



April 13, 2018

Brian Breslin,
Chair of the Board of Trustees
Michigan State University
426 Auditorium Road
Hannah Administration Building, Room 450
East Lansing MI 48824-1046

Re: Free Expression and Responses to Targeted Harassment of Students and Faculty

Dear Chairperson Breslin,

We are a coalition of social justice and civil rights organizations working to support students' rights and academic freedom. We write to make you aware of widespread efforts to intimidate students and faculty on your campus who are vocal supporters of Palestinian human rights, who are critical of Israeli policy, or who research and teach on the region. We request your serious attention to this issue.

Students and faculty who support Palestinian rights are systematically intimidated, harassed, falsely accused, and targeted with frivolous legal complaints.¹ As students and faculty across the U.S. increasingly engage in critical discussion about Israeli policies, the Israeli government and

¹ Palestine Legal, "Year-In-Review: Palestine Legal Responded to 308 Suppression Incidents in 2017, Nearly 1000 in Last 4 Years," January 30, 2018, <https://palestinelegal.org/news/2018/1/30/report?rq=2017>, and attached.

its proxy organizations in the U.S. are investing heavily in punitive measures to intimidate and chill debate.²

The civil rights organization Palestine Legal responded to 308 incidents of suppression of U.S.-based Palestine advocacy in 2017, and nearly 1000 incidents from January 1, 2014 through December 31, 2017.³ Eighty-four percent of those incidents targeted students and scholars at 137 campuses across the country. Universities are central to an ongoing suppression campaign, as Israeli advocacy organizations frequently pressure administrators to censor speech supportive of Palestinian rights.

Attempts to suppress campus speech rely heavily on anti-Muslim stereotypes. The attacks are laden with baseless accusations of support for terrorism, and false accusations that those advocating for Palestinian rights are motivated by antisemitism.

Even if support for Palestinian human rights is a position disfavored by members of your administration, you have a legal and an educational obligation to protect these views from suppression. Allowing outside actors to chill campus speech undermines the very purpose of our universities: to encourage critical thought, free from the constraints of political orthodoxies. You have an essential role to prevent the erosion of free speech in our universities.

We therefore ask you, as administrators, to stand resolutely against efforts to attack human rights defenders on your campus by taking the following actions:

1. Issue a public condemnation of Canary Mission, the David Horowitz Freedom Center, and other groups that use defamatory intimidation and blacklisting tactics, including those that chill advocacy for Palestinian rights on campus;
2. Publicly reaffirm students' and professors' rights to advocate for Palestinian freedom;
3. Clearly distinguish between criticism of Israel and antisemitism.⁴ Refrain from accepting trainings on antisemitism from groups who have a record of stifling advocacy for Palestinian rights;
4. Meet with targeted students and faculty directly to hear and address their concerns about speech suppression;

² See, Chaim Levinson, "Israel Secretly Using U.S. Law Firm to Fight BDS Activists in Europe, North American," *Haaretz*, October 26, 2017, <https://www.haaretz.com/israel-news/reveled-israel-s-top-secret-global-legal-operation-to-fight-bds-1.5460218>; 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>; Itamar Eichner, "Government creates joint program for rapid BDS response," *Ynet News*, December 20, 2017, <https://www.ynetnews.com/articles/0,7340,L-5063599,00.html>; International Jewish Anti-Zionist Network, *The Business of Backlash: the Attack on the Palestinian Movement*, March 2015, <http://www.ijan.org/wp-content/uploads/2015/04/IJAN-Business-of-Backlash-full-report-web.pdf>;

³ Palestine Legal, <https://palestinelegal.org/news/2018/1/30/report?rq=2017>.

⁴ See, Jewish Voice for Peace, "Fighting Antisemitism," <https://jewishvoiceforpeace.org/fighting-antisemitism/>.

5. Offer tangible support to targeted students and faculty, including: safety measures, legal resources to support defamation, privacy, intellectual property and other potential claims, mental health resources, official written repudiations of attacks for employers and academic files, online reputation management, and rapid response resources;
6. Respond forcefully and equally to all campus incidents of attack and intimidation targeting community members for their views or identities, including those that target advocates for Palestinian rights.

Egregious Public Harassment Threatens Campus Community Members

The attack on advocates for Palestinian rights is widespread and concerted.⁵

We request that you carefully review the attached 2017 report, which includes detailed accounts of meritless lawsuits and legal threats, rampant false accusations of antisemitism and terrorism, campaigns to censor authors and university speakers, employees fired and academic positions eliminated, attempts to censor support for boycotts for Palestinian rights, and violence and threats of violence – the vast majority targeting teachers and students.

In particular, we would like to bring your attention to two egregious harassment campaigns by two groups, Canary Mission and the David Horowitz Freedom Center.

Canary Mission

Canary Mission is a shadowy blacklisting website which maintains an online catalogue with detailed **profiles of over 1900** individuals, including their employment history and links to their social media accounts. The site formed in the summer of 2015 to “document the people and groups that are promoting hatred of the USA, Israel and Jews on college campuses in North America.” Over one thousand university faculty have condemned the site as a defamatory intimidation tactic to undermine advocacy for Palestinian rights.⁶

Canary Mission defames students and faculty members as terrorist supporters and antisemites, and exposes them to harassment and violent threats by Israel supporters in online forums like Twitter and Facebook. Canary Mission contacts employers, schools, and law enforcement with false and unsupported claims that Palestine rights activists support terrorism.⁷

⁵ Palestine Legal and the Center for Constitutional Rights, *The Palestine Exception to Free Speech: A Movement Under Attack In the U.S.*, September, 2015, <https://palestinelegal.org/the-palestine-exception>. Palestine Legal issued yearly reports in 2016 (Palestine Legal, “Year-In-Review: Palestine Legal Responded to 258 Incidents in 2016,” January 2017, <https://palestinelegal.org/2016-report>) and 2017 (attached, and available at <https://palestinelegal.org/news/2018/1/30/report?rq=2017>). Jewish Voice for Peace has also documented the assault on advocates for Palestinian rights, especially the effects on growing communities of Jewish students and faculty who are critical of Israel and support Palestinian rights. (Jewish Voice for Peace, *Stifling Dissent*, Fall 2015, <https://jewishvoiceforpeace.org/stifling-dissent/>.)

⁶ Josh Nathan-Kazis, “1000 Professors Condemn Blacklisting of Pro-Palestinian Activists,” September 26, 2017, *Forward*, <https://forward.com/news/350911/1-000-professors-condemn-blacklisting-of-pro-palestinian-activists/>.

⁷ Id.

Canary Mission overwhelmingly targets Palestinian, Arab, Muslim and other students and faculty of color for harassment.⁸ Blacklisted individuals have been questioned by employers and graduate schools, interrogated by law enforcement agents, put on leave, denied bank accounts, and received death threats as a result of Canary Mission.⁹ Palestinian students, when returning home, have been denied entry at Israeli-controlled entry points into Israel/Palestine. This leaves many members of these already vulnerable communities hesitant to even attend a meeting, make a public comment, or teach a course in support of Palestinian rights, for fear that their employment, immigration status, and even physical safety are endangered.

The Israel on Campus Coalition (ICC), which coordinates anti-Palestinian advocacy groups,¹⁰ recently praised Canary Mission for creating a “strong deterrent” against activism for Palestinian rights.¹¹ The ICC noted that “fearing the repercussions of public exposure, some students withdrew their support for campus divestment, while others severed their ties to anti-Israel causes.”¹²

David Horowitz Freedom Center Posters

The David Horowitz Freedom Center has brought its defamatory accusations against students and faculty to the physical grounds of the campus. A far-right, off-campus organization whose founder, David Horowitz, is identified as a “driving force of the anti-Muslim, anti-immigrant and anti-black movements” in the U.S. by the Southern Poverty Law Center,¹³ the Horowitz Freedom Center has plastered campuses across the country on multiple instances in 2015, 2016, 2017¹⁴ and most recently in March, 2018, with posters that falsely accuse students and faculty by name as “terrorist supporters,” “Islamic fundamentalists” and “Jew haters.” Some posters feature caricatures of students and faculty’s faces, appearing next to the defamatory labels.

The Horowitz posters are sourced directly from Canary Mission, and overwhelmingly target Palestinian, Arab, Muslim and other students and faculty of color.¹⁵ They also target administrators who have defended campus members against the intimidation strategy.¹⁶ The

⁸ Approximately 85% of Canary Mission’s targets are people of color, or have identifiable Arab or Muslim names.

⁹ Interviews conducted by Palestine Legal with dozens of Canary Mission targets.

¹⁰ The *Forward*, a Jewish newspaper, describes the Israel On Campus Coalition as a group which “sits at the center of the organized Jewish community’s pro-Israel apparatus. Its board includes leaders of Hillel International and top Jewish foundations.” Josh Nathan-Kazis, “Shadowy Blacklist Of Student Activists Wins Endorsement Of Mainstream Pro-Israel Group,” *The Forward*, October 3, 2017, <https://forward.com/news/national/383938/shadowy-blacklist-of-student-activists-wins-endorsement-of-mainstream-pro-i/>.

¹¹ *Id.*

¹² Israel on Campus Coalition, “2016-2017 Year End Report,” <https://israelcc.org/wp-content/uploads/2017/09/2016-2017-Year-End-Report.pdf>.

¹³ Southern Poverty Law Center, “David Horowitz,” <https://www.splcenter.org/fighting-hate/extremist-files/individual/david-horowitz>.

¹⁴ Aviva Stahl, “Poster Campaign Calls Brooklyn College Students ‘Terrorist Supporters’,” *Village Voice*, October 3, 2017, <https://www.villagevoice.com/2017/10/03/david-horowitz-is-putting-up-posters-calling-brooklyn-college-students-terrorist-supporters/>.

¹⁵ *Id.*

¹⁶ Rupan Bharanidaran and April Hoang, “Posters targeting SJP, Jerry Kang resurface on campus,” October 6, 2016, *Daily Bruin*, <http://dailybruin.com/2016/10/06/posters-targeting-sjp-jerry-kang-resurface-on-campus/>.

poster campaign has drawn sharp criticism in the LA Times, The Guardian and NPR.¹⁷ The UCLA administration condemned the posters as "thuggish intimidation" and rebuked the "tactic of guilt by association, of using blacklists, of ethnic slander and sensationalized images engineered to trigger racially tinged fear."¹⁸

Anti-Civil Rights Policies of the Trump Administration Make Students of Color Even More Vulnerable to Suppression Campaigns

Under the Trump administration, censorship campaigns are even more chilling because their drivers share ideological affinities and personal relationships with administration officials.¹⁹

Trump's nominee to lead the U.S. Department of Education Office for Civil Rights (OCR), Kenneth Marcus, is the leading architect of a legal strategy to suppress speech critical of Israel on campus.²⁰ He has a demonstrated record of using frivolous legal claims to pressure universities to punish speech activity supportive of Palestinian rights. He has campaigned for a discredited redefinition of antisemitism that classifies criticism of Israeli policy as antisemitic, and therefore worthy of censorship. He also has a history of attempting to dismantle policies aimed at remedying racial discrimination and protecting rights of LGBT persons.²¹

Students and faculty of color are especially vulnerable to suppression campaigns because openly racist rhetoric, hate crimes and other attacks on communities of color are on the rise since the 2016 election.²² The administration has implemented a policy agenda targeting Muslims, immigrants, communities of color, and dissenting views. In this climate of bigotry, the attacks on Palestine advocates on your campus are even more dangerous.

¹⁷ Teresa Watanabe, "How a casino tycoon is trying to combat an exploding pro-Palestinian movement on campuses," Los Angeles Times, August 21, 2016, <http://www.latimes.com/local/la-me-uc-israel-palestinian-adv-snap-story.html>; Sam Levin, "GOP mega-donor funds group calling pro-Palestine US students 'Jew haters'", *The Guardian*, August 24, 2016, <https://www.theguardian.com/us-news/2016/aug/22/sheldon-adelson-palestine-jew-haters-colleges-campuses>; Madeline Brand, "Israeli-Palestinian Conflict on California College Campuses," *KCRW National Public Radio*, August 31, 2016, <http://www.kcrw.com/news-culture/shows/press-play-with-madeleine-brand/trump2019s-whirlwind-day-with-mexico2019s-pena-nieto-arizona2019s-joe-arpao>.

¹⁸ Jerry Kang, UCLA Vice Chancellor for Equity, Diversity and Inclusion, "Dialogue Over Demagoguery," April 19, 2016, <https://equity.ucla.edu/crosscheck/dialogue-over-demagoguery/>.

¹⁹ David Horowitz is a close associate of senior Trump adviser Stephen Miller, who brought Horowitz to speak at his high school and at Duke University, where he studied as an undergraduate. (See, William D. Cohan, "How Stephen Miller Rode White Rage From Duke's Campus to Trump's West Wing," *Vanity Fair*, Summer 2017, <https://www.vanityfair.com/news/2017/05/stephen-miller-duke-donald-trump>.) Attorney General Jeff Sessions has recently described Horowitz as "a brilliant individual" and "a man I admire...I don't believe David Horowitz is a racist or a person that would treat anyone improperly." (See, Sarah Lazare, "Jeff Sessions Defends Anti-Muslim Extremist David Horowitz, Calling Him 'Brilliant'," *Alternet*, January 11, 2017, <https://www.alternet.org/grayzone-project/jeff-sessions-defends-anti-muslim-extremist-david-horowitz-calling-him-brilliant>.)

²⁰ See, Palestine Legal, "Kenneth Marcus' Anti-Free Speech, Anti-Civil Rights Record," November 28, 2017, <https://palestinelegal.org/news/2017/11/29/kenneth-marcus?rq=marcus>.

²¹ Id.

²² Dan Bauman, "After 2016 Election, Campus Hate Crimes Seemed to Jump. Here's What the Data Tell Us," *Chronicle of Higher Education*, February 16, 2018, <https://www.chronicle.com/article/After-2016-Election-Campus/242577>; "CAIR: Hate crimes against Muslims spike after Trump win," *Al Jazeera*, July 17, 2017, <http://www.aljazeera.com/news/2017/07/cair-hate-crimes-muslims-spike-trump-win-170718034249621.html>; Southern Poverty Law Center, "Post-Election Bias Incidents Up to 1,372," February 10, 2017, <https://www.splcenter.org/hatewatch/2017/02/10/post-election-bias-incidents-1372-new-collaboration-propublica>.

The climate of bigotry is further compounded by growing attacks on academic freedom. Since Trump's election, we have seen far-right groups like Turning Point USA copy the tactics of Canary Mission to compile blacklists of faculty who support a range of progressive issues.²³

Protecting Dissent Is A Legal Imperative

Exploiting national conversations about free speech on campuses, Israel advocacy groups have lobbied campus governing boards and administrators to portray advocates for Palestinian rights as threats to free speech because of their impassioned and vocal advocacy.²⁴ The narrative that student protesters are the greatest threat to campus free speech is also propounded by far-right groups and government officials who promote racist ideologues speaking on campuses.

This narrative is factually and legally erroneous. The attached report documents how advocates for Palestinian rights bear the brunt of speech suppression. As a legal matter, the First Amendment and attendant free speech principles are intended to protect individuals from government and institutional censorship of political expression. Campus protests are at times large and loud. At times, such protests interrupt other speakers. But loud protesters do not have institutional power to censor others. And speech does not have to be polite to be protected. University rules designed to limit interruptions or to ensure safety must be applied evenly regardless of the viewpoint expressed, and they may not curb basic free expression in the process.

The Supreme Court has emphasized, “[A] function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.”²⁵ The Supreme Court has long held that speech on public issues, like Palestinian rights,

²³ Christopher Mele, "Professor Watchlist Is Seen as Threat to Academic Freedom," *The New York Times*, November 28, 2016, <https://www.nytimes.com/2016/11/28/us/professor-watchlist-is-seen-as-threat-to-academic-freedom.html>.

²⁴ See, e.g., American Council of Trustees and Alumni, "Campus Free Speech, Academic Freedom, and the Problem of the BDS Movement," March, 2017, <https://www.goacta.org/images/download/Campus-Free-Speech.pdf>. This report paints boycott, divestment and sanctions (BDS) campaigns for Palestinian freedom as "one of the greatest threats to academic freedom in the United States today." It relies not only on false characterizations of BDS, but also on the same false accusations of associations with US-designated terrorist groups that David Horowitz, Canary Mission and other extreme Islamophobes rely on to smear Palestine advocates. Moreover, the report turns academic freedom and free speech principles – which are intended to prevent institutional interference in free expression – on their head, claiming that students who protest Israeli human rights violations threaten free speech, and urging "universities to apply heightened levels of oversight and monitoring of the activities of such organizations." The report also promotes a widely criticized and discredited redefinition of antisemitism, advanced by Israel advocacy groups, that would define most any criticism of Israel as antisemitic, and refers approvingly to legislation that punishes boycott supporters, and that would defund universities that "participate" in boycotts of Israel. The first such legislation to be reviewed by a court was preliminarily enjoined because it violates the First Amendment. (See, ACLU, "In first, judge blocks Kansas law aimed at boycotts of Israel," January 30, 2018, <https://www.aclu.org/news/first-judge-blocks-kansas-law-aimed-boycotts-israel>.) The American Council of Trustees report is masked as an effort to protect academic freedom, but the report in fact promotes an anti-free speech and anti-dissent agenda that encourages the censorship of students and faculty who advocate for Palestinian rights.

²⁵ *Terminiello v. Chicago*, 337 U.S. 1 (1949).

(and including boycotts to effect social, political and economic change) “occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”²⁶

To portray loud protests and social justice boycotts – especially when promoted by students and professors who lack institutional and state power – as a threat to free speech undermines exactly what the principle of free speech is designed to protect: challenges to the status quo, political orthodoxies and people in power. It is fully within the free speech rights of campus community members to vociferously protest events that they find hateful and to advocate for boycotts against oppression.

Whether you are a private university committed to respect free expression on campus, or a public university bound by the First Amendment, you must avoid one-sided scrutiny, disparate application of campus rules and institutional censorship of speech related to Palestinian rights. Such anti-democratic actions threaten to shut down robust debate on one of the most urgent political issues of our time, and undermine the pivotal role universities play in our society.²⁷

The University Must Forcefully Stand Up for Its Students and Faculty Under Attack

While some universities have expressed concern that forceful responses to harassment will give more attention to extremists like Horowitz, in our experience, universities’ silence on these matters further victimizes students and professors by failing to discredit false accusations. Targets of harassment need credible sources benefiting from optimal search engine results to counter defamatory statements that spread quickly over the internet and can destroy reputations and ruin livelihoods.²⁸ Students and professors frequently report to Palestine Legal that they stop engaging in public advocacy and academic pursuits in response to harassment, but that even curbing their speech does not ameliorate the reputational harm of defamatory statements that last on the internet.

The American Association of University Professors (AAUP) has recently emphasized that in this climate inimical to free speech and academic freedom, it becomes more important than ever for university administrators to take action to protect their community against efforts to undermine free expression. We join the recommendations published by the AAUP in urging universities to speak out clearly and forcefully to defend academic freedom and to condemn targeted harassment and intimidation.²⁹

²⁶ *NAACP v. Claiborne Hardware Co.*, 458 U. S. 886 (1982); *Connick v. Myers*, 461 U.S. 138 (1983).

²⁷ *Keyishian v. Board of Regents*, 385 U.S. 589 (1967) (Universities are “peculiarly the ‘marketplace of ideas,’” which must encourage critical thought and questioning of political orthodoxy, and are charged with producing future leaders acculturated in the norms of a pluralistic, democratic country.)

²⁸ For example, UCLA was silent in response to smear attacks against a professor who included course material related to boycotts for Palestinian rights. As a result of the smear campaign, the professor received death threat notes on his car and at his house, lost friends and colleagues, as well as months of time responding to false accusations. The professor, who had worked as a consultant with the entertainment industry, told Palestine Legal that he had failed to secure any consulting contracts since the smear campaign began. (See Palestine Exception to Free Speech, “University of California, Los Angeles AMCHA complaint triggers improper investigation of professor,” <https://palestinelegal.org/the-palestine-exception-appendix>.)

²⁹ American Association of University Professors, “Targeted Online Harassment of Faculty,” January 31, 2017, <https://www.aaup.org/news/targeted-online-harassment-faculty#.Wnj26YJG1mB>.

For examples of forceful action, we urge you to consult:

- A statement by the University of California, Los Angeles, Vice Chancellor for Equity, Diversity and Inclusion, Jerry Kang, which condemned the Horowitz posters on that campus and warned that the university would “***deploy all lawful resources to counter any harassment or intimidation***”³⁰ (emphasis in original). The statement also noted that Students for Justice in Palestine and the Muslim Students Association are student groups “in good standing,” with “equal rights and claims to engage and participate in campus life. Indeed this is core to the diversity we celebrate.”
- A statement by the President of Brooklyn College who wrote, “I unequivocally condemn the hateful content of these [Horowitz] posters. ... In particular, they targeted individual [Students for Justice in Palestine] leaders with the aim of bullying them and making them vulnerable to additional harassment or worse,” and noting that the Southern Poverty Law Center has documented Horowitz’s record “as an exporter of misinformation.”³¹
- A statement signed by over 1000 university faculty condemning Canary Mission, stating, “As faculty who serve, have served, or are likely to serve on an admissions committee at graduate and undergraduate university programs across the country, we unequivocally assert that the Canary Mission website should not be trusted as a resource to evaluate students’ qualifications for admission.”³²

In this turbulent time of resurgent racism, xenophobia, Islamophobia, antisemitism and militant white supremacist mobilization, it is essential that universities lead the way to protect free expression and be mindful of the most vulnerable to speech suppression.

We request that you do your utmost to nurture a climate of free and robust inquiry on your campus by following the recommendations listed at the beginning of this letter.

We are available as a resource. If you wish to contact our coalition, please be in touch with Liz Jackson, staff attorney at Palestine Legal and cooperating counsel with the Center for Constitutional Rights, at 510-206-6800, ljackson@palestinelegal.org.

Respectfully,



Liz Jackson

³⁰ Kang, “Dialogue Over Demagoguery,” <https://equity.ucla.edu/crosscheck/dialogue-over-demagoguery/>. See also, statement by the University of Chicago considering courses of action after students were repeatedly targeted by Horowitz posters on campus naming them individually, <https://www.chicagomaroon.com/article/2017/8/13/university-considered-courses-action-online-watch/>.

³¹ Brooklyn College Presidential Statements, “We Stand Against Hate,” November 1, 2016, <http://www.brooklyn.cuny.edu/web/about/administration/president/statements/2016/wsah.php>.

³² “University Faculty Condemn Canary Mission Blacklist,” <http://againstcanarymission.com>.

Staff Attorney, Palestine Legal and Cooperating Counsel, Center for Constitutional Rights



Tallie Ben Daniel
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On behalf of:

American-Arab Anti-Discrimination Committee
American Friends Service Committee
American Muslims for Palestine
Asian Americans Advancing Justice - Asian Law Caucus
Center for Constitutional Rights
Council on American-Islamic Relations
Defending Rights & Dissent
Jewish Voice for Peace
National Lawyers Guild
National Students for Justice Palestine
Palestine Legal
Project South
US Campaign for Academic and Cultural Boycott of Israel
US Campaign for Palestinian Rights