



September 21, 2018

VIA EMAIL (presoff@umich.edu)

Dr. Mark D. Schlissel
President
University of Michigan
503 Thompson Street
Ann Arbor, MI 48109-1340

RE: Addressing Professor John Cheney-Lippold's Discriminatory Conduct

Dear President Schlissel:

The Louis D. Brandeis Center for Human Rights Under Law, a national organization dedicated to combating anti-Semitism on university and college campuses, joins in your stated “disappointment” that a University of Michigan faculty member has “allow[ed] . . . personal political beliefs to limit the support” given to a student by withholding a recommendation because the student wishes to attend a university in Israel. We agree with your September 20 statements to the UM Board of Regents that “academic aspirations of our students are fundamental to the University of Michigan” and that “personal views and politics should never interfere with our support of students” and are “counter to the values of our institution.” In light of your commitment to “taking appropriate steps to address this issue,” we wish to bring the following to your attention as you work to more thoroughly address the situation.

1. Professor Cheney-Lippold’s refusal to provide a letter of recommendation (*see* Appendix 1) for a student whose performance amply warrants such a letter solely because of the professor’s personal political credo is a brazen violation of basic tenets of academic freedom. Students should never be prejudiced by a faculty member’s personal biases. The University’s Faculty Handbook declares that it is “an open and accepting community” where differences based on a multitude of factors are “welcomed, nurtured, and respected.” How can the professor’s conduct be reconciled with these guiding principles?

2. Professor Cheney-Lippold's conduct violates principles of the United States Constitution and the Constitution of Michigan, as well as state and federal law. The professor is surely aware that most of the students at the University of Michigan who choose to continue academically at a university in Israel are Jewish. Hence, regardless of his personal intent – which was, we believe, contrary to federal and state anti-boycott laws – the necessary *effect* of the professor's refusal to write a letter of recommendation for any student seeking to study in Israel is to prejudice Jewish students at the University of Michigan. The United States Supreme Court has declared that discrimination is illegal and unconstitutional regardless of personal intent if it has a "disparate impact" based on race or religion. *E.g., Texas Dep't of Housing and Community Affairs v. Inclusive Communities Project*, 135 S. Ct. 2507, 2521-2522 (2015). The professor's public declaration plainly has a "disparate impact" on Jewish students at the University.
3. Professor Cheney-Lippold claimed that, "many university professors have pledged an academic boycott against [Israel](#)." Should additional professors at the University of Michigan follow Professor Cheney-Lippold's lead, and deny letters of recommendation to Jewish or Israeli students who wish to study in Israel, the University will be at risk of violating Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin. It has been extended to prohibit discrimination or harassment based on [Jewish ethnicity or ancestry](#) in guidance issued in 2004. Harassment rises to the level of a "hostile environment" when the conduct is "sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities or opportunities offered by a school district." Jewish students have a proclivity to study in Israel due to the Jewish historic and spiritual connection to "Zion"/ the Land of Israel. If these students are denied letters of recommendation, they are denied the services and opportunities provided by the university – which by definition amounts to a hostile environment.
4. Professor Cheney-Lippold's decision is in direct contravention to the university's pledge not to participate in academic boycotts. You reaffirmed this yesterday in your statement to the UM Regents, and as stated in the [September 18 University of Michigan Statement](#), the university's longstanding position in opposition to any boycott of Israeli institutions of higher education "has been stated publicly by university leaders, including [this statement](#) from the president and provost in 2013 and [this statement](#) from members of the university's governing Board of Regents in 2017."
5. Professor Cheney-Lippold has, by refusing to submit a letter of recommendation, damaged his student's professional advancement and harmed his student economically for reasons that have nothing to do with the student's own merit or qualifications.

As you and your administration work to take steps to fully address this issue, we recommend the following corrective actions:

- Affirm to your university community that you will not tolerate professors jeopardizing student academics in light of purely personal, political reasons;
- Direct the professor to remedy the harm he has already caused by writing the requested letter of recommendation based on the student's own merit, regardless of where the student chooses to continue her study abroad education;
- Evaluate Prof. Cheney-Lippold's decision in line with school policies, and if violations are found, discipline Prof. Cheney-Lippold as warranted, consistent with applicable constitutional protections;
- Investigate Prof. Cheney-Lippold's claim that "many university professors have pledged an academic boycott against Israel," and make it clear to *all* professors at the University of Michigan that such conduct is unacceptable and could lead to disciplinary action;
- Provide mandatory training and education to all faculty members on how anti-Semitism is often manifested as anti-Zionism, and make it clear to the university community that anti-Jewish discrimination will not be tolerated on campus, just like other forms of racial and religious hate have no place at the university.

We are available to share our expertise on these issues, and further discuss our recommendations with you, and can be reached by e-mail or by phone at (202) 559-9296.

Thank you in advance for your serious consideration of this matter.

Sincerely,



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Appendix 1

