

Via email

May 03, 2013

Laura Wankel
Vice President of Student Affairs
l.wankel@neu.edu

Ralph Martin
Senior Vice President and General Counsel
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Re: Concerns about disciplinary process against Students for Justice in Palestine

Dear Ms. Wankel and Mr. Martin,

We are writing to express concern about the disciplinary process that Northeastern University is conducting in relation to a walkout staged by the Students for Justice in Palestine (SJP) group in protest of a lecture by Israeli soldiers on campus on April 8, 2013. It is our understanding that a hearing was conducted on April 26, 2013, and the investigation's conclusions are pending. We would like to raise a few important issues for your consideration as you conclude this investigation.

The facts, as we understand them, are that the students planned a silent walkout of the April 8 event featuring Israeli soldiers to protest the Israeli army's brutal treatment of Palestinians, well documented by international human rights organizations. Campus officials warned students before the event not to engage in "verbal disruption" of the event and not to hold signs.

The students did not bring signs, instead taping messages to their shirts with the names of children killed by the Israeli army. The walkout did not interrupt any speaker or prevent anyone from speaking because it occurred during a brief pause between introductory remarks and the first presentation. The walkout was silent, with the exception of one speaker making a one sentence announcement to explain their protest. There was also a brief spontaneous chant as the students were walking out, the whole thing lasting less than a minute. The event continued as planned.

The next day, SJP students were notified that a lecture they had scheduled for that day was cancelled, citing a failure to organize in a timely way, despite SJP's adherence to event procedures and no previous notice of any deficiencies. The students canceled the event as instructed, and the invited presenter spoke at the Law School instead, which is under a separate administrative structure. The notification also cited the walkout they had engaged in the previous day and informed them that they were under investigation for violations of the demonstration policy, which could affect their status as a group.

SJP subsequently received notice of a hearing, and was told that only one of their members was allowed to attend, with a faculty advisor who was not allowed to speak. The notification demanded that SJP appear at a hearing on a date that conflicted with the final exam period. A representative of SJP attempted to reschedule the hearing, and was ultimately successful at pushing back the date, but only after overcoming considerable pressure from Northeastern officials to schedule the hearing for a date that would significantly interfere with the student's final exam schedule. SJP submitted a letter noting procedural issues with the hearing notice, including inadequate information about the charges, the source of complaints, etc., and expressing concern about Northeastern's discriminatory treatment of the group.

Three students attended the hearing on April 26th, with Stephanie Pierce, Assistant Director of Campus Activities. The students were questioned about the walk-out, and about the procedures they followed when organizing the SJP lecture which the University cancelled the day after the walkout. They were told that action may be taken against SJP.

Given these facts, we are writing to raise several issues. First, the investigation of SJP and the arbitrary cancellation of SJP's event restrict the free speech rights of these students. Northeastern policies exhibit its dedication to free speech and open dialogue. Northeastern's Student Handbook states:

"It is recognized that all members of an academic community...have a right to express their views publicly on any issue; however, the University insists that all such expressions be peaceful and orderly and be conducted in a manner consistent with the Code and University policies and in such a way that University business shall not be unduly disrupted..."

SJP's protest followed university personnel's directions, and was a peaceful and orderly walkout in protest of an important issue, despite a very brief verbal component. To threaten disciplinary action because of their peaceful protest is contrary to fundamental principles of free speech, and to an academic environment that encourages airing views on all subjects.

By threatening disciplinary action to punish political expression, Northeastern may also be liable under the Massachusetts Civil Rights Act ("the Act"), which prevents private parties

from interfering with secured rights through “threats, intimidation or coercion.”¹ The Massachusetts Supreme Court has made it clear that state action is not required for a cause of action under the Act.² The Act has been similarly applied to punitive sanctions that restricted expressive activity at Boston University, also a private university.³ By threatening students with discipline for peacefully engaging in expressive activities, the University is interfering or attempting to interfere with their rights by means of threats, intimidation or coercion.

Second, there appears to be an unfair and/or unequal application of University policies and procedures when it comes to SJP. In addition to potential procedural problems with the disciplinary actions, as noted by SJP, we also understand that there has been at least one much more serious disruption of a guest lecture that did not result in disciplinary action against the protestors. A lecture by Norman Finkelstein organized by SJP in 2010 was met with student protest involving verbal and physical interference that nearly shut down the event. The student protestors who were clearly identified with the pro-Israel student organization Huskies for Israel faced no consequence as far as SJP is aware, despite numerous complaints about their conduct. We are also aware that SJP’s activities have been intensely scrutinized in the past and sometimes cancelled due to alleged failures to follow procedures. SJP is not aware that other student groups have faced similarly hostile treatment for minor procedural mistakes.

A campus committed to open debate can maintain regulations that place reasonable restrictions on speech to maintain order and foster a learning environment, but only if that rule is applied equally to all campus groups. It violates bedrock principles of free speech for campus administrators to apply a viewpoint neutral rule in a way that discriminates against certain points of view, and not others. Northeastern would violate its commitment to free speech if it placed SJP under heightened scrutiny and interpreted applicable regulations more stringently than against other student groups, based on the content of SJP’s message in support for Palestinian human rights or critical of Israeli state policy.

Third, given the involvement of many Arab and Muslim students in SJP, the group is also under the impression that those students’ racial, ethnic and religious backgrounds may be contributing to this unequal treatment. If Northeastern, by intent or effect, is discriminating

¹ Mass. Gen. Laws ch.12, § 11I (2005)

² *Batchelder v. Allied Stores Corp.*, 393 Mass. 819, 473 N.E.2d 1128 (1985).

³ *Abramowitz v. Trustees of Boston University*, CIV No. 82680 (Mass. Superior Ct. Suffolk Division, Dec. 2, 1986), on file with authors (Boston University’s attempt to evict a student for hanging pro-divestment signs from dormitory window constituted “threats, intimidation or coercion” within the meaning of the Massachusetts Civil Rights Act, in violation of secured rights, and contrary to public policy of the Commonwealth).

against or creating an environment in which Palestinian, Arab or Muslim students are unable to benefit from university opportunities because of their race, national origin or ethnicity (actual or perceived), it may be subject to sanction.

Northeastern is subject to Title VI of the Civil Rights Act, which mandates that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d (“Title VI of the Civil Rights Act”). Northeastern has a legal obligation to prevent discrimination against students based on race, ethnicity, or national origin, including religious groups when such discrimination is based on their actual or perceived shared ethnic characteristics.

It is therefore incumbent on Northeastern to ensure that it is not preventing students from fully engaging in the life of the university by unfairly scrutinizing their activities or disciplining them. Northeastern should take reasonable measures to ensure that it is a welcoming space for students of all backgrounds, regardless of their political views.

Finally, Northeastern’s treatment of SJP is consistent with a trend of suppression of Palestinian rights advocacy on campuses nation-wide. There are innumerable examples of aggressive campaigns by outside individuals and groups that aim to punish Palestinian rights advocates by demanding that universities condemn and penalize students, faculty, university programs, and others for their views on Israel and Palestine. Defining anti-Semitism to include common criticisms of Israeli policies and nonviolent Palestinian rights advocacy are central to efforts to subject this speech to condemnation and suppression, as are attempts to falsely associate such advocacy with terrorism.

We understand that Northeastern has faced similar pressure from private off-campus groups that are opposed to SJP’s political positions on Israel/Palestine. Indeed, SJP and its faculty supporters received threatening messages as part of an ongoing campaign against them. While groups are free to express their opposition, Northeastern has an obligation to protect its students, and must stand by their right to organize and speak, rather than bow to outside pressure by punishing its own students for freely expressing their views on one of the most urgent moral and political issues of our time.

Given these concerns, we ask that you carefully consider these issues as you conclude the investigation into SJP’s walkout. We are monitoring carefully for the possibility of incomplete or unequal application of university rules to SJP, and are committed to ensuring that Northeastern is not discriminating against SJP members based on their race, ethnicity or religion, or on their political views.

Please do not hesitate to contact Liz Jackson, at Lizjackson@gmail.com or 617-947-4593 to further discuss this matter.

Sincerely,

Liz Jackson
Cooperating Counsel, Center for Constitutional Rights

Sarah Wunsch
Staff Attorney, ACLU Foundation of Massachusetts

Urszula Masny-Latos
Executive Director, National Lawyers Guild Massachusetts

cc: President Aoun, Office of the President, s.guszcza@neu.edu
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