



Via email

May 3rd, 2017

President Jane Close Conoley
Office of the President
California State University, Long Beach
Jane.Conoley@csulb.edu

Cc: Daily 49r Editor in Chief, eicd49er@gmail.com;
California Faculty Association CFA@calfac.org;
CFA President, Dr. Jennifer Eagan, Jennifer.Eagan@csueastbay.edu;
General Counsel Steven Raskovich, sraskovich@calstate.edu.

Re: Your obligation to protect open debate on Palestine/Israel and protect all communities at Cal State Long Beach

Dear President Conoley,

As a civil rights organization committed to racial justice, we write to raise serious concern about your public statement surrounding campus debates on Boycott Divestment and Sanction (BDS),¹ in which you blame students concerned with Israeli human rights abuses for causing campus antisemitism, without evidence. Your statement conflating criticism of Israeli policy with anti-Jewish hate undermines efforts to combat bigotry. Moreover, despite your professed concern about addressing hate, your office has been silent in response to an explicit death threat targeting the campus Muslim community.

I. Advocacy for Palestinian rights and criticism of Israel is not anti-Jewish.

Students and scholars at Cal State Long Beach (CSULB) criticize Israel because they oppose the nation-state's policies and practices, not because they are antisemitic. Definitions of antisemitism that treat criticism of Israeli policy as inherently antisemitic are inaccurate and harmful. The majority of Jews are not Israeli, and not all citizens of Israel are Jewish. Israel is a state; Zionism is a political ideology; Judaism and Jewish identity encompass a diversity of religious and secular expressions and a robust, varied set of traditions, cultures, and lived experiences. Most importantly, Zionism and the policies of the Israeli state are deeply contested issues globally, and at CSULB.

¹ President Jane Close Conoley's Letter to ASI On Boycotting, Divestments And Sanctions Against Israel, April 26, 2017, <http://web.csulb.edu/newsroom/president-jane-close-conoley-letter-to-asi-students-on-boycotting-divestments--and-sanctions/>.

Jewish students at CSULB, and across U.S. campuses, have widely diverse views towards Zionism and Israeli state policies.² They hold different opinions about BDS as a tactic to pressure Israel, and different opinions about whether Israel can ultimately be a democratic state that conditions basic rights on racial and religious identity. Some Jewish students take offense at vigorous criticism of Israel because they have a strong personal identification with the Israeli state. But that does not deem all Jewish students intolerant of another perspective. And the discomfort of some Jewish students cannot erase the rights of Palestinian students, along with Jews and others, to discuss justice, freedom, equality, and an end to the brutal military occupation for Palestinians. It is simply inaccurate to equate activism for Palestinian rights with anti-Jewish hate.

Your assertion that divestment increases anti-Jewish hate is unfounded and dangerous. You do not offer a single citation or other evidence to support this assertion, despite your claim to have engaged in a “careful study of the BDS movement.” What physical antisemitic attack on campus has ever been tied to BDS debates? What vandalism is attributed to BDS supporters? It is true that your campus has been targeted by white supremacist swastika posters during the same period that racial-justice activists raised the issue of divestment. But there is also a well-documented, nation-wide surge in white supremacist activity, with myriad and complex causes. To draw a causal link between BDS discussions and white supremacist attacks on your campus and other campuses – without any evidence except that they occurred during the same time period – is a logical fallacy that would earn a failing grade in any social science course.

You ignored ample evidence that Palestinian rights activism is principled social justice work, grounded in opposition to all forms of racism. The facts show that while antisemitic expressions in support of Palestinian rights occasionally occur, they are isolated incidents and Palestine activists are among the first to condemn them.³

Moreover, your unfounded assertion that divestment leads to anti-Jewish hate attacks lends credence to a political climate that is overtly hostile to Muslims, Arabs, and Palestinians. By blaming human rights activists for a surge in white supremacy, you increase unwarranted scrutiny into the civic engagement activities of Muslim and Arab students, as well as all students – including many Jewish students – who advocate for Palestinian rights. It is your statement, not the divestment debates, which embolden Islamophobia and antisemitism.

II. The false conflation is part of a concerted effort to suppress campus debate.

The narrative reflected in your statement, that advocacy for Palestinian rights is antisemitic and leads to violence, is a narrative driven by Israel advocacy organizations intent on

² The notion that Jewish students hold a monolithic view in support of Israeli policy is patently false. On the CSULB campus, Jewish students are playing lead organizing roles in the divestment initiative currently in front of Associated Students. See also, the existence of diverse Jewish students groups such as Jewish Voice for Peace (supports BDS, “opposes anti-Jewish, anti-Muslim, and anti-Arab bigotry and oppression ... seeks an end to the Israeli occupation ...” <https://jewishvoiceforpeace.org/mission/>), J Street (“the political home for pro-Israel, pro-peace Americans who want Israel to be secure, democratic and the national home of the Jewish people.” <http://jstreet.org/about-us/mission-principles/>), Open Hillel (“promotes pluralism and open discourse on Israel-Palestine in Jewish communities on campus and beyond” <http://www.openhillel.org/about/>), and Students for Israel, not to mention the active participation of Jewish students in Students for Justice in Palestine.

³ In fact, in previous instances, where swastika graffiti has occurred during the same time period as BDS debates, and a perpetrator has been identified, the perpetrator is unrelated to campus Palestine activists. To our knowledge, and we follow these controversies closely, no perpetrator has ever been identified as engaged in BDS activism.

defeating the growing campus movement for Palestinian rights.⁴ Palestine Legal has documented a concerted suppression campaign to restrict scholarship and other campus speech activity critical of Israel.⁵ Over three years, from January 1, 2014 through December 31, 2016, we responded to a total of 650 incidents of suppression targeting speech supportive of Palestinian rights, and an additional 200 requests for legal assistance in anticipation of such incidents. The incidents included baseless lawsuits, administrative disciplinary actions, outright censorship, and false accusations of terrorism and antisemitism. These heavy-handed tactics and punitive measures intimidate and chill those who wish to express criticism of Israeli policies, and thereby impede honest and unfettered discussion on the question of Palestinian rights.

III. Your statement invites the university to violate the First Amendment.

By falsely conflating Palestinian rights activism with anti-Jewish hate, you are encouraging university officials to restrict protected speech under the mistaken belief that it is “bad speech” to be suppressed. CSULB will likely be called upon to restrict funding allocations, oppose programming that includes advocacy supportive of Palestinian rights, or nullify student support for divestment, citing your statement. If CSULB responds to these calls by engaging in viewpoint-based discrimination, it will violate the First Amendment, California law, and CSU policy.⁶ Unlawful discrimination against advocates for Palestinian rights has occurred on other campuses in California and it is your obligation to avoid inviting similar First Amendment violations.⁷

IV. Your statement chills speech and abandons your responsibility to nurture unfettered inquiry.

Intervening in student debates to suppress even the most routine criticism of a nation-state is particularly inappropriate for an educational leader because of the essential role that academic freedom and open debate play in the university setting.⁸ Your letter eroded CSULB’s bedrock values of free speech by condemning one side of an important debate with unfounded

⁴ Teresa Watanabe, “How a casino tycoon is trying to combat an exploding pro-Palestinian movement on campuses,” *LA Times*, August 21, 2016, <http://www.latimes.com/local/la-me-uc-israel-palestinian-adv-snap-story.html>.

⁵ Palestine Legal, “2016 Year-in-Review: Suppression of Palestine Advocacy,” January 26, 2017, <http://palestinelegal.org/news/2017/1/26/report>.

⁶ *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the nation’s intellectual life, its college and university campuses.”). See also *Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217, 233 (2000) (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”).

⁷ In 2016, for example, University of California (UC) Los Angeles found that the then-president of the Graduate Student Association violated university policies prohibiting discrimination on the basis of political viewpoint when he restricted funding for student groups with a connection to “Divest from Israel or any equivalent movement/organization.” See Palestine Legal, “Setting the Facts Straight re UCLA GSA President,” Sept. 7, 2016, <http://palestinelegal.org/news/2016/9/7/setting-the-facts-straight-re-ucla-gsa-president>. UC Berkeley blatantly violated free speech and academic freedom protections when it suspended a course on Palestine in September, 2016, in response to complaints from Israel advocacy organizations. The university reinstated the course after an outcry from legal and campus organizations. See ACLU Northern California, “UC Berkeley Just Reinstated a Course on Palestine. It Should Have Protected Free Speech From the Start,” September 20, 2016, <https://www.aclunc.org/blog/uc-berkeley-just-reinstated-course-palestine-it-should-have-protected-free-speech-start>.

⁸ The United States Supreme Court has recognized the importance of this role, stating that “[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.” *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

accusations. This causes a chilling effect because students and scholars are likely to act in ways to avoid the specter of being officially labeled as antisemitic or associated with others' antisemitic acts, which they have nothing to do with.

The vagueness of your statement exacerbates the chilling effect. How exactly are advocates for Palesitnian human rights responsible for causing white supremacist hate? Is there a way to "safely" raise human rights criticisms? If students and scholars wish to discuss Israeli human rights violations, how many other countries must they also criticize first, and what forms of advocacy are acceptable, if not BDS? Given the difficulty in answering these questions, students and scholars at CSULB will steer clear of the issue rather than risk the stain of antisemitism accusations. This hurts the education of those individuals, and diminishes the learning environment for the whole university.

V. Meanwhile, you have taken no public action in response to a specific death threat targeting the CSULB Muslim community.

Your extended silence regarding an anti-Muslim death threat on campus in the same month you maligned Palesitnian human rights activists as antisemites raises grave concerns. As you are aware, during the week of Monday April 10, a vandal etched a message into the restroom wall in Peterson Hall 2, threatening, "We will kill all Muslims on Friday." This is especially threatening given that CSULB's Muslim community prays together in a publicly accessible and publicly available location on Fridays. The university's lack of response is alarming.

CSULB failed to even inform the campus Muslim community about this threat, which the Muslim Students Association (MSA) learned of from an article in the campus newspaper published over a week later.⁹

On Monday April 24, you sent an email to the campus community expressing concern that, "Over the past few weeks, our campus has been violated by hateful symbols of white supremacy that particularly target Jews." You made no mention of vandalism targeting Muslims. This omission communicated to the Muslim community that a threat to "kill all Muslims on Friday" does not equally erode values of inclusion. Worse, by omitting mention of the anti-Muslim graffiti, you suggested that perhaps the university may not vigorously prosecute such instances as they would vandalism against other groups.

Representatives of MSA who came to your office requesting to urgently meet with you were denied.¹⁰ When MSA representatives approached Dean of Students Jeff Klaus to ask for an urgent meeting, they were told to bring their concerns to the Office of Equity and Diversity. When they persisted, Dean Klaus agreed to meet on May 8, two weeks later.¹¹

On April 29, you privately assured MSA students via email that the university police chief had fully investigated the vandalism and determined it was not a credible threat.¹² But to CSULB's Muslim community members, who pray together in a public place on Fridays and who are already vulnerable in a national climate of violence and discrimination, the vandalism was indeed an alienating, frightening and a very specific safety threat.

⁹ Adam Thomas, "Crime Blotter – Mirrors smashed, muslims threatened in bathrooms," *Daily 49er*, April 18, 2017, <http://www.daily49er.com/news/2017/04/18/crime-blotter-mirrors-smashed-muslims-threatened-in-bathrooms/>.

¹⁰ Interview with students, name redacted, notes on file with Palestine Legal.

¹¹ Id.

¹² Email from President Conoley to [name redacted], "threats", April 29, 2017, on file with Palestine Legal.

It is unacceptable that your administration has refused to meet with concerned students, you have made no public statements to reassure the Muslim community, and you made numerous public statements that explicitly excluded the Muslim community. CSULB has an obligation, under Title VI of the Civil Rights Act of 1964, to protect students from harassment, intimidation, and discrimination based on their race, color, or national origin. Title VI prohibits discrimination based on a group's actual or perceived shared ancestry or ethnic characteristics, which includes Muslim students. Additionally, the U.S. Department of Education (DOE) issued a "Dear Colleague" guidance letter on December 31, 2015 urging institutions to recognize the particular vulnerabilities of Arab and Muslim students amid rising anti-Muslim sentiment at American universities.¹³ The DOE noted:

Such inappropriate conduct in schools can take many forms, from abusive name-calling to defamatory graffiti to physical violence directed at a student because of a student's actual or perceived race or ancestry, the country the student's family comes from, or the student's religion or cultural traditions. If ignored, this kind of conduct can jeopardize students' ability to learn, undermine their physical and emotional well-being, provoke retaliatory acts, and exacerbate community conflicts.

VI. Conclusion.

We embrace the importance of addressing allegations of antisemitism on campus. Like you, we are alarmed by the growing power of white nationalists, and increased incidents of swastika graffiti, bomb threats to Jewish Community Centers, and desecration of Jewish cemeteries. But when hate incidents are on the rise, including those motivated by antisemitism and Islamophobia, it is especially important to be clear about the differences between anti-Jewish hatred and criticism of Israel.

Instead of offering constructive solutions, your statement condemning BDS compounds the problem while trampling on free speech. We urge you to retract your letter condemning BDS, and any other attempt to chill campus debate by conflating antisemitism with criticism of Israel. We expect you to act urgently to reassure the Muslim community on campus that they belong at CSULB, and that you will address *all* forms of racism and white supremacy with the same vigor – whether it be anti-black, anti-immigrant, or anti-Jewish, or anti-Muslim.

Sincerely,



Liz Jackson
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Center for Constitutional Rights, Cooperating Counsel

¹³ See, Emma Brown, *Washington Post*, "Amid growing anti-Muslim sentiment, Education Department urges schools to prevent discrimination," January 4, 2016, <https://www.washingtonpost.com/news/education/wp/2016/01/04/amid-growing-anti-muslim-sentiment-education-department-urges-schools-to-prevent-discrimination/>.