the title guaranteed in one’s contract,” calling it a “legal non-starter.” Abdel-Rahman had stated that he would not meet with Duker until Switzer’s investigation had concluded.¹⁶

On January 21, Duker’s then-attorney, Maged Ackad, provided Switzer with an “initial response” to the investigation, writing in pertinent part:

Our initial response to these allegations is straightforward and simple. When the Provost decided that he wanted to cancel the Taher Chair in 2018, he created a serious problem. That problem is that Dr. Duker’s contract, and until it is mutually amended, plainly guarantees him the title of the Abdulhadi H. Taher Chair. Regrettably, the AUC administration has done nothing to solve this problem. For the last 18 months or so, the Provost has refused to meet Dr. Duker to discuss this (or anything else, for that matter).

It should be clearly noted that, when negotiating his contract, the Taher Chair was the Decisive Condition for my client. Without it he would have never moved to Egypt in the first place.¹⁷

Ackad added that “AUC simply needs to address Dr. Duker’s contract either, through a compensation, another Chair or a mutually-agreed emendation[],” and that Duker “wishes to arrive at a peaceful and mutually-beneficial resolution” and “has nothing but goodwill and wants avoid any embarrassment and potential lawsuits.”¹⁸

On February 6, AUC, through Holmes, threatened Duker with legal action, writing in pertinent part:

¹⁵ Email between Robert Switzer and Adam Duker, et al. (Dec. 21, 2018) (on file with author).

¹⁶ Emails among Adam Duker, Robert Switzer, and Ehab Abdel-Rahman (Jan. 20, 2019) (on file with author).

¹⁷ Email between Maged Ackad and Robert Switzer, et al. (Jan. 21, 2019) (on file with author).

¹⁸ *Id.*

[P]lease note that you are in breach of your employment agreement with AUC by not following the Provost's instructions to abstain from using the title of Abdulhadi Taher Endowed Professorship in your dealings and communications both internally and externally. You have been informed many times that the Donor has stopped supporting this professorship, which is well within his authority to do so. Your breach has been ongoing since July 2017 and you have continuously ignored AUC's direction to refrain from such conduct. We have neither changed your job, nor deprived you of any salaries or benefits promised under your contract. AUC has only asked you to stop using the title that is in the Donor's name, upon the Donor's request. According to Egyptian law, AUC is well within its rights to do so. This was clearly mentioned to you in letters sent by the Provost. Your continuous demands and threats and the continuous use of this title is causing financial and reputational damage to AUC, for which we intend to hold you fully liable under the law.¹⁹

On February 14, Switzer released his preliminary findings concerning the allegations that Duker “[c]ontinued to make use of an academic title . . . despite having been informed by the Provost, on July 11[,] 2017, that the Taher Chair had been suspended by the University” and “[i]dentified himself as the ‘Abdulhadi H. Taher Chair of Comparative Religions’ on at least one publicly displayed and disseminated poster, and in doing so caused embarrassment and harm to the institution, specifically vis-à-vis the Taher family.”²⁰ Switzer found “that there is adequate evidence to support a finding of faculty misconduct and that, in accordance with the policies of the Faculty Handbook, a formal investigation is warranted.” Switzer then referred Duker's case to a faculty investigative committee, selecting three members. According to Duker, Switzer refused his request that one member be replaced due to the member's personal disagreements with Duker.

In late February, Duker filed a grievance with the Faculty Senate Grievance Committee (SGC) against you, Abdel-Rahman, and Switzer over the handling of the Taher Chair revocation. On April 6, the SGC issued its report to Chairman of the University Senate Professor Amr Shaarawi on Duker's complaint. The findings read, with emphasis added:

a. The committee is very concerned that the Provost unilaterally changed the university's contractual agreement with Dr. Duker. The committee is also concerned that the Provost did not provide Dr. Duker an alternative and satisfactory option that would compensate him for being stripped of his hard-earned title. **The committee has carefully read Dr. Duker's contract, which clearly stated that he was hired as Abdulhadi H. Taher Chair in comparative religion. The committee also noted that there was nothing in the contract that would give the university the right to revoke this**

¹⁹ Email between Sunanda Holmes and Adam Duker, et al. (Feb. 6, 2019) (on file with author).

²⁰ Robert Switzer, *Preliminary Investigation Report Alleging Faculty Misconduct on the Part of Dr. Adam Duker (History)*, (Feb. 14, 2019) (on file with author).

title. The contract clearly states that his contract may not be renewed but there was no provision that would allow the university to withdraw this title.

b. The committee agrees with Dr. Duker that he did not commit any type of faculty misconduct. According to the AUC faculty handbook, Section VIII, faculty misconduct includes the following types: “(a) professionally incompetent performance or neglect of duty; (b) gross personal misconduct rendering the person unfit for association with students or colleagues; (c) misconduct in research; and (d) conduct employing unlawful means to obstruct the orderly functioning of the University or to violate rights of other members of the University community.” **The committee believes that Dr. Duker’s insistence to keep his contractually-agreed title does not fall under any of the above-mentioned violations.** This situation could have been easily averted if he was given a suitable option.

c. The committee is concerned that the donor was allowed to interfere in academic matters and influence the Provost’s decision to strip Dr. Duker of his title. This interference set a very dangerous precedent and infringed on Dr. Duker’s academic freedom.

d. The committee is concerned that the Dean of Humanities and Social Sciences refused Dr. Duker’s request to recuse a member of the investigative committee with which he has disagreements. From the shared correspondences in this case, the committee came to feel that the language and tone of the Dean might have prevented a mutual dialogue that might have resulted in an acceptable resolution to this problem.²¹

In the conclusion of its findings, the SGC “recommend[ed] that the university honors Dr. Duker’s contract, or provide him with an acceptable alternative” and “concluded that Dr. Duker did not commit any act of faculty misconduct that warrants the investigation to which he is currently subjected.”²²

Duker chose to submit his resignation to pursue other opportunities in light of AUC’s persistent and ongoing refusal to honor his contractually-given title.

On May 6, Duker emailed all AUC faculty, explaining his frustrations with AUC’s handling of Taher’s request and sharing a copy of the SGC’s report on his grievance complaint. Switzer replied, including Shaarawi on his response and asking, “If the grievance committee of the Senate is going to make conclusions about the conduct of a member of the AUC community (in

²¹ Memorandum from Senate Grievance Comm. to Amr Shaarawi, Chairman of the Univ. Senate (Apr. 6, 2019) (on file with author).

²² *Id.*

this case, a fellow member of the faculty, the interim dean of HUSS), shouldn't they first contact that person to get his or her side of things?"²³

Shaarawi replied to Duker, chastising him for sharing news of the SGC findings:

I am shocked by your action. Sending your Grievance Report to all faculty at AUC is a serious violation of the confidentiality of the grievance process. You should not have done this because by such action you have compromised the faculty members of the grievance committee, who thought that they were protected by the confidentiality of the process, which is essential so that they can be free to express their views openly. This is a serious violation of the grievance procedures and will definitely hurt the Senate as a whole. You have caused a big problem for the Senate that will be very hard to fix, especially, that this happened at a time when the Senate is constantly under attack and has been working very hard to uphold certain values at AUC.

I am not sure what you have gained from such action, and I hope that you realize the extent of the damage caused to the Senate and that you've probably ruined the last opportunity to resolve your situation.

I deeply regret communicating with you regarding the opinion of the grievance committee.

Duker responded, writing that "[n]o one, at any stage, EVER has said this was confidential." Shaarawi later replied, "I am very sorry that your career has taken this ugly turn. However, you should at least acknowledge that the members of the grievance committee issued what they thought was a fair report that supports your case. They did so knowing that their opinions may contradict the views of those in higher administrative positions."²⁴

On May 14, *Religion News Service* published a report on the dispute, and reported that Taher contacted students at AUC to warn them that Duker is a "Zionist":

Taher also sent messages to individuals on campus on a student Facebook page claiming that Duker — who identifies as a Christian from a Jewish background — is a "Zionist" trying to use funds from his father's chair "to take students to Israel" and that he "wanted Muslim students to clean a Jewish graveyard." These messages have been reviewed by RNS.²⁵

²³ Emails among Adam Duker, Robert Switzer, Amr Shaarawi, et al. (May 6–7, 2019) (on file with author).

²⁴ *Id.*

²⁵ Gilgamesh Nabeel and Mina Nader, *American University Cairo religion professor loses post in academic freedom fight*, RELIGION NEWS SERVICE, May 14, 2019, <https://religionnews.com/2019/05/14/american-university-cairo-religion-professor-loses-post-in-academic-freedom-fight>.

On May 18, AUC released a public statement asserting “its unequivocal commitment to both religious freedom and academic freedom” and claiming that “concerns regarding the case of Assistant Professor Adam Duker . . . are based on inaccurate information.” The statement explained that while “AUC does not comment on individual cases as a matter of policy, it assures all concerned parties that it has fully and faithfully upheld its principles in this matter.”²⁶

On May 26, Shaarawi again addressed Switzer’s complaint about Duker’s decision to share the SGC findings, and announced to Duker that the findings had been revoked, writing in part:

In my earlier email, I have tried to explain to you that publicizing the Grievance Committee report before receiving the Provost’s response (which was sent to us few days ago) has actually disrupted the grievance process. I have been in consultation with members of the Senate Grievance Committee ever since you have publicized the report. I am informing you that they have decided to rescind the report that was sent to you and have requested to be recused from the case.²⁷

Finally, on June 17, Switzer announced that the School Investigation Committee had finalized its investigation into Duker’s alleged faculty misconduct and added that he “fully support[s] and endorse[s] the findings reached by the committee.” A pertinent excerpt of the report provides:

- That [Duker’s] continuing use of the title “Abdelhadi H. Taher Chair” in contravention of directives from both the Dean of HUSS and the Provost constitutes faculty misconduct on the part of Dr. Duker.
- That it was within the rights of Mr. Tarek Taher to repurpose the endowment towards student scholarships, and therefore it was not within the right of Dr. Duker to continue using a title once it ceased to exist.
- That Dr. Duker has caused harm to the university and others by making public statements maligning the reputation of Mr. Taher, and continuing to use the title of the Abdelhadi H. Taher Chair, despite the reallocation of the gift to a scholarship fund and repeated requests by the administration to remove the title from all correspondence, business cards and public announcements.

In addition, the Committee felt obliged to address an issue related to its establishment, concluding that the processes for convening the committee and the subsequent review of committee members as regards possible conflict of interest were conducted in accordance with university guidelines.

²⁶ Statement on Allegations of Academic Infringement, AMERICAN UNIVERSITY IN CAIRO, May 18, 2019, <https://www.aucegypt.edu/media/media-releases/statement-allegations-academic-infringement%C2%A0>.

²⁷ Emails between Adam Duker and Amr Shaarawi, et al. (May 26, 2019) (on file with author).

This statement was deemed necessary, I believe, only because a confidential draft report of the Senate Grievance Committee (SGC)²⁸ - which as you know has since been retracted by the Committee and by the Senate leadership - gave initial credence to complaints from Dr. Duker concerning the make-up of the School committee. These complaints have been shown to be groundless, though the harm done by Dr. Duker's unauthorized distribution of the draft SGC report, through illicit use of a "locked" AUC email system to all AUC faculty, and subsequently, to parties outside AUC, remains. (It might well be argued that this act, *prima facie*, constitutes a further serious act of misconduct.)

The School Investigation Committee's finding as regards faculty misconduct in this case are clear. What is less clear, to the committee and to me, is an appropriate recommendation for disciplinary action. The facts, however, [*sic*] would seem to obviate the issue: Dr. Duker has willingly chosen to resign from AUC, and has completed his departure procedures and is no longer residing in Egypt. It is my view that this reality makes any discussion of disciplinary action in this case moot.²⁹

Duker left Egypt shortly after resigning from AUC out of concern for his family's safety and feeling pressure from the AUC administration because of his contractual uncertainty and threats over use of his title. He resigned a tenure-track position at AUC in order to accept a one-year position at another institution beginning in Fall 2019. However, he remains troubled by AUC's behavior and threats over his use of the Taher Chair title, and remains concerned that other faculty and students will experience similar abuse.

II. American University in Cairo has committed itself to academic freedom

Through both its accreditation and its own institutional commitments, AUC promises students and faculty freedom of expression and academic freedom.

Though not located in the United States, AUC is incorporated in the United States and accredited by the Middle States Commission on Higher Education (MSCHE or "Middle States"), an accreditation agency which provides accreditation primarily to universities and colleges in the United States. The standards of accreditation promulgated by Middle States require that each institution, as a precondition for accreditation, "possess[] and demonstrate . . . a commitment to academic freedom, intellectual freedom, [and] freedom of expression."³⁰ Failure to comply with Middle States' standards can jeopardize the status of member

²⁸ Duker disputes these claims, and maintains that the SGC findings were neither simply a draft nor confidential.

²⁹ Report of the HUSS Comm. on Alleged Misconduct Relating to Dr. Adam Duker (June 7, 2019) (on file with author).

³⁰ MIDDLE STATES COMM'N ON HIGHER EDUC., STANDARDS FOR ACCREDITATION AND REQUIREMENTS OF AFFILIATION 5 (13th ed. 2015), *available at* <http://msche.org/publications/RevisedStandardsFINAL.pdf>.

institutions' accreditation, and the agency has previously sought reassurances from institutions when their leaders undermine academic or expressive freedom.³¹

AUC not only makes these foundational promises to Middle States, but also commits itself to expressive and academic freedom in its written policies. For example, AUC's "Freedom of Expression Policy" states that AUC "values the freedoms of speech, thought, expression and assembly—in themselves and as part of the core educational and intellectual mission of all members of the AUC community." The policy goes on to say that "[m]embers of the AUC community who exercise their freedom of expression shall not be subject to discipline or retaliation."³²

The university's Faculty Handbook makes this commitment clearer still in its "Principles of Academic Freedom," noting that AUC "affirms and protects the full freedom of scholarly and intellectual inquiry and expression of all faculty in the fulfillment of their university responsibilities, including teaching, advising, discussion, research, publication, and creative work, as well as other scholarly activities." The Principles further state that the American Association of University Professors' (AAUP's) "1940 Statement of Principles" is the "most authoritative statement of the rights of academic freedom as they exist today." The handbook highlights "elements" of academic freedom recognized by the AAUP, including that:

(a) Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.³³

Taken together, these are strong commitments to academic freedom and freedom of expression, manifesting a moral and legal obligation on the part of AUC to protect that which it has promised to its faculty, students, public, and accrediting agency.

³¹ See, e.g., Adam Steinbaugh, *Mount St. Mary's University President Simon Newman Resigns After Accreditor Questions Commitment to Freedom of Expression*, FOUND. FOR INDIVIDUAL RIGHTS IN EDUC., Mar. 1, 2016, <https://www.thefire.org/mount-st-marys-university-president-simon-newman-resigns-after-accreditor-questions-commitment-to-freedom-of-expression>.

³² Freedom of Expression Policy, AM. UNIV. IN CAIRO, <https://www.aucegypt.edu/about/about-auc/freedom-expression-policy> (last visited Jul. 5, 2019).

³³ AM. UNIV. IN CAIRO, *Faculty Handbook* (2015–2016), [https://documents.aucegypt.edu/Docs/faculty/AUC%20Faculty%20Handbook%202015-16%20\(2\).pdf](https://documents.aucegypt.edu/Docs/faculty/AUC%20Faculty%20Handbook%202015-16%20(2).pdf). Religious or similar institutional aims are not stated in AUC's policies. However, the institution's commitments to academic freedom and freedom of expression are clearly stated.

III. In its treatment of Duker, AUC abandoned its clear institutional commitments to academic freedom and freedom of expression

AUC's commitments to academic freedom may be praiseworthy, but its attempt to fulfill those commitments is considerably less so.

A. Restrictions on materials used in Duker's World Religions course

AUC's infringement on Duker's academic freedom began early at his time at AUC, when Reimer directed Duker against showing the film *Super Size Me* in class on the basis that it was "offensive" and that controversy around the film "can easily spill out of the classroom, and can cause the Dept and AUC considerable trouble."

As a university that has stated its commitments to the ideals of free expression and academic freedom, surely AUC's leadership understands that any classroom topic could be considered offensive by *someone*, and that universities must serve as a place that allows discussions of controversial topics rather than silences them at the expense of their students' education. While universities can determine certain in-class matters—for example, it can approve courses and set grading standards—any meaningful understanding of academic freedom is one that recognizes that faculty members must be free to teach controversial material in classroom settings. Limiting the relevant material presented or critiqued by a faculty member on the speculative, or even likely, expectation that others might find that material offensive represents a clear and indefensible incursion into the academic freedom of professor and student alike.

Additionally, the "1940 AAUP Statement of Principles on Academic Freedom and Tenure" states, in part: "Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject."³⁴ The "Principles of Academic Freedom" in AUC's Faculty Handbook cite this language directly. Reimer's objection to Duker's choice of teaching material was not on the basis of its relevance, but its potential for controversy.

Reimer's warning to Duker raises a troubling question: How frequently are faculty members at AUC prohibited from teaching potentially "offensive" material on the basis that it could cause controversy? If AUC's commitment to academic freedom is sincere, its leadership must ensure that similar restrictions will not be repeated. A failure to publicly and clearly repudiate such a limitation amounts to a default on AUC's promise to respect academic freedom.

B. Taher's efforts to interfere with Duker's syllabus and teaching

Duker first became aware of Tarek Taher's efforts to influence the pedagogical choices of the faculty member employed for the Chair endowed by his father in early 2017, when Taher

³⁴ AM. ASS'N OF UNIV. PROFESSORS, *1940 Statement of Principles on Academic Freedom and Tenure*, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

requested copies of Duker's lectures, requested that Duker use Taher's preferred translations of the Qur'an, and stated in their January 23 meeting that Duker should be using his classroom to convert students to Islam.

While Taher's requests are troubling, AUC's leadership is responsible for effectuating the incursions on Duker's academic freedom, either by entering into agreements permitting donor control over academic freedom or by failing to defend its faculty members' rights. In its April 6, 2019 findings report³⁵ on Duker's grievance complaint, the Faculty Senate Grievance Committee wrote that it was "concerned that [Taher] was allowed to interfere in academic matters and influence the Provost's decision to strip Dr. Duker of his title. This interference set a very dangerous precedent and infringed on Dr. Duker's academic freedom." FIRE shares the SGC's concerns that AUC may have allowed Taher to influence decision-making at the university and remove his title on the basis that Duker failed to abide by Taher's requested changes, specifically in-class proselytizing, to his teaching and syllabus.

As Elizabeth Redden wrote in *Inside Higher Ed's* reporting on Duker's story:³⁶

It is common for colleges and universities that seek endowed chairs to specify the general topics of the chairs with donors, and to keep donors and their families engaged with the college after the gift is given. But donors of endowed chairs are not typically allowed to oversee a professor's work or cancel a chair if they disapprove. Typically, endowed chairs are just that -- endowed -- and so once set up cannot be revoked.

Former president of the American University of Beirut (AUB) John Waterbury also told *Al-Fanar Media*: "The university has to insist on full control over how money is used. As president of AUB, I never accepted the right of donors to even be consulted on who filled a chair. This sounds like gross interference in the affairs of the university."³⁷ *Al-Fanar Media* also reported that Taher sent a critic of his decision messages about Duker's alleged "misuse of

³⁵ Despite the SGC's later decision to rescind the findings, Shaarawi suggested that the SGC did so not on the basis that they were inaccurate, but because of Duker's decision to discuss them publicly. Shaarawi's email exchanges with Duker suggest that the SGC worried about the consequences of supporting Duker's claims. In May, Shaarawi wrote to Duker that he "should at least acknowledge that the members of the grievance committee issued what they thought was a fair report that supports your case. They did so knowing that their opinions may contradict the views of those in higher administrative positions." Indeed, the decision to revoke the findings appears to have been based on SGC members' fear of retaliation for criticizing the behavior of AUC's administration. Additionally, the April 6 findings shared with Duker did not contain language suggesting they were a "draft" or anything other than the committee's final findings.

³⁶ Elizabeth Redden, *A Donor's Demands, a Revoked Chair*, INSIDE HIGHER ED, May 24, 2019, <https://www.insidehighered.com/news/2019/05/24/professor-says-au-cairo-wronged-him-canceling-his-chair-after-he-resisted-donors>.

³⁷ Jabeen Bhatti, *American U. in Cairo Cancels an Endowed Chair; Questions Follow*, AL-FANAR MEDIA, June 14, 2019, <https://www.al-fanarmedia.org/2019/06/american-u-in-cairo-cancels-an-endowed-chair-questions-follow>.

the chair” in which he complained about Duker’s “Zionist direction” and other behavior, which Taher said he “stopped.”³⁸

The likelihood that benefactors may have power to determine what faculty members are allowed to teach in class compromises and contradicts AUC’s commitments to academic freedom. In light of these commitments and the SGC’s findings that Taher “was allowed to interfere in academic matters,” AUC must clearly restate its guarantee of academic freedom and confirm that faculty rights are not dependent on the whims of benefactors.

C. AUC’s removal and investigation of Duker’s title as Abdulhadi H. Taher Chair

Duker’s contract, signed by AUC and Duker in 2016, stated that he would accept the role of Assistant Professor and Abdulhadi H. Taher Chair in Comparative Religion in AUC’s Department of History in the School of Humanities and Social Sciences. However, in addition to allowing Taher to interfere with Duker’s classroom, AUC also permitted Taher to “influence the Provost’s decision to strip Dr. Duker of his title,” according to the SGC.

FIRE is not aware of any AUC policy notifying faculty members of the university’s right to revoke conditions of their contracts on the basis that donors disagree with the faculty member’s teachings. Such a policy or practice would amount to a wholesale abdication of the academic freedom rights AUC purports to uphold. That defect, however, did not stop Switzer from launching an investigation into Duker for using a title contractually granted to him, suggesting that he caused “considerable embarrassment” to AUC. Nor did it stop Holmes from threatening to “hold [Duker] fully liable under the law” for “causing financial and reputational damage to AUC” by referring to himself as the Taher Chair. If there is damage to AUC’s reputation—whether in the public eye or with a wealthy donor—that damage emanates from AUC’s failure to establish donor relationships that do not convey to donors veto power over faculty members’ freedom.

Additionally, Switzer also suggested that Duker “caused harm to the university and others by making public statements maligning the reputation of Mr. Taher,” suggesting that faculty members’ public criticism of the university and its benefactors is not permitted. Again, it remains unclear what provision of the faculty handbook forbids faculty members from “maligning” donors’ reputations.

Indeed, the SGC was troubled by the faculty misconduct charges against Duker, noting in its April 6 findings that “[t]he committee believes that Dr. Duker’s insistence to keep his contractually-agreed title does not fall under any” types of faculty misconduct addressed in the AUC faculty handbook.

Given that Duker has resigned and accepted an offer at another university, AUC’s ability to mitigate its treatment of Duker is limited. However, the conduct of the university’s

³⁸ *Id.*

administration will have a chilling effect that will outlast Duker's presence on campus, making it less likely that faculty members and students will trust the university's commitment to academic or expressive freedom. It likewise sends the message to other donors that the university will tolerate and implement their personal predilections over the objections of faculty or students.

To reverse that chilling effect, AUC must acknowledge its errors in its handling of the Taher Chair disagreement, confirm that it has abandoned any legal threats to Duker, and publicly state that it will take measures to ensure a similar incident does not occur on the campus again.

IV. Conclusion

The incidents described above, while troubling on their own, represent a clear pattern of AUC's failure to abide by its own stated commitments and the requirements of its accreditor.

FIRE is not alone in expressing its concerns about Duker's treatment. On June 7, 2019, the Middle East Studies Association (MESA) sent you a letter voicing "deep concern regarding both the peculiar circumstances surrounding the cancellation of the Abdulhadi H. Taher Chair and the university administration's failure to offer Professor Adam Duker a revised contract." MESA further called on AUC "to publicly affirm its commitment to adhere to generally accepted standards with regard to donations that result in the creation of endowed chairs and to vigorously respect and defend the academic freedom of its faculty."³⁹ FIRE echoes that call.

In recognition of both its written commitments and requirements from its accreditor, the Middle States Commission on Higher Education, AUC must confirm that freedom of expression and academic freedom, not fear of "offensive" material or donors' demands, will be the standard students and faculty can expect. AUC community members—who have been promised that their rights will be respected—deserve no less.

We request receipt of a response to this letter no later than the close of business on August 7, 2019.

Sincerely,



Sarah McLaughlin
Senior Program Officer, Legal and Public Advocacy

³⁹ Letter from Judith E. Tucker, President, MESA, & Laurie Brand, Chair, Comm. on Acad. Freedom, to Francis J. Ricciardone, President, The Am. Univ. in Cairo, et al. (June 7, 2019), <https://mesana.org/advocacy/committee-on-academic-freedom/2019/06/07/termination-of-auc-endowed-chair>.

cc:

Mary Corrarino, Vice President and Executive Secretary to the Board of Trustees, AUC
Robert Switzer, Interim Dean, School of Humanities and Social Sciences, AUC
Dr. Christy Faison, Senior Vice President for Accreditation Relations, Middle States
Commission on Higher Education

Encl.