

May 10, 2016

Mr. Jay Alan Sekulow
Chief Counsel
American Center for Law & Justice



Ms. Yael Mazar
Director of Legal Affairs
StandWithUs



Mr. Kenneth L. Marcus
President and General Counsel
Louis D. Brandeis Center for Human Rights Under Law



Dear Mr. Sekulow, Ms. Mazar, and Mr. Marcus:

I am writing in response to your letter dated May 4, 2016. Much of the substance of your letter restates matters contained in the letter to Benno Schmidt, Chair of the Board of Trustees of The City University of New York, and me from the Zionist Organization of America ("ZOA"), dated February 22, 2016. For your information, I am enclosing a copy of our response dated February 29, 2016.

As our reply to the ZOA letter makes clear, CUNY has consistently and strongly condemned all forms of bigotry and discrimination, including anti-Semitism, and we will continue to do so. We are committed to ensuring that none of our students are subjected to conduct that would interfere with their opportunity to exercise their rights, obtain an education and participate fully in the life of the University because of their religion, race, gender, sexual orientation or personal or political views. We take seriously our responsibility to promote and encourage tolerance and civility and to respond to allegations of prohibited harassment or intimidation so that all our students may enjoy an environment in which they can learn and thrive. As you may know, we have engaged highly regarded independent outside counsel to review recent incidents and University responses and provide recommendations following their review.

As you know, as public university CUNY cannot infringe the constitutional rights of free speech and association of its students, faculty and staff. Indeed, as an institution of higher education, CUNY is

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committed to the principles of academic freedom and the free exchange of ideas, which are at the very foundation of American higher education. The ideas and opinions of members of the University community will often conflict, and the University cannot shield individuals from speech they find unwelcome, disagreeable or even offensive. To ensure that our policies appropriately, consistently and clearly reflect these principles, I established a working group of administrative, faculty and student representatives to review University policies on speech and expression at CUNY and make recommendations. Your letter contains an interesting and thoughtful discussion of possible limitations on freedom of expression relating in particular to hostile environment discrimination, and I intend to share a copy with the CUNY working group.

We firmly believe that all members of the University community share responsibility for maintaining a climate of mutual respect and civil discourse, and we are working with college leadership, faculty, staff and students with this in mind. As you know, many campuses across the country are facing some of the same issues that CUNY faces and are similarly engaged in efforts to promote and maintain respectful and civil campus environments. A working group of administrators, faculty and students, chaired by two CUNY college presidents, has undertaken a review of the ways CUNY colleges promote a campus climate that supports a respectful exchange of ideas, best practices across CUNY, and experiences of other universities. The working group will make recommendations for appropriate campus and University action.

Your letter also addresses several issues not raised in the ZOA letter, beginning with the Resolution passed by the Doctoral Students' Council of the CUNY Graduate School on April 15, 2016, which supports the boycott of Israeli academic institutions. As you note, I spoke out forcefully against that resolution, and I agree with your critique of academic boycotts generally. It should be noted that the DSC Resolution expressly disclaims any intent to boycott individual Israeli students or to prohibit collaboration between DSC representatives and Israeli students and scholars. While such disclaimers should not necessarily be taken at face value, your letter does not set forth, and I am not aware of, any evidence of discrimination against Israeli students or faculty at CUNY or by CUNY students or employees. In any event, the DSC has no authority to "implement" its resolution, and as I have made clear, CUNY has every intention to continue its longstanding practice of exchanges with international universities including those in Israel.

You set forth certain allegations regarding Kingsborough Community College. You allude to a complaint about hiring and promotion practices. There is pending litigation by a faculty member of the College alleging discrimination against him and other "Outward Jews" in hiring and promotion. We are not in a position to comment on that litigation other than to say that CUNY, in its response to the complaint, intends to deny all allegations of discrimination. The Kingsborough president has published a response which I have enclosed. You claim that swastikas are "regularly" observed across the campus. I am informed that two incidents have been reported to the College in which a swastika was found in a men's bathroom – one on October 20, 2014 and one on March 24, 2016. In both cases, the College called the NYPD, whose hate crimes unit investigated but was unable to find the identity of the wrongdoer. In the latter case, the NYPD determined that it was not a hate crime. You allege that three different Jewish professors were the objects of anti-Semitic attacks in various forms. However, the College has not received a complaint relating to any such incident. If you have specific facts concerning them (such as dates and names of the faculty members in question), I hope you will provide that information. Last, you allege that various offices at Kingsborough received anti-Semitic faxes. I believe you are referring to an incident last fall in which such

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faxes were sent to numerous colleges across the United States from an unknown source. That incident cannot be said to be indicative of anti-Semitism at Kingsborough Community College.

I certainly agree with you that CUNY has an obligation to respond to unlawful discrimination by its employees or students and to take action to prevent the development of a hostile environment for persons protected by CUNY policies and by federal, state and local law. I believe that CUNY has met and continues to meet that obligation. When we receive the report of outside counsel concerning the incidents described in the ZOA letter, I will carefully review any evidence of a hostile environment at any of our campuses and see that they take appropriate action if they have not done so already.

Thank you for your interest and concerns.

Sincerely,



James B. Milliken

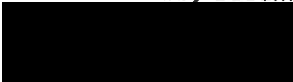
Enclosures

c: U.S. Attorney General Loretta Lynch
U.S. Senator Chuck Schumer
U.S. Senator Kirsten Gillibrand
U.S. Senator Lamar Alexander
U.S. Senator Patty Murray
U.S. Congresswoman Yvette Clarke
U.S. Congressman Dan Donovan
U.S. Congressman Hakeem Jeffries
U.S. Congresswoman Carolyn Maloney
U.S. Congressman Jerrold Nadler
U.S. Congressman John Kline
U.S. Congressman Robert C. Scott
U.S. Congresswoman Virginia Foxx
U.S. Congressman Ruben Hinojosa
Governor Andrew M. Cuomo
New York Attorney General Eric Schneiderman
New York Senator Jack Martins
New York Senator Simcha Felder
New York Senator Kenneth P. LaValle
New York Assemblyman Dov Hikind
Mayor Bill de Blasio
Dr. Karen L. Gould, President of Brooklyn College
Dr. William J. Fritz, President of the College of Staten Island
Ms. Jennifer J. Raab, President of Hunter College
Mr. Jeremy Travis, President of John Jay College




February 29, 2016

Mr. Morton A. Klein
National President
Zionist Organization of America
Jacob and Libby Goodman ZOA House



Ms. Susan B. Tuchman, Esq.
Director, Center for Law and Justice
Zionist Organization of America
Jacob and Libby Goodman ZOA House



Dear Mr. Klein and Ms. Tuchman:

We are writing in response to your letter to the Chancellor and the Board of Trustees, dated February 22, 2016.

We are aware of many of the incidents described in your letter, and we have taken them very seriously. Nonetheless, after receiving your letter we reviewed the incidents again with the presidents of the four colleges referenced, as well as the specifics of investigations they conducted and the actions taken. One incident, involving the recent disruption of a faculty council meeting at Brooklyn College, is still under active investigation. In each other case of which we were aware, the colleges responded promptly, including making strong contemporaneous public condemnations of offensive speech or behavior involved. We believe there is benefit to additional perspective and advice, and we have retained independent outside counsel to review University responses to recent incidents at CUNY and provide recommendations following their review.


The City University of New York has consistently and strongly condemned all forms of bigotry and discrimination, including anti-Semitism, and we will continue to do so. We have been deeply concerned with some recent activities on CUNY campuses and we are committed to ensuring that none of our students are subjected to conduct that would interfere with their opportunity to exercise their rights, obtain an education and participate fully in the life of the University because of their religion, race, gender, sexual orientation or personal or political views. We take seriously our responsibility to promote and encourage tolerance and civility and to respond to allegations of prohibited harassment or intimidation so that all our students may enjoy an environment in which they can learn and thrive.

As a public university CUNY cannot infringe the constitutional rights of free speech and association of its students, faculty and staff. Indeed, as an institution of higher education, CUNY is committed to the principles of academic freedom and the free exchange of ideas, which are at the very foundation of American higher education. The ideas and opinions of members of the University community will often conflict, and the University cannot shield individuals from speech they find unwelcome, disagreeable or even offensive. To ensure that our policies appropriately, consistently and clearly reflect these principles, we recently established a working group of administrative, faculty and student representatives to review University policies on speech and expression at CUNY and make recommendations.

At the same time, we firmly believe that all members of the University community share responsibility for maintaining a climate of mutual respect and civil discourse, and we are working with college leadership, faculty, staff and students with this in mind. As you know, many campuses across the country are facing some of the same issues that CUNY faces and are similarly engaged in efforts to promote and maintain respectful and civil campus environments. We will appoint a task force of administrators, faculty and students to review the ways CUNY colleges promote a campus climate that supports a respectful exchange of ideas, identify best practices across CUNY and learn from the experiences of other universities. The task force will make recommendations for appropriate campus and University action.

These actions, some well underway and some new, reflect our commitment to ensure that The City University of New York provides a safe and welcoming environment for all members of the University community, while preserving the University's essential role as a center for open inquiry, robust debate and learning.

Sincerely,



James B. Milliken
Chancellor



Benno Schmidt
Chairperson, Board of Trustees

cc: CUNY Board of Trustees
U.S. Senator Charles Schumer
U.S. Senator Kirsten Gillibrand
U.S. Congresswoman Yvette Clarke
U.S. Congressman Dan Donovan
U.S. Congressman Hakeem Jeffries
U.S. Congresswoman Carolyn Maloney
U.S. Congressman Jerrold Nadler
Mayor Bill de Blasio
Assemblyman Dov Hikind
Members, New York City Council