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# Academic Freedom and Tenure: Hamline University (Minnesota)<sup>1</sup>

(MAY 2023)

This report concerns the nonrenewal of the part-time appointment of Professor Erika López Prater at Hamline University after a student complained of having been offended by Professor López Prater's presentation of two images of the Prophet Muhammad during an online session of her art history class. The report also examines related matters regarding two other Hamline faculty members, Professors Mark Berkson and Michael Reynolds, as well as a controversy over an art exhibit at nearby Macalester College.

## I. Institutional Context

Hamline University, a private four-year institution affiliated with the United Methodist Church, was founded in 1854 as the first university in what was then the territory of Minnesota. Located in Saint Paul, Hamline enrolls some 2,900 students, roughly 1,800 of whom are undergraduates. There are approximately 120 full-time and 160 part-time faculty members. In 2014, 72 percent of part-time faculty members at the institution voted to unionize with Local 284 of the Service Employees International Union (SEIU), which reached a collective bargaining agreement with the administration the following year. Hamline's president, Dr. Fayneese Miller, assumed office on July 1, 2015, as the

institution's first Black and second woman leader. Previously, Dr. Miller had been professor of leadership and developmental sciences and dean of the College of Education and Social Services at the University of Vermont and, prior to that, professor of education at Brown University, where she also directed the Center for the Study of Race and Ethnicity.<sup>2</sup> Dr. Andy Rundquist has served as Hamline's interim provost since July 2021. The chair of the thirty-member board of trustees is Ms. Ellen Waters, the principal of an eponymous consulting firm.

Like many institutions of its size and mission, Hamline has been confronting challenges related to enrollment and finances. In response, President Miller introduced new diversity, equity, and inclusion initiatives, and in 2018 appointed Dr. David Everett to the newly created position of vice president for inclusive excellence, although, as Dr. Everett told the undersigned committee, "I am an office of one." In 2019, a new strategic plan set a goal of increasing enrollment by diversifying the demographic makeup of the student body and improving student retention. According to faculty members who worked on the plan, an unstated goal was to recruit more students from the growing population of East African Muslims in the Twin Cities.

## II. The Association's Involvement

The nonrenewal of Professor López Prater's part-time appointment attracted wide publicity. As the case appeared to raise significant issues of academic freedom, the AAUP's staff emailed Professor López Prater on January 9 offering to write the Hamline

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1. The text of this report was written in the first instance by the committee of inquiry. In accordance with Association practice, the text was then edited by the Association's staff and, as revised with the concurrence of the committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A, the draft text was subsequently submitted to the subject faculty member, the administration, and other concerned parties. This final report has been prepared for publication in the light of the responses received and with the editorial assistance of the staff.

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2. On April 3, 2023, President Miller announced her retirement, effective June 30, 2024.

administration to convey the Association's concerns about evident departures in her case from its recommended principles and standards. By email message the next day, Professor López Prater thanked the staff for its offer and asked whether she could forward the message to an AAUP member on campus with whom she had already been in contact. The staff encouraged her to do so. Subsequent email messages from the staff to Professor López Prater, including one informing her of the appointment of a committee of inquiry, went unanswered until communication was reestablished through her attorney on January 23.

In response to the requests of faculty members at Hamline and elsewhere, the Association's staff wrote board chair Watters and President Miller on January 18 to communicate the AAUP's "official interest in the issues of academic freedom" posed by the case. The letter began by commending a joint statement by the two leaders, issued the previous day, in which they had asserted, "We strongly support academic freedom for all members of the Hamline community" and "faculty have the right to choose what and how they teach." "However," the staff's letter continued, "questions of basic concern to our Association . . . remain." The letter went on to inform its recipients of the appointment and membership of a committee of inquiry, invite them to participate in the committee's on-campus interviews, and advise them regarding the process the committee's report would undergo before its final publication.

The undersigned committee visited the Hamline campus on February 3 and 4. This report is based on interviews conducted in person on those days and by video conference during the following week, the voluminous publicly available documentation of the events, and Professor López Prater's lawsuit. The committee interviewed President Miller; Chair Watters; Dr. Rundquist; Dr. Everett; Dr. Marcela Kostihova, dean of the college of liberal arts; and numerous faculty members, including the chair of the Faculty Council, AAUP chapter leaders, and others involved. Professor López Prater responded in writing through her attorney to questions submitted by email.<sup>3</sup> The student

complainant, Ms. Aram Wedatalla, did not respond to two invitations to meet with the committee of inquiry or to the committee's invitation to comment on the initial draft of this report.

### **III. Events of Concern**

Professor Erika López Prater earned a PhD in contemporary art history from the University of Minnesota in 2019. Prior to her semester at Hamline, she had held full-time non-tenure-track and part-time appointments at a half dozen institutions in Minnesota and Wisconsin, including Macalester College, the University of Minnesota, and two campuses in the University of Wisconsin system. Professor López Prater informed the committee that in April 2022 she had discussed with Professor Allison Baker, chair of the Department of Art and Digital Media at Hamline, the possibility of teaching World Art in fall 2022 and Contemporary Art in spring 2023. As Professor López Prater recounted that conversation, she had indicated to Professor Baker her interest in expanding the world art course, which had previously focused on Western art, "to a global approach." After offering her the opportunity to teach the course, in either a face-to-face or hybrid format, Professor Baker stressed that Professor López Prater would enjoy "full autonomy over the scope and content of [her] class."

On June 28, 2022, Professor López Prater was assigned one section of World Art during the fall 2022 semester. Although she was "not asked or encouraged to specifically include discussions of Islamic art" in the course, Professor López Prater chose to do so because of her own scholarly expertise in that area. Two class periods, the equivalent of a week (in a fifteen-week semester), were devoted to Islamic art history. "In my approach to teaching Islamic art history," Professor López Prater wrote the committee,

I meant to demonstrate the rich variety of works within this capacious umbrella. For example, I

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3. The AAUP's staff sent the draft text of this report to the principal parties with a request for comment and corrections of fact. In a March 27 letter signed by President Miller, the Hamline administration provided a nearly four-thousand-word response. With regard to the reliability of Professor López Prater's statements, the administration wrote, "As the AAUP is aware, Hamline is involved in pending litigation regarding the underlying matter. As is often the case, litigants refrain from

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commenting on pending litigation. Yet, AAUP's draft report seems to infer that the mere existence of the adjunct's allegations constitutes undisputed facts or evidence. In fact, Hamline University has moved to dismiss all of the adjunct's pending claims because they lack merit. Nonetheless, without the benefit of all of the facts—or being in a position to conduct an in-depth analysis of the matter—and having no jurisdiction to do so and based on media coverage and interviews with a limited number of people—AAUP's draft report nevertheless opines on matters that are pending before a federal court."

also taught works such as the *Dome of the Rock*, the *Great Mosque at Córdoba*, and discussed the centrality of calligraphy within Islamic art production. I also focused a lecture on the Ottoman, Safavid, and Mughal Empires of the Early Modern period. During this lecture, I demonstrated the specific historical contexts and political objectives of these empires and demonstrated the ways in which these empires interacted with each other, as well as with other European cultures. Objects I discussed included Gentile Bellini's portrait of *Sultan Mehmed II*, the *Topkapı Serai*, the *Suleymaniye Cami*, the *Shahnama (Book of Kings) of Shah Tahmasp*, the use of metaphors of illumination within Mughal architecture, the notion of darshan (that is, the auspicious and energetically charged reciprocal relationship of vision) in Mughal practice, and Jahangir's policy of international and inter-religious toleration and interchange.

The course syllabus, which Professor López Prater reviewed with her students on the first day of class, stated the following:

I aim to affirm students of all religious observances and beliefs in the content of the course. Additionally, this course will introduce students to several religious traditions and the visual cultures they have produced historically. This includes showing and discussing both representational and non-representational depictions of holy figures (for example, the Prophet Muhammad, Jesus Christ, and the Buddha). If you have any questions or concerns about either missing class for a religious observance or the visual content that will be presented, please do not hesitate to contact me.

Professor López Prater shared her syllabus in advance with Professor Baker and Hamline's administration. Professor Baker requested no changes to the syllabus, nor did she express any concern about the planned display of images of the Prophet Muhammad.

The fall semester began on August 29. On September 21, Professor Baker emailed Professor López Prater to ask if she was interested in teaching the spring Contemporary Art class. Professor López Prater responded affirmatively, and Professor Baker replied, "My students in your class have said nothing but wonderful things, so we would really love to have you back in the Spring!"

Because of illness, Professor López Prater held her October 6 class meeting online. The session, devoted to Islamic art, included PowerPoint slides of the paintings *The Prophet Muhammad Receiving Revelation from the Angel Gabriel* and *Muhammad, Shown with a Veiled Face and Halo, at Mount Hira*. Prior to showing the paintings, according to a December 6 article in the student newspaper, Professor López Prater provided "a content warning and describe[d] the nature of the depictions to be shown and reflect[ed] on their controversial nature for more than two minutes before advancing to the slides in question." The former work is from a 1307 illustrated manuscript made in Tabriz, Iran, by a Muslim for Muslims. According to one prominent scholar, "It is considered by scholars, curators, and art collectors a masterpiece of Persian manuscript painting. It is often taught in Islamic art history classes at universities across the world, including in the U.S., Europe, the Arab world, Turkey and Iran. The painting is far from unique within the history of Islamic art. On the contrary, it belongs to a corpus of depictions produced mostly in Persian, Turkish, and Indian lands between the 14th and 20th centuries."<sup>4</sup> The second work from eighteenth-century Mughal India depicts the Prophet Muhammad in a full-body veil with only his hands showing. Professor López Prater had shown both these works without incident in classes she had taught at other institutions.

Consistent with this prior experience, no students in Professor López Prater's course expressed any concerns prior to or during the October 6 class meeting. When the class meeting ended, however, Ms. Wedatalla, a fourth-year student and the president of Hamline's Muslim Student Association, remained on the video session after the other students had left and expressed her objections to Professor López Prater's having shown the paintings. According to Professor López Prater's January 17 legal complaint, "During their conversation, Wedatalla did not suggest that López Prater had surprised students by showing the paintings. Instead, Wedatalla was enraged that López Prater showed the images at all, to anyone."

After their conversation, Professor López Prater emailed Professor Baker. Her message began, "I want

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4. Christiane Gruber, "An Academic Is Fired over a Medieval Painting of the Prophet Muhammad," *New Lines Magazine*, December 22, 2022, <https://newlinesmag.com/argument/academic-is-fired-over-a-medieval-painting-of-the-prophet-muhammad/>.

to give you a quick heads up in case you happen to be contacted by an angry student of mine. Today in class while discussing Islamic art, I showed a 14<sup>th</sup>-century Safavid figurative representation of the Prophet Muhammad and the Angel Gabriel (1307, Tabriz). Before showing this slide, I told my class that I would be showing an historical image of the Prophet Muhammad, I would discuss it in its original context and would let them know when I was not showing it any more.” Professor Baker responded four minutes later, beginning, “I’m sorry that happened, and it sounded like you did everything right. I believe in academic freedom, so you have my support, but thank you for the heads up.”

The next day, October 7, Ms. Wedatalla met with President Miller, who informed this committee that the student had previously sent an email message to her presidential email address. A member of President Miller’s staff read the message and summarized its contents, but President Miller did not recall having received or read it herself. She told the committee, “Any time a student is upset I get concerned. I had a conversation with the student, and she told me how she was feeling. I don’t want any student leaving my office in tears or feeling hurt.”

That same day Professor Baker notified Professor López Prater that Ms. Wedatalla had also complained to Dean Kostihova and suggested that she email the student an apology. “In an effort to be conciliatory and as a gesture of goodwill to my student,” Professor López Prater explained to the committee, she drafted an email message. After Professor Baker reviewed it and suggested deletions, which she accepted, Professor López Prater emailed the message to Ms. Wedatalla. “I never apologized for showing the images that I did,” she informed the committee. “I apologized for hurting feelings and sensitivities, despite my best efforts to protect students. . . . I also reiterated my pedagogical choices for showing the works that I did. . . . I do not believe I had anything to apologize for, because I didn’t do anything wrong.” She did not receive a response.

On October 10, Professor López Prater alleges in her lawsuit, she was summoned to two online meetings with Dr. Kostihova: “During the first [meeting], Kostihova told López Prater that it was not a good idea for her to have shown images of the Prophet Muhammad” and “that a Muslim person had described López Prater’s actions as ‘shitting on Islam’ and said the closest analogy she could come up with was using the ‘n-word’ in class.” “It seemed that

she had already made up her mind that I absolutely should not have shown what I did,” Professor López Prater wrote the committee. In the second meeting, Professor López Prater expressed concern that the situation could jeopardize her career. At the dean’s urging and as a further gesture of reconciliation, on October 11 Professor López Prater apologized to the entire class.

Two weeks later, on October 24, Professor Baker emailed Professor López Prater to say, “As a department we need to make a spring semester change and will no longer be able to offer the contemporary art history class online as we had previously discussed.” Professor López Prater responded the next day: “I imagine that this need to change plans next semester is related to the events that stemmed from my class a few weeks ago.” Professor Baker did not reply, and at that point, as Professor López Prater told the *New York Times*, she was “ready to move on.”<sup>5</sup>

Moving on became impossible after Vice President Everett sent a November 7 email message to all university employees, shared later that day with the student body by the dean of students. The message stated,

Several weeks ago, Hamline administration was made aware of an incident that occurred in an online class. Certain actions taken in that class were undeniably inconsiderate, disrespectful, and Islamophobic. While the intent behind these actions may not have been to cause harm, it came at the expense of Hamline’s Muslim community members. While much work has been done to address the issue in question since it occurred, the act itself was unacceptable. . . . I want to make clear: isolated incidents such as we have seen define neither Hamline nor its ethos. They clearly do not meet community standards or expectations for behavior. We will utilize all means at our disposal, up to and including the conduct process, to ensure the emotional health, security, and well-being of all members of our community.

When she read this statement, Professor López Prater later recalled, she “felt like a bucket of water had been

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5. Vimal Patel, “A Lecturer Showed a Painting of the Prophet Muhammad. She Lost Her Job,” *New York Times*, January 8, 2023, <https://www.nytimes.com/2023/01/08/us/hamline-university-islam-prophet-muhammad.html>.

dumped over her head.”<sup>6</sup> Four days later, in a November 11 interview with the campus newspaper, Dr. Everett stated, “In [view] of this incident, it was decided it was best that this faculty member was no longer part of the Hamline community.” The university was still in session, however, and Professor López Prater was still teaching.

In his meeting with this committee, Dr. Everett, citing pending litigation, declined to comment on how he knew that Professor López Prater would not be reappointed for the spring 2023 semester. Citing the same reason, neither Professor Baker nor Dr. Kostihova was willing to discuss the rationale for the decision not to honor Professor Baker’s informal offer of September 21, but both indicated that Dr. Everett would not normally be informed about faculty personnel decisions.

On December 6, *The Oracle*, Hamline’s student newspaper, published an article about the events that had taken place in Professor López Prater’s October 6 class. It quoted Dr. Everett’s statement that Professor López Prater’s actions were “undeniably inconsiderate, disrespectful, and Islamophobic.” The article also quoted a statement by Hamline’s dean of students that the instructor’s conduct was “an act of intolerance.”<sup>7</sup> At no point prior to issuing these statements had either administrator spoken with Professor López Prater about the class or its subject matter.

On December 8, Hamline held the last of a series of the fall semester’s “community conversations,” organized, it appears, by student members of the Diversity Initiatives Steering Committee (DISC), a group consisting of about twenty students and members of the faculty and staff, including Dr. Everett, who chaired the meeting.<sup>8</sup> The topic was Islamophobia. The event, a video recording of which was available to the committee of inquiry, featured a panel of students, all Black women, who described incidents and behaviors at Hamline that they contended were insensitive and arguably discriminatory, racist, and Islamophobic. The university, they alleged, paid only lip service to diversity and provided students with limited support.

The DISC-sponsored panel was preceded by extensive remarks from Mr. Jaylani Hussein, executive director of the Minnesota chapter of the Council on

American-Islamic Relations (CAIR-MN).<sup>9</sup> At the end of his remarks and during the question-and-answer period, he addressed the incident in Professor López Prater’s class. He told the audience that if Hamline wished to attract and retain Muslim students, “incidents like this” could not continue to occur. Showing images of the Prophet Muhammad, he claimed, regardless of the context, was inappropriate in a college classroom, of “absolutely no benefit,” “racist and . . . disgusting,” and hurtful to students. “If somebody wants to teach some controversial stuff about Islam, go teach it at the local library,” he stated. Mr. Hussein asserted that he could use “the same logic that was used” by Professor López Prater in displaying the images in class “to say we should teach pedophilia art at Hamline.” “Incidents like this,” he claimed, occur in higher education because “Muslims are not valued the same way other minorities are.” Appearing to speak directly to faculty members in the room, Mr. Hussein said, “You get so stuck up on the idea of ‘how do we balance?’ There’s no balance when you’re hurting.”

At no point did Dr. Everett as president or any other Hamline administrator repudiate Mr. Hussein’s inflammatory rhetoric or even respond to his comments. Instead, Dr. Everett subsequently distributed to every Hamline employee a video recording of the event, which included without comment all of Mr. Hussein’s statements.<sup>10</sup>

Events escalated the next day after President Miller and Dr. Everett released a joint statement to all Hamline employees. The December 9 statement read, in part, “It is not our intent to place blame; rather, it is our intent to note that in the classroom incident—where an image forbidden for Muslims to look upon was projected on a screen and left for many

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6. Patel.

7. Kimia Kowsari, “Who Belongs?,” *The Oracle*, December 6, 2022, <https://hamlineoracle.com/10750/news/who-belongs/>.

8. Faculty members on the DISC told the committee of inquiry that it met infrequently and had little to no input into the content of the conversations it occasionally sponsored.

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9. In commenting on this section of the draft report, the Hamline administration wrote, “Regarding the Minnesota Chapter of the Council on American Islamic Relations (CAIR-MN), the AAUP fails to note that CAIR-MN is a private entity wholly unaffiliated with Hamline University. CAIR-MN was invited to campus by students, specifically the Muslim Students Association, to speak about issues related to Islamophobia. Hamline did not control the selection of the speaker or the topic.”

10. On January 13, the US Council on American-Islamic Relations issued a statement disavowing the position taken by its Minnesota chapter. The statement reads in part, “Based on what we know up to this point, we see no evidence that former Hamline University Adjunct Professor Erika López Prater acted with Islamophobic intent or engaged in conduct that meets our definition of Islamophobia.” See [https://www.cair.com/wp-content/uploads/2023/01/1\\_13\\_2023-CAIR-Statement-on-Islamophobia-and-Hamline-University.docx.pdf](https://www.cair.com/wp-content/uploads/2023/01/1_13_2023-CAIR-Statement-on-Islamophobia-and-Hamline-University.docx.pdf).

minutes—respect for the observant Muslim students in that classroom should have superseded academic freedom.” The statement added, “Academic freedom is important, but it does not have to come at the expense of care and decency toward others.”

Neither the semester break nor the holidays quieted what had become a national controversy over academic freedom: on January 8, the *New York Times* devoted a front-page article to the matter.<sup>11</sup> Between January 11 and January 17, President Miller and board chair Watters released three separate statements. The first, from the president, began with the observation that Hamline “has been in the news lately.” It continued,

To suggest that the university does not respect academic freedom is absurd on its face. Hamline is a liberal arts institution, the oldest in Minnesota, the first to admit women, and now led by a woman of color. To deny the precepts upon which academic freedom is based would be to undermine our foundational principles.

Prioritizing the well-being of our students does not in any way negate or minimize the rights and privileges assured by academic freedom. But the concepts do intersect. Faculty have the right to teach and research subjects of importance to them, and to publish their work under the purview of their peers.

At the same time, academic freedom does not operate in a vacuum. It is subject to the dictates of society and the laws governing certain types of behavior.

Two days later, Hamline’s board of trustees issued its own statement. After noting that the board was “actively involved in reviewing the University’s policies and responses to recent student concerns and subsequent faculty concerns about academic freedom,” the trustees declared, “Upholding academic freedom and fostering an inclusive, respectful learning environment for our students are both required to fulfill our Mission.”

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11. Patel, “A Lecturer Showed a Painting of the Prophet Muhammad.” Concern was first sparked among art historians by University of Michigan professor of Islamic art Christiane Gruber in the article cited previously, “An Academic Is Fired over a Medieval Painting of the Prophet Muhammad.” Public statements on the controversy were subsequently issued by the art history faculty at the University of Minnesota, the College Art Association, and the Middle East Studies Association.

Then, on January 17, Chair Watters and President Miller released a joint statement that appeared to represent a reversal of the administration’s position. “Hamline University is the epicenter of a public conversation about academic freedom and students with diverse religious beliefs,” the statement began, and “many communications, articles, and opinion pieces . . . have caused us to review and re-examine our actions.” It continued, “Like all organizations, sometimes we misstep. In the interest of hearing from and supporting our Muslim students, language was used that does not reflect our sentiments on academic freedom. Based on all that we have learned, we have determined that our usage of the term ‘Islamophobic’ was therefore flawed.” The statement ends with a retraction: “It was never our intent to suggest that academic freedom is of lower concern or value than our students—care does not ‘supersede’ academic freedom, the two coexist. Faculty have the right to choose what and how they teach.”

That same day Professor López Prater filed suit against the university in Ramsey County District Court, seeking damages for violations of Minnesota’s Human Rights Act, breach of contract, promissory estoppel, defamation, and “intentional infliction of emotional distress.”<sup>12</sup>

On January 24, an emergency meeting of Hamline’s full-time faculty voted seventy-one to twelve with eight abstentions in favor of a resolution proposed by the Faculty Council calling upon President Miller to resign:

In response to the current events and crisis facing the Hamline community concerning academic freedom, the faculty of Hamline University stand by these statements:

We are distressed that members of the administration have mishandled this issue and great harm

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12. On February 7, Hamline University filed a motion for removal of the case to US District Court. In response, Professor López Prater voluntarily dismissed her initial suit without prejudice and, on February 9, refiled in Ramsey County Court, without her breach-of-contract and promissory estoppel claims. In a communication to the committee of inquiry, Professor López Prater’s attorney wrote, “We [refiled] because we take exception to Hamline’s attempt to venue the case in federal court when it rightly belongs in Ramsey County Court, and because this was the faster of the available options for addressing Hamline’s removal. . . . We will not disclose why the breach of contract and promissory estoppel claims were removed from the new complaint, but our reasons have nothing to do with the merits of those claims.”

has been done to the reputation of Minnesota's oldest university.

We, the faculty of Hamline University, stand for both academic freedom and the education of all students. We affirm both academic freedom and our responsibility to foster an inclusive learning community. Importantly, these values neither contradict nor supersede each other.

We respect the diverse voices, backgrounds, and experiences of the entire Hamline community (students, faculty, staff, and administrators), and support the right of all to have their voices heard.

We believe our diversity of knowledge and experience makes us a stronger, richer community. Without this diversity, we would incompletely represent the community we strive to be.

We defend the right to academic freedom for the purpose of a strong liberal arts education and to uphold the principles of democracy.

We reject unfounded accusations of Islamophobia.

We condemn the hateful speech and threats targeting students and other Hamline community members.

We stand for intellectual debate and sharing of resources and knowledge without fear of censorship or retaliation.

We stand for the right to challenge one another's views, but not to penalize each other for holding them.

We call for the fair treatment of and due process for all Hamline community members.

We thank and applaud students, faculty, and others in the Hamline community and beyond, who have taken the time and had the courage to speak out.

As we no longer have faith in President Miller's ability to lead the university forward, we call upon her to immediately tender her resignation to the Hamline University Board of Trustees.

We are united in this statement.

We are the faculty of Hamline University.

After the meeting, Professor Jim Scheibel, chair of the Faculty Council and former mayor of Saint Paul, told a journalist, "There are many things I really respected and admired from President Miller, and I think the relations she's built with some of the students is a big plus." However, he continued, "Hamline is hurting. There is repair that has to be

done, but the university is built on a great foundation. It's the oldest university in Minnesota. The faculty do not believe President Miller is the one to take us through restoring the reputation we once had."<sup>13</sup>

#### **IV. Issues of Concern<sup>14</sup>**

The committee of inquiry considers the following issues to be the most significant.

##### **A. The Decision Not to Offer Professor López Prater Any Further Teaching Assignments**

Despite the national controversy, the administration allowed Professor López Prater to complete her fall 2022 teaching assignment. Hence, the action against her was not a dismissal within the term of an appointment; instead, it was essentially a nonrenewal, but a nonrenewal that implicated both faculty governance and academic freedom.

Over the course of a week in late September 2022, Professor Baker and Professor López Prater exchanged several email messages regarding the spring

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13. David M. Perry, "After an Art Controversy, Hamline Faculty Urge Their President to Resign," *The Nation*, January 24, 2023, <https://www.thenation.com/article/society/hamline-university-fayneese-miller/>.

14. In commenting on this section of the draft report, in which the committee of inquiry applies AAUP-recommended principles and procedural standards to the issues posed by the case, the Hamline administration wrote, "The AAUP's draft report cites AAUP's recommended regulations 5, 6, 10, and 13 and notes that Hamline University should have complied with these regulations. However, the draft report fails to indicate that the cited recommended regulations are not applicable to Hamline University: 1) Hamline is not an AAUP member, 2) Hamline has not adopted these recommended regulations, and 3) Hamline has governing contractual obligations. Indeed, the underlying matter that purportedly triggered the AAUP's January 18, 2023, letter to Hamline is governed by terms collectively bargained by the union representing the adjuncts and the university. As such, it would be a violation of the CBA, i.e., illegal, for the university to unilaterally apply processes and obligations of the AAUP's recommended regulations to the underlying matter. Nonetheless, the draft report discounts the CBA and reaches conclusions as to what actions Hamline should have taken and how it violated the above-referenced recommended regulations—that do not and cannot be lawfully applied—in the underlying matter."

Although our report speaks for itself, the committee is obliged to point out that (a) no academic institution is a member of the AAUP and (b) the AAUP has for more than one hundred years undertaken the responsibility of holding college and university administrations accountable for observing the principles and standards of the academic profession, legal considerations notwithstanding.

semester. On September 21, Professor Baker wrote to Professor López Prater, “Are you still interested in teaching contemporary art in the spring? also what day/time is best for you?” Professor López Prater’s response, which began, “I’d love to teach Contemporary Art in the Spring,” inquired whether “teaching online might be an option.” After proposing several times for the course in response, Professor Baker wrote, “Online or in-person would be fine, whatever works best for you,” adding (as previously quoted), “My students in your class have said nothing but wonderful things, so we would really love to have you back in the Spring!” Professor López Prater’s reply began, “Glad to hear that World Art is working for my students! So far, they are good and engaged (which is great for an 8 am).” In this message and a subsequent one, Professor López Prater inquired about other potential days and times for the course and expressed her strong preference to teach online because of her “family’s working/commuting schedules,” which included “a work/partial-day preschool schedule for the spring.” The exchange ended with the following September 28 message from Professor Baker: “There’s a 12:40-1:40? mwf.” During their week-long exchange of messages, Contemporary Art was added to Hamline’s spring 2023 course schedule.

The next email message from Professor Baker, dated October 24 and of a much more formal tone and style, negated everything Professor Baker had previously written:

Dear Erika,

I hope you are having a productive semester and feeling better post-covid.

We have deeply appreciated the breadth of knowledge you have brought to Hamline this semester, but as a department we need to make a spring semester change and will no longer be able to offer the contemporary art history class online as we had previously discussed.

Thank you again for all you have done, and we wish you all the best.

Sincerely,  
Allison

As noted earlier in this report, Professor López Prater responded the next day; Professor Baker did not

reply. Two days later Contemporary Art was removed from the spring 2023 course schedule.

In response to media reports that Professor López Prater had been “fired,” President Miller in her January 11 statement offered the following rebuttal: “First, I must state that the adjunct instructor hired to teach the course in art history did not ‘lose her job,’ as has been reported by some outlets. Neither was she ‘let go’ nor ‘dismissed,’ as has also been reported. And most emphatically, she has not been ‘fired,’ as has also been claimed. The adjunct taught the class to the end of the term, when she, like all other faculty, completed the term requirements and posted her grades. The decision not to offer her another class was made at the unit level and in no way reflects on her ability to adequately teach the class.”

Under the *Statement on Government of Colleges and Universities*, which the AAUP jointly formulated with the American Council on Education and the Association of Governing Boards of Universities and Colleges, “the faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, . . . [and] faculty status”; faculty status includes “appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal.” In addition, “Determinations in these matters should first be by faculty action through established procedures, reviewed by the chief academic officers with the concurrence of the board. The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.” When an administration declines so to concur, “it is desirable that the faculty should, following such communication, have opportunity for further consideration and further transmittal of its views to the president or board.”

Multiple sources told the undersigned committee that the hiring of adjunct faculty members at Hamline is typically handled at the department level by the chair. Adjunct appointments are governed by the collective bargaining agreement, which states that hiring is not complete until a contract is signed. The committee found no direct evidence of improper administrative interference in the decision not to offer another class to Professor López Prater, although the possibility of such interference cannot be ruled out, especially given Dr. Everett’s knowledge that



Professor López Prater would not be returning.<sup>15</sup>

Citing the pending litigation, Professor Baker, Dr. Kostihova, and Dr. Rundquist all declined to comment specifically on how and where this decision was made, nor did they offer a rationale to justify it. Professor López Prater informed the committee that the only formal mechanisms of which she was aware for evaluating her teaching were end-of-semester student evaluations. Professor Baker, she wrote, “never met with me in-person, she never visited my class, and after sending my student complaint up the chain of command to the dean on October 10, my chair never again contacted me directly whatsoever.” It thus seems unlikely that either Professor Baker or Dr. Kostihova had received information about the quality or nature of Professor López Prater’s teaching, other than Ms. Wedatalla’s complaint, that could have led to this decision.

The committee can only speculate about the reason for the decision not to reappoint Professor López Prater. But circumstantial evidence strongly suggests that it was directly and solely a consequence of what transpired during the October 6 class meeting. Based on our interviews, we also suspect that the decision was made principally by Dr. Kostihova, perhaps as much in response to Professor López Prater’s “failure” to be sufficiently apologetic as it was to her showing of the images. It seems equally likely that Professor Baker felt pressure from the administration not to reappoint Professor López Prater. Professor Baker’s October 24 email message suddenly informing Professor López Prater of the cancellation of the spring course came less than three weeks after the October 6 class meeting and less than a month after an exchange of emails in which the chair lavished unqualified praise on Professor López Prater. What is certain is that neither the administration nor Professor Baker provided a legitimate academic reason for declining to offer Professor López Prater any further teaching assignments.

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15. Commenting on the draft report, the Hamline administration wrote, “The university does take issue, however, with the speculative, and even internally contradicted, findings of the committee that circumstantial evidence indicates [that the administration may have influenced the nonreappointment decision]. Specifically, the facts reported include that the President communicated that the decision not to offer the adjunct the spring course was made at the unit level, and the committee was told by multiple sources that the hiring of adjunct faculty is handled by faculty at the department level. The committee’s conclusory speculation that the ‘possibility’ of administrative interference ‘cannot’ be ruled out is without foundation [and without] meeting any standard of academic inquiry or review.”

## B. Academic Due Process

To the committee’s knowledge, no administrator engaged in any substantial investigation of Professor López Prater’s October 6 class meeting or gave serious consideration to her scholarly and pedagogical rationale for presenting the two images prior to the nonreappointment decision or the public circulation of the accusations against her. Nor did the administration afford Professor López Prater any formal opportunity to respond to the student complaint. Excepting the email exchanges with Professor Baker and the two online meetings with Dr. Kostihova, no administrator interviewed or even communicated with Professor López Prater after October 6.

AAUP-recommended standards entitled Professor López Prater to the basic elements of academic due process designed to protect academic freedom. Regulation 10 (“Complaints of Violation of Academic Freedom or of Discrimination in Nonreappointment”) of the AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure* applies to all nontenured faculty members, regardless of whether their service is full-time or part-time. It affords procedural rights to any nonreappointed faculty members who allege that the decision not to renew their appointments violated their academic freedom. These rights begin with the opportunity to ask an elected faculty committee for review. If the matter remains unresolved and if the faculty review committee so recommends, affected faculty members will be afforded the opportunity to make their case in the type of faculty hearing set forth in Regulation 5 (“Dismissal Procedures”) of the *Recommended Institutional Regulations*. If in that proceeding the faculty member succeeds in establishing a prima facie case, the burden of proof shifts to the administration “to come forward with evidence in support of [its] decision.” If Professor López Prater had been afforded such a procedure and had succeeded in convincing a faculty hearing body that the decision not to offer her any further teaching assignments was based on considerations that violated her academic freedom, the Hamline administration would have been obliged to show that it had based its decision on legitimate academic considerations.

However, as Professor López Prater noted in a statement provided to *The Oracle*, her “opportunities for due process” were “thwarted.”<sup>16</sup> A January 10, 2023, letter to the board of trustees signed by a group

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16. Kowsari, “Who Belongs?”

of Hamline faculty members also emphasized that Professor López Prater's "spring course was canceled without affording her due process." Unfortunately, the extent to which grievance procedures are available to adjunct faculty members at Hamline is limited at best. To be sure, the faculty handbook declares, "Hamline University and the faculty recognize and endorse the importance of due process and of adjusting grievances properly without fear of prejudice or reprisal. The peaceful, non-adversarial, mutually agreeable resolution of disputes is a primary goal." Adjunct faculty members are also subject to the grievance mechanisms included in the collective bargaining agreement, but those mechanisms limit the scope of grievances to violations of the agreement and give potential grievants only twenty days to file. According to her attorney, Professor López Prater did "contact an SEIU local representative in November 2022. The representative offered to be present for meetings. Dr. López Prater sent a follow-up email inquiry but received a very belated answer after much damage had already occurred."

Regardless of the deficiencies of the faculty handbook and the collective bargaining agreement, AAUP-supported procedural standards, as set forth in Regulation 10, entitled Professor López Prater to an opportunity to ask a faculty committee to review her allegation that the decision not to renew her appointment violated her academic freedom.<sup>17</sup> In the absence of such a procedure, that allegation stands uncontested.

### **C. Academic Freedom, Diversity, and Inclusion**

According to the understanding of academic freedom promulgated by the AAUP and widely accepted in American higher education, a faculty member's classroom speech is protected. As the 1940 *Statement of Principles on Academic Freedom and Tenure* famously declares, "Teachers are entitled to freedom in the classroom in discussing their subject." (Section 3.1.2 of Hamline's faculty handbook reproduces nearly verbatim the entire academic freedom section of the 1940 *Statement*.)

The Association's 2007 report *Freedom in the Classroom* offers the following elaboration of the

1940 *Statement's* affirmation of academic freedom in teaching: "Ideas that are germane to a subject under discussion in a classroom cannot be censored because a student with particular religious or political beliefs might be offended. Instruction cannot proceed in the atmosphere of fear that would be produced were a teacher to become subject to administrative sanction based upon the idiosyncratic reaction of one or more students. This would create a classroom environment inimical to the free and vigorous exchange of ideas necessary for teaching and learning in higher education."

Professors' freedom of classroom speech is not boundless, however. The sentence from the 1940 *Statement* quoted above is succeeded by the following admonition: "[Teachers] should be careful not to introduce into their teaching controversial matter which has no relation to their subject."<sup>18</sup> Faculty members' academic freedom is also qualified by ethical obligations. Under the AAUP's *Statement on Professional Ethics*, "As teachers, professors encourage the free pursuit of learning in their students. . . . Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. . . . They avoid any exploitation, harassment, or discriminatory treatment of students."

In her public statement of January 11, President Miller wrote as follows regarding the line between faculty members' academic freedom and students' assertion of the right not to be offended: "I ask those who presume to judge us the following questions: First, does your defense of academic freedom infringe upon the rights of students in violation of the very principles you defend? Second, does the claim that academic freedom is sacrosanct and owes no debt to the traditions, beliefs, and views of students, comprise a privileged reaction?"

In response to these questions, this committee emphasizes that students have every right to complain when they believe faculty members have treated them inappropriately and to seek accommodations

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17. Despite the lack of any provision in either the collective bargaining agreement or the faculty handbook that affords a procedure resembling Regulation 10, nothing in either document explicitly forbids the institution's affording such a procedure.

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18. The committee would be remiss, however, if it neglected to quote the comment on this admonition added to the 1940 *Statement* in 1970: "The intent of this statement is not to discourage what is 'controversial.' Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject."

when material they find offensive is to be presented. Administrators and faculty members are obligated to treat such complaints with respect and thorough consideration. They are not, however, required to accept their validity or take actions demanded either by students or outsiders when the conduct in question accords with ethical and disciplinary standards—especially if the actions demanded would violate principles of academic freedom.

The *Joint Statement on the Rights and Freedoms of Students* (formulated in 1967 by the AAUP, the United States Student Association, the American Association of Colleges and Universities, the National Association of Student Personnel Administrators, and the National Association of Women Deans and Counselors) defines what may be called “student academic freedom.” The *Joint Statement* asserts that “students are both citizens and members of the academic community” and therefore “should enjoy the same freedom of speech, peaceful assembly and right of petition that other citizens enjoy.” The *Joint Statement* further notes that students “bring to the campus a variety of interests previously acquired and develop many new interests as members of the academic community.” They should accordingly “be free to organize and join associations to promote their common interests. . . . They should always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution.” Administrative officers and faculty members, moreover, should “ensure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.” With regard to students’ classroom rights, the *Joint Statement* affirms that professors “should encourage free discussion, inquiry, and expression. Student performance should be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards.” It would thus be improper, again to quote *Freedom in the Classroom*, “to hold a student up to obloquy or ridicule in class for advancing an idea grounded in religion . . . politics or anything else.”

We acknowledge that Muslim students at Hamline University are struggling with genuine and serious concerns about Islamophobia and anti-Black racism. These students have a right to be heard, and we condemn abuse directed at them. At the same time, we reject administrative overreach, no matter how well-intended, on their behalf. It is precisely because the Hamline student body is increasingly diverse that

the university must defend the rights of students and faculty members alike to express and study various viewpoints and experiences, some of which will undoubtedly offend some members of the community.

Student rights coexist with the right—indeed, the responsibility—of faculty members to teach according to the scholarly and pedagogical standards of their respective disciplines. Hence, the committee rejects claims made at Hamline and elsewhere that support for academic freedom must necessarily conflict with efforts to welcome and nurture a diverse student body.

In this committee’s judgment, Professor López Prater based her decision to display the images on the disciplinary and pedagogical standards in the field of Islamic art history.<sup>19</sup> She also demonstrated sensitivity to potential student feelings by alerting the class, both on the syllabus and in the October 6 session, to the potential difficulty of the images for some Muslims, in effect providing a “trigger warning.”

On *Trigger Warnings*, a 2014 report of the AAUP’s Committee A on Academic Freedom and Tenure, states that requiring “teachers [to] provide warnings in advance if assigned material contains anything that might trigger difficult emotional responses for students” is a “current threat to academic freedom in the classroom.” The report cautions that topics “associated with triggers, correctly or not, . . . are likely to be marginalized if not avoided altogether by faculty who fear complaints for offending or discomforting some of their

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19. For evidence, see Gruber, “An Academic Is Fired.” The statement by the University of Minnesota’s art history faculty similarly observes,

As art historians, we believe in the unique power of images and objects in social life. Our discipline treats that power with responsibility and respect. As educators, we are challenged to make past worlds alive and relevant to contemporary viewers, which we do through the conveyance of artworks, even when it means presenting cultural realities that are distinct from or even anathema to our own. . . . Including the Jami al-Tawarikh illustration in a classroom lecture and displaying it at length allowed Dr. López Prater to analyze its considerable formal merits, to explain the artistic and theological diversity of Islamic visual histories, to demonstrate their change over time and across cultural geographies, and indeed to present Islamic artistic and scholarly traditions as having always been central, not peripheral, to a global, cosmopolitan world.

(“Art History Faculty Statement on Recent Events at Hamline University,” University of Minnesota, January 13, 2023, <https://cla.umn.edu/art-history/news-events/news/art-history-faculty-statement-recent-events-hamline-university>.)

students,” noting that while “all faculty are affected by potential charges of this kind, non-tenured and contingent faculty are particularly at risk. In this way the demand for trigger warnings creates a repressive, ‘chilly climate’ for critical thinking in the classroom.” Nonetheless, the report concedes that “there may be instances in which a teacher judges it necessary to alert students to potentially difficult material, and that is his or her right.” Professor López Prater was therefore not required, either by university policy or commonly accepted academic practice, to provide any warning about the images she planned to show. That she did provide such a warning should be acknowledged as grounds for commendation rather than opprobrium.<sup>20</sup>

A subsequent controversy at Macalester College, located less than two miles from Hamline, manifested the same tension between academic freedom and religion.<sup>21</sup> On January 19, Professor López Prater began an adjunct appointment at Macalester for the spring 2023 semester. On January 27, the Law Warschaw Gallery in the college’s Janet Wallace Fine Arts Center opened an exhibit by the Iranian American artist

Taravat Talepasand, an assistant professor of art practice at Portland State University. This midcareer survey of her work included pieces that explored women’s rights and freedoms within an Islamic context. One drawing, titled *Blasphemy X*, depicted a veiled woman giving the middle finger while lifting her robe to reveal high heels and a flash of underwear. Sculptures of women in niqāb face coverings had exposed breasts. On a gallery wall, *Woman, Life, Freedom*, the slogan of Iran’s recent protest movement, appeared in neon in English and Farsi.

On February 2, a group of eight Muslim students wrote the Macalester administration to express concerns that the gallery was promoting stereotypes about Muslim women and the hijab. The letter called for the exhibit to be closed. In response, members of the college administration, the art department chair, and the gallery director collectively decided to close the gallery for the weekend. On February 3, black curtains were installed around the gallery. Shortly afterward, the provost and the vice president for institutional equity sent a college-wide email apologizing for the “pain” the gallery had caused to members of Macalester’s Muslim community.

While some Muslim students at Macalester protested the exhibit, a Macalester student from Iran protested its shrouding. “I know it wasn’t intentional, but when the exhibition was closed, they covered it with black curtains. It was very poetic,” Ms. Sheida Rashidi said. “Being censored with black curtains. I feel like I’m being followed by that. It felt like being censored again.” Professor Talepasand echoed that sentiment. “It’s a whole new level to veil a ‘woman, life, freedom’ Iranian exhibition. . . . [Macalester] literally did exactly what the protest [in Iran] is fighting against.”<sup>22</sup>

The gallery reopened February 6, the black curtains replaced with purple paper on the door and frosted glass on the mezzanine to prevent accidental viewing. On the door was a warning that the exhibition contained “images of violence and nudity that may be upsetting” and a poster asking people not to visit the gallery, to stand in solidarity, and to protest the “objectification and fetishization of Hijabi Muslim Women.” In addition, a QR code pointed to an

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20. On January 27, *Sahan Journal* and *The Oracle* jointly reported that Professor López Prater displayed a thumbnail preview image of the Prophet Muhammad, apparently unknowingly, for approximately two minutes before she began to warn her students that she would be showing it. However, no student at the time or since complained about or even mentioned this. See Anika Besst and Becky Z. Dernbach, “Hamline Video Reveals Painting of Prophet Muhammad Was Visible to Students before Trigger Warning,” *Sahan Journal*, January 27, 2023, <https://sahanjournal.com/education/hamline-video-shows-prophet-muhammad-painting-appeared-before-professor-warnings/>.

21. In its comments on the draft text, the Hamline administration objected to the inclusion of the discussion that follows:

There are a number of instances in the draft report that connect the actions of third parties to conduct by the university without adequate factual foundation. By way of example only, AAUP’s draft report . . . includes and devotes approximately two pages to unrelated events at another institution. It is problematic that the draft report infers that the events at the two separate institutions are linked solely because “one student” at the other institution made such an analogy. Certainly, the referenced student has a right to make such a juxtaposition. However, such a thinly sourced foundation should not support under any scrutiny involving academic rigor the AAUP’s acceptance and positioning of the two wholly separate events as one being an extension of the other. The predominant parallel facts in the two events are that individuals of the Muslim faith raised concerns regarding actions or conduct on their campuses. AAUP cannot intend to ascribe to Hamline the conflation of two events into one controversy given the foundation identified in the draft report.

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22. Evelyn Kent and Leyden Streed, “‘TARAVAT’ Gallery Raises Conversation and Controversy,” *Mac Weekly*, February 16, 2023, <https://themacweekly.com/81841/arts/taravat-gallery-raises-conversation-and-controversy/>.

online petition demanding that the art be removed. At Professor Talepasand's request, the content warning was later altered to mention only nudity and to urge viewers to use discretion when visiting.

In an article in the campus newspaper, a Macalester student linked the controversy over the exhibit with the events at Hamline, noting that Professor López Prater had recently been hired to teach a class at Macalester, where she had previously taught. "Macalester's decision to not only hire [Professor López Prater] without context but to showcase anti-Islam art at Janet Wallace is inconsiderate to Islam and Muslims as a whole," the student wrote.<sup>23</sup>

Macalester professor of anthropology Arjun Guneratne responded in a letter to the editor. "It is the faculty that has the primary responsibility to determine who teaches here, not the administration. I was therefore troubled by the administration's communication to the campus community on January 12 about Dr. López Prater's presence on campus. It focused invidious attention on a colleague who had done nothing to deserve it by suggesting that her presence on campus somehow constituted a problem that might raise questions."<sup>24</sup> With respect to the exhibit, Professor Guneratne continued, "That Macalester chose to censor Ms. Talepasand by concealing from view artwork in an exhibit that condemns the coerced veiling of women at the hands of a theocratic regime suggests that the administration did not reflect critically on the larger context in which its actions would be interpreted." His letter questioned the Macalester administration's employment of the language of "pain": "When people at Macalester are offended by a graphite drawing that depicts a partially nude woman in a niqāb, what is being caused is not pain, but offense. In a free country, no one has the right to

be exempt from being offended. . . . If the only free speech you are prepared to tolerate is the speech that doesn't offend you, then effectively you don't believe in free speech. That seems to be the administration's position, framed in the language of 'pain' and 'care' as the reason to deny or to limit speech."<sup>25</sup>

"As an institution of higher learning," Macalester's AAUP chapter declared, "it is Macalester's responsibility not only to promote debate and the untrammelled exchange of ideas, but to model how that should take place for all members of its community and for the public at large. . . . Under Macalester's novel doctrine of 'unintentional viewing,' someone would have to opt in to speech rather than opt out of it. That is not how the freedom to express oneself has been understood in the United States, and it does not model for our students that most important of American values."<sup>26</sup>

The committee can only concur with the views expressed by Professor Guneratne and the Macalester chapter of the AAUP.

#### **D. Reliance on Part-Time Appointments**

It is difficult to imagine that the events reported here would have transpired as they did if a full-time member of the Hamline faculty had displayed the images in question. When the committee asked President Miller how this situation would have been handled if the faculty member had been tenured or probationary for tenure, she replied that the instructor "would still be here," adding that "maybe the dean would have [had] a conversation" with the professor. While the situations described below of Professors Berkson and Reynolds, both of whom have tenure, are certainly troubling, the de facto campaign of vilification against Professor López Prater would have been much more challenging to sustain had she held a tenured or tenure-track appointment.

Hamline's commitment, as Dr. Rundquist described it to the committee, to appointing full-time faculty members, at least in degree-granting programs, is

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23. Marouane El Bahraoui, "Religious Representation in Academics: Why Context Matters," *Mac Weekly*, February 2, 2023, <https://thamacweekly.com/81785/opinion/religious-representation-in-academics-why-context-matters/>.

24. The January 12 communication from the dean of the faculty read, "The following news appeared in the press yesterday: Visiting Assistant Professor Erika López Prater will teach at Macalester this spring. In Spring 2023, Visiting Assistant Professor Erika López Prater will teach Art 161 - Introduction to Art History II: From Renaissance to Modern at Macalester to cover the absence of a faculty member who is on leave. Professor López Prater was hired to teach this course in July 2022, and she previously taught two courses at Macalester in Spring 2022 and one course in Fall 2018. If you have questions, please feel free to reach out to me."

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25. Arjun Guneratne, "Letter to the Editor: How 'Care' Compromises a Macalester Education," *Mac Weekly*, February 16, 2023, <https://thamacweekly.com/81858/opinion/how-care-compromises-a-macalester-education/>.

26. "Macalester AAUP Statement on the College's Censoring of the TARAVAT Exhibition and Issues of Artistic and Academic Freedom," February 28, 2023, <https://macaaup.home.blog/2023/02/28/macalester-aaup-statement-on-the-colleges-censoring-of-the-taravat-exhibition-and-issues-of-artistic-and-academic-freedom/>.

admirable.<sup>27</sup> However, program elimination, such as occurred at Hamline in 2021 and resulted in the discontinuance of the art history program and the retirement of the sole full-time art history professor, can mean that classes meeting general education or other requirements may become more heavily reliant on adjunct faculty members.<sup>28</sup> With no full-time art history faculty members, Hamline must now depend on part-time appointments for staffing remaining courses in the field that satisfy requirements in studio art and media design or in general education.

This is hardly a problem exclusive to Hamline. The perils associated with increasing reliance on part-time and temporary instructors, and the consequences for academic freedom, have been well documented, including in the AAUP's 2003 *Contingent Appointments and the Academic Profession*. The events recounted in this report provide yet another warning of the dangers of such reliance.

### **E. Climate for Academic Freedom<sup>29</sup>**

One cannot fully understand what has taken place at

Hamline, faculty members told the committee, without placing the events in the context of a long-standing lack of transparency and communication between the administration and the faculty and, to some degree, tensions within the faculty. In interviews with the committee, faculty members voiced complaints about the administration's top-down approach to curriculum and the erosion of faculty rights, with several individuals opining that President Miller has never enjoyed a good relationship with the faculty.

Interviewees further suggested, as one anonymous professor also told a journalist, that the "administration overcompensated for a history of dismissing and minimizing and sweeping under the rug numerous incidents on our campus that are racist, Islamophobic, sexist. All of them and more. Specifically, towards students of color who are Muslim."<sup>30</sup> Faculty members complained to the committee that there is no clear process for reporting incidents of alleged bias or for handling student complaints about faculty members such as those made against Professor López Prater. This deficiency creates openings not only for abuse but for cynical efforts to pit faculty members and students against one another.

The implications for academic freedom in art and art history of the events recounted in this report are clear. If a Muslim student can prevent the display of an image of the Prophet Muhammad, why cannot an evangelical Christian student seek to censor a work like the controversial *Piss Christ* by Andres Serrano or a devout Hindu student object to studying the work of Indian artist M. F. Husain? But art history is not the only field of study potentially at risk. Indeed, as Professor López Prater wrote the committee, "My situation presents a slippery slope not only for the discipline of art history, but for all of academia."

Separate incidents involving Professors Mark Berkson and Michael Reynolds, tenured members of the faculty, raise additional concerns about the climate for academic freedom at Hamline.

Dr. Berkson, professor of religion, long-time chair of the religion department, and a specialist in Asian religions, has for more than twenty years regularly taught a course on Islam. He is arguably the person at Hamline best qualified to address from a scholarly

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27. Of course, these efforts may also minimize the strength of the adjunct union.

28. In 2021, the university engaged in an extensive program review. In the College of Liberal Arts, it became the "Expedited Program Review," in which all existing academic programs in the humanities were designated either for elimination or consolidation. As a consequence of this process, the art history program was eliminated and the tenured faculty member who had taught World Art took early retirement.

29. With respect to the climate for academic freedom, the administration offered the following comment in its response to the draft report: "Hamline University is committed to, and supports, academic freedom. Hamline has acknowledged the AAUP's 1940 *Statement* as an authoritative definition of academic freedom. Indeed, . . . Hamline endorsed and incorporated the AAUP's principles into the Hamline University Faculty Handbook and academic freedom principles in Hamline's collective bargaining agreement for certain undergraduate faculty. Pursuant to both of these authorities, adherence to principles of academic freedom represent contractual obligations between Hamline and the covered faculty members. In fact, as a liberal arts institution, academic freedom is a core principle at Hamline and, as President Miller has reiterated: "Faculty have the right to choose what and how they teach."

The administration also commented that "the report seems to minimize the university's stated support for academic freedom. Hamline University provided a number of administration officials, including the Board Chair, President and Interim Provost, for interviews with AAUP. In the interviews, the administration stated its support for academic freedom. . . . Notably, . . . AAUP's draft report does not include the affirmations of academic freedom provided during the AAUP interviews of administration officials."

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30. David M. Perry, "After an Art Controversy, Hamline Faculty Urge Their President to Resign," *The Nation*, January 24, 2023, <https://www.thenation.com/article/society/hamline-university-fayneese-miller/>.

perspective the issues raised by the López Prater controversy.<sup>31</sup> Indeed, in the wake of the controversy, Professor Berkson had crafted a detailed and lengthy letter to the editor on the subject of Islamophobia, which he submitted to *The Oracle* on December 6 and which the paper published online on the same day. He wrote in part,

Islamophobia is a serious and ongoing threat in this nation, and it has numerous ugly manifestations, including the vandalism of mosques, the harassment of and violent attacks on Muslims, and hate speech across social media and, at times, at the highest levels of political power. One reason that I have given numerous public lectures about Islam in churches, synagogues, and meeting rooms around the country is to combat ignorance, stereotyping, and Islamophobia. But I believe that, in the context of an art history classroom, showing an Islamic representation of the Prophet Muhammad, a painting that was done to honor Muhammad and depict an important historical moment, is not an example of Islamophobia. Labeling it this way is not only inaccurate but also takes our attention off of real examples of bigotry and hate.

Two days later, however, *The Oracle's* editors removed the letter from its website, stating that they wished to avoid “causing harm.”<sup>32</sup>

At the community conversation held the same day, December 8, Professor Berkson asked the first question during the discussion period following Mr. Hussein's presentation: “When you say ‘trust Muslims on Islamophobia,’ what does one do when the Muslim community itself is divided on an issue? Because there are many Muslim scholars and experts and art historians who do not believe that [Professor López Prater's displaying images of the Prophet Mohammad] was

Islamophobic.” At that point, as the video recording shows, Professor Baker began to approach Professor Berkson, but retreated after Mr. Hussein waved her off, saying, “It's okay. It's okay. It's okay.” When Professor Berkson again attempted to speak, Mr. Hussein, who had the microphone, talked over him: “I read your op-ed so you can stop. You can stop. I read your op-ed.” Professor Berkson ceased his attempts to be heard, and then Mr. Hussein repeated his earlier statements that displaying images of the Prophet Muhammad in class was akin to “shar[ing] pedophilia at this school as an art” and that controversial topics should be taught “at the local library” rather than at Hamline. When Professor Berkson attempted to respond, Professor Baker can be seen approaching him again and, according to Professor Berkson, she put her hands on his shoulders and suggested that this was not a good moment to object to Mr. Hussein's comments.<sup>33</sup> Meanwhile, Mr. Hussein drew another analogy, this time comparing what had happened in Professor López Prater's class to presenting “a whole class on why Hitler was good.” He then evoked the 2015 murders of writers at the French magazine *Charlie Hebdo*, which had published satirical drawings of the Prophet Muhammad. At that point, Professor Berkson interrupted, stating that Professor López Prater's displaying of the images in the October 6 class “was nothing like the cartoon incident.” The two talked over each other for a few seconds before Mr. Hussein warned that Muslim students would leave Hamline because of Islamophobia. Someone can then be heard asking Mr. Hussein to “move on” to another question.

“We were being asked to accept, without questioning,” Professor Berkson told the *New York Times* regarding this incident, “that what our colleague did—teaching an Islamic art masterpiece in a class on art history after having given multiple warnings—was somehow equivalent to mosque vandalism and violence against Muslims and hate speech. That is what I could not stand.”

Dr. Everett sent an email message to members of the DISC soon afterward in which he wrote, with unstated but obvious reference to Professor Berkson, “Our students and community are suffering because of a faculty member's repugnant and repulsive need to be ‘right.’”

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31. The 2021 “Expedited Program Review” not only resulted in the retirement of the single tenured professor in art history; it also resulted in Professor Berkson's becoming the only full-time member of the religion department. These program cuts therefore had the unintended consequence of leaving Hamline with limited faculty expertise for dealing with the artistic and religious issues raised by this controversy.

32. The committee of inquiry found no evidence to suggest this decision was a result of inappropriate administrative interference into editorial decisions by an independent student newspaper, although we were told that student editors felt pressure from some of their fellow students to remove the letter.

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33. Professor Berkson told the committee that Dr. Everett also placed his hands on him during his exchange with Mr. Hussein, saying, “That's enough.”

This particular member of the faculty embarrassed himself and the university during the student-proposed, purposed and planned Community Conversation held on the 8th, and his unfettered, reckless behavior has led to all of what is currently happening.”

The incident involving Dr. Reynolds, a professor of English and former chair of the Faculty Council at Hamline, originated nearly a decade earlier, before Dr. Miller became president and while Professor Reynolds was serving as associate provost. Professor Reynolds had been asked by the administration to don a gorilla suit as part of a fundraising and publicity campaign. While wearing the suit, Professor Reynolds had engaged in various antics designed to encourage donations. The questionable wisdom of such a scheme notwithstanding, it was old news, and no racial inferences had been drawn by the university community at the time. The event survived only in a few photographs on Professor Reynolds’s Facebook page.

However, at a January 30, 2023, press conference convened by CAIR-MN, Mr. Hussein alleged that Professor Reynolds was an anti-Black racist and the leader of a coordinated faculty effort to oust President Miller, also suggesting that racism was widespread among Hamline faculty members. As evidence, Mr. Hussein shared the photographs from Professor Reynolds’s Facebook page, alleging that the behavior they depicted was typical and “still continuing.” In response to the threatening social media discourse the press conference inflamed, the administration asked Professor Reynolds to edit his public profile on the university’s website. At the same time the Saint Paul police increased patrols near his home. Although Professor Reynolds reported Mr. Hussein’s charges to the Hamline administration, the university did not issue any public statement supporting him or explaining the actual context of the photos, nor did it take any steps to disassociate the university from Mr. Hussein and CAIR-MN.<sup>34</sup>

The administration’s failure to support Professors Berkson and Reynolds is troubling. In the case of

Professor Berkson, it is not simply that his right to free speech at a public event was curtailed. Student groups have every right to invite to campus any speaker of their choice, including those whose speech might offend members of the campus community. However, the December 8 campus conversation was sponsored by the university, and a university official, Dr. Everett, was in the chair. Hamline’s administration had an obligation to defend Professor Berkson’s right to speak. Instead, evidence suggests not only that such support was lacking but that Dr. Everett and Professor Baker had acted to silence Professor Berkson and subsequently make him a target of official disapproval.

In a written response to the committee’s questions, Hamline President Emerita Linda Hanson wrote, “Tenured faculty who are highly qualified to offer counsel on religion and art history were not consulted, and their participation in decision making could have changed the course of fallout of the crisis. . . . In my opinion, a different approach may have resolved the student complaint and used the incident as a ‘teachable moment.’”

To be sure, Mr. Hussein was entitled to speak his mind, but the university’s failure to respond to his verbal attacks on Professors Berkson and Reynolds suggests not only a broader failure to defend faculty expression but also a possibly problematic connection between the Hamline administration and the CAIR-MN leadership.

These events indicate that the climate for academic freedom at Hamline is not healthy. Fortunately, however, strong traditions exist at the university upon which to build. As President Emerita Hanson informed the committee,

Hamline faculty members have always upheld the standard of academic freedom and done so within an environment of open inquiry that invites students to participate respectfully with their professor and classmates. Academic freedom has been a hallmark of Hamline’s liberal education where courses are structured to engage students vigorously and sensitively, yet challenge them to think critically, be open to new experiences, and extend beyond what they know from their background, ethnicity, religion, etc. I was surprised that decisions were made without consultation with faculty who could help de-escalate the situation. I was not surprised that there are faculty members who stepped forward to offer their expertise and leadership to address this crisis.

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34. Professor Reynolds informed the committee of inquiry that the administration told him such a statement could only give the charges “oxygen” that they had thus far lacked, in view of the media’s apparent unwillingness to report on the press conference. He had no further official communication from any administrative officer about the press conference in the weeks following, though the administration stated in its response to the draft report that the president “immediately called Professor Reynolds after the CAIR-MN press conference.”



In addition, the remarkable faculty unity expressed in the January 24 resolution bodes well for the future. When the committee met with Faculty Council chair Jim Scheibel, he responded to a question about the climate for academic freedom by noting that he was hearing from many colleagues who said that they “finally have a voice” and “don’t have to be quiet anymore.” This committee is therefore hopeful that the stress induced by this crisis may in the end revitalize the campus environment. To that end, the future actions of the university’s board of trustees will be crucial.

#### **F. The Role of the Board**

“When ignorance or ill will threatens the institution or any part of it, the governing board must be available for support. In grave crises it will be expected to serve as a champion. Although the action to be taken by it will usually be on behalf of the president, the faculty, or the student body, the board should make clear that the protection it offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution.” So declares the *Statement on Government of Colleges and Universities*.

According to board chair Watters, she first became aware of the controversy surrounding Professor López Prater during a December 8 telephone conversation with President Miller. At that point, she did not believe that the situation had risen to a level that required board attention. Toward the end of December, however, the situation grew more urgent as negative media coverage began to intensify. At that juncture, Chair Watters told this committee, the board’s seven-member executive committee began discussing the language the administration had been employing—specifically, the charge of Islamophobia and the contention that the responsibility to foster an inclusive learning community should “supersede” academic freedom. This discussion culminated in the board’s January 13 statement and in Chair Watters and President Miller’s joint statement of January 17.

The board’s engagement, once its members became aware of the developing crisis, was rapid and, it appears, effective. As previously noted, the January 17 statement retracted the charge of Islamophobia and acknowledged that “care does not ‘supersede’ academic freedom”; it also promised “two major conversations.” One would “focus on academic freedom and student care”; the other “on academic freedom

and religion.” It was not clear, however, how these conversations would be organized, who would plan and participate in them, and what involvement the board itself would have.

In her meeting with the committee, President Miller stated that campus conversations were scheduled for February 7, February 15, and probably around February 22. In a February 8 letter to the faculty and staff published in *The Oracle* as an opinion piece, she wrote, “I have asked each of our campus organizations—HUSC [Hamline University Student Congress], HUSA [Hamline University Staff Association], Faculty Council—to select at least two members from their organization to serve on a planning committee for the community conversations that are so much needed at Hamline right now.”<sup>35</sup> However, neither the Faculty Council nor HUSA reported receiving such a request. No event was held on February 7. A community conversation held on February 15 was organized by students, not by HUSC, and without coordinating with the faculty. Faculty members are uncertain about the status of these initiatives and concerned about the apparent absence of meaningful faculty participation in them.

The committee is also disappointed that, as of this writing, the board has yet to respond to the faculty’s January 24 resolution. Nevertheless, the board’s manifest interest in resolving the crisis in a manner that could ultimately strengthen the institution’s commitments to both academic freedom and inclusivity, expressed in the January 17 statement and quite compellingly by Chair Watters in her interview with the committee, is promising.

#### **V. Conclusions and Recommendations**

1. Professor Erika López Prater’s decision to display historical images of the Prophet Muhammad in a World Art class was not only justifiable and appropriate on both scholarly and pedagogical grounds; it was also protected by academic freedom. The Hamline administration was wrong to characterize this decision as “undeniably inconsiderate, disrespectful and Islamophobic.” Similarly, the university’s contention that care for students must “supersede” academic freedom reflected an inaccurate and harmful understanding of the nature of academic freedom in the classroom. The

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35. Fayneese Miller, “Letter to Hamline Faculty and Staff,” *The Oracle*, February 8, 2023, <https://hamlineoracle.com/10886/opinion/letter-to-the-editor-to-hamline-faculty-and-staff/>.

university has since disavowed both claims.

2. Although the committee has not seen facts sufficient to justify a definitive conclusion on this issue, circumstantial evidence strongly suggests that the Hamline administration rescinded the informal offer to assign Professor López Prater another art history course in spring 2023 solely because she had displayed images of the Prophet Muhammed in her October 6 class session, thus violating her academic freedom as a teacher. Neither the administration nor Professor Baker provided a legitimate academic rationale for declining to offer Professor López Prater any further teaching assignments.
3. From November 7 through January 11, the administration of Hamline University, including President Miller and Dr. Everett, encouraged and promoted, through email messages and other means, what amounted to a de facto campaign of vilification against Professor López Prater that also represented an assault on fundamental principles of academic freedom.<sup>36</sup> This campaign appears to have engaged outside entities and may have encouraged student involvement, and its repercussions appear to have followed Professor López Prater to a neighboring institution.
4. The Hamline administration failed to initiate any formal or substantial investigation of the student complaint against Professor López Prater, nor did it afford her a meaningful opportunity to respond to the accusations made against her. According to the faculty handbook and the collective bargaining agreement, Professor López Prater should have been given the opportunity to file a grievance regarding the administration's withdrawal of the

informal teaching offer for the following semester and its campaign of denigration. Under AAUP-supported procedural standards, furthermore, Professor López Prater was entitled to the opportunity to petition an elected faculty body to review her allegation that the action against her had compromised her academic freedom. Absent such a procedure, that allegation stands un rebutted.

5. The failure of Hamline's administration to defend the free speech and academic freedom rights of Professor Berkson during and after the December 8 campus conversation and to support Professor Reynolds after inflammatory and false charges were made publicly against him further chilled the climate for academic freedom at the university.<sup>37</sup>
6. Hamline's board of trustees should formally endorse the principles articulated by the Hamline faculty in its January 24 resolution.
7. The AAUP should closely monitor developments at Hamline University. Among the most welcome developments would be a renewed offer of a teaching appointment to Professor López Prater. The Association's staff should also be available to provide appropriate assistance to the board, the administration, and the faculty if requested.

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36. In its comments on the draft version of this conclusion, the administration wrote,

The AAUP's assertion lacks foundational support. . . . This statement is patently false. As has been noted in this response, the administration, including President Miller and Vice President Everett, refrained from identifying the adjunct. Internally, Hamline University took a number of steps to maintain the anonymity of the adjunct. Moreover, President Miller, on January 11, 2023, in responding to the *New York Times*, stated that "The adjunct taught the class to the end of the term, when she, like all other faculty, completed the term requirements, and posted her grades. The decision not to offer her another class was made at the unit level and in no way reflects on her ability to adequately teach the class." Not only does President Miller not disclose the name of the adjunct, President Miller's statement is not critical of the adjunct in any respect.

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37. The Hamline administration commented as follows on this conclusion:

The university questions the bases for this conclusion. While the draft report describes that Professor Berkson sent a "lengthy letter to the editor which was published online by The Oracle" and states that "Two days later, however, The Oracle removed the letter," . . . [t]he draft report also states that "The committee has found no evidence to suggest this decision was a result of inappropriate administrative interference into editorial decisions by an independent student newspaper, although we did hear that student editors felt pressure to remove the letter from some other students" . . . It also should be noted that Professor Berkson's letter to the editor was subsequently republished. The relevance of any of this discussion to Hamline's position on academic freedom and to any conclusion regarding the university's support of Professor Berkson is unclear.

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California State University, East Bay, *chair*

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York College of Pennsylvania

*Committee of Inquiry*

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **CHARLES TOOMBS** (Africana Studies), San Diego State University

Members: **NICHOLAS FLEISHER** (Linguistics), University of Wisconsin–Milwaukee; **EMILY M. S. HOUH** (Law), University of Cincinnati; **RANA JALEEL** (Gender, Sexuality, and Women’s Studies), University of California, Davis; **MARK S. JAMES** (English), Molloy College; **ANIL KALHAN** (Law), Drexel University; **MICHAEL MERANZE** (History), University of California, Los Angeles; **DERRYN MOTEN** (History and Political Science), Alabama State University; **PATRICIA C. NAVARRA** (English), Hofstra University; **JENNIFER H. RUTH** (Film Studies), Portland State University; **RISA L. LIEBERWITZ** (Law), Cornell University, *ex officio*; **IRENE T. MULVEY** (Mathematics), Fairfield University, *ex officio*; **JULIE M. SCHMID** (English), AAUP Washington Office, *ex officio*