



# FIRE

Foundation for Individual  
Rights and Expression

October 21, 2022

Andrew Hamilton  
Office of the President  
New York University  
70 Washington Square South  
New York, New York 10012

**URGENT**

*Sent via U.S. Mail and Electronic Mail (andrew.hamilton@nyu.edu)*

Dear President Hamilton,

FIRE<sup>1</sup> is gravely concerned about the state of academic freedom and faculty rights at New York University (NYU) after its firing of chemistry professor Maitland Jones, Jr., allegedly without due process,<sup>2</sup> because some students complained his rigorous organic chemistry class was too difficult.<sup>3</sup> We join the many voices,<sup>4</sup> including those of NYU faculty,<sup>5</sup> expressing bewilderment and dismay at this affront to faculty rights, and urge the university to reverse course.

For years, FIRE has monitored the expanding bureaucratization of higher education with growing concern. We have watched as ballooning numbers of administrators—most well-meaning—treat their college or university primarily as a business to run, with a brand to

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<sup>1</sup> As you may recall from past correspondence, the Foundation for Individual Rights and Expression is a nonpartisan nonprofit dedicated to defending freedom of speech. For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses. You can learn more about our recently expanded mission and activities at [thefire.org](http://thefire.org).

<sup>2</sup> Maitland Jones, Jr., *I was fired from NYU after students complained that the class was too hard. Who's next?*, BOSTON GLOBE (Oct. 20, 2022), <https://www.bostonglobe.com/2022/10/20/opinion/i-was-fired-nyu-after-students-complained-that-class-was-too-hard-whos-next>.

<sup>3</sup> Stephanie Saul, *At N.Y.U., Students Were Failing Organic Chemistry. Who Was to Blame?*, N.Y. TIMES (Oct. 3, 2022), <https://www.nytimes.com/2022/10/03/us/nyu-organic-chemistry-petition.html>.

<sup>4</sup> See e.g., *AFA Statement on NYU Prof. Maitland Jones*, ACADEMIC FREEDOM ALLIANCE (Oct. 14, 2022), <https://academicfreedom.org/afa-statement-on-nyu-prof-maitland-jones>.

*New York University professor fired after students say his class was too hard*, GUARDIAN (Oct. 6, 2022), <https://www.theguardian.com/us-news/2022/oct/06/nyu-professor-fired-maitland-jones-jr-student-petition>.

<sup>5</sup> Abby Wilson, *Faculty demand investigation into Maitland Jones Jr. firing*, WASH. SQUARE NEWS (Oct. 21, 2022), <https://nyunews.com/news/2022/10/21/faculty-demand-investigation-maitland-jones-termination>.

maintain, and students as customers to be satisfied at any cost.<sup>6</sup> However, that cost, not infrequently, is the infringement of faculty rights and, in turn, depreciation of the institution's only indispensable product: education. Of course, the value of a diploma cannot be quantified by tuition dollars, institutional cachet, or future job prospects alone. In 1957, the Supreme Court stressed the critical importance of higher education to the very fabric of our society, paying particular attention to faculty rights:

The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation . . . Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.<sup>7</sup>

Against this backdrop, Professor Jones' dismissal from NYU represents a dangerous new low for American higher education.

By all accounts, Jones was allegedly terminated without due process to satisfy students upset that his traditionally and appropriately difficult course was, indeed, difficult;<sup>8</sup> to appease parents "who pay the tuition bills";<sup>9</sup> and (as one chemistry faculty member put it) to create "happy students who are saying great things about the university so more people apply and the *U.S. News* rankings keep going higher."<sup>10</sup>

In a *Boston Globe* op-ed about his experience today, Jones echoes FIRE's concerns about the ramifications for faculty rights, citing the chilling effect his case will have, particularly on those without tenure protections. "Can a young assistant professor . . . teach demanding material?" Jones asks. "Dare they give real grades? Their entire careers are at the peril of complaining students and deans who seem willing to turn students into nothing more than tuition-paying clients."<sup>11</sup>

Beyond the normative case for academic freedom, NYU is bound to keep the clear promises it makes to faculty. Courts have held that private colleges and universities must adhere to their

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<sup>6</sup> See e.g., Samantha Harris, *Administrative Bloat and Academic Freedom*, FIRE (July 6, 2016), <https://www.thefire.org/administrative-bloat-and-academic-freedom/>; Adam Goldstein & Greg Lukianoff, *The Eternally Radical Idea: Catching up with 'Coddling' part nine: campuses continue to hire administrators, act like corporations*, FIRE (Feb. 19, 2021), <https://www.thefire.org/catching-up-with-coddling-part-nine-campuses-continue-to-hire-administrators-act-like-corporations/>.

<sup>7</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

<sup>8</sup> See Saul, *supra* note 3. According to *The New York Times*, Jones' fellow NYU chemistry professor, Dr. Kent Kirshenbaum, said "he worried about any effort to reduce the course's demands, noting that most students in organic chemistry want to become doctors. 'Unless you appreciate these transformations at the molecular level,' he said, 'I don't think you can be a good physician, and I don't want you treating patients.'"

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See Jones, *supra* note 2.

own commitments to students and faculty.<sup>12</sup> The university’s own Statement in Regard to Academic Freedom and Tenure is clear that “[a]cademic freedom is essential to the free search for truth and its free expression,” and that “[f]reedom in teaching is fundamental for the protection of the rights of the teacher in teaching and of the student in learning.”<sup>13</sup> The American Association of University Professors (AAUP) has defined freedom in teaching to include faculty members’ right to determine how to teach their courses:

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.<sup>14</sup>

This freedom necessarily entails the right of faculty to set appropriate standards of academic rigor, as did Professor Jones—with the support of many professors in his department, who told administrators they worried his firing would set “a precedent, completely lacking in due process, that could undermine faculty freedoms and correspondingly enfeeble proven pedagogic practices.”<sup>15</sup>

NYU has attempted to justify the complete lack of due process Jones received by citing his status as an adjunct, contractually defined as “Other Faculty,”<sup>16</sup> rather than a tenured, tenure-track or “Full Time Continuing Faculty” member.<sup>17</sup> Given that more than half of NYU’s teaching staff are reportedly adjuncts,<sup>18</sup> this troubling rationale raises serious questions about the university’s commitment to basic fairness for the majority of its professors. If NYU truly believes that “[a]cademic freedom is essential” and “[f]reedom in teaching is fundamental,” it

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<sup>12</sup> *McAdams v. Marquette Univ.*, 2018 WI 88, ¶84 (2018) (private Catholic university breached its contract with a professor when it punished him for a personal blog post because, by virtue of its adoption of the 1940 AAUP Statement of Principles on Academic Freedom, the blog post was “a contractually-disqualified basis for discipline”).

<sup>13</sup> *Faculty Handbook*, N.Y. UNIV. (Oct. 15, 2020), [https://www.nyu.edu/content/dam/nyu/provost/documents/facultyHandbook/October2020revision/10.15.20\\_Faculty\\_HandbookCLEAN.pdf](https://www.nyu.edu/content/dam/nyu/provost/documents/facultyHandbook/October2020revision/10.15.20_Faculty_HandbookCLEAN.pdf).

<sup>14</sup> *Statement on the Freedom to Teach*, AAUP (Nov. 7, 2013), [https://www.aaup.org/file/2013-Freedom\\_to\\_Teach.pdf](https://www.aaup.org/file/2013-Freedom_to_Teach.pdf).

<sup>15</sup> See Saul, *supra* note 3.

<sup>16</sup> *University Bylaws: 88. Other Faculty*, N.Y. UNIV (June 8, 2022), <https://www.nyu.edu/about/leadership-university-administration/board-of-trustees/governance/university-bylaws.html>.

<sup>17</sup> See Wilson, *supra* note 5.

<sup>18</sup> *The New York University Student to Faculty Ratio & Faculty Composition*, COLLEGE FACTUAL (last visited Oct. 21, 2022), <https://www.collegefactual.com/colleges/new-york-university/academic-life/faculty-composition>. (“54.0% of the teaching staff at New York University are part-time non-faculty or non-tenure track faculty.” This is higher than the national average of 51.4%.)

cannot grant administrators—who typically know little about a faculty member’s field of expertise—unilateral power to punish or oust them.<sup>19</sup>

NYU is proud of its “world-class students” who “expect high achievement in pursuit of engaging the world’s challenges.”<sup>20</sup> Professor Jones’ dismissal betrays not only these expectations, but also the university’s clear promises of academic freedom. NYU must not punish its faculty for delivering an education worthy of a “private university in the public service.”<sup>21</sup>

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on Friday, October 28, confirming NYU will recommit to upholding faculty rights and offer to return Professor Jones to the classroom.

Sincerely,



Alex Morey  
Director, Campus Rights Advocacy

Cc: Aisha Oliver-Staley, Senior Vice President, General Counsel and University Secretary  
NYU Board of Trustees

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<sup>19</sup> *Faculty Handbook*, N.Y. UNIV., at 21 (Oct. 15, 2020), [https://www.nyu.edu/content/dam/nyu/provost/documents/facultyHandbook/October2020revision/10.15.20\\_Faculty\\_HandbookCLEAN.pdf](https://www.nyu.edu/content/dam/nyu/provost/documents/facultyHandbook/October2020revision/10.15.20_Faculty_HandbookCLEAN.pdf).

<sup>20</sup> *Academics*, N.Y. UNIV. (Last visited Oct. 21, 2022), <https://www.nyu.edu>.

<sup>21</sup> Andrew Hamilton, *Letter from the President*, N.Y. UNIV. (last visited Oct. 21, 2022), <https://www.nyu.edu/community/impact-report/letter-from-the-president.html>.