



FIRE

Foundation for Individual
Rights and Expression

September 8, 2023

Carlos Campo
Office of the President
Ashland University
401 College Avenue
Ashland, Ohio 44805

Sent via U.S. Mail and Electronic Mail (ccampo@ashland.edu)

Dear President Campo:

The Student Press Freedom Initiative at the Foundation for Individual Rights and Expression (FIRE)¹ is concerned by Ashland University terminating the contract of journalism instructor and newspaper adviser Ted Daniels, purportedly because he encouraged student reporters to seek comment on campus news stories from Ashland administrators and to otherwise engage in investigative reporting. This dismissal not only chills academic freedom on Ashland's campus but also deteriorates freedom of the press for its student newspaper, *The Collegian*. We are also concerned by demands that *The Collegian* submit its pages for prior review, another clear violation of the publication's press freedom.

To uphold its commitment to freedom of expression, Ashland must, at a minimum, clarify that *The Collegian*—including its new adviser and any other faculty members who support its student staff—will not face discipline for student journalists engaging in normal journalistic activities such as seeking comment from campus administrators or covering campus news with a critical voice, and will not be required to submit to prior review. Further, Ashland must uphold its obligations to its faculty by publicly recommitting to leave faculty members, including adjunct instructors, at the helm of their own pedagogy.

¹ FIRE is a nonpartisan nonprofit dedicated to defending freedom of speech and of the press on and off campus. You can learn more about our recently expanded mission and activities at thefire.org. FIRE's Student Press Freedom Initiative (SPFI) defends free press on campus by advocating for the rights of student journalists at colleges and universities across the country.

I. After *The Collegian* Seeks Interview, Ashland Cancels Ted Daniels' Contract

In early August, *Collegian* managing editor Katelyn Meeks asked to set up the traditional biweekly meeting with you, beginning the week of August 14.² Your chief of staff told Meeks you had no availability until August 31 and would be able to meet only monthly this year, despite having met biweekly with previous *Collegian* editors. Meeks scheduled a meeting with you for August 31, but continued to ask via email for an earlier meeting, including renewing her request when she arrived on campus the week of August 14, citing many campus news stories on which *The Collegian* desired administrative comment, such as your planned departure from Ashland and the university's budget.³ These requests were declined.

The Collegian's editors succeeded, however, in scheduling a meeting with Ashland Provost Amiel Jarstfer. Meeks and *Collegian* news editor Lauren Gulden had a reportedly contentious meeting with Jarstfer on August 17. Per Meeks' account of it, Jarstfer did not feel the reporters submitted their questions for comment with sufficient lead time before the session, and therefore refused to treat the meeting as an on-the-record interview.⁴ Instead, Jarstfer criticized *The Collegian* for what he considered "inaccurate" headlines,⁵ and generally mentioned displeasure with the critical tone *The Collegian's* coverage takes at times. According to Gulden's notes, Jarstfer also criticized *The Collegian* for not being "respectful" of "confidential meetings," referencing *Collegian* reporters' attendance at a campus "Town Hall" last spring.⁶

Within hours of *The Collegian's* meeting with Jarstfer, David McCoy, chair of Ashland's Department of Journalism and Digital Media, received an email from Katherine Brown, Dean of Ashland's College of Arts and Sciences, instructing McCoy to terminate Daniels' contract because he was encouraging student journalists to be "overly persistent,"⁷ such as supporting Meeks in her push for a pre-semester meeting with you.

Daniels reports that he met with Brown on August 21, and she relayed that his investigative approach to journalism was detrimental to a small university like Ashland. Daniels and Brown

² Katelyn Meeks, *Editorial: Be a thorn in the side of administration*, THE COLLEGIAN, Aug. 30, 2023, <https://ashland-collegian.com/16423/opinion/editorial-be-a-thorn-in-the-side-of-the-administration>. This letter represents 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.

³ Meeks, *supra* note 2.

⁴ Email from Kristen Lanzone to Lauren Gulden and Katelyn Meeks, Aug. 17, 2023 (on file with author).

⁵ Reportedly, when asked what headlines he considered "inaccurate," Jarstfer referred only to a February 2023 article for which *The Collegian* had quickly issued a correction. Jarstfer's criticism mirrored that of Katherine Brown, Dean of the College of Arts and Sciences, who, in conversation with Daniels, objected to a September 2022 article headlined "Archer Library café contemplates adding alcohol to become moist campus," which discussed Ashland's library considering serving alcohol, quoting you as noting Ashland is a "moist campus," not a dry or wet one. There has been no allegation that the newspaper misquoted you.

⁶ Meeks had asked you whether the Town Hall was open to students, and you indicated it was "intended for faculty and staff," but did not say students would not be permitted.

⁷ Meeks, *supra* note 2.

discussed their differing views on journalism pedagogy, and Brown asked Daniels to “give [her] 24 hours,” inferring she would confer with her superiors. That evening, she emailed Daniels to inform him his contract would not be renewed for the 2023–24 academic year.

After holding a final meeting with *Collegian* editors to reassure them that a healthy amount of tension between administration and student journalists is normal, Daniels cleaned out his office on August 22. In its inaugural issue for this academic year, *The Collegian* published an editorial by Meeks questioning Daniels’ termination and the administration’s treatment of student journalists. Meeks also recently learned that Brown is requiring *The Collegian* submit all printed pages for administrative review prior to publication.

II. Ashland Violates Its Commitment to Free Expression by Chilling Academic and Press Freedom

As a private institution that explicitly guarantees students and faculty the right to freedom of expression,⁸ Ashland may not violate academic freedom or chill student journalism by dismissing a journalism instructor for encouraging students to gather the news. Ashland claims to consider academic freedom among its core values, stating that it “[s]upports free, open and critical inquiry for both students and faculty necessary for intellectual and professional development.”⁹ Such commitments represent not only a moral obligation, but a contractual one,¹⁰ understandable by faculty and students as affording the full spectrum of expressive rights commensurate with those the First Amendment guarantees—including freedom of the press and of pedagogy—yet Ashland has not followed through.

There can be no question that administrative actions against student media in response to what they report or based on disagreement with their newsgathering practices violate any notion of free expression.¹¹ This includes terminating a publication’s adviser. In *Coppola v. Larson*, for

⁸ *Ashland University Adopts Chicago Principles of Free Speech*, ASHLAND UNIV., Oct. 3, 2017, <https://www.ashland.edu/news/ashland-university-adopts-chicago-principles-free-speech> (committing “to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the Ashland University community to be offensive, unwise, immoral, or wrong-headed”).

⁹ *About Ashland*, ASHLAND UNIV., <https://www2.ashland.edu/about-ashland> (last visited Sept. 5, 2023) [<https://perma.cc/KMC8-UKV8>].

¹⁰ *Doe v. Coll. of Wooster*, 243 F.Supp.3d 875 (N.D. Ohio 2017) (“The relationship between a university and its students [is] contractual in nature”).

¹¹ See, e.g., *Stanley v. Magrath*, 719 F.2d 279, 282 (8th Cir. 1983) (“[a] public university may not constitutionally take adverse action against a student newspaper . . . because it disapproves of the content of the paper”); *Schiff v. Williams*, 519 F.2d 247, 260–61 (5th Cir. 1975) (holding that dismissing editors due to alleged inaccuracies in a student newspaper violates the First Amendment); *Joyner v. Whiting*, 477 F.2d 456, 462 (4th Cir. 1973) (“[i]t may well be that a college need not establish a campus newspaper But if a college has a student newspaper, its publication cannot be suppressed because college officials dislike editorial comment”); *Trujillo v. Love*, 322 F. Supp. 1266, 1271 (D. Colo. 1971) (holding that “[h]aving established a particular forum for expression, officials may not then place limitations upon the use of that forum which interfere with protected speech”); *Antonelli v. Hammond*, 308 F. Supp. 1329, 1337 (D. Mass. 1970) (holding that freezing a university newspaper’s funding because administrators deemed its content “garbage” was a violation of student journalists’ First Amendment rights).

example, the U.S. District Court in New Jersey held that “[r]emoval of a student advisor to a school newspaper can indeed be a ‘particularized, actual injury’ to the Paper’s student editors” for First Amendment purposes, and that removal based on the paper’s content “would undoubtedly have an impermissibly chilling effect on [its] student editors and their willingness to produce articles critical of the [college] administration in the future.”¹² This reflects the general rule that “an official’s act [that] would chill or silence a person of ordinary firmness from future First Amendment activities” violates expressive freedoms.¹³ Because dismissing a beloved and trusted adviser in retaliation for protected journalism certainly would chill a student journalist of ordinary firmness, other institutions have been compelled to settle cases out of court on challenges to dismissals of student media advisers.¹⁴

Ashland has chilled student journalists by firing their adviser based on asserted concerns with student reporters being “too persistent” in their newsgathering. Such action would certainly cause a reasonable student journalist to avoid further adverse action by abstaining from producing coverage critical of the university and from seeking comment from university administrators on a wide variety of topics. As an educational institution, Ashland has a responsibility to teach student journalists their journalistic craft, but its insistence on instead stonewalling and censoring student reporters, and removing their adviser, defies Ashland’s goals in training future journalists.¹⁵

¹² Civ. No. 06-2138, 2006 U.S. Dist. LEXIS 51205, at *25 (D.N.J. July 25, 2006). *See Lane v. Simon*, No. 04-4079-JAR, 2005 U.S. Dist. LEXIS 11330, at *13 (D. Kan. June 2, 2005) (holding that “non-reappointment” of a student media adviser is “a particularized, actual injury to . . . editors of the paper”), *vac’d on other grounds*, 495 U.S. 1182 (10th Cir. 2007); *see also Perry v. Sindermann*, 408 U.S. 593, 598 (1972) (“[T]his Court has specifically held that the nonrenewal of a nontenured public school teacher’s one-year contract may not be predicated on his exercise of First and Fourteenth Amendment rights We reaffirm those holdings here.”) (internal citations omitted).

¹³ *Mendocino Envtl. Ctr. v. Mendocino Cnty.*, 192 F.3d 1283, 1300 (9th Cir. 1999).

¹⁴ *See, e.g., Adam Kissel, Free Speech Victory at East Carolina University: \$31,200 Settlement for Newspaper Adviser*, FIRE, April 23, 2012, <https://www.thefire.org/free-speech-victory-at-east-carolina-university-31200-settlement-for-newspaper-advisor>; *Fired adviser settles claim with Fort Valley State U. for \$192,000*, STUDENT PRESS LAW CENTER, Apr. 25, 2002, <https://splc.org/2002/04/fired-adviser-settles-claim-with-fort-valley-state-u-for-192000> (reporting settlement of suit against university and several administrators based on advisor’s firing after newspaper reported on questionable financial dealings of university officials); *High school newspaper adviser to get thousands after settling lawsuit*, MICHIGAN DAILY, Oct. 13, 2005, <https://www.michigandaily.com/content/high-school-newspaper-adviser-get-thousands-after-settling-lawsuit> (\$74,000 settlement on challenge to termination over publication of a story about a student arrested for murder).

¹⁵ We also understand that, while *The Collegian* was dealing with the issues outlined above pertaining to its adviser, printed copies of its inaugural issue for this academic year disappeared from distribution points across campus and around the Ashland community much more quickly than is usual. Specifically, we are informed that all copies were gone within days from Ashland’s Center for the Arts, several other campus locations, and the local grocery, whereas historically *The Collegian* has routinely experienced having leftover copies at the end of each distribution cycle. Multiple Ashland faculty members have speculated to FIRE that Ashland administrators ordered the seizure of this edition of the newspaper. Any such directive would, of course, only exacerbate the concerns outlined in this letter about the state of press freedom at Ashland.

Ashland's apparent new insistence on prior review only deepens these concerns. Prior review cannot be tolerated at an institution that promises expressive freedoms, as it violates the free press rights of student journalists.¹⁶ Prior review is also often a first step toward prior restraint, "the most serious and the least tolerable infringement on" expressive freedoms.¹⁷

Ashland's dismissal of Daniels will also likely cast a chill on pedagogy at Ashland, as faculty will receive a message that teaching students pedagogically relevant material—for journalism, sound reporting techniques—may lead to dismissal. Properly protected, academic freedom grants faculty members substantial breathing room to determine how to approach subjects and materials relevant to their courses. This freedom, the Supreme Court has declared, is a principle "of transcendent value to all of us and not merely to the teachers concerned."¹⁸ Yet Ashland's actions undercut, rather than support, sound pedagogy.

III. Conclusion

Ted Daniels' dismissal for teaching too much investigative journalism chills not only faculty academic freedom, but also *The Collegian's* free press rights. To minimize this chill, Ashland must publicly commit to refrain from any adverse action against *The Collegian's* new adviser or student journalists, and should also publicly assure all faculty—including adjunct instructors—that they enjoy full academic freedom free from official retaliation. Ashland must also commit to allowing *The Collegian* to publish without submitting to prior review or other forms of administrative interference. (And, it goes without saying, if there is any merit to the speculation that Ashland's administration was involved in any seizure of copies of *The Collegian*, that must cease immediately, and the university must publicly commit that there will be no repeat of that censorial, illegal, and unconstitutional conduct. Even if not accurate, a public reassurance that such administrative-sanctioned seizures did not occur would not hurt.)

¹⁶ See *Lovell v. Griffin*, 303 U.S. 444 (1938) (striking down an ordinance requiring city manager review of literature before distribution); see also *Burch v. Barker*, 861 F.2d 1149 (9th Cir. 1988) (prior review of student media violates the First Amendment).

¹⁷ *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). The risk prior restraints impose upon free expression is so great that the "chief purpose" in adopting the First Amendment was to prevent their use. *Near v. Minnesota*, 283 U.S. 697, 713 (1931).

¹⁸ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967). See also *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957) ("Scholarship cannot flourish in an atmosphere of suspicion and distrust. 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"); *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 673-675, 679, 680 (6th Cir. 2001) (speech "germane to the classroom subject matter" is protected by academic freedom as speech on "matters of overwhelming public concern").

We request a substantive response to this letter no later than close of business on September 14, 2023, outlining the steps Ashland will take to reestablish faith in its commitment to expressive freedoms for faculty and student journalists.

Sincerely,

A handwritten signature in black ink, appearing to read "Lindsie Rank". The signature is written in a cursive, flowing style.

Lindsie Rank
Student Press Counsel

Enc.

Authorization and Waiver for Release of Personal Information

I, Ted Daniels, do hereby authorize Ashland University (the "Institution") to release to the Foundation for Individual Rights and Expression ("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 and Expression, 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 and Expression, 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

9/7/2023

Date