



September 15, 2021

Suzanne Goldberg
Acting Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1100

Dear Assistant Secretary Goldberg:

The American Center for Law and Justice (ACLJ)¹ has been approached by a number of concerned stakeholders and community members regarding antisemitic activity which the University of North Carolina at Chapel Hill (UNC) has willfully ignored. We respectfully urge you to investigate and determine whether UNC has engaged in discrimination or in permitting a hostile environment, and other violations of Title VI of the Civil Rights Act of 1964, as amended, 41 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100 (Title VI).

UNC employs Ms. Kylie Broderick, a graduate student professor who has made multiple, public, definitionally antisemitic statements, thinly couched in anti-Zionistic terminology, to teach a course about the Israeli-Palestinian conflict. The administration permits this to occur despite the fact that the professor in question:

- 1) Has said she does not *want* to teach both sides,²
- 2) Has made clear that she will not tolerate the free exchange of ideas or alternate viewpoints on the topic of her course,³ and
- 3) Openly uses her anti-Zionism to spread vile anti-Semitism.

¹ The ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in significant cases involving the freedoms of speech and religion. As a part of the organization's commitment to the freedom of speech, ACLJ attorneys regularly handle cases specifically involving the protection of academic freedom and opposition to anti-Semitism in all its forms.

² See Kylie Broderick (@kylie_broderick), TWITTER (Dec. 8, 2020), <https://voice4israel.com/wp-content/uploads/2021/07/Broderick-only-1-legitimate-side.png> (arguing that Israel's side is the side of "oppressive ideologies of American and Western imperialism, Zionists, & autocrats"). Although Ms. Kylie Broderick's Twitter account was deleted, Voice4Israel preserved screenshots of the applicable tweets.

³ See Kylie Broderick (@kylie_broderick), TWITTER, <https://voice4israel.com/wp-content/uploads/2021/08/Broderick-Zionist-Diretbags.png> (last visited Sept. 1, 2021) (describing pro-Israel individuals as "Zionist dirtbags").

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Among the public anti-Semitic statements that Broderick has made, she has denied Israel's right to exist,⁴ moderated an event that tried to legitimize violence against Israelis,⁵ and spread a vicious blood libel against the people of Israel.⁶ Per the International Holocaust Remembrance Alliance Definition of Antisemitism (the definition that the Department of Education uses when evaluating complaints of anti-Semitism)⁷ each of those statements are antisemitic.⁸ Both of the scheduled guest lecturers on the syllabus, Israel Domínguez and Mekarem Eljamal, are also antisemitic “anti-Israel activists”⁹: Mekarem Eljamal retweeted a tweet that accused Israel of genocide and spread malicious lies and patently false information about how Israel defends itself¹⁰; Israel Domínguez retweeted a blood-libel tweet about Israel targeting children.¹¹

By essentially allowing an individual with a racist agenda to teach a course on racism, UNC has given this professor a uniquely perfect platform from which to spread her hatred. Further, the University administration compounded their initial error by ignoring the heartfelt pleas of multiple Jewish groups who let the University know, well in advance, that Jewish students did not feel safe in such a hostile environment and were therefore being excluded from this educational

⁴ See Kylie Broderick (@kylie_broderick), TWITTER, <https://voice4israel.com/wp-content/uploads/2021/07/Broderick-all-of-Israel-is-occupied.png> (citing @poemsandfungus, TWITTER (July 19, 2021, 10:33 AM), <https://twitter.com/poemsandfungus/status/1417130498565021701>) (last visited Sept. 1, 2021) (sharing a post that claims that “[a]ll of Israel is occupied Palestinian territory”).

⁵ Jadaliyya, *Urgent Teach-In Roundtable on Sheikh Jarrah*, YOUTUBE, at 39:05–39:36 (June 6, 2021), https://www.youtube.com/watch?v=d715UNkg0CU&t=2360s&ab_channel=Jadaliyya (disputing claims that Palestinians who attacked Israeli police forces engaged in acts of terrorism, and claiming that violent protesters are simply “calling for basic rights”). The beginning of the video shows Ms. Kylie Broderick explaining the sequence of events for the roundtable and describing herself as a “panelist” who will moderate the question-and-answer portion of the video. *Id.* at 0:00–1:05. In addition, Jadaliyya, the host of the roundtable, lists Kylie Broderick as Managing Editor, co-editor of the “Resistance, Subversion, and Mobilization Page,” and coordinator of the “Roundups Page.” *About Us*, JADALIYYA, <https://www.jadaliyya.com/AboutUs> (last visited Sept. 1, 2021).

⁶ See Kylie Broderick (@kylie_broderick), TWITTER (May 14, 2021, 3:38 PM), <https://voice4israel.com/wp-content/uploads/2021/07/Broderick-imperial-death-cult.png> (claiming that “Palestinians are being murdered for just being alive . . . [because] they’re inconvenient to Israel”).

⁷ Exec. Order No. 13899, 84 Fed. Reg. 68,779, § 2(i) (Dec. 11, 2019).

⁸ See *Working Definition of Antisemitism*, INT’L HOLOCAUST REMEMBRANCE ALL., <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism> (last visited Aug. 31, 2021) (citing blood libels and “[d]enying the Jewish people their right to self-determination . . . by claiming that the existence of a State of Israel is a racist endeavor” as “[c]ontemporary examples of antisemitism”).

⁹ Peter Reitzes, *Despite Antisemitic Syllabus, UNC Won’t Back Down on Anti-Israel Instructor*, ALGEMEINER (Aug. 30, 2021, 4:38 PM), <https://www.algemeiner.com/2021/08/30/despite-antisemitic-syllabus-unc-wont-back-down-on-anti-israel-instructor/>.

¹⁰ See Mekarem Eljamal (@_maeljamal), TWITTER (citing Refaat (@itranslate123), TWITTER (May 15, 2021), <https://twitter.com/itranslate123/status/1393698635762880512>), <https://voice4israel.com/wp-content/uploads/2021/08/Mekarem-Eljamal-Gaza.png> (last visited Sept. 1, 2021) (sharing a post with the hashtags “#Genoc[ide]inGaza,” and “#FreePalestine”); see also Mekarem Eljamal (@_maeljamal), TWITTER (Dec. 10, 2013), <https://voice4israel.com/wp-content/uploads/2021/08/Mekarem-Eljamal-ethnic-cleansing.png> (accusing Israel numerous times of ethnic cleansing).

¹¹ See Israel Domínguez (@isroli321), TWITTER (citing Mohammed El-Kurd (@m7mdkurd), TWITTER (July 28, 2021, 10:12 AM), <https://mobile.twitter.com/m7mdkurd/status/1420386647414292482>), <https://voice4israel.com/wp-content/uploads/2021/08/Israel-Dominguez-Israeli-military-targets-children.png> (last visited Sept. 1, 2021) (sharing a post that claimed the “Israeli military targets children”).

opportunity.¹² Indeed, at least one student had to actually drop the course when she discovered that the professor referred to people like her, *i.e.* Zionists, as “dirtbags.”¹³

Perhaps the most disturbing aspect surrounding this manifestation and tolerance of antisemitism at this university is that UNC is well aware of their obligations under the law, and of the difference between academic freedom and discrimination. UNC made this series of choices to ignore the needs of the Jewish population on campus a mere two years after the University co-sponsored and hosted an antisemitic “academic” conference, and was forced to settle the ensuing Title VI complaint with the Department of Education. In their resolution agreement, the school agreed to “take all steps reasonably designed to ensure that students enrolled in the University are not subjected to a hostile environment.”¹⁴ They have failed to do so, and in the process have violated both the underlying law and their particular agreement.

After early reports about the course by Peter Reitzes, a board member of Voice4Israel of North Carolina, prompted some public pushback,¹⁵ instead of distancing itself from Broderick’s statements, UNC defended its decision to allow the class to be taught by a hostile professor who intends to demonize, delegitimize, and apply a double-standard to Israel by pretending that such an offering was somehow part of an “abiding respect for the First Amendment, academic freedom, and the open exchange of ideas.”¹⁶ For the record, UNC is wrong on all of these fronts.

As it relates to academic freedom, there is a difference between education and indoctrination. Per the American Association of University Professors 1915 Declaration of Principles on Academic Freedom and Academic Tenure, an instructor who address “controversial matters” should present “the divergent opinions of other investigators” and “above all” should “remember that his business is not to provide his students with ready-made conclusions, but to train them to think for themselves, and to provide them access to those materials which they need if they are to think intelligently.”¹⁷ As former Assistant Secretary of Education for Civil Rights Kenneth Marcus has explained, there is a difference between a professor sharing their opinion versus disingenuously “presenting opinion as if it were truth.”¹⁸ In the first Supreme Court case to expound upon the

¹² See Peter Reitzes, *UNC Violates Government Agreement by Promoting Antisemitism in Classroom*, ALGEMEINER (Aug. 23, 2021, 12:10 PM), <https://www.algemeiner.com/2021/08/23/unc-violates-government-agreement-by-promoting-antisemitism-in-classroom/> (describing Jewish students’ concerns and UNC’s subsequent decision to keep Ms. Kylie Broderick on the faculty).

¹³ See Jonah Kaplan, ‘Antisemitism has Mutated’: Jewish Students, Leaders Worry Over UNC-CH Instructor’s Comments, ABC11 (Aug. 27, 2021, 6:43 PM), <https://abc11.com/antisemitism-unc-anti-semitism-kylie-broderick/10981078/> (explaining how one Jewish sophomore at UNC decided to drop Ms. Kylie Broderick’s course after discovering her prior statements, including “references to ‘Zionist dirtbags’”).

¹⁴ Office For Civil Rights, Resolution Agreement, The University of North Carolina at Chapel Hill, OCR Complaint No. 11-19-2215 (2019), available at <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/11192215-b.pdf>.

¹⁵ See Peter Reitzes, *More Anti-Israel Hatred Infests the University of North Carolina*, (Aug. 3, 2021, 11:23 AM), <https://www.algemeiner.com/2021/08/03/more-anti-israel-hatred-infests-the-university-of-north-carolina/>

¹⁶ See Letter from Chancellor Guskiewicz, August 6, 2021, <https://voice4israel.com/wp-content/uploads/2021/08/UNC-Chancellor-letter.png>

¹⁷ Kenneth L. Marcus, Essay, *Academic Freedom and Political Indoctrination*, 39 J. COLL. & UNIV. L. 725, 725 (2013) (citing AM. ASSN. OF UNIV. PROFESSORS, DECLARATION OF PRINCIPLES ON ACADEMIC FREEDOM AND ACADEMIC TENURE 298 (1915), available at <https://www.aaup.org/NR/rdonlyres/A6520A9D-0A9A-47B3-B550-C006B5B224E7/0/1915Declaration.pdf>).

¹⁸ Marcus, *supra* note 17, at 732–33.

concept of academic freedom, *Sweezy v. New Hampshire*, the Court wrote that “[t]he essentiality of freedom in the community of American universities is almost self-evident... Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.”¹⁹ In *Keyishian v. Board of Regents*, the Court again noted that “[t]he Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth ‘out of a multitude of tongues, [rather] than through any kind of authoritative selection.’”²⁰

Allowing professors to share biased lies cast as truth in the guise of academic freedom while shutting down an exploration of alternative viewpoints is to violate entirely all that academic freedom is meant to protect. What student in their right mind would feel comfortable challenging a professor’s anti-Zionist perspective, when that professor has recently referred to Zionists as “dirtbags,” and moderated an event that tried to legitimize violence against Israelis?

When it comes to the First Amendment, the freedom of speech—even offensive speech—must be cherished and protected. But as your office has repeatedly made clear, there are times when even speech can cross over into harassment and invidious discrimination. Speech crosses over from protected territory into harassing verbal conduct when it is “sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient.”²¹ In their messages to UNC, members of the Jewish community on campus have confirmed what should have already been obvious: They are fearful that students who support and have a connection with Israel will be unwelcome or unsafe in this classroom environment and they do not feel comfortable taking this class. Having *this* professor teach *this* class is not only an impingement on the academic freedom of the Jewish students, but also a violation of Title VI, as well as other state and university policies against discrimination.

On university campuses around the country, antisemitism has become entrenched and systemic, with recent studies showing that the number of Jewish students experiencing antisemitism has spiked to nearly 75 percent.²² North Carolina has also not been immune from this alarming trend, nor has the Chapel Hill campus itself, and it is in this environment that UNC is knowingly shirking responsibility. A violation of Title VI may be found if discrimination is encouraged, tolerated, not adequately addressed, or ignored by administrators. UNC has failed to redress blatant violations of the rights of the Jewish members of the UNC community for quite some time, causing Jewish students and faculty to feel – at best – unwelcome. The continued inability of the school to see antisemitism and prevent it, along with the unwillingness to confront antisemitism once it has been brought to their attention, has now become an undeniable pattern— such a pattern, in fact, that we fear it is indicative of an even deeper problem than mere negligence. On a related front, Broderick also scheduled a quiz for Yom Kippur, the holiest day on the Jewish calendar, and as of the day this complaint is being filed, the day before Yom Kippur, there is still an active campaign

¹⁹ *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

²⁰ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967) (citing *United States v. Associated Press*, 52 F. Supp. 362, 372 (S.D.N.Y. 1943)).

²¹ Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11,448, 11,449 (Mar. 10, 1994).

²² Leonard Saxe et al., *Antisemitism and the College Campus: Perceptions and Realities*, BRANDEIS U.: MAURICE AND MARILYN COHEN CTR. FOR MOD. JEWISH STUD. (2015), at p. 1 and p. 13. <https://bir.brandeis.edu/bitstream/handle/10192/30810/AntisemitismCampus072715.pdf>.

urging the University to ensure that students who wish to observe the holiday will not be penalized for doing so.²³

For the foregoing reasons, we respectfully request that the Department open an investigation into UNC's decisions to fund, allow, and defend antisemitism on campus. The clear message that UNC is communicating is that it is deliberately indifferent²⁴ to the concerns and wellbeing of its Jewish population. Affected community members have been effectively excluded from at least one class and UNC's indifference to their legitimate concerns and complaints has made them feel unwelcome at many more. Without prompt and appropriate action – including requiring UNC to evenhandedly enforce its own rules and procedures and comply with Title VI – Jewish students will continue to be victimized by UNC's implied consent for antisemitic discrimination and racism; will be unable to participate at additional campus functions; and will continue to be harassed and excluded.

We respectfully look forward to your office intervening. Please advise us if you need any further information.

Sincerely,



Stuart Roth
Senior Counsel



Mark Goldfeder
Special Counsel

²³ StandWithUs Action Alert: Urge Administrators at UNC Chapel Hill to Reschedule Exam Set for Yom Kippur: <https://p2a.co/nzvyjeF?fbclid=IwAR2tT-dUn6wLgojkknxaYRZbF8bMzYOIeRbKk42qawd79XADiBT9HS7m26U>

²⁴ See *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 650 (1999) (holding that, in the context of sexual harassment, a federally funded school can be “held liable in damages only where they are deliberately indifferent” to the alleged violations).