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July 19, 2022

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1100

Dear Assistant Secretary Lhamon:

The American Center for Law and Justice (“ACLJ”)¹ has been approached by a number of concerned stakeholders and community members regarding a sustained pattern of antisemitic activity which the City University of New York (“CUNY” or the “University”) has willfully ignored. We respectfully urge you to investigate and determine whether CUNY has engaged in discrimination and the permission of a hostile environment, and other violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. § 100 (Title VI).

Background

The ACLJ is well aware that the Department is already in receipt of multiple complaints describing antisemitic conduct at a number of the various schools that make up CUNY. This complaint, however, is necessary as it is focused on the overall environment at the University, and not just at one or more schools. It also covers campuses not previously mentioned in the other complaints, and fills in some of the broader CUNY context in which all of these various hateful acts have been taking place. This problem is not merely at one particular school but subsists

¹ The ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in significant cases involving the freedoms of speech and religion. As a part of the organization’s commitment to the freedom of speech, ACLJ attorneys regularly handle cases specifically involving the protection of academic freedom and opposition to antisemitism in all its forms.

throughout CUNY as a whole. This complaint also comes from the perspective of not only students but also long-time members of the faculty and former students, some of whom were forced to abandon their degrees after experiencing overt antisemitism from their faculty.

Some of the harassment on CUNY campuses has become so commonplace as to almost be normalized. There have been numerous classes in which Israeli soldiers are casually described as killers, and antisemitic flyers with vulgar comments about religious Jews—incredible as it may seem, even swastikas—are regularly observed on CUNY campuses.² Attacking, denigrating, and threatening “Zionists” has become the norm, with the crystal-clear understanding that “Zionist” is now merely an epithet for “Jew” the same way “banker,” “cabal,” “globalist,” “cosmopolitan,” “Christ-killer,” and numerous other such dog-whistles have been used over the centuries to target, demonize, and incite against Jews.³ As Martin Luther King, Jr. famously declared, “When people criticize Zionists, they mean Jews. You’re talking anti-Semitism.”⁴

Selected Incidents

One Jewish professor from Israel was verbally attacked by students in her class asking how many students she had killed, while another Jewish professor has had her car vandalized more than once.⁵ A third Jewish professor walked into her classroom to find swastikas carved into the door and her keyboard drenched in urine.⁶ None of this should be considered normal or in any way acceptable, and yet CUNY has been eerily silent and tolerant of this behavior.

2013-2014

Nor is tolerance of antisemitism at all a new phenomenon at CUNY; the pattern of discrimination and creation of a hostile environment towards Jews has been prevalent in the University system for many years now. Ten years ago, members of the Brooklyn College Israel Club were labeled “dirty Jews” while tabling on campus.⁷ In 2013, a bathroom, classroom, and

² Reference Exhibit 11.

³ See generally DAVIDDUKE.COM: ZIO-WATCH NEWS ROUND-UP, <https://davidduke.com/category/featured/zio-watch/> (last visited Aug. 30, 2020); *Understanding Antisemitism: An Offering to Our Movement*, JEWS FOR RACIAL & ECON. JUST., <https://jfrej-web-assets.nyc3.digitaloceanspaces.com/JFREJ-Understanding-Antisemitism-November-2017-v1-3-2.pdf> (last visited July 18, 2022).

⁴ Martin Kramer, *In the Words of Martin Luther King...*, MARTIN KRAMER (Mar. 12, 2012), <https://martinkramer.org/2012/03/12/in-the-words-of-martin-luther-king/>.

⁵ Jay A. Sekulow, AM. CTR. FOR L. & JUST. (May 4, 2016), 6, http://media.aclj.org/pdf/16.05.04-CUNY-Letter_Redacted.pdf (Reference Exhibit 1).

⁶ *Id.*

⁷ Barbara Jones, et al., *Report to Chancellor Milliken on Allegations of Anti-Semitism*, BRACEWELL LLP (Sept. 6, 2016), 10-11, http://www.brooklyn.cuny.edu/web/abo_initiatives/160912_CUNY_Report_on_Anti-Semitism.pdf.

basement were found graffitied with swastikas,⁸ and that same year, a number of Jewish students were inexplicably thrown out of an event for simply holding a fact sheet about Zionism, without even distributing it.⁹ In that case, it took over a year and the assistance of a human rights organization for the University to admit that a college official had violated the Jewish students' civil rights.¹⁰ But the college then added insult to injury by lying to the press and victim-blaming, claiming, without proof, that the students had also been disruptive.¹¹

In March of 2014, Brooklyn College settled the Title VI complaint that the Zionist Organization of America ("ZOA") had filed against its antisemitic discrimination,¹² but nevertheless, throughout the 2014-2015 academic year, CUNY did not take sufficient measures to address the anti-Jewish discrimination on its campuses and Students for Justice in Palestine ("SJP") continued with its problematic behavior. That year alone, SJP scheduled anti-Israel events on campus during Jewish holidays, chanted threatening phrases like "resistance is justified when people are occupied," and met requests to remove the chalkings with threats of violence against a Jewish student's mother.¹³ In October of 2014, SJP hosted a "Die in" while calling for an intifada.¹⁴

2015

In February of 2015, a student at the John Jay College of Criminal Justice ("John Jay") was called a "Zionist pig" and had a water bottle thrown at him because of an Israeli flag patch on his backpack.¹⁵ Towards the end of the academic year, in May of 2015, after a Jewish book was defaced with a swastika and a hate statement in the campus library¹⁶ at the Silberman School of Social Work ("Silberman"), Morr Mazal Barton and other Jewish students signed an email addressed to the Silberman Deans expressing concerns regarding a number of terrifying antisemitic incidents that had left students fearful for their physical safety and afraid to come to school.¹⁷ Among the incidents described was the discovery of a swastika in a campus bathroom. Shortly thereafter, the administration responded by denying the evidence, claiming that the assertions were "false and nothing more than an unsubstantiated rumor."¹⁸ This was despite the incident having

⁸ *Id.*

⁹ Eli Verschleiser, *Brooklyn College Must Stand Firm Against Terror Supporters*, FJJ (Nov. 24, 2016), at 109, <https://s3.amazonaws.com/s3.flipdocs.com/books/10002477/460245/460245.pdf>.

¹⁰ *Id.*

¹¹ *Id.*

¹² Sekulow, *supra* note 5, at 5.

¹³ Sekulow, *supra* note 5; *See also* Jones, *supra* note 7 (discussing the chalking incident).

¹⁴ Jones, *supra* note 7, at 5.

¹⁵ Sam Kestenbaum, *CUNY Under the Anti-Semitism Microscope*, FORWARD (Mar. 30, 2016), <https://forward.com/news/337350/cuny-under-the-anti-semitism-microscope/> (last visited July 18, 2022).

¹⁶ Jones, *supra* note 7.

¹⁷ Reference Exhibit 2 at 8.

¹⁸ *Id.*

been officially reported to two campus security officers.¹⁹ The administration later admitted to having found the swastikas on campus and even having been in possession of photos.²⁰

That summer, the administration continued their disturbing pattern of discrimination against observant Jewish students, as the head of the Organizational Management & Leadership (“OML”) program at Silberman stated that mandatory classes were intentionally offered on Saturdays even though that would make the program completely inaccessible for all observant Jewish students.²¹

Shortly thereafter, Silberman alumni and students met with the administration to discuss “persistent and pervasive” antisemitism embedded in the curriculum.²² Among the concerns were insensitive comments about former Jewish students by a professor to a class; a professor singling a student out as an example of what religious Jews wear; a professor teaching an extremely one-sided class about social problems in Israel and not providing opportunity for the expression of differing opinions or even any context to many of the issues addressed; a professor minimizing antisemitic oppression; a professor suggesting that her orthodox Jewish students would be unwilling or unable to accept her sexual orientation; professors not making accommodations for assignments that interfered with Shabbat observance (even when the accommodations were requested); and students during a Human Behavior in the Social Environment class proclaiming that antisemitism doesn’t exist anymore and that Jews got out of the ghetto, so they should no longer be considered minorities.²³ Despite these many issues, their complaints were also made to no avail.²⁴

At John Jay College of Criminal Justice, at least three students left the school after CUNY failed to address their complaints of antisemitism and the pervasively hostile antisemitic environment on campus.²⁵ Reports indicate that swastikas and slurs were found written all over campus property, and that students reported widespread fear of publicly showing that they are Jewish.²⁶ The administration did nothing, and so some of the student groups tried to fill the gap. In November of 2015, the Hillel and the Muslim Students Association (“MSA”) clubs at John Jay planned to co-host an event titled “Coexistence and Diversity with the NYPD,” which featured two NYPD lieutenants, one Jewish and one Muslim.²⁷ However, SJP chapters from around the country told the MSA that if they co-sponsor the event with Hillel, SJP would not support them in

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 9.

²² *Id.* at 8.

²³ *Id.* at 8-9.

²⁴ *Id.*

²⁵ Sekulow, *supra* note 5, at 5.

²⁶ *Id.* at 6.

²⁷ Jones, *supra* note 7, at 15.

