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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, chalked 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.

the future—so MSA withdrew support for the event that they helped co-plan,²⁸ and Jewish students were left once again without allies.

On November 12, 2015, Hunter College hosted an antisemitic rally by CUNY SJP groups that included chants of “Zionists out of CUNY”; “Death to the Jews”; “Long live the intifada”; “Zionists go home”; “Jews are racist sons of bitches!”; “I hope someone gets y’all”; and “When we take control of CUNY, we are gonna kick you out and make sure you don’t graduate!”²⁹ There were also threats of “dragging Jews into the streets.”³⁰ These threats were not just talk either; Jewish students *were* aggressively assaulted and had signs ripped out of their hands.³¹ SJP then followed the rally with an event that called for an intifada and blamed Zionists for the high cost of tuition.³² The President of Hunter College, President of the Undergraduate Student Government, and the Chair of Hunter College Senate all spoke out about the incident.³³ However, the CUNY administration as a whole did nothing meaningful to address the outcome of the rally.³⁴ At the College of Staten Island, Staten Islanders Against Racism and Police Brutality and the Professional Staff Congress-CUNY union (“PSC”) co-organized a demonstration where speakers claimed that CUNY’s problems were due to “Zionist” control of the university.³⁵ In March of 2016, a rally held by CUNY Struggle used the same banners and flags that SJP regularly uses and had used at the November 12 rally, including signs that read “You support killing children” and “baby killers.” One speaker openly blamed “Zionists” for tuition hikes.³⁶

2016-2017

In February of 2016, Brooklyn College students interrupted a meeting of the college’s Faculty Council to demand the removal of all Zionists from campus.³⁷ Students derogatorily called

²⁸ *Id.*

²⁹ Letter from ZOA, Zionist Org. of Am., to James B. Milliken, C., The City Univ. of New York, (Feb. 22, 2016) <https://zoa.org/2016/02/10315402-letter-to-cuny-chancellor-and-board-of-trustees-jew-haters-spread-fear-at-cuny-colleges/>; Lisa L. Colangelo, Probe Says Speech in Anti-Semitic CUNY Incidents is Covered by First Amendment, NEW YORK DAILY NEWS (Sep. 10, 2016), <https://www.nydailynews.com/new-york/education/probe-anti-semitic-cuny-incidents-covered-amendment-article-1.2786352> (noting that “Death to Jews” was shouted).

³⁰ Zionist Organization of America, *supra* note 29.

³¹ *Id.*

³² Sekulow, *supra* note 5, at 5; *Id.*

³³ Zionist Organization of America, *supra* note 29.

³⁴ Amy Sara Clark, *CUNY Response to Alleged Bias “Inadequate”*, NY JEWISH WEEK (Mar. 9, 2016, 2:08 PM), <https://www.jta.org/2016/03/09/ny/cuny-response-to-alleged-bias-inadequate>.

³⁵ Jones, *supra* note 7, at 17.

³⁶ *Id.* at 7.

³⁷ *Students Interrupt Brooklyn College Faculty Meeting, Demand ‘Zionists Off Campus’*, JEWISH TELEGRAPHIC AGENCY (FEB. 17, 2016), <https://www.jta.org/2016/02/17/united-states/students-barge-in-on-brooklyn-college-faculty-meeting-demand-zionists-off-campus>; Andrew Pessin, *Brooklyn College President Calls for Investigation Into Antisemitic Disturbance at Faculty Meeting*, THE ALGEMEINER (Feb. 18, 2016), <http://www.algemeiner.com/2016/02/18/brooklyn-college-president-calls-for-investigation-into-antisemitic-disturbance-at-faculty-meeting/>.

the chairperson, one of the complainants in this matter and someone who wears a Kippah, a “Zionist pig.”³⁸ A college-led investigation found that the students had engaged in disorderly conduct, but did not discipline them for the content of their words themselves.³⁹

On April 15, 2016, the CUNY Doctoral Student’s Council, which represents doctoral and master’s students across the CUNY system, adopted Boycott, Divestment, Sanctions (“BDS”)⁴⁰ despite opposition from the Jewish community on campus and constructive awareness of BDS’s identification with antisemitism. In May, the ACLJ sent a letter, attached as Exhibit 1, to the Chancellor of CUNY informing him that a study has shown that BDS is the single greatest predictor of antisemitism on campuses, and of the dangers of this resolution.⁴¹ At that time, the ACLJ warned of the clear antisemitic message that would be sent to Jewish students by this decision. Meanwhile, Hunter College students ignored the pleas of Jewish students and held an event that called for the eradication of the Jewish State.⁴² The administration was silent about the event,⁴³ and the adoption of BDS occurred without objection.

In 2017, the pattern of antisemitism from CUNY faculty continued to negatively impact the lives of Jewish and Zionist students at the University. During a discussion about a class party, when a Jewish student noted that she could not eat non-kosher pizza, a Silberman professor asked the class “how to accommodate Rachel” (her name of course was not Rachel; the name was chosen as a stereotypically Jewish name). Shocked students corrected the professor when they realized that the professor was seeking to refer to this Jewish student.⁴⁴ Later that year, Silberman’s graduation was scheduled to occur on the Jewish holiday of Shavuot,⁴⁵ precluding religious Jewish students from attending.

2018

In 2018, Kingsborough Community College (“KCC”) became the source of severe antisemitism when a photograph of Professor Michael Goldstein’s late father, former KCC

³⁸ *Interrupt Brooklyn College*, *supra* note 36; Pessin *supra* note 36; *An Education in Tolerance: CUNY Must End Anti-Jewish Agitation on Campus*, New York Daily News (Feb. 25, 2016 4:10 AM), <https://www.nydailynews.com/opinion/education-tolerance-article-1.2542994> (noting that the chairman wore a yarmulke).

³⁹ *Hikind Outraged After Brooklyn College Students Cleared of Anti-Semitic Remarks for Interrupting Faculty Council Meeting*, THE YESHIVA WORLD (Jun. 7, 2016 9:15 AM), <https://www.theyeshivaworld.com/news/headlines-breaking-stories/428016/hikind-outraged-after-brooklyn-college-students-cleared-of-anti-semitic-remarks-for-interrupting-faculty-council-meeting.html>.

⁴⁰ Sekulow, *supra* note 5, at 1.

⁴¹ *Id.*

⁴² Reference Exhibit 2 at 6.

⁴³ *Id.*

⁴⁴ *See Id.*

⁴⁵ *Id.* at 9-10.

President Leon Goldstein, was found defaced with antisemitic graffiti that read, “Fuck Trump. Kill the Zionist Entity.”⁴⁶ Afterwards, hundreds of flyers calling for the firing of Goldstein were distributed to students and placed in offices and nearly every classroom around the KCC campus. Members of Kingsborough’s Progressive Faculty Caucus (“PFC”), including professor Patrick Lloyd were among those distributing the flyers demanding Goldstein’s firing. Disgustingly, the flyers included for targeting a picture of Goldstein’s thirteen-year-old daughter. KCC was in possession of a video of the distribution of those flyers.⁴⁷ From June until November of 2018, approximately five months, a communist newspaper called “Challenge” published four separate articles baselessly calling Goldstein racist, anti-Muslim, and anti-gay. The paper was distributed widely to members of the campus community just outside the campus gates. KCC did nothing.⁴⁸ The University did nothing.

In October, a litigation hold letter was sent to various PFC members by attorneys for Michael Goldstein, regarding this antisemitism. Within hours, multiple nails were found in the tires of Goldstein’s car.⁴⁹ Goldstein reported that colleagues warned him that those campaigning to get him fired are “trying to get students to constantly harass me.” He added that “I’m afraid one will take it too far by getting physical. I’m afraid of getting punched. I’ve never had a problem before this. I don’t want to be seen as racist or anti-Muslim. I like people for who they are.”⁵⁰

Throughout its history at KCC, the PFC, a faculty group that claims to be open to all, has discriminated against observant and/or Zionist Jews by enforcing a policy that prohibited observant and Zionist Jews from joining the group. The group boasted of having 100 members, yet none of those members were observant or Zionist Jews.⁵¹ Moreover, Six Zionist and/or observant Jews *asked* to join the “open” group and all 6 were rejected. No other faculty member was turned away from the group.⁵² To this day, the KCC PFC has no observant or Zionist Jews.⁵³ A faculty member, Susan Aranoff, filed an internal discrimination complaint against the PFC with KCC Chief Diversity Officer Victoria Ajibade.⁵⁴ In a shocking turn, rather than taking action to rectify any of the matters in the complaint, PSC and its president, Barbara Bowen, filed a complaint against the Chief Diversity Officer, in an effort to dissuade the investigation. Bowen threatened

⁴⁶ *Kill Zionist Entity’: Kingsborough Community College Administrator Targeted by Antisemitic Graffiti*, ALGEMEINER (Mar. 7, 2018, 5:29 PM), <https://www.algemeiner.com/2018/03/07/kill-zionist-entity-kingsborough-community-college-administrator-targeted-by-antisemitic-graffiti/>.

⁴⁷ Reference Exhibit 3 at 31.

⁴⁸ Debra N. Cohen, *Kingsborough Community College Embroiled in Anti-Semitic Allegations*, JEWISH JOURNAL (Feb. 28, 2019) https://jewishjournal.com/cover_story/294596/kingsborough-community-college-embroiled-in-anti-semitic-allegations/.

⁴⁹ Reference Exhibit 3 at 32.

⁵⁰ Cohen *supra* note 48.

⁵¹ Reference Exhibit 3 at 16-17.

⁵² *Id.* at 17.

⁵³ *Id.* at 14 (for only the assertion cited).

⁵⁴ *Id.* at 20.

Ajibade and demanded that she decline to investigate the discrimination complaint altogether. Ajibade later left KCC and all investigations relating the PFC's antisemitism were halted.⁵⁵ Similar complaints by KCC students were also filed with the EEOC.

In February 2018, an event was scheduled by the PFC, with the involvement of PSC leaders, to address discrimination complaints by faculty members. The event was scheduled for a Friday Night at 8:00 p.m., on the Jewish Sabbath: the PFC and the PSC specifically and strategically scheduled an event to address the discrimination claims *on the Jewish Sabbath*,⁵⁶ and, *admitted* to having done so on purpose during later investigations. The event was thus designed from the beginning to prevent antisemitic discrimination claims from being heard. Although complaints were made (by both Jews and non-Jews) about the timing and content exclusion, PFC members refused to include those discrimination complaints or reschedule the meeting.⁵⁷ When asked why he would not make accommodations, PFC officer Anthony Alessandrini stated that excluded individuals should ““go ahead and organize some other, different things, things that better fit [your] vision.””⁵⁸

At the time, PFC leadership falsely claimed that the timing was a group decision based on the general availability of most faculty, but the very email that was soliciting interest in the event had already set the date and time.⁵⁹ Additionally, PFC members responded to requests to reschedule by Jewish Faculty by stating that “as the College collapses due to low enrollment and lack of funds, the true nature of Professors Yarmish and (b)(6) come out for the world to see. ‘Mine, mine, mine,’ just like the seagulls in Finding Nemo.” The “Mine, mine, mine” reference alluded to one of the most disgusting and well-documented stereotypes in all of antisemitism—that of the greedy Jew. Further, the email targeted the only two Jews out of the five-person group who publicly suggested that the PFC reschedule the event. Alessandrini also sent emails and articles critical of Jews and Israel to all faculty.⁶⁰ Again, neither the PSC nor the University took any action to help.

In May of 2018, Allesandrini used the school’s “Spring Diversity Symposium” to raise money for, and promote, the Medical Aid for Palestinians (“MAP”) organization, asking students to “please, think about ways you can help.”⁶¹ MAP has been linked with groups affiliated with the Popular Front for the Liberation of Palestine (“PFLP”), according to reports. PFLP has a decades-long history of deadly violence against Jews and Jewish targets around the world. The U.S. State

⁵⁵ *Id.* at 7, 15-16, 49.

⁵⁶ *Id.* at 20-23.

⁵⁷ *Id.* at 20.

⁵⁸ *Id.* at 20-21.

⁵⁹ *Id.* at 20

⁶⁰ *Id.* at 22-23.

⁶¹ Reference Exhibit 12.

Department cited the PFLP as a “foreign terrorist organization” in 1997 and designated the group for global terrorism sanctions four years later.⁶² Moreover, PFC members wrote in a PFLP Challenge post article that “members of their group at KCC were engaged in a ‘struggle’ against ‘a network of Zionists among the faculty.’”⁶³

In November of 2018, a Jewish KCC faculty member filed an EEOC complaint alleging discrimination and a hostile work environment caused by religious discrimination against Jews at KCC. The complaint also focused on many activities from the PFC.⁶⁴ That same month, a Silberman student was brought before an education review committee and told that her clinical skills were lacking *because* of her status as an Orthodox Jew.⁶⁵

2019 - 2020

In the past few years, from 2019 until the present, the trend of repeated antisemitism at the CUNY system has continued to spread and worsen. In 2019, a female Silberman student expressed to her Silberman faculty supervisor that, as a petite female, she felt unsafe conducting solo home visits of male patients as part of her field placement social work. Her Silberman supervisor immediately asked if the real reason for her discomfort was based on her religious beliefs as an Orthodox Jew.⁶⁶

In March of 2019, Barbara Bowen, president of PSC, sent out an illegal email to all union members, deriding an observant Jewish elected KCC chapter chair’s slate right before an election. She also made plans to visit KCC’s campus in order to personally endorse the opposition to this individual, one of the complainants in this matter. This email to the union membership, and the visit to campus, violated major federal labor election laws.⁶⁷

Also, in March of that year, the longtime Chair of the KCC Department of Business, (b)(6); (b)(7)(D), became the target of severe and ongoing antisemitism. In April, (b)(6); (b)(7)(D) filed a public safety report for being falsely imprisoned and assaulted by various faculty members.⁶⁸ In the report, he detailed how he was surrounded by five people, all PFC professors, who enclosed him in an area and refused to allow him to move. They refused to answer his plea to explain why they were holding him and continued to verbally abuse him. When (b)(6) tried to leave, one PFC prisoner,

⁶² Larry McShane, *Kingsborough Professor, During Campus Event, Urged Donations to Group with Alleged Ties to Palestinian Terror Group*, NEW YORK DAILY NEWS (Mar. 22, 2019 1:38 PM), <https://www.nydailynews.com/news/ny-metro-cuny-professor-terror-20190313-story.html>.

⁶³ Reference Exhibit 3 at 26.

⁶⁴ *Id.* at 5.

⁶⁵ Reference Exhibit 2 at 7.

⁶⁶ *Id.*

⁶⁷ Reference Exhibit 3 at 12-13.

⁶⁸ Reference Exhibit 4.

Matthew Gartner, placed his hand over (b)(6); (b)(7)(A) head and menacingly said, “We’re not done. We’re just starting. We’re just starting.”⁶⁹

On May 1st, Professor (b)(6) filed a Title VII complaint with the EEOC, attached as Exhibit 3, alleging discrimination, retaliation, and a hostile work environment against CUNY, and against the PSC-CUNY union for breaching its duty of fair representation of its Zionist and Jewish members by failing to serve Zionists and Observant Jews equally. This failure of the union inflamed hostility toward Jewish union members. The complaint also alleged that the PSC was obstructing investigations and retaliating against those who bring discrimination claims, and that “no non-Jewish faculty member has ever been turned down for membership into the PFC, nor has a non-Jew had his or her request scrutinized, delayed, ignored, or otherwise unfulfilled. In contrast, each and every Observant or Zionist Jew that has applied or requested membership into the PFC has either had his/her request summarily dismissed, indefinitely pushed off or brushed aside, or altogether ignored.” The complaint also alleged that the union had retaliated against attempts at investigations of the union, and illegitimately caused the termination of investigations into Union officials. The Union even filed a complaint against the CUNY investigator, illicitly demanding that she not investigate any of the antisemitism claims altogether.⁷⁰

Meanwhile, Meg Feeley (PSC union officer), filed a frivolous complaint of harassment against a Jewish faculty member whom she had never met because, as she admitted, she was *bothered* by the fact that he was documenting claims of religious discrimination.⁷¹

In 2020, the CUNY university system continued its antisemitic pattern. In January, a Jewish CUNY law student named Rafaella Gunz wrote an op-ed describing the school as a hotbed of antisemitism.⁷² Gunz faced unrelenting harassment because she is Jewish and supports the right of Jews to live in their ancestral homeland. In response to her complaints, she was told “You should have known what you were getting into by coming here,” by a teaching assistant. Eventually, as antisemitic pressure increased, she was forced to leave the school entirely. The harassment against Gunz was led by Nerdeen Kiswani, who helped found Within Our Lifetime, a New York group that supports Palestinian resistance against Israel “by any means necessary.” Kiswani was labeled “antisemite of the year” in 2020 by StopAntisemitism.org, for a video she made waving a lighter at another person’s Israel Defense Forces sweatshirt.⁷³ A Jerusalem Post article described her “storied history of terrorist glorification,” citing photos she had shared on social media of Leilah

⁶⁹ Reference Exhibit 3 at 32-33.

⁷⁰ See *Id.*

⁷¹ *Id.* at 6.

⁷² Rafaella Gunz, *Campus Anti-Semitism Made Me a Zionist*, JEWISH JOURNAL (Jan. 21, 2020), <https://jewishjournal.com/first-person/309725/campus-anti-semitism-made-me-a-zionist/>.

⁷³ Sarah Ben-Nun, *Antisemite of the Year: A Law Student from New York*, JERUSALEM POST (Dec. 23, 2020), <https://www.jpost.com/diaspora/antisemitism/antisemite-of-the-year-a-law-student-from-new-york-652995>.

Khaled and Rasmieh Odeh, members of the Popular Front for the Liberation of Palestine who were, respectively, involved in a hijacking and a bombing targeting Israelis in 1969.⁷⁴

In September and October, the Zionist Organization of America (ZOA) reported a complaint to the Dean of CUNY Law Mary Lu Bilek after an investigation revealed that Kiswani released a video threatening to set fire to another student wearing a shirt expressing support for Israel through the logo of the Israel Defense Forces.⁷⁵ In response, the law school first issued a lukewarm statement condemning hate and antisemitism, then *retracted* it, saying this was just political speech. The law school never issued any condemnation of Kiswani in particular or held her accountable for her statements through disciplinary action. The Dean claimed that actually threatening to set someone on fire for supporting Israel, *while holding a lit lighter to their clothing and insisting it was not a joke*, was an expression of opinion supported by the First Amendment. The Dean also claimed that Kiswani's acts were solely statements in opposition to Israel's armed forces, rather than antisemitism. It was alleged by those defending Kiswani that the individual she threatens in the video is not actually being threatened, but the video was merely a staged depiction of her views.⁷⁶ Even if true, this video is still the issuance of a threat to do something similar to the very real Jews on CUNY Law's campus. Regardless of whether this video was staged, it was a clearly calculated threat to Jewish students on CUNY's campus. On October 15, 2020, the ZOA filed its own Title VI complaint against CUNY Law regarding this matter, attached as Exhibit 5, in which they correctly noted that Kiswani

plainly sought to send a message that is frightening and dangerous to every Jew – particularly Jews at CUNY – who supports the Jewish state: If you express your Jewish identity by expressing your support for Israel, then you could be physically threatened and violently attacked. CUNY Law's response to the video exacerbated Ms. Kiswani's intimidating conduct by sending the message to the CUNY community that you can make violent threats against Israel supporters and CUNY Law will justify your conduct and not hold you accountable.⁷⁷

As ZOA's complaint highlighted, the Law School failed to discipline Kiswani, and ultimately withdrew any statement of opposition to antisemitism that it had issued.⁷⁸

⁷⁴ *Id.*

⁷⁵ Benjamin Kerstein, *CUNY Law School Condemns Antisemitism, Then Backtracks, Amid Controversy Over IDF Sweatshirt Video*, ALGEMEINER (Sep. 30, 2020), <https://www.algemeiner.com/2020/09/30/cuny-law-school-condemns-antisemitism-then-backtracks-amid-controversy-over-idf-sweatshirt-video/>.

⁷⁶ Reference Exhibit 5.

⁷⁷ *Id.* at 4

⁷⁸ See *Id.*

The onset of Covid only emboldened CUNY's antisemitic faculty. For example, when covid became a reality a Silberman professor commented in class that no one in the Jewish Chassidic community was wearing masks. A Jewish student asked the professor not to target a single community or make broad generalizations; the Jewish student asked the professor to acknowledge that a segment of the Jewish community was one of the first to donate plasma and that many in the community did wear masks. The professor ignored the student and refused to alter the broad generalization.⁷⁹

2021

This was not an isolated incident at Silberman. In 2021, when a student asked a Jewish student in class "why all Jews stick together" and stated that this makes people think Jews are elitists, the professor of the class remained silent.⁸⁰ A Silberman student later gave a presentation on antisemitism in class. One student interrupted the segment on the Pittsburgh synagogue massacre to say that it was "imperative to remember how much privilege Jews possess in America today." Another student stated that the Holocaust is a token experience that Jews use to justify claims of antisemitism. These are classic antisemitic tropes and sentiments. The professor said nothing.⁸¹

Throughout the 2020-2021 academic year, Jewish students in the Mental Health Counseling master's program at Brooklyn College were subjected to a hostile environment and harassment based on their race and ethnicity. In class lectures and course materials professors advanced the false narrative that all Jews are white and privileged and contribute to the systemic oppression of people of color, and students echoed these themes in and out of class to bully and target their Jewish peers, including threatening them with physical violence. Jewish students were afraid to fully participate in class and express their views for fear that they would be further disparaged, harassed, and discriminated against. Brooklyn College and the University were well aware of this ongoing situation, and made no real effort to eliminate the hostile environment.⁸² On February 28, 2021, the Louis D. Brandeis Center for Human Rights Under Law filed their own Title VI lawsuit on these grounds.⁸³ The complaint included dozens of examples of the bullying, as well as instances of faculty failure; in one instance, when a student complained she was told that white students like her should keep quiet and keep their heads down, and when she pointed

⁷⁹ Reference Exhibit 2 at 7.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Brooklyn College Title VI Complaint*, BRANDEIS CENTER, https://brandeiscenter.com/wp-content/uploads/2022/02/Brooklyn-College-OCR-Complaint-Final_2_Redacted.pdf (reference Exhibit 7).

⁸³ *Id.*

out that she is actually a person of color, was told that her skin color wouldn't save her- i.e. because she was Jewish she would still be considered white.⁸⁴

In February 2021, the EEOC issued a letter of determination in response to Professor (b)(6); (b)(7)(A) claims of religious discrimination, retaliation, and hostile work environment against KCC and the PSC-CUNY, finding reasonable cause existed for all claims, attached as Exhibit 6. The letter of determination stated that “[t]he Commission’s investigation reveals that Charging Party and other similarly situated individuals were discriminated against and retaliated against because of their religion.” The EEOC’s determination included substantiations of religious discrimination and retaliation and called for corrective action. It found that (b)(6); (b)(7)(A) rejection from the PFC constituted discrimination, and the CUNY and the PSC failed to engage in corrective action, thereby “creating a hostile work environment.”⁸⁵ The February 2021 EEOC letter of determination also substantiated all the claims of religious discrimination, retaliation, and hostile work environment alleged by Professor (b)(6) against the PSC-CUNY faculty union. In response, the PSC refused to rectify any of the antisemitism and only doubled down.⁸⁶

Following the EEOC determination, President of KCC Schrader publicly distributed a Campus Climate Survey in February 2021 where PFC members recorded multiple vile and antisemitic attacks against Professor (b)(6) and Jews in general.⁸⁷ The disgusting survey including the claim that “the white dominant culture at the level of department chairs and program directors, as well as zionist faculty, who preserve positions of authority through nepotism, toxic masculine culture, and equating critiques of Israel with anti-semitism, are chronic forms of oppression...”⁸⁸ While the survey and comments were promised to be anonymous with names redacted, one name, and only one name, was made public in the entire document: (b)(6); (b)(7)(A); (b)(7)(C) ⁸⁹ (b)(6); (b)(7)(A) was attacked by name, was referred to as a “Zionist Oppressor”, and as such, the primary cause of all the problems on campus.⁹⁰ Schrader read this, admitted to reading it, and nevertheless *distributed* these tropes about Jews and Professor (b)(6) to the entire campus, humiliating (b)(6); (b)(7)(A) and subjecting him to even greater harassment.⁹¹ Another faculty member, Jacob Segal, publicly attacked (b)(6); (b)(7)(A) in a meeting and called his religious discrimination claims "casual" and "bandied about."⁹² Professor (b)(6); (b)(7)(A) reported these matters to President Schrader, and pleaded with her to act, but no disciplinary action was taken.⁹³ In fact, immediately after the EEOC found in (b)(6); (b)(7)(A) favor, Schrader ceased

⁸⁴ *Id.* (instance on p.3).

⁸⁵ Reference Exhibit 10 at 2.

⁸⁶ *Id.* at 3.

⁸⁷ Reference Exhibit 8 at 3.

⁸⁸ Reference Exhibit 9.

⁸⁹ Reference Exhibit 8 at 3.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.* at 5.

⁹³ *Id.*

communicating with (b)(6); (b)(7)(C) altogether despite the fact that he has reported receiving multiple threatening and antisemitic letters at his office, and that as he is a department chair, she is (b)(6); (b)(7)(A) direct and only supervisor.⁹⁴

On May 20, 2021, at a mandatory end-of-year Hunter College Zoom class in the social work school with 200 attendees, a group of students changed their backgrounds to the Palestinian flag on-screen names to “Free Palestine: Decolonize” and took turns reading a twenty-minute-long manifesto of incitement, accusing Israel of apartheid, ethnic cleansing, and genocide.⁹⁵ That these claims are bandied about casually and used to further incite violence against Jews globally, does not alter that they are manifestly false – the most common modern variant of the age-old antisemitic blood libel. Jewish students’ attempts to proffer a different perspective were met with open hostility and derision by fellow students, and the professor(s) responsible for the class session did nothing to stop or correct this conduct. In fact, at least one professor in attendance joined those who disrupted the class and replaced the planned class discussion with a barrage of antisemitic rhetoric. This happened not just once, but twice that day, at a 9:00 a.m. class session and again during a 2:00 p.m. class. In the aftermath of the College’s silence, the organization StandWithUs filed their own Title VI Complaint against Hunter College.⁹⁶ That Complaint is attached as Exhibit 2. The Complaint not only documents hostile and discriminatory actions, but it also documents a pervasive failure on the part of the administration to remedy the situation. For example, when the students in this complaint raised their concerns and expressed their complaint with their professor, he responded by explaining his view that sometimes extreme protest needs to be done for change to happen. He went on to claim that the Zoom class was the right time and right place for such protest. As documented in the StandWithUs Complaint, the University took no steps to remedy the harm resultant from this incident or made any statement of condemnation. StandWithUs’ complaint documents numerous attempts by students and alumni to meet with the administration to raise these problems, only to have their complaints and concerns rebuffed. The school refused to issue an official statement in opposition to antisemitism, despite its rightfully issuing statements in support of other minorities.⁹⁷

In May of 2021, a student at John Jay posted a picture of Adolf Hitler on Instagram with a message saying “We need another Hitler today.” A group of Jewish students met with Karol Mason, the President of the College, who refused to condemn the action publicly. Students walked

⁹⁴ *Id.* at 3

⁹⁵ Reference Exhibit 2.

⁹⁶ *Id.*

⁹⁷ *Id.*

away from the meeting feeling like the CUNY administration did not care about their safety or security.⁹⁸ And for good reason.

Shortly after Israel finished defending itself against a barrage of rocket attacks from the U.S. designated terrorist group Hamas,⁹⁹ the PSC passed a resolution on June 10, 2021, endorsing BDS, ignoring terrorism, and unfoundedly accusing Israel of apartheid.¹⁰⁰ Although claiming to oppose antisemitism, the statement called for PSC support of a movement designated as antisemitic by many international human rights organizations. The PSC was well aware that while the BDS academic boycott of Israel claims to target Israeli universities and scholars, its implementation on U.S. campuses, directly harms American students and faculty, especially those who are Jewish and pro-Israel. For example, the official academic boycott guidelines call for boycotters to work towards closing their own institution's academic exchange programs in Israel; refuse to write letters of recommendation for their students who want to study in Israel; and disrupt or shut down educational activities about Israel or featuring Israeli scholars or leaders at their own schools.¹⁰¹ All of these actions directly subvert the educational opportunities and academic freedom of undergraduate students who want to study about or in Israel.

Second, an academic boycott of Israel directly fuels antisemitism on campus. The academic boycott guidelines' call to fight against "the normalization of Israel in the global academy."¹⁰² Courses taught by faculty adhering to this anti-normalization principle not only pervert a school's academic mission by substituting anti-Israel indoctrination for education, but also foment hatred towards Israel and its supporters, which easily and demonstrably¹⁰³ translates into acts of aggression towards Jewish and pro-Israel students on campus. Studies show a strong correlation between anti-Zionist instruction and acts targeting Jewish and pro-Israel students for harm, including assault, intimidation, destruction of property and suppression of speech.¹⁰⁴

⁹⁸ Gabriel Sandoval, *CUNY Law Students' Call for Israel Academic Boycott Ripples Through University Roiled by BDS Fight* (Dec. 14, 2021), <https://forward.com/news/479497/cuny-law-students-call-for-israeli-academic-boycott-ripples-through/>.

⁹⁹ Reference Exhibit 10 at 3.

¹⁰⁰ *Resolution in Support of the Palestinian People*, PSC-CUNY (Jun. 10, 2021), https://www.psc-cuny.org/sites/default/files/Final_Resolution_in_Support_of_the_Palestinian_People.pdf.

¹⁰¹ *Guidelines for Applying the International Academic Boycott of Israel*, US CAMPAIGN FOR THE ACADEMIC AND CULTURAL BOYCOTT OF ISRAEL, <https://usacbi.org/guidelines-for-applying-the-international-academic-boycott-of-israel/>.

¹⁰² *Id.*

¹⁰³ *Brining BDS into the Classroom*, AMCHA INITIATIVE (Jan. 2020), <https://amchainitiative.org/wp-content/uploads/2020/01/Syllabus-Study-Report.pdf>.

¹⁰⁴ *The Impact of Academic Boycotters of Israel on U.S. Campuses*, AMCHA INITIATIVE (Oct. 2017), <https://amchainitiative.org/wp-content/uploads/2017/10/Faculty-Report.pdf>.

In response, Jewish people streamed out of the PSC, with resignations exceeding 300 in response to the Union's decision.¹⁰⁵ In October 2021, Professor (b)(6) filed another EEOC claim, attached as Exhibit 10. This claim documented that a host of Jewish resignations from the PSC had occurred,¹⁰⁶ and the organization CUNY Alliance For Inclusion had been formed in order to encourage Jewish people to remain within the Union.¹⁰⁷ The complaint documented that this group fought to protect the union from the consequences of the BDS endorsement and did not truly represent the interests of observant Jews either.¹⁰⁸

In August 2021, (b)(6) filed another EEOC claim against KCC, detailing how the EEOC decision in his favor had been ignored, and how the parties had retaliated against him for prevailing at the EEOC.¹⁰⁹ President Claudia Schrader of KCC promised in an email that she would "take appropriate action" once due process had occurred and the investigation was complete. As documented in (b)(6)'s EEOC complaint, attached as Exhibit 8, Schrader took no corrective or disciplinary action in response to the EEOC decision. There has not even been so much as a single attempt to engage or communicate with Professor (b)(6) in an effort to make him whole or correct the significant wrongs substantiated by the Commission. Even though the EEOC found in his favor, KCC made no attempt to rectify antisemitism on its campus.¹¹⁰

To summarize some of the above, KCC has been a hotbed of antisemitic activity which to date has led to two 2018 EEOC complaints, a 2019 EEOC Complaint, and a 2021 EEOC Complaint. The allegations contained therein are hereby incorporated in this complaint and should illustrate the pervasive culture of antisemitism there. Jewish faculty and staff members at KCC have faced pervasive, antisemitic discrimination from the CUNY and from the PSC-CUNY. PSC has repeatedly inflamed the situation and further incited the hostility towards observant and Zionist Jews at KCC by influencing and causing CUNY to discriminate against observant and Zionist Jewish faculty members based on their religious beliefs through illegal and discriminatory union activities. Additionally, CUNY has done nothing to protect its observant and Zionist Jewish faculty members from a scheme of ongoing discrimination, retaliation, harassment, and a hostile work environment. At the PSC's demand, CUNY has even refused to investigate the myriad allegations of antisemitism asserted by observant and Zionist Jews against the PFC Respondents and has thus tacitly endorsed the widespread antisemitism and discrimination.

And it continues.

¹⁰⁵ Reference Exhibit 10 at 4.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 6.

¹⁰⁸ See *Id.*

¹⁰⁹ Reference Exhibit 3.

¹¹⁰ *Id.* at 2; See generally *Id.*

In fall of 2021, a professor was teaching a class on the modern Middle East and North Africa at Baruch College. The professor assigned readings and films solely representing an anti-Zionist and Pro-Palestinian narrative, while Palestinian terrorist attacks were ignored. Students made comments in the online discussion board that were frequently antisemitic, with comments like, “The Israeli army would patrol the streets and shoot people as they pleased.”¹¹¹ In December, CUNY’s Law Student Government Association passed a resolution to ban Hillel and other Jewish institutions from campus.¹¹² The LSGA’s resolution built on the accusations in the PSC resolution, and also explicitly attacked “Jewish student groups and programs as well as faculty research and collaborations with a host of universities and corporations, attempting to shame such groups by name” and sought “to exclude Jewish students who support Israel from a host of groups including those advocating for work against climate change, and those fighting for women’s rights.”¹¹³ As some dismayed faculty explained, “It thereby appropriates for itself the right to separate good from bad Jews and to quash Jewish self-expression it disfavors as it trashes academic freedom by seeking to bar opinions contrary to its own from CUNY and its groups.”¹¹⁴ In July, CUNY Chancellor Felix V. Matos Rodriguez, through a spokesperson said that “membership organizations” like PSC and others only “speak for themselves” and “do not necessarily represent the views of the City University of New York.”¹¹⁵ That is nowhere near enough of a condemnation or response to the hostile environment that Jews are clearly experiencing on campus.

2022-Present

On May 12, 2022, the CUNY Law faculty voted to endorse the BDS movement, just a day before the Law School’s graduation ceremony.¹¹⁶ The racist resolution was chock full of antisemitism, including denying Jewish people’s historical and religious connection to their homeland as well as modern day blood libels about genocide and other war crimes.¹¹⁷ The antisemitism in the resolution has already led officials in the New York City Council to pull

¹¹¹ Letter from student to Dr. Lang, Dean of Baruch's Weissman Sch. of Arts and Sci. (Dec. 15, 2021) (on file with author).

¹¹² Selim Algar, *CUNY Law Students Warring With Faculty Members Over Anti-Israel Resolution*, NEW YORK POST (Dec. 10, 2021 6:19 PM), <https://nypost.com/2021/12/10/cuny-law-students-warring-with-faculty-over-anti-israel-resolution/>; BDS Resolution 11.29.21, *CUNY Law Students for Justice in Palestine*, CUNY LAW JEWISH LAW STUDENT ASSOCIATION, <https://docs.google.com/document/d/1dm4Sv9QsbzgyrOhpVABkEZuLskrkcWp9MgjiQRDsG4/edit>.

¹¹³ *Statement on the CUNY Law Student Government Association*, THE CUNY ALLIANCE FOR INCLUSION, <https://www.cunyallianceforinclusion.org/statement-on-the-cuny-lsga>.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Carl Campanile, *CUNY Law Faculty Back Anti-Israel BDS Resolution*, NEW YORK POST (May 18, 2022, 7:29 PM), <https://nypost.com/2022/05/18/cuny-law-faculty-back-anti-israel-bds-resolution/>.

¹¹⁷ BDS Resolution 11.29.21, *supra* note 117; Carl Campanile, *CUNY Law Faculty Back Anti-Israel BDS Resolution*, NEW YORK POST (May 18, 2022), <https://nypost.com/2022/05/18/cuny-law-faculty-back-anti-israel-bds-resolution/>.

\$50,000 in funding that had been earmarked for the law school,¹¹⁸ and to launch their own investigation.

Just a day after the faculty endorsed BDS, CUNY Law honored graduation speaker Nerdeen Kiswani- the very same woman who has, among other things openly condoned violence against and the killing of Zionists (including the recent May 5th 2022 murder of three innocent Jewish fathers in the Israeli city of Elad by Palestinian attackers wielding axes); glorified intifada and called for its globalization; honored leaders of a terrorist group; and called for “Zionist professors” and “Zionist students” to be removed from CUNY campuses.¹¹⁹ The decision to platform her was shocking but not surprising, given that on July 30, 2021 the Law School’s interim dean had actually written a statement defending her murderous hatred and incitement.¹²⁰ Predictably, Kiswani used this opportunity to give an antisemitic speech in which she labeled herself a victim of “Zionist harassment,” called for the destruction of Israel and denied its right to exist, and called efforts at bridge building nothing more than an attempt to normalize murder.¹²¹ Having allowed a Jew-hating bigot to stand at the podium and claim to represent the views of the law school, the administration said nothing afterwards, which only emboldened Niswani and her followers. When the City Council announced that they would be holding a hearing on antisemitism at CUNY- not anti-Zionism, but antisemitism - Kiswani announced that she would be hosting a rally against the hearing.¹²² Kiswani has yet to learn that you can be pro-Palestine without being antisemitic.

That hearing was originally scheduled for June 8 but was postponed when at the last minute CUNY’s chancellor, Félix V. Matos Rodríguez, cancelled his appearance citing a scheduling conflict but noting that he did want to attend. The hearing was delayed until June 30 to

¹¹⁸ Carl Campanile, *NYC’s Inna Vernikov pulls CUNY Law School Funding Over Israel Stance*, NEW YORK POST (May 27, 2022, 4:53PM), <https://nypost.com/2022/05/27/inna-vernikov-pulls-cuny-law-school-funding-over-israel-stance/>.

¹¹⁹ See *Nerdeen Kiswani*, CANARY MISSION, https://canarymission.org/individual/Nerdeen_Kiswani (last visited July 19, 2022); See also *Statement Regarding Antisemitic CUNY School of Law Commencement Speaker*, CAMERA ON CAMPUS (May 13, 2022), <https://cameraoncampus.org/blog/statement-regarding-antisemitic-cuny-school-of-law-commencement-speaker/>; See also Jacob Henry, *Anti-Israel Commencement Speaker Sparks Fresh Antisemitism Debate at CUNY*, THE TIMES OF ISRAEL (May 21 2022), <https://www.timesofisrael.com/anti-israel-commencement-speaker-sparks-fresh-antisemitism-debate-at-cuny/> (describing some details of the axe attack).

¹²⁰ Eduardo R.C. Capulong, *Statement on Palestinian Activism*, CUNY SCHOOL OF LAW (Jun. 30, 2021), https://www.law.cuny.edu/newsroom_post/statement-on-palestinian-activism/.

¹²¹ Melissa Weiss, *CUNY Law Commencement Speaker Alleges Being Targeted by ‘Well-Funded Organizations With Ties to the Israeli Government’*, JEWISH INSIDER (May 19, 2022), <https://jewishinsider.com/2022/05/nerdeen-kiswani-cuny-law-school-commencement-israel/>.

¹²² Jacob Henry, *NY City Council Postpones CUNY Antisemitism Hearing, Citing Scheduling Conflict*, THE TIMES OF ISRAEL (Jun 8, 2022, 4:04 PM), <https://www.timesofisrael.com/ny-city-council-postpones-cuny-antisemitism-hearing-citing-scheduling-conflict/>.

accommodate him. The night before the rescheduled hearing, the Chancellor *again* backed out,¹²³ demonstrating just how little he actually cares about the subject.¹²⁴ This time the hearing proceeded without his involvement. Students and professors testified about how they have been targeted for their Jewish faith; how they fear for their physical and emotional well-being; how they have been assaulted, demonized, and harassed; and how they regularly hear antisemitic slurs including calls for the murder of Jews.¹²⁵ Meanwhile, the CUNY administrators who did attend admitted that they do not have systemwide training on antisemitism, and in fact they do not even log antisemitic incidents.¹²⁶ At the hearing, CUNY officials also noted that they do *not* use the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism- the definition that they sign onto every year when they take money from the federal government and affirm that they will abide by Title VI.¹²⁷

In July, a number of students and faculty signed onto a statement from a new “Anti-Zionist Jewish Coalition at CUNY.” The vile, antisemitic statement repeated dozens of falsehoods about Israel, and, among other things, targeted the “Zionist movement within CUNY,” smeared and defamed mainstream Jewish organizations like Hillel, attempted to lecture Jews about what their Jewish identity could and could not mean, and what their Jewish values could and could not include, denounced the Zionist beliefs of many Jewish people, pledged to create networks and programs within the CUNY Jewish population to deprogram other Jews so that they could “unlearn Zionism so they may form their own Jewish identity,” wholeheartedly endorsed BDS “without question,” and vowed to “stand against all methods of normalization with Zionist entities and organizations” (broadly defined to include mainstream *Jewish* organizations). Any Jewish student would obviously be justified in feeling uncomfortable attending classes given by professors who signed such a statement.

Complaint

In short, CUNY has become a hotbed for discrimination and antisemitism. Students and faculty at Baruch College, John Jay College of Criminal Justice, Brooklyn College and Hunter

¹²³ Matthew Garcia, *Outrage Follows Chancellor’s Second Decision to Skip Hearing on CUNY Antisemitism Allegations*, NEW YORK SUN (Jun. 30, 2022, 4:17 PM), https://www.nysun.com/article/outrage-follows-chancellors-second-decision-to-skip-hearing-on-cuny-antisemitism-allegations?utm_content=buffer05fa6&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer.

¹²⁴ Press Release, Rep. Lee Zeldin, Rep. Zeldin Statement on CUNY Chancellor Declining to Participate in Antisemitism Hearing Timed to Fit His Schedule (Jul. 3, 2022), <https://zeldin.house.gov/media-center/press-releases/rep-zeldin-statement-cuny-chancellor-declining-participate-antisemitism>.

¹²⁵ Carl Campanile, et al., *CUNY Boss a No-Show as Jewish Students Decry Anti-Semitism*, NEW YORK POST (Jun. 30, 2022, 9:19 PM), <https://nypost.com/2022/06/30/cuny-boss-a-no-show-as-jewish-students-decry-anti-semitism/>.

¹²⁶ *Id.*

¹²⁷ *Id.*

College, among others, have complained about the antisemitic climate on their individual campuses. Jewish students and faculty have consistently reported feeling physically unsafe.¹²⁸ They are afraid to wear anything that would identify them as Jewish, because they fear that they might actually get hurt.¹²⁹ The individual complaints that have been filed against individual schools within the system are certainly necessary, and we continue to press for attention on those matters. But when this many individual schools are evidenced to be complacent towards the evils of antisemitism; and when the University-wide PSC has been found to be complicit in racism by the EEOC and then failed to exercise any action in response and chose only to double down on racist, antisemitic rhetoric through BDS resolutions; and when other University-wide entities have likewise doubled down on antisemitism; and when CUNY has failed to take any significant action to prevent the widespread antisemitism, it is clear that the time has come for an investigation into CUNY as a whole, without disadvantaging the individual investigations. These and many other instances of antisemitic behavior on CUNY campuses, along with CUNY's failure to address and discipline discriminatory acts, have created a pervasively hostile environment for Jewish students.

For the foregoing reasons, we respectfully request that the Department open an investigation into the above-outlined series of incidents, including the discriminatory exclusion and harassment that takes place in the CUNY system, and the administration's failure to do anything concrete to address the issue (not to mention their various attempts to cover it up), in what appears to be a systemic and intentional refusal to confront antisemitism and protect the rights of Jewish students and faculty. CUNY has failed to redress blatant violations of the rights of the Jewish members of the CUNY community for quite some time, causing Jewish students and faculty to feel – at best – unwelcome. For years, it has refused to hold anyone accountable in any meaningful way. CUNY's actions and inactions took place in the face of rising antisemitism in the United States and on campuses in particular,¹³⁰ and despite earnest and persistent pressure by the affected community to stand up to the bigotry and discrimination and *do something about it*.

¹²⁸ See, e.g., Sekulow, *supra* note 5 (“The last effects [of an SJP rally at Hunter College] have been so bad that Jewish students are afraid to mention their religious and ethnic background on campus, and some have reported that they now refrain from wearing a Star of David in public.”); Danielle Ziri, *CUNY to review anti-Semitism complaints on NYC campuses* (Mar. 5, 2016, 2:47 PM), <https://www.jpost.com/diaspora/cuny-to-review-anti-semitism-complaints-on-nyc-campus-446939> (“[A]t John Jay College Jewish students have reported being afraid to come to school and some have transferred out. ‘SJP has created a hostile campus environment for many Jewish students, causing them to feel harassed, threatened, and even physically unsafe . . .,’” ZOA National President Morton Klein wrote in his letter to the CUNY Chancellor.”).

¹²⁹ See, e.g., Sekulow, *supra* note 5 (“The last effects [of an SJP rally at Hunter College] have been so bad that Jewish students are afraid to mention their religious and ethnic background on campus, and some have reported that they now refrain from wearing a Star of David in public.”).

¹³⁰ Press Release, ADL, *One-Third of Jewish Students Experienced Antisemitism on College Campuses in Last School Year, New Survey Finds* (Oct. 25, 2021), <https://www.adl.org/resources/press-release/one-third-jewish-students-experienced-antisemitism-college-campus-2021> (noting the results of a 2021 survey, which found that a significant amount of Jewish students face antisemitism on college campuses); Talia Kaplan, *Antisemitism on College Campuses on the Rise, Report Finds: ‘Each Act Has Gotten Bigger and Bolder’*, FOX NEWS (Sept. 9, 2021).

The clear message that CUNY is communicating is that the administration is deliberately indifferent¹³¹ to the concerns and wellbeing of its Jewish population. Affected community members have been physically excluded from some events, and indifference to their legitimate concerns and complaints has made them feel unwelcome at many more. Without prompt and appropriate action Jewish students will continue to be victimized by CUNY's implied consent for antisemitic discrimination and racism; will be unable to participate at additional campus functions; and will continue to be harassed and excluded. CUNY has admitted in a public hearing that they do not follow the standards in Title VI. We respectfully look forward to your office intervening and making sure that they either correct their ways or lose their funding.

Please advise us if you need further information.

Sincerely,



Mark Goldfeder*
Special Counsel



Jeff Ballabon**
Senior Counsel

*Admitted in New York & New Jersey

** Admitted in New York

7:25 AM), <https://www.foxnews.com/us/antisemitism-college-campuses-rising-students> ("The survey found that nearly half of current students said antisemitism is getting worse on their college campuses."); Masood Farivar, *Antisemitic Incidents Set All-Time High in US in 2021*, VOA NEWS (Apr. 26, 2022 12:09 PM), <https://www.voanews.com/a/antisemitic-incidents-set-all-time-high-in-us-in-2021-/6545852.html> ("Antisemitic incidents reached an all-time high in the United States in 2021, the Anti-Defamation League said in its annual assessment released on Tuesday.").

¹³¹ Davis ex rel. LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 650 (1999).



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May 6, 2024

Sent via email only to chancellor@cuny.edu; ogc@cuny.edu

Félix V. Matos Rodríguez
Chancellor
City University of New York
205 East 42nd Street
New York, New York 10017

Re: Case Number 02-22-2249 - City University of New York – Central Office

Dear Chancellor Matos Rodríguez:

On July 19, 2022, the U.S. Department of Education (the Department), Office for Civil Rights (OCR), received a complaint filed against the City University of New York – Central Office (CUNY). The complaint alleged that CUNY discriminated against students on the basis of their national origin (shared Jewish ancestry) by failing to respond to incidents of discrimination and harassment at various CUNY colleges and schools, including at CUNY – Hunter College, CUNY – Brooklyn College, CUNY – School of Law, CUNY – Baruch College, CUNY – Kingsborough Community College, and CUNY – John Jay College, and thereby creating a hostile environment throughout CUNY as a whole.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. §§ 2000d-2000d-7, and its implementing regulations at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color, and national origin (including shared ancestry) in programs and activities receiving federal financial assistance from the Department. As a recipient of federal financial assistance from the Department, CUNY must comply with Title VI and its implementing regulations.

OCR is opening for investigation the following issue: whether CUNY responded in a manner consistent with the requirements of Title VI to alleged harassment of CUNY students based on national origin (shared Jewish ancestry) across its colleges and schools since 2021-2022.

OCR is currently reviewing data that CUNY provided in OCR's open investigations of allegations filed against CUNY – Hunter College (Case Numbers 02-22-2034 and 02-24-2364); CUNY – Brooklyn College (Case Number 02-21-2082); CUNY – School of Law (Case Numbers 02-20-2335, 02-21-2010, 02-24-2377); CUNY – Queens College (Case Number 02-24-2365); and CUNY – Baruch College (Case Number 02-22-2094). Because of the overlap of these open investigations and the issue OCR is opening for investigation in this case, OCR is not requesting additional data at this time. OCR may request additional information in the future.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Please understand that opening these issues for investigation under Title VI does not mean that OCR has made a decision about the merits. During the investigation, OCR is neutral; OCR will collect and analyze the relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient as required by OCR's Case Processing Manual (CPM) (July 18, 2022). You may find additional information in OCR's Complaint Processing Procedures. Individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

OCR may close this case prior to making formal findings of compliance or non-compliance, provided that the circumstances or information gathered establishes an administrative or other basis for resolution in accordance with the CPM. For example, under Section 201(b) of OCR's CPM, if both parties are interested and OCR determines that the individual allegations are appropriate for mediation, the parties may voluntarily resolve these complaint allegations through mediation that OCR will facilitate. Note that in such a case, OCR does not monitor or enforce the agreement reached between the parties.

When appropriate, a complaint may be resolved before the conclusion of an investigation after the recipient expresses an interest to OCR to resolve the complaint. In such cases, OCR obtains a resolution agreement signed by the recipient. This agreement must be aligned with the complaint allegations or the information obtained during the investigation, and it must be consistent with applicable regulations.

Please be advised that CUNY must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against CUNY with OCR.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact William Poorten, Senior Attorney, at (646) 428-3829 or william.poorten@ed.gov; Charles Skriner, Compliance Team Attorney, at (646) 428-3890 or charles.skriner@ed.gov; or me, at (646) 428-3796 or jocelyn.panicali@ed.gov.

Sincerely,

(b)(6); (b)(7)(A); (b)(7)(C)

Jocelyn Panicali

Compliance Team Leader

cc: Ellen Jittrarachit, Esq. (via email only ellen.jittrarachit@cuny.edu)