



May 18, 2022

President Sian Leah Beilock
Barnard College
3009 Broadway
New York, New York 10027

Sent via U.S. Mail and Electronic Mail (presidentsoffice@barnard.edu)

Dear President Beilock:

The Foundation for Individual Rights in Education, a nonpartisan nonprofit dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses, is concerned by Barnard College's cancellation of Professor Jonathan Rieder's Culture in America course for this coming academic year for drawing "negative attention." Our concern reflects that it appears Barnard has taken this step based on media coverage of student complaints about Rieder's protected pedagogical choices, and we are further troubled by the extent to which it appears driven, at least in part, by disagreement or discomfort with Rieder's actual or perceived views on race.

While FIRE recognizes Barnard's broad discretion to make curricular decisions, the college's commitment to academic freedom means those decisions must not rest on improper grounds, such as animus toward a professor's views or fear of attracting negative attention from sources outside the campus walls.

I. Barnard Cancels "Culture in America" Course

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 these ends, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

Jonathan Rieder is a Barnard sociology professor who "teaches courses on contemporary American culture and politics; unity and division in the United States; the sociology of culture; and race, ethnicity, and American pluralism."¹ As a teacher, author of two books on Martin Luther King, Jr., editor of multiple publications exploring racial issues, television and radio commentator, and recipient of numerous fellowships, Rieder has spent his entire

¹ *Jonathan Rieder*, BARNARD COLL., <https://barnard.edu/profiles/jonathan-rieder> (last visited May 6, 2022) [<https://perma.cc/8UB7-XSRU>].

scholarly life engaging with race and racism.² For decades, he has taught Culture in America, a course that explores the “values and meanings that form American pluralism,” including multiculturalism and “Obama’s ‘transracial’ endeavor.”³

Sociology Department Chair Mignon Moore and Provost & Dean of the Faculty Linda Bell initially raised concerns with Rieder about Culture in America and another course, Music, Race and Identity, in a December 2020 meeting. Moore offered a number of critiques of Rieder’s pedagogy. She told Rieder that some students of color were “uncomfortable” with Rieder’s mention of the word “nigger” as a “white man with power,” despite Rieder underscoring his pedagogical rationale for doing so.⁴ Rieder also noted he had, in any event, stopped quoting the word. Moore said the students felt he was “dismissive of their experience” and not “connecting” with them, and they felt “harmed” by his teaching.⁵ Rieder said he would welcome a conversation with Moore about his pedagogy around race, and questioned why she had never informally approached him about it, to which she replied, “I don’t have anything to talk about with you talking about race. I don’t like the way you approach it.”⁶ Bell encouraged Rieder to “shift” his “approach to some of the more difficult material” that he presents.⁷

During a Culture in America class session the following October, Rieder, in discussing a scene in the movie 8 Mile, quoted a black character’s rap lyrics: “You think these niggas gonna feel the shit you say? I got a better chance joining the KKK.”⁸ Three students filed a Title IX complaint against Rieder. After meeting with the students, Barnard determined Rieder’s expression did not meet the threshold for discriminatory harassment and that there was no basis for further investigation.⁹ The incident received media coverage, including articles in the *New York Post*¹⁰ and the *Columbia Spectator*.¹¹

² *Id.*

³ *Course Search: SOCI UN2208 Culture in America*, BARNARD COLL., <https://catalog.barnard.edu/barnard-college/courses-instruction/course-search/?department=SOCB&pl=0&ph=10&college=BC> (last visited May 6, 2022) [<https://perma.cc/8QP4-QGHY>].

⁴ Jonathan Rieder’s documentation of meeting between Rieder, Linda Bell, and Mignon Moore (Dec. 15, 2020) (on file with author).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Though Rieder had decided to stop quoting the words “nigger” or “nigga” by this time, he subsequently explained that he inadvertently did so while reading the lyrics.

⁹ Selim Algar, *Columbia declines to punish professor for using N-word while quoting ‘8 Mile’*, N.Y. POST (Dec. 6, 2021), <https://nypost.com/2021/12/06/columbia-declines-to-punish-professor-for-using-n-word-in-8-mile-quote>.

¹⁰ *Id.*; Conor Skelding, *Barnard professor allegedly drops N-bomb in class*, N.Y. POST (Nov. 6, 2021), <https://nypost.com/2021/11/06/barnard-professor-allegedly-drops-n-bomb-in-class>.

¹¹ Talia Traskos-Hart, *Barnard Title IX will not take action against tenured professor Jonathan Rieder for use of N-word in lecture*, COLUMBIA SPECTATOR (Dec. 5, 2021), <https://www.columbiaspectator.com/news/2021/12/05/barnard-title-ix-will-not-take-action-against-tenured-professor-jonathan-rieder-for-use-of-n-word-in-lecture>.

Although Barnard did not find Rieder responsible for any wrongdoing, in a December 15, 2021 meeting, Moore told Rieder she did not want to offer Culture in America the following year because “it’s gotten a lot of negative attention” and she did not “want it being revived again in the media.”¹² Moore also told Rieder that over the years, some students have said they were “uncomfortable” with “the ways that [Rieder] talks about race.”¹³

Rieder met with Moore again on March 3, 2022, to discuss issues with Culture in America. Moore reiterated that she would not allow Rieder to teach the course this fall. Moore said the course is “tainted” and repeated that it “has had negative attention because it has been written up in the papers,” noting that “faculty have stopped me on the streets at Barnard and at Columbia, talking about this course.”¹⁴ She also said “there was a pattern in that course of students feeling harmed, feeling very uncomfortable with the way you teach that course,” and that she did not believe Rieder “talk[s] about race and racism in a neutral way.”¹⁵ Moore nevertheless told Rieder he could “teach those same ideas in a different course,” and at another point said there are “parts” of Culture in America that Rieder could teach in a different course this fall.¹⁶

In a March 10 email, Moore confirmed that that the department would not offer Culture in America in the 2022–23 academic year.¹⁷ The email cited poor course evaluations and said “quantitative metrics and the qualitative student feedback from these student evaluations tell us that you are not reaching a significant proportion of students in your teaching of this class.”¹⁸ Moore expressed concern about “negative student feedback” and her belief that “the course is turning students away from the major.”¹⁹

II. Barnard’s Curricular Decisions Must Respect Faculty Members’ Academic Freedom

While Barnard undoubtedly has wide latitude in making curricular decisions, the college’s commitment to academic freedom precludes it from canceling a course based on hostility toward a faculty member’s views or negative public reactions to his protected pedagogical choices. Barnard’s decision to discontinue Culture in America risks creating a serious chilling effect on its faculty’s academic freedom.

Barnard makes strong commitments to academic freedom, promising faculty “freedom in the classroom in discussing their subjects, freedom in research and in the publication of its

¹² Jonathan Rieder’s documentation of meeting between Rieder and Mignon Moore (Dec. 15, 2021) (on file with author).

¹³ *Id.*

¹⁴ Jonathan Rieder’s documentation of meeting between Rieder and Mignon Moore (Mar. 3, 2022) (on file with author).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Email from Mignon Moore, Professor of Sociology and Department Chair, Barnard Coll., to Jonathan Rieder, Professor of Sociology, Barnard Coll. (Mar. 10, 2022, 9:42 AM) (on file with author).

¹⁸ *Id.*

¹⁹ *Id.*

results, and freedom of expression and associations in their private or civic capacities.”²⁰ This language is consistent with the First Amendment’s protection of academic freedom, encapsulated in the Supreme Court’s declarations that “[s]cholarship cannot flourish in an atmosphere of suspicion and distrust,” and that “[t]eachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding.”²¹ This includes the right to approach sensitive topics and use pedagogically relevant language in a way that some may find offensive or uncomfortable.²² As the American Association of University Professors explains:²³

The freedom to teach includes the right of the faculty to select the materials, determine the approach to the subject, make the assignments, and assess student academic performance in teaching activities for which faculty members are individually responsible, without having their decisions subject to the veto of a department chair, dean, or other administrative officer.

Moore cited multiple reasons for refusing to allow Rieder to teach *Culture in America* next year, prominent among which was the “negative attention” the course drew from the media and others outside the classroom. That attention was the result of three students filing a meritless harassment complaint against Rieder for quoting a racial slur in a pedagogically relevant context. Barnard rightly refused to discipline Rieder, as his mention of the word fell well within his academic freedom rights. However, by prohibiting him from teaching the course next year due to the public controversy, Barnard is penalizing Rieder for his protected exercise of academic freedom.

While Moore at one point told Rieder he could teach the same ideas, or “parts” of *Culture in America* in a different course, as FIRE recently told the University of Florida—which reportedly directed faculty to avoid the words “critical” and “race” in syllabi so as not to attract negative attention from lawmakers or the public²⁴—even simply requiring faculty to change a course’s title or description to avoid negative reactions offends academic freedom (and can obfuscate the course’s true nature and content). Moreover, many of Moore’s comments suggest Rieder *will* have to change his approach to the subject matter, not just the way the course is described, to avoid more administrative blowback. That restricts Rieder’s pedagogical autonomy in violation of Barnard’s promise to faculty of “freedom in the classroom in discussing their subjects,” informed by faculty members’ own academic

²⁰ BARNARD COLL, CODE OF ACADEMIC FREEDOM AND TENURE § I (2007), <https://portal.barnard.edu/sites/default/files/2021-06/Academic%20Code.docx.pdf> [<https://perma.cc/NMT8-GDPB>].

²¹ *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

²² See, e.g., *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 675, 679, 683 (6th Cir. 2001) (First Amendment protected instructor’s use of words “lady” “girl,” “faggot,” “nigger,” and “bitch” in course on “language and social constructivism,” as they were germane to the instructor’s lecture).

²³ *Statement on the Freedom to Teach*, AM. ASS’N OF UNIV. PROFESSORS, <https://www.aaup.org/news/statement-freedom-teach#.YnrSDfPMLlw> [<https://perma.cc/2RBJ-J7MV>].

²⁴ Alex Morey, *After testimony dustup, University of Florida reportedly censoring ‘critical’ and ‘race’ in syllabi*, FIRE (Dec. 2, 2021), <https://www.thefire.org/after-testimony-dustup-university-of-florida-reportedly-censoring-critical-and-race-in-syllabi>.

judgment and expertise in deciding how to approach their material and how to communicate ideas to students.

Allowing negative attention from the media, the public, or others outside the classroom to interfere with or control the curriculum is an abdication of Barnard's commitment to academic freedom, which requires universities to be "so free that no fair-minded person shall find any excuse for even a suspicion that the utterances of university teachers are shaped or restricted by the judgment, not of professional scholars, but of inexperienced and possibly not wholly disinterested persons outside of their ranks."²⁵

While Moore's email to Rieder cited poor student evaluations, her previous comments call into question the true impetus behind the decision to discontinue *Culture in America*. In addition to emphasizing negative attention from outside the classroom, Moore repeatedly expressed her and some students' disagreement with Rieder's approach to race and referenced vague allegations of "harm" to students, raising well-founded concern that the decision to cancel the course is rooted, at least in part, in opposition to or discomfort with Rieder's views.

Moreover, the reliance on student evaluations is suspect given that the critical comments largely focused on Rieder's mention of a racial slur or his perceived views on race.²⁶ A few students complaining about Rieder's views or enunciation of an offensive but pedagogically relevant term in class—which Barnard already determined was not discriminatory harassment—is not a proper basis for taking adverse action against him, whether through the Title IX disciplinary process, or by abruptly canceling the course he has taught for decades.

III. Conclusion

To avoid a chilling effect on Rieder's and other faculty members' academic freedom, FIRE calls on Barnard to reconsider its decision to cancel *Culture in America* for this coming academic year, and to ensure any decision it makes is clearly and consistently grounded in legitimate, transparent, viewpoint-neutral reasons—not animus toward Rieder's views or unwanted attention from the public. The college's commitment to academic freedom demands this.

²⁵ AM. ASS'N OF UNIV. PROFESSORS, 1915 DECLARATION OF PRINCIPLES ON ACADEMIC FREEDOM AND ACADEMIC TENURE, <https://www.aaup.org/NR/rdonlyres/A6520A9D-0A9A-47B3-B550-C006B5B224E7/0/1915Declaration.pdf> [<https://perma.cc/3834-F8XZ>].

²⁶ See *Fall 2021 Full Semester - Barnard Evaluations: SOCIUN2208_001_2021_3 - CULTURE IN AMERICA*, BARNARD COLL. (on file with author) ("He said a racial slur"; "It's honestly shameful that Barnard has kept Professor Rieder knowing he using racial slurs and makes multiple students uncomfortable"; "it is absolutely inappropriate to say a literal racial slur in an academic setting as a white person in 2021"; "The content was all just about how life is about class rather than race... very inaccurate"; "the material/discussion was racist/biased").

We respectfully request receipt of a response to this letter no later than the close of business on June 1, 2022.

Sincerely,

A handwritten signature in dark ink, appearing to read 'A. Terr', with a stylized, flowing script.

Aaron Terr
Senior Program Officer, Individual Rights Defense Program

Cc: Linda Bell, Provost & Dean of the Faculty
Mignon R. Moore, Professor of Sociology and Department Chair

Encl.

Authorization and Waiver for Release of Personal Information

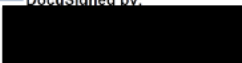
I, Jonathan Rieder, do hereby authorize BarnArd College (the "Institution") to release to the Foundation for Individual Rights in Education ("FIRE") any and all information concerning my employment, status, or relationship with the Institution. This authorization and waiver extends to the release of any personnel files, investigative records, disciplinary history, or other records that would otherwise be protected by privacy rights of any source, including those arising from contract, statute, or regulation. I also authorize the Institution to engage FIRE and its staff members in a full discussion of all information pertaining to my employment and performance, and, in so doing, to disclose to FIRE all relevant information and documentation.

This authorization and waiver does not extend to or authorize the release of any information or records to any entity or person other than the Foundation for Individual Rights in Education, and I understand that I may withdraw this authorization in writing at any time. I further understand that my execution of this waiver and release does not, on its own or in connection with any other communications or activity, serve to establish an attorney-client relationship with FIRE.

If the Institution is located in the State of California, I request access to and a copy of all documents defined as my "personnel records" under Cal. Ed. Code § 87031 or Cal. Lab. Code § 1198.5, including without limitation: (1) a complete copy of any files kept in my name in any and all Institution or District offices; (2) any emails, notes, memoranda, video, audio, or other material maintained by any school employee in which I am personally identifiable; and (3) any and all phone, medical or other records in which I am personally identifiable.

This authorization and waiver does not extend to or authorize the release of any information or records to any entity or person other than the Foundation for Individual Rights in Education, and I understand that I may withdraw this authorization in writing at any time. I further understand that my execution of this waiver and release does not, on its own or in connection with any other communications or activity, serve to establish an attorney-client relationship with FIRE.

I also hereby consent that FIRE may disclose information obtained as a result of this authorization and waiver, but only the information that I authorize.

DocuSigned by:

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Signature

5/17/2022

Date