

March 25, 2025

Megan Forbes
Office of Institutional Equity
Columbia University
80 Claremont Ave
4th Floor, MC 9620
New York, New York 10027

Sent via U.S. Mail and E-Mail (MG4850@columbia.edu, institutionalequity@columbia.edu)

Dear Associate Director Forbes:

FIRE,¹ a nonpartisan nonprofit that defends free speech, writes to express our concern about Columbia University's expectation that graduate student Daniel Di Martino be willing to "accept responsibility" for behavior it claims may implicate Columbia's antidiscrimination and harassment policy without giving him any details about the specific allegations against him. Accordingly, FIRE calls on Columbia to provide Di Martino with the full details of the allegations or to end its investigation.

On March 7, Columbia's Office of Institutional Equity notified Di Martino that it had received a report that he may have engaged in behavior that could implicate the school's anti-discrimination and harassment policy.² OIE responded to the report by inviting Di Martino to a "Mandatory Educational Resolution" to discuss the matter and share his "perspective on the incident and respond to questions," a process it claimed was not disciplinary in nature.³ OIE went on to explain that Educational Resolution may be used when a report concerns "allegations of Prohibited Conduct that would typically result in Sanctions no more severe than a warning or reprimand,"⁴ noting,

A Respondent who participates in Educational Resolution **must be willing to accept responsibility for their actions.** Should the

¹ For more than 20 years, FIRE has defended freedom of expression, due process, and other individual rights on America's university campuses. You can learn more about our mission and activities at thefire.org.

² Letter from the Office of Institutional Equity to Daniel Di Martino, student (Mar. 7, 2025) (on file with author).

³ *Id.* ("[T]his is **not a disciplinary meeting, but your attendance and participation is mandatory in order to resolve this report. Please note that after your attendance and participation in the Educational Resolution Meeting, no further action will be taken and the matter will be closed.**" (emphasis in original).

⁴ *Id.* (emphasis added)

Respondent be unwilling to accept responsibility, the Respondent will proceed through one of the other resolution processes and, if found responsible, an appropriate Sanction will be imposed. As part of the Educational Resolution process, the Respondent must meet with Office personnel to discuss the conduct at issue and the Respondent's understanding of this Policy. Failure to participate in this meeting may result in further proceedings and possible Sanctions, as appropriate. The Respondent is permitted to bring an Advisor to the meeting.⁵

On March 10, Di Martino emailed you asking for more information about the allegation, which he pointed out he was entitled to under the anti-discrimination and harassment policy.⁶ In pertinent part, Di Martino requested:⁷

- The identity or identities of the Parties involved in the incident
- A description of the alleged Prohibited Conduct, including the provisions of this Policy that may have been violated; and
- The date(s) and location(s) of the alleged incident(s)

Di Martino also pointed out the policy's provision that "Respondents are presumed not responsible for alleged Prohibited Conduct and that any determination regarding a violation of this Policy is made at the conclusion of an Investigation."⁸

The same day, you replied to Di Martino that:⁹

The listed requirements in your email pertain to when there is a Formal Investigation, where Formal Notice would be provided to the involved parties (pg. 33, 5(a)(i)). This Educational Resolution is non-disciplinary, non-punitive and is aimed to be an educational conversation about a Report that was received by our Office (pg. 31), that the Office will provide further detail upon meeting with you. After the meeting is concluded, the matter will be closed and no further action will be taken.

By failing to disclose the specific details of the allegations, Columbia violates both its own due process promises and the obligations outlined by its accrediting agency, the Middle States Commission on Higher Education, which requires institutions to demonstrate that its

⁵ *Id.*

⁶ Email from Di Martino to Megan Forbes, Associate Dir. of Investigations (Mar. 10, 2025, 10:27 AM) (on file with author).

⁷ *Id.*; see also *Anti-Discrimination and Discriminatory Harassment Policy and Procedures for Students, Procedures, Resolution Process for Responding to Reports of Prohibited Conduct, Notice to Parties*, COLUMBIA UNIV., 30 (2024) (on file with author).

⁸ Email from Di Martino, *supra* note 6.

⁹ Email from Forbes to Di Martino (Mar. 10, 2025, 2:46 PM) (on file with author).

grievance “policies and procedures are fair and impartial and assure that grievances are addressed promptly, appropriately, and equitably[.]”¹⁰

First, the notice Di Martino requested is, in fact, required in the case of educational resolutions. Columbia’s anti-discrimination policy plainly states that “Once the Investigative Team determines the appropriate resolution process, the Investigative Team will promptly give all Parties formal written Notice[.]”¹¹ This “formal written Notice” includes the very information Di Martino requested, and is meant to follow the determination of *any* resolution process.¹² Indeed, it is hard to imagine how Columbia could have any possible legitimate interest in *not* informing potential policy violators what they are supposed to have done to aggrieve a reporting party.

Without the details of the allegations, Di Martino cannot be prepared in good faith to “accept responsibility” for an accusation that, for all he knows, is simply erroneous. Nor could anyone else of good conscience—unless they were willing to accept responsibility for a non-offense simply to preserve their ability to pursue a Columbia education. Further, the policy’s assurance that “Respondents are presumed not responsible for alleged Prohibited Conduct” can only be reconciled with an “Educational Resolution” process that requires them to be willing to take responsibility for their behavior if students know that they are alleged to have done. That this Educational Resolution is not disciplinary mitigates neither of these fairness concerns, especially since refusal to participate in Educational Resolution under these terms incurs further discipline.

Worse still, Columbia’s refusal to provide proper notice violates its promises of free expression. Di Martino has no recollection of any problematic in-person interactions, and can only speculate that the complaint arises from his expression on social media, where he discusses controversial social and political issues from a right-leaning perspective. As a result of Columbia’s refusal to provide proper notice of the details of the allegation against him, Di Martino cannot help but feel chilled and restricted from sharing his viewpoint for fear of further such allegations. This contravenes Columbia’s promise that “all members of the University community have the right to speak, to study, research, to teach, and to express their own views,” and that “the University cannot and will not rule any subject or form of expression out of order on the ground that it is objectionable, offensive, immoral, or untrue.”¹³

FIRE understands that Columbia is under enormous political and financial pressure regarding its response to harassment and discrimination complaints on campus. However, its desire to alleviate that pressure does not justify ignoring or misinterpreting its own policies to shut down as much campus controversy as possible. The solution will come only through a commitment to fairly and consistently applying reasonable campus rules in a viewpoint-

¹⁰ *Standards for Accreditation and Requirements of Affiliation | Fourteenth Edition*, Standard II, Ethics and Integrity, Criteria, MIDDLE STATES COMM’N ON HIGHER EDUC. (effective July 1, 2023), <https://www.msche.org/standards/fourteenthedition/>.

¹¹ *Anti-Discrimination and Discriminatory Harassment Policy*, *supra* note 6, at § VII.C.

¹² *See id.*

¹³ *Charters and Statutes of Columbia University in the City of New York*, Statute XLIV, Rules of University Conduct, § 440 Affirmative Statement, COLUMBIA UNIV. 136 (rev. May 2024), https://secretary.columbia.edu/sites/default/files/content/University%20Charter_Statutes_May2024.pdf [<https://perma.cc/3DY6-ZPRQ>].

neutral manner. That can start by giving Daniel Di Martino the notice he is promised by Columbia policy, or, if the complaint is based on his protected speech, by dismissing the complaint against him without need for “resolution,” educational or otherwise.

Sincerely,

A handwritten signature in blue ink that reads "Robert L. Shibley". The signature is written in a cursive, flowing style.

Robert Shibley
Special Counsel, Campus Advocacy