



May 5, 2022

VIA E-MAIL

Gary S. May
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Dear Chancellor May:

We are attorneys at the Louis D. Brandeis Center for Human Rights Under Law, a national non-profit legal advocacy organization that works to combat anti-Semitism in higher education and to protect the rights of Jewish students. We write to address an upcoming event sponsored by Students For Justice in Palestine (“SJP”) at the University of California Davis (UC Davis) campus, featuring Mohammed El-Kurd.¹ Mr. El-Kurd is a Palestinian activist notorious for promoting anti-Semitic conspiracy theories, including modern day blood libels, against Jews; he disguises his anti-Semitic rants that vilify Israel and Jewish supporters of Israel under the rubric of legitimate criticism, a common feature of contemporary anti-Semitism.² For instance, Mr. El-Kurd has stated that “[Israelis] harvest the organs of the martyred [Palestinians], [and] feed their warriors our own;” that Zionists have an “unquenchable thirst for Palestinian blood;” has described the Jewish state as “blood thirsty and violent;” has described Zionism as a “death cult” and “genocidal;” and has compared Israelis to Nazis.³ At the invitation of SJP, Mr. El-Kurd has been spreading anti-Semitic vitriol on college campuses like UC Davis’s in recent weeks.

We write not to urge the University to prevent Mr. El-Kurd from speaking at UC Davis. Rather we urge the University to speak out promptly and clearly against such anti-Semitic rhetoric, and to use this disgraceful event as a teaching moment to educate the University community about the world’s oldest form of hatred, anti-Semitism. The remedy for hate speech is neither to silence it nor to remain silent. Instead, the University should use its own voice to clearly and unequivocally condemn anti-Semitic speech that runs counter to the University’s values of inclusion and “mutual respect and civility within debate and dialogue,”⁴ and that threatens to create a hostile environment for Jewish students on campus.

¹ On or about April 20, 2022, SJP at UC Davis announced on Instagram that it would host Mohammed El-Kurd at California Hall auditorium at UC Davis on May 6, 2022. @SJPatUCD, INSTAGRAM, https://www.instagram.com/p/CclxRRvPu4k/?utm_source=ig_web_copy_link.

² Anti-Defamation League, “Mohammed El-Kurd,” <https://www.adl.org/resources/backgrounders/mohammed-el-kurd>.

³ *Id.*

⁴ University of California, Board of Regents, “*Regents Policy 4403: Statement of Principles Against Intolerance*,” (Mar. 24, 2016) available at <https://regents.universityofcalifornia.edu/governance/policies/4400.html>.

I. The University must recognize pernicious forms of contemporary anti-Semitism that target Jews on the basis of their shared ethnic and ancestral identity connected to Israel.

On today's college campuses, anti-Semitic vitriol and discrimination is often directed at Jews as a people rather than just as a religious or faith community.⁵ This form of anti-Semitism often manifests as vilification, shunning, marginalization, harassment and/or exclusion of Jewish students who support Israel's existence, sometimes alongside the demonization and delegitimization of Israel because it is a Jewish state.⁶ For many Jews, including many Jewish students at the University of California, identifying with and expressing support for the Jewish homeland is a sincere and deeply felt expression of their Jewish ethnic and ancestral identity.⁷ Anti-Semitism directed at Jewish ethnicity is often part of a concerted strategy to marginalize Jewish students on campus and make them feel unwelcome.⁸

On campus, Jewish and Israeli students who celebrate their Jewish ethnic heritage and consider themselves "Zionists" are too often branded as "racist," "oppressors," "settler colonialists" and "white" (an ironic inversion of the Nazi claim that Jews polluted the pure white Aryan race). Those who employ these labels frequently ignore, falsify, or deny Jewish history, contemporary facts about Israel, and the existence of Jews of color. They utilize these terms to shun, marginalize, and ostracize Jewish individuals who support Israel and believe in the right of Jewish self-determination while also promoting negative misperceptions among neutral onlookers. As the Regents of the University of California stated in their Principles Against Intolerance, "opposition to Zionism often is expressed in ways that are not simply statements of disagreement over politics and policy, but also assertions of prejudice and intolerance toward Jewish people and culture."⁹

Mr. El-Kurd himself pretends to be merely criticizing Israeli policy, while spewing hateful ideas like those recited in the first paragraph of this letter. We understand that Mr. El-Kurd most recently promoted anti-Semitic narratives at speaking engagements at Arizona State University (ASU) and Duke University. Speaking at ASU on April 10, 2022, Mr. El-Kurd falsely accused Israel of "ethnic cleansing," promoted the anti-Semitic conspiracy theory that Jews control the media;¹⁰ vilified supporters of Israel in the audience as "apartheid lovers" and threatened to shoot them if they

⁵ Mark Goldfeder, *Defining Antisemitism* (Feb 1, 2021). Seton Hall Law Review, Forthcoming, available at SSRN: <https://ssrn.com/abstract=3798093>

⁶ "Understanding Campus Antisemitism," AMCHA INITIATIVE, (July 2020), available at <https://amchainitiative.org/wp-content/uploads/2020/07/Antisemitism-Report-2019.pdf>.

⁷ Alyza D. Lewin, *Zionism: The Integral Component of Jewish Identity that Jews are Historically Pressured to Shed*, 26 ISRAEL AFFAIRS 330 (2020), <https://www.tandfonline.com/doi/abs/10.1080/13537121.2020.1754577>

⁸ See, generally, U.S. Commission on Civil Rights, *Briefing Report: Campus Anti-Semitism* (July 2006), p.3, <https://www.usccr.gov/pubs/docs/081506campusantibrief07.pdf> ("Anti-Semitic bigotry is no less deplorable when camouflaged as anti-Israelism or anti-Zionism.")

⁹ Regents of the University of California, "The Statement of Principles Against Intolerance" (March 2016), <http://ucioie.wpengine.com/wp-content/uploads/2016/08/principles.pdf>.

¹⁰ TWITTER, StopAntisemitism, (Apr. 13, 2022), <https://twitter.com/StopAntisemites/status/1514370370039652360>.

dared to “heckle” him.¹¹ This hateful performance must not go unaddressed by the host university as it is likely to play out similarly at UC Davis. Moreover, by allowing SJP to publicize and sell tickets to the event through UC Davis’ Aggie ticket office website,¹² the University is sending the message to the community that the institution itself endorses Mr. El-Kurd’s vile anti-Semitic views.

II. The University must use its own voice to condemn anti-Semitic speech on campus that contributes to a hostile environment for Jewish students.

The University cannot ignore Mr. El-Kurd’s anti-Semitic rhetoric, which is disguised as criticism of Israel but aims to demonize Israel, and vilify Israeli and Jewish students who support Israel. It has become apparent on campuses throughout the country that when universities fail to speak out against anti-Semitic speech, the community perceives that the university condones the hateful ideas. This perception emboldens anti-Semites, and fosters a hostile environment for Jewish students that often leads to anti-Semitic and discriminatory conduct, including the exclusion of Jewish students from student organizations, campus activities and educational programs. It is vital that the University respond to such anti-Semitic speech with clear condemnation in order to educate and enlighten the campus community against baseless hate, protect Jewish students from a hostile environment and ensure a campus climate that is safe and welcoming for all students, including Jews. Indeed, the University has an affirmative obligation to do so under Title VI of the Civil Rights Act of 1964 (“Title VI”).

A university can and must exercise moral leadership by expressing its own views in opposition to hate speech. This University’s own free speech policy recognizes that “the best way to respond to hateful or offensive speech is not to attempt to limit it, but instead to encourage more speech.”¹³ As the University recognizes, the University has its own free speech rights – and those rights encompass the freedom to condemn racism, anti-Semitism, and discrimination in all its forms. The University can and should identify and condemn anti-Semitic speech that fails to meet the University’s community standards for tolerance and civility.

The UCs have previously demonstrated just how far they will go to uphold these principles in the face of actual or allegedly offensive speech that they deem to be at odds with the institutional values of inclusivity and mutual respect. After a UCLA school of management professor made comments in response to a student inquiry about postponing finals exams for African American students, a UCLA Dean condemned the professor’s speech as “demonstrat[ing] a disregard for our core principles, including an abuse of power,” affirmed the school’s commitment to “foster[ing] a strong...culture of inclusivity,” and expressed “deep[] regret [for] the increased pain and anger that our community experienced at this very difficult time,” adding that “[w]e must and will hold each

¹¹ TWITTER, StopAntisemitism, (Apr. 12, 2022), <https://twitter.com/stopantisemitism/status/1514045823809695745>.

¹² UC Davis Aggies, Student Group Events, “SJP presents Mohammed El Kurd,” https://ucdavisaggies.evenue.net/cgi-bin/ncommerce3/SEGetEventInfo?ticketCode=GS%3AUCD%3ASE2122%3ASJP22%3A&linkID=twucd&shopperContext=&pc=&caller=&appCode=&groupCode=STUD&cgc=&dataAccId=779&locale=en_US&siteId=ev_twucd.

¹³ See UC Davis, Student Expression, First Amendment FAQs, <https://studentexpression.ucdavis.edu/learn>.

other to higher standards.”¹⁴ In that case, the university went even further by taking punitive action against the professor, placing him on leave pending a possible investigation of his speech, and by announcing its intent to “identify initiatives...to advance greater equity in the broader community.”¹⁵ In this case, UC Davis should follow suit and issue a clear and unequivocal rejection of Mr. El-Kurd’s blatantly anti-Semitic and offensive rhetoric that maligns Jewish students and all Jews who support Israel. The University should not have a blind spot when Jews are the target. If UC Davis is going to provide Mr. El-Kurd with yet another platform to spread such baseless vitriol, the University cannot remain silent in response to the hateful and abhorrent rhetoric on its campus.

III. Conclusion: The University must speak out and educate its community about anti-Semitism.

The University of California has been a leader within academia on many issues, including as a champion of free speech on college campus;¹⁶ we hope that you and your University will rise again to this occasion, which tests the University’s commitment to the UC Regents’ statement in its Principles Against Intolerance that “Anti-Semitism, anti-Semitic forms of anti-Zionism and other forms of discrimination have no place at the University of California.”¹⁷ We urge you to remain vigilant about your legal obligations to protect Jewish students from a hostile environment on your campus, by closely monitoring the El-Kurd event and by taking the necessary steps to speak out promptly and forcefully in condemnation of anti-Semitic rhetoric that threatens to poison the atmosphere on your campus against Jewish students. The University should use its own voice to specifically and unequivocally condemn anti-Semitic speech, not merely all hate speech, and should explain to the campus community how anti-Semitic speech is antithetical to the University’s institutional values of mutual respect and inclusion.

As a renowned institution of higher education, UC Davis cannot tolerate the ignorance that would lead members of its community to sponsor an event that promotes the basest form of bigotry. It is incumbent upon UC Davis to alleviate this ignorance by promptly educating your entire community about the world’s oldest form of hatred, anti-Semitism. This would be important for any institution of higher learning; expectations are that much higher, however, for the University of California in light of its mission “to serve society as a center of higher learning, provide long-term

¹⁴ Foundation for Individual Rights in Education, “Email from Antonio Bernardo to the UCLA Anderson Community,” (Jun. 4, 2020), available at <https://www.thefire.org/email-from-antonio-bernardo-to-the-ucla-anderson-community-june-4-2020/>; see also “UCLA Professor on Leave After Students Blast Response to Request to Postpone Final Exam as ‘Woefully Racist,’” CBS Los Angeles, (Jun 10, 2020), <https://www.cbsnews.com/losangeles/news/ucla-professor-on-leave-gordon-klein/>.

¹⁵ Foundation for Individual Rights in Education, “Email from Antonio Bernardo to the UCLA Anderson Community,” (Jun. 4, 2020), available at <https://www.thefire.org/email-from-antonio-bernardo-to-the-ucla-anderson-community-june-4-2020/>.

¹⁶ University of California, National Center for Free Speech and Civic Engagement, <https://freespeechcenter.universityofcalifornia.edu> (last visited May 3, 2022).

¹⁷ Regents of the University of California, “The Statement of Principles Against Intolerance” (March 2016), <http://ucioie.wpengine.com/wp-content/uploads/2016/08/principles.pdf>.

societal benefits through transmitting advanced knowledge, discovering new knowledge, and functioning as an active working repository of organized knowledge.”¹⁸

We urge you to take these steps in order to meet the University’s obligations under Title VI of the Civil Rights Act while simultaneously protecting the institution’s commitment to the noble principles of free speech and expression.

We are available at the emails listed below to share our expertise on these issues and further discuss our recommendations with you.

Sincerely,



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¹⁸ University of California, Office of the President, “UC’s Mission,” available at <https://www.ucop.edu/uc-mission/index.html> (last visited May 3, 2022).