



Susie Brubaker-Cole  
Vice Provost for Student Affairs  
Tresidder Memorial Union  
459 Lagunita Drive, Ste. 6  
Stanford, CA 94305-2072

*Via email*

July 31, 2018

**Re: Stanford Cannot and Should Not Punish Hamzeh Daoud**

Dear Vice Provost Brubaker-Cole,

I write on behalf of Hamzeh Daoud—a Palestinian Muslim born in Jordan to a family of refugees, a rising junior at Stanford, a member of Students for Justice in Palestine (SJP), and an incoming resident assistant (RA)—to urge you to resist demands that he be disciplined or terminated from his RA position because of a Facebook post critical of Israeli policy. Punishing Daoud for off-campus speech made during summer vacation would not only be unnecessary and harmful to the Stanford community, it would also be a violation of California law.

**I. Factual Background**

Based on a review of the record and conversations with Daoud, the following is my understanding of what has transpired over the past two weeks. On July 19, 2018, the Israeli legislature passed a new “basic law” privileging Jewish citizens over its indigenous Palestinian minority. The law declares that only Jewish people have the right to self-determination, revokes Arabic as an official language, and directs the government to promote Jewish settlement.<sup>1</sup> The law directly impacts Daoud’s relatives, Palestinians who live in Israel, by increasing segregation and making them “permanent foreigners.”<sup>2</sup> The day after the law was passed, at 7:40 p.m. local time,<sup>3</sup> Daoud shared an article about the law along with a caption that said:

im gonna physically fight zionists on campus next year if someone comes at me with their “israel is a democracy” bullshit. : ) and after i abolish your ass i'll go ahead and work every day for the rest of my life to abolish your petty ass ethnosupremacist settler-colonial state.

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<sup>1</sup> See Jonathan Lis and Noa Landau, Israel Passes Controversial Jewish Nation-state Bill After Stormy Debate, Haaretz, July 19, 2018, <https://www.haaretz.com/israel-news/israel-passes-controversial-nation-state-bill-1.6291048>.

<sup>2</sup> See Ali Younes, Critics call Israel's nation-state law 'provocative and racist', Al Jazeera, July 19, 2018, <https://www.aljazeera.com/news/2018/07/critics-call-israel-nation-state-law-provocative-racist-180719165054037.html>.

<sup>3</sup> This was 10:40 a.m. Pacific time on July 20.

Daoud posted the statement from Geneva, Switzerland. After spending a few hours away from Facebook, Daoud looked back at his post and realized that it was not well-phrased and might convey a message different from what he intended to say. About three hours later, between 11:19 and 11:21 p.m. local time,<sup>4</sup> he edited the post to say that he would only fight intellectually and included an explanation of the edit, stating:

I edited this post because i realize intellectually beating zionists is the only way to go. Physical fighting is never an answer to or when trying to prove people wrong. Radical love. And a whole lot of smarts! Facts will get you hella far

On July 21, at 5:30 p.m., Stanford College Republicans posted a screenshot of the post, apparently taken just before it was edited, on their Facebook page.<sup>5</sup> They issued a call for Daoud to be punished and fired. They characterized the post as a “threat of violence” and “Threatening to assault other students who hold a different point of view.” In the same post, Stanford College Republicans also said, “we find it unsurprising that a member of SJP, an organization with financial ties to terrorist affiliates, would issue a call to violence against pro-Israel students.” Stanford College Republicans commented on their own post with a link to an article falsely accusing Stanford SJP of ties to Hamas.<sup>6</sup> The next day this post was echoed by “one of America’s most prolific and vociferous anti-Muslim propagandists,”<sup>7</sup> Robert Spencer, on his blog Jihad Watch,<sup>8</sup> and numerous other alt right blogs and media outlets since then.<sup>9</sup>

Daoud soon received reports that the Hillel rabbi at Stanford was pushing for his firing and expulsion and had told others that firing would be the “moderate position.”

## Harassment Campaign

Falsely portraying Daoud as a violent person with ties to terrorist groups, these articles attracted threatening commentary, calling for Daoud to be shot, beaten up, and deported, some making reference to groups with a history of violence, including the Israeli intelligence agency Mossad

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<sup>4</sup> This was 2:19 p.m.-2:21 p.m. Pacific time.

<sup>5</sup> Stanford College Republicans, Facebook, July 21, 2018,

<https://www.facebook.com/StanfordGOP/photos/a.876933599055797.1073741828.632625896819903/1789634917785656/?type=3&theater>.

<sup>6</sup> John Rice-Cameron, Students for Justice in Palestine Linked to Terrorist Affiliate, Stanford Review, <https://stanfordreview.org/students-for-justice-in-palestine-linked-to-terrorist-affiliate-43d5c8c074ca/>.

<sup>7</sup> Southern Poverty Law Center, Robert Spencer, <https://www.splcenter.org/fighting-hate/extremist-files/individual/robert-spencer>.

<sup>8</sup> Robert Spencer, Stanford student and UNHCR intern Hamzeh Daoud vows to “physically fight zionists on campus,” Jihad Watch, July 22, 2018, <https://www.jihadwatch.org/2018/07/stanford-student-and-unhcr-intern-hamzeh-daoud-vows-to-physically-fight-zionists-on-campus>.

<sup>9</sup> See, e.g., Dusty, Stanford’s Hamzeh Daoud physically threatens Zionist students, Pro-Israel Bay Bloggers, July 21, 2018, <http://www.proisraelbaybloggers.blogspot.com/2018/07/stanfords-hamzeh-daoub-physically.html>; Robert Spencer, Stanford Student Vows To “Physically Fight Zionists On Campus,” Frontpage Mag, July 23, 2018, <https://www.frontpagemag.com/fpm/270815/stanford-student-vows-physically-fight-zionists-robert-spencer>; Stanford student threatens to ‘physically fight’ against ‘Zionist students’, JTA, July 23, 2018, <https://www.jta.org/2018/07/23/news-opinion/stanford-student-threatens-physically-fight-zionist-students>. Students for Justice in Palestine (SJP) has documented 51 outlets that carried the story.

and the right-wing terrorist organization Jewish Defense League. Daoud also received private messages with both explicit and veiled threats such as “We are gonna come for you” and “Do you feel safe. . . . We are everywhere.”<sup>10</sup> As of the date of this letter, there have been 42 documented incidents of racist, misogynistic, homophobic, and Islamophobic statements and threats against Daoud and his supporters.

The campaign against Daoud ramped up last week with paid advertisements on social media claiming that Daoud incited violence and calling on people to contact the administration to demand his firing.<sup>11</sup> A Stanford alum who first spotted the ads on July 26 noted, “The campaign was targeted at men aged 25-34 and people who lived in the Stanford area, so too old to be University students. It’s an attempt to rile up people in the community to attack a student.”<sup>12</sup>

Daoud was also targeted by an Israeli propaganda app called Act.IL, directing users to send complaint letters to the university.<sup>13</sup> The app reportedly has ties to the Israeli government and was established as “a partnership between Israeli think tanks, lobby groups and Israel’s Ministry of Strategic Affairs, which poured nearly \$600,000 into the project.”<sup>14</sup>

### **Daoud’s Response**

As noted above, Daoud edited his post prior to the launch of the campaign against him. He determined that his phrasing did not meet his own standards for effective and clear communication and could potentially be misunderstood. When Daoud learned that his post had made members of the Stanford community uncomfortable, he reached out with an apology to the Jewish community.<sup>15</sup> In a July 23 email to the Kibbitz means chat listserv, Daoud apologized and described how much he values conversation and open dialogue, including with Zionist Jews. He explained,

I never intended, and will never intend, to cause any harm to the Jewish community. I respect the Jewish community, the beauty and resilience of the Jewish religion and people, and the power that Jewish students bring to campus.

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<sup>10</sup> Screenshots on file with Palestine Legal.

<sup>11</sup> See Holden Foreman, Campaign for Daoud’s removal from RA position now extends to paid Facebook ads, Columnists Editorials Letters to the Editor Letters to the Community Op-Eds Arts & Life The Grind Multimedia Donate Masthead Tips / Contact Us Campaign for Daoud’s removal from RA position now extends to paid Facebook ads, Stanford Daily, July 27, 2018, <https://www.stanforddaily.com/2018/07/26/campaign-for-daouds-removal-from-ra-position-now-extends-to-paid-facebook-ads/>.

<sup>12</sup> Cody Stocker, Facebook, July 26, 2018, <https://www.facebook.com/photo.php?fbid=10217606044521602&set=a.10208035891073747.1073741827.1193004135&type=3&theater>.

<sup>13</sup> See Behind Israel’s Troll Army, Twitter, July 24, 2018, <https://twitter.com/AntiBDSApp/status/1021859576147324928>.

<sup>14</sup> Nora Barrows-Friedman, How Israel promotes cyberbullying of US students, Electronic Intifada, May 9, 2018, <https://electronicintifada.net/content/how-israel-promotes-cyberbullying-us-students/24221>.

<sup>15</sup> Though Daoud recognizes the distinction between Judaism as a religion, Israel as a nation, and Zionism as a political ideology, he was informed that the most effective way of reaching out to those affected was through a Jewish listserv.

He received a range of responses, some thanking him for his apology and others criticizing him for directing the apology at Jewish students. One questioned his vow to abolish ethnonationalist settler-colonialism, stating that calls for the destruction of Israel are a sentiment that “has been expressed by many unsavory groups and characters.”

## **Nationwide Suppression of Palestine Advocacy**

The reaction to Daoud’s is part of a broader effort to silence voices who speak out for Palestinian freedom and equality. 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.<sup>16</sup> 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.

Students and faculty who support Palestinian rights are systematically intimidated, harassed, falsely accused, and targeted with frivolous legal complaints.<sup>17</sup> As students and faculty across the U.S. increasingly engage in critical discussion about Israeli policies, the Israeli government and its proxy organizations in the U.S. are investing heavily in punitive measures to intimidate and chill debate.<sup>18</sup>

## **II. Legal Background**

California law protects the free speech rights of students on campus to the same extent that the First Amendment protects speech from government interference off campus. Section 94367 of the California Education Code states:

No private postsecondary educational institution shall make or enforce any rule subjecting any student to disciplinary sanctions solely on the basis of conduct that is speech or other communication that, when engaged in outside the campus or facility of a private postsecondary institution, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article 1 of the California Constitution.

Termination from his RA position would be an extremely harsh sanction. The RA stipend is Daoud’s sole means of support and losing this support would prevent him from continuing on at

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<sup>16</sup> Palestine Legal, Year-In-Review: Palestine Legal Responded to 308 Suppression Incidents in 2017, Nearly 1000 in Last 4 Years, Jan. 30, 2018, <https://palestinelegal.org/news/2018/1/30/report?rq=2017>.

<sup>17</sup> *Id.*

<sup>18</sup> See Chaim Levinson, Israel Secretly Using U.S. Law Firm to Fight BDS Activists in Europe, North American, Haaretz, Oct. 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, Aug. 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, Dec. 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>.

Stanford. Daoud's role as an RA is integrally connected with his status as a student: The RA position is an academic appointment rather than employment,<sup>19</sup> and RAs have required courses for which they receive academic credit and must maintain their academic standing as registered students to maintain their position.<sup>20</sup>

### **Daoud's Facebook Post Was Protected Speech**

While there are some categories of speech that are outside the protection of the First Amendment—for example, obscenity, child pornography, incitement to violence and true threats—Daoud's Facebook post does not fall within any of these exceptions.

There have been no allegations that Daoud's post was obscene<sup>21</sup> or that it contained child pornography. Daoud's post similarly did not incite violence or contain a true threat. The law defines incitement as acts that are “directed to inciting or producing imminent lawless action” and are “likely to incite or produce such action.”<sup>22</sup> Here Daoud did not do anything intending or likely to provoke lawless action. The aftermath has shown that he did not incite or produce such an action.

The law defines a true threat as a “serious expression of an intention to commit unlawful physical violence, not merely ‘political hyperbole’; ‘vehement, caustic, and sometimes unpleasantly sharp attacks’; or ‘vituperative, abusive, and inexact’ statements.”<sup>23</sup>

Daoud's use of the phrase “physically fight” has been misinterpreted, sometime intentionally, as a threat of violence. The use of the word “physically” in this context was meant not to distinguish a violent fight from a non-violent one, but rather as hyperbole. Threats to “physically fight” those who disagree with one's opinion are often made on the internet to underscore the strength of one's conviction. For example, one Twitter user recently wrote, “Jenny slate is a fucking blessing on this cursed planet and I will physically fight any bitch who says differently.”<sup>24</sup> This cannot be seen as a threat to all women who disagree with the author on the merits of Jenny Slate. Similarly, in a clip from the television program “Happy Endings,” a character is referred to as ma'am; hurt by this marker of her advancing age, she responds “‘Ma'am’? I am gonna go and bawl my eyes out, and then I will be back to physically fight you.”<sup>25</sup> Attached is a collection of recent tweets using the phrase, demonstrating how often it is

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<sup>19</sup> Stanford Residential Student Affairs, FAQ, <https://resed.stanford.edu/get-involved/student-staff/faq>.

<sup>20</sup> Stanford University, Expectations and Agreement for Resident Assistants (RA) and College Assistants (CA), [https://resed.stanford.edu/sites/default/files/2017-18\\_ra-ca\\_expectations\\_and\\_agreement\\_for\\_student\\_appointments\\_in\\_residence.pdf](https://resed.stanford.edu/sites/default/files/2017-18_ra-ca_expectations_and_agreement_for_student_appointments_in_residence.pdf).

<sup>21</sup> Obscenity is distinct from the use of foul language. Courts have established a three-part test for determining whether material is obscene: “(a) whether the ‘average person applying contemporary community standards’ would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.” *Miller v. California*, 413 U.S. 15, 27 (1973). There was nothing prurient about Daoud's post.

<sup>22</sup> *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

<sup>23</sup> *Elonis v. United States*, 575 U.S. \_\_\_, 135 S. Ct. 2001 (2015) (Thomas, J., dissenting).

<sup>24</sup> See attached appendix of recent Tweets using the phrase “physically fight.”

<sup>25</sup> Happy Endings, Season 1, Episode 1, available at <https://youtu.be/xIp3cO4pbK0?t=59s>.

used in a flippant manner. Daoud's phrasing was merely meant to emphasize the extent to which the new Israeli law disproves claims that Israel is a democracy.

Daoud's intent would have been clear to the intended audience of his Facebook page – the approximately 900 friends and acquaintances who have connected with him on Facebook. Those who know Daoud are familiar with both his mannerisms and his gentle nature. This has been attested to not only by Daoud's political allies, but also by Zionist students on campus. Daoud's peaceable intent is underscored by the fact that he edited the post before it received any public attention.

\* \* \*

Those who encountered Daoud's post as presented by the Stanford College Republicans, falsely referring to a "threat of violence," "assault," and ties to terrorism, could sincerely have misinterpreted it as threatening. Given the spread of the story, this audience was much broader than Daoud's Facebook connections and included many people who had never met or heard of Daoud. Given the framing, the broader global demonization of Palestinians and Muslims, and the absence of any evidence to the contrary, it is understandable that the post may have made some people uncomfortable. However, this does not justify punishing Daoud. When facing a traumatic piece of legislation – one that affects his family in a deep and personal way – Daoud momentarily made an error of judgment in how members of the public would perceive his words. Stanford College Republicans intentionally exploited this lapse to invite widespread harassment and threats against their peers. Stanford should not play into this political game.

Instead Stanford should proactively counter the harm done to Daoud's reputation and his future relationship with his residents. Stanford should not punish its students for hyperbolic political expression. Punishing Daoud by removing him from his RA post would not serve any legitimate purpose and would be a violation of California law.

Thank you for your time and attention to this important matter.

Sincerely,



Zoha Khalili  
Staff Attorney, Palestine Legal

Cc: Diontre Thompson, Assistant Dean, Residential Education, West campus; Koren Bakkegard, Interim Associate Vice Provost and Dean; Alejandro M Martinez, Associate Dean of Students.

Tweets

Tweets & replies

You Retweeted



•.°\*:\*• Samzin •\*:\*°• @CometDjhX Jul 27

Replying to @taslagopodous

DUDE SHUP YOUR ONE OF A KIND, ORIGINAL, PRETTY AND SUPER FUNNY AND IF YOU DISAGREE I WILL PHYSICALLY FIGHT YOU

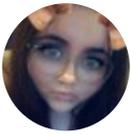


1

1

1

You Retweeted



**T.C 🐻** @TC200209 Jul 27

Replying to @Emo\_Galaxy\_

NO HATING YOURSELF I WILL PHYSICALLY FIGHT YOU IF YOU TALK BAD ABOOU YOURSELF!!!

1

1

You Retweeted



**Riggs/Sims** @Katie\_My\_Lady3 Jul 27

I will physically fight anyone who claims that the Full House theme song isn't an absolute banger

1

1

6

You Retweeted



**Amber Dahl** @burramburr Jul 27

Who Framed Roger Rabbit is a HUGELY underrated movie and i will physically fight anyone who says different.

1

You Retweeted



**Mahek** @Mahekloves Jul 27

My period is in full whirlwind of pain and irritability. I cannot call out of work so today is the day I will physically fight a suburban mom for trying to use and expired coupon.

1

2

You Retweeted



**Sofi ☆** @bwaysofi Jul 27

If anyone ruins his happiness rn I will physically fight you



1

7

You Retweeted



**No Name** @spiderkid\_\_ Jul 27

If anyone votes disagree I will physically fight you

 **ana** @tomsvallentine

'zendaya is a pure queen and deserves to be mj'

Show this thread

1

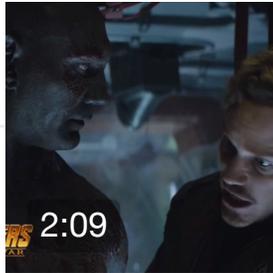
2

You Retweeted



**Marilynn saw amatw x2** @stephanieBltriz Jul 27

Not to sound dramatic but I will physically fight anyone who still hates on quill after this scene



t @peterquillsI

MARVEL WHY WAS THIS DELETED?!

1

3

You Retweeted



**isah** 💡 @marie\_isah Jul 28

Honestly if you don't think @Jenna\_Marbles and @juliensolomita aren't the best YouTube couple,,, I will physically fight YOU and YOUR WHOLE FAMILY

You Retweeted



**dahyun** 🇰🇷 @taeieonis Jul 28

full offence but i will physically fight anyone who hates on huh yunjin

1

You Retweeted



**kate 82** @trcnch Jul 28

trees and I will physically fight anyone who says otherwise

**sage** @blushedjosh

hold up ok here it is to settle the real debate

quote with which song MUST stay on the setlist,,, trees, car radio, or migraine

4

You Retweeted



**Shrekolas Cage** @Shreckolas\_Cage Jul 28

Replying to @ThomasSanders

If you don't take care of yourself, I will physically fight you with admiration

You Retweeted



**Evan Hunter** @KRiMsOnNoTEs Jul 29

Replying to @ThomasSanders

Thomas, I will pull a Patton with this.

I will physically fight you if you keep taking bad on yourself

1

1

You Retweeted



**Fangirl Supreme** @Mama\_229 Jul 29

Replying to @pancakesanders @ThomasSanders

consider that over with. IF YOU SAY ONE MORE BAD THING ABOUT YOURSELF I WILL PHYSICALLY FIGHT YOU

1

You Retweeted



**lolita encyclopedia** @lolitapedia Jul 29

no ordinary love is the sexi~~e~~st song in existence and i will physically fight anyone who disagrees.

2

1

1

[Show this thread](#)

You Retweeted



🌻 **g&itchywitchy** 🌻 @Juniptea\_Joobie 24h

Love the idea if Loki being a dumb knife loving bitch, but I will physically fight the writers if the first one isn't true

**alia would die for kamala**  @lokified

loki faked his death again to trick thanos that's why he was missing for 3 minutes vs loki let himself die so thanos will let thor be the other 'half of universe" that live vs loki had to die because "it's the only way" vs loki is just a dumb bitch who love knives. FIGHT

Show this thread

1

1

You Retweeted



**||JUMPSUIT//** @josh\_duns\_\_nose 23h

Replying to @weedbees

i will physically fight tyler joseph if he takes guns off of the setlist

1

You Retweeted



**AI** @Algarretthoving 20h

Replying to @sunshineemomare

Me: Virgil, if you keep talking bad about yourself I will physically fight you!

1

1

You Retweeted



**kyrat.** @kyyraye 15h

Replying to @GrahamCalab

I WILL PHYSICALLY FIGHT YOU WITH FRIENDSHIP AHSJSH but if you cant sleep understandable you tried ily

1

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You Retweeted



**Spac3Gh0s7** @Spac3Gh0s7\_ 11h

Joseph Joestar is best Jojo and I will physically fight anyone who says otherwise.

3

1

4

You Retweeted



**Bttmnch** @bttmnch 5h



Jenny slate is a fucking blessing on this cursed planet and I will physically fight any bitch who says differently

1