

To the the Board of Trustees and Chancellor of the City University of New York,

The undersigned CUNY Law faculty requests the *Statement from the Board of Trustees and Chancellor of the City University of New York* posted on the CUNY website on May 30, 2023 ([May 30th Statement](#)) characterizing remarks made by the student-elected speaker at this year's law school commencement as "hate speech" be withdrawn immediately, and an apology be issued to the student speaker and to the students that make up the law school Class of 2023.

In the spirit of CUNY Law's mission, *Law in the Service of Human Needs*, CUNY Law students study, and our graduates go on to practice, ways to use the law to support marginalized people in New York City, across the country, and around the globe fighting all forms of systemic oppression. For our students, their commencement serves as an opportunity for them to celebrate their steadfast commitment to resist the harms their communities are facing and to envision a world defined by justice for all. In this tradition, the 2023 student-elected speaker spoke in solidarity with New Yorkers subject to vigilante violence and aggressive policing by the NYPD, parents facing brutal family separation by ACS, immigrants under the grinding brutality of the U.S. deportation system and – as student organizations did in the 1980s against the apartheid policies of South Africa – in defense of Palestinians living under Israel's violent occupation and apartheid system.

In your May 30th Statement, you asserted that the student-speaker's remarks "fall into the category of hate speech as they were a public expression of hate toward people and communities based on their religion, race or political affiliation." No reasonable interpretation of the student speaker's remarks would suggest it was "hate speech," given that none of the student's comments attacked any persons or protected classes,¹ but at most commented on nations and state institutions that are incontrovertibly causing harm to people domestically and internationally. Moreover, the May 30th Statement's suggestion that hate speech includes "political affiliation" as a characteristic similar to race or religion is wildly inconsistent with long-standing and legal definitions of the concept of hate speech. Indeed, the implication that an elected-student speaker at an institution devoted to social justice and human rights was applauded by her peers, faculty, and attendees for engaging in "hate speech" is an affront to both the student speaker and our entire community. This casual and inappropriate

¹ Under the New York City Human Rights Law (Title 8 of the Administrative Code of the City of New York), protected classes include age, immigration or citizenship status, color, disability, gender (including sexual harassment), gender identity, marital status and partnership status, national origin, pregnancy and lactation accommodations, race, religion/creed, sexual orientation, and status as a Veteran or Active Military Service Member. Further, New York State law considers the following identities when determining whether a crime was motivated by bias: race or color, religion or religious practice, ancestry or place of national origin, gender, sexual orientation, gender identity or expression, disability, or age. New York law seeking to prevent hate speech on social media encompasses speech used "to vilify, humiliate, or incite violence against a group or a class of persons on the basis of race, color, religion, ethnicity, national origin, disability, sex, sexual orientation, gender identity or gender expression." At the federal level, the Civil Rights Division, Educational Opportunities Section enforces several federal civil rights laws which prohibit discrimination on the basis of race, color, national origin, language, sex, religion, and disability in schools and institutions of higher education.

characterization also undermines the identification of actual hate speech and state-sponsored bigotry that is sadly on the rise in the United States and often targets many of us in the broader CUNY community. Needless to say, the student speaker's remarks were heartland First Amendment protected speech.

To the extent that the May 30th Statement attempts to equate the scourge of antisemitism with criticisms of the State of Israel, many human rights and Jewish organizations, including the [Jewish Law Students Association](#) at CUNY School of Law, flatly [disagree](#). Making such an equivalence would place CUNY squarely part of a [well-documented](#) campaign to silence students and faculty at institutions of higher education around the nation by labeling speech that supports Palestine or is critical of Israel as “antisemitic” or “hate speech.” To the extent that the May 30th Statement purports to equate criticisms of policing and other city policies as “hate speech,” this would be equally wrong, and disturbingly following the pattern of politically and ideologically motivated attacks on racial justice movements and public higher education seen in places like Florida.

The May 30th Statement compounds the harms of the smear campaign executed by inflammatory publications like the *New York Post*, as well as the Mayor and other public officials on their official Twitter accounts, asserting similarly baseless characterizations of the student speaker’s commencement speech. As a result, during a time she should have been turning her focus to studying for the upcoming bar exam, the student speaker has been subject to death threats and Islamophobic harassment, causing her and her family to fear for their safety.

Lastly, we have no doubt that this controversy emerged not from within the CUNY community, but was one manufactured in bad faith by right-wing media and other conservative activists who have long sought to disparage and undermine CUNY Law’s social justice mission and put a target on the back of progressive leaders of color in our community. We are deeply disappointed that CUNY leadership gave further amplification to this ugly and dangerous smear campaign.

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