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December 18, 2023

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Assistant Dean Jermaine Cruz
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Re: Censorship of Professor Nina Farnia and Creation of a Hostile Climate

Dear Dean Carlarne, Associate Deans Brescia, Queenan and Taranto, and Assistant Dean Cruz:

I am writing from the [Center for Constitutional Rights](#) (CCR), a New York-based legal organization that was founded in 1966 and that works to advance constitutional and international rights. CCR has been seeking to enforce international human rights for nearly fifty years, and issued the [Emergency Legal Briefing Paper](#) that we understand you asked Professor Nina Farnia to remove as a class reading and that is now the subject of a harassment claim against her. We also have significant experience defending against efforts to suppress speech supporting freedom, justice and equality for Palestinians, like the attempts to silence Prof. Farnia here.

We have serious concerns that Albany Law School's treatment of Prof. Farnia violates the principles of academic freedom, free and open inquiry, and the search for truth espoused by the Law School. We are also very concerned by the onslaught of attacks and threats that Prof. Farnia has been subjected to from both within and outside the law school community, subjecting her to a hostile environment and threatening her safety. The Law School must defend Prof. Farnia's academic freedom and address the harassment and other attacks against her.

We understand that a Complaint was filed against Prof. Nina Farnia, the subject of which is: 1) a post on Dr. Farnia's personal social media account on an issue of public concern that was posted October 7th, prior to the stories of that day being widely disseminated; 2) unattributed letters in students' school mailboxes "calling Israel's defense genocide and calling to stop the self-defense" which she is not alleged to have had anything to do with; and 3) assigning students the [Emergency](#)



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[Legal Briefing Paper](#) that CCR issued regarding Israel’s Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide.

We also understand that a Subcommittee of the Albany Law School Harassment Committee has made an initial determination that the conduct could constitute a violation of the Law School’s Prohibition of Discrimination, Harassment, and Retaliation for the Campus Community Policy, and that an investigation is being conducted. Given the academic freedom principles at stake, we are dismayed to see the initial assessment that “due to the complexity of this matter, the investigation will extend beyond the 60-day timeframe....”

As background that may be instructive, CCR’s Emergency Legal Briefing Paper that Prof. Farnia assigned to her class is based on customary international law, as codified in the Genocide Convention. Following issuance of the paper, CCR [sued](#) President Biden, Secretary of State Blinken, and Defense Secretary Austin in federal court for violating their international legal obligation to prevent genocide and to not be complicit in genocide. The world’s leading genocide legal expert, William Schabas, submitted a supporting [declaration](#) that concludes “that there is a serious risk of genocide against the Palestinian population of Gaza and that the United States of America is in breach of its obligation, under both the 1948 Genocide Convention to which it is a party as well as customary international law, to use its position of influence with the Government of Israel and to take the best measures within its power to prevent the crime taking place.” It has been [reported](#) that Israel has killed nearly 19,000 Palestinians in Gaza, approximately 70% of them women and children. The Emergency Legal Briefing Paper is on an issue of public interest that is critical and timely, and was within the scope of Prof. Farnia’s course. It is extremely troubling that a law school would ask one of its professors to remove a legal briefing paper as a class reading assignment, and investigate her for assigning it. It also conflicts with your mission, which includes developing in your students “a sophisticated understanding of legal policy and doctrine, a broad range of professional competencies, and a deep commitment to justice and ethical values.”

Regardless of any disagreement with or offense taken by Prof. Farnia’s actions or speech, whether it be the legal briefing paper she assigned to her class or her personal social media post, these are clearly protected by academic freedom and free speech principles. In its Faculty Handbook, Albany Law School affirms that “academic freedom in teaching” is essential to the fulfillment of its faculty’s commitment “to the free search for truth and its free expression.” Albany Law School Faculty Handbook, at p. 1. Albany Law School also confirms that faculty have the fundamental freedom to teach their subjects, and acknowledges that the entire academic community “benefits from academic freedom.” *Id.* Albany Law School’s actions here violate its own policies regarding academic freedom, the preservation of which is essential to the mission of educational institutions, and to a democratic society. As the United States Supreme Court has stated, “[t]o impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our



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Nation.... 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.” *Sweezy v. State of N.H. by Wyman*, 354 U.S. 234, 250 (1957). Moreover, “academic freedom is illusory when it does not protect faculty from censorious practices but rather serves as a veil for those who might act as censors.” *Gray v. Bd. of Higher Educ., City of New York*, 692 F.2d 901, 909 (2d Cir. 1982).

As the American Association of University Professors [stated](#) on October 24, 2023:

It is in tumultuous times that colleges’ and universities’ stated commitments to protect academic freedom are most put to the test. As the Israel-Hamas war rages and campus protests proliferate, institutional authorities must refrain from sanctioning faculty members for expressing politically controversial views and should instead defend their right, under principles of academic freedom, to do so.

It is also important to understand the larger context of this suppression. For the last twelve years, CCR has been supporting the U.S. movement for Palestinian liberation against systematic efforts to suppress it, and to try to equate criticism of Israeli government policies with anti-Semitism or even support for terrorism. In 2015, we issued a joint report with Palestine Legal entitled “[The Palestine Exception to Free Speech: A Movement Under Attack in the US](#)” that documented the widespread and growing efforts to punish and silence protected advocacy on behalf of Palestinian rights and speech that is critical of Israel. This repression has skyrocketed since October 7th, reminiscent of McCarthyism, with Palestine Legal having received more than 1,000 reports of suppression from people being targeted for their Palestine advocacy in the United States. StopAntisemitism, which targeted Prof. Farnia after her social media post, prompting terrifying threats against her, is one of the many groups that has long attempted to silence individuals speaking out for the rights of Palestinians.

CCR has represented many clients who have been punished for their speech in support of Palestinian rights in the University context, both public and private. For example, we successfully represented Dr. Steven Salaita in a case against the University of Illinois in which the court found that his tweets around the 2014 assault on Gaza were on a matter of public concern, and “implicate[d] every ‘central concern’ of the First Amendment.” While Albany Law School is not public, the principle of academic freedom that it espouses similarly prohibits punishing personal speech occurring outside of school. As the American Association of University Professors recently [confirmed](#), “extramural speech, which often occurs in highly charged political moments, must not be subject to institutional sanction.”



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Any sanction of Prof. Farnia for such activities may also violate various New York laws. New York law prohibits employers from discriminating “in compensation, promotion or terms, conditions or privileges of employment because of...an individual’s political activities outside of working hours, off of the employer’s premises and without use of the employer's equipment or other property.” N.Y. Lab. Law § 201-d. Article 78 of the New York Civil Practice Law and Rules permits suits against New York institutions, including private universities, for failure to follow their own policies or procedures, or for acting arbitrarily and capriciously. For example, CCR brought a [case](#) against Fordham University under Article 78 for refusing to recognize Students for Justice in Palestine.

We expect Albany Law School to act in conformity with all applicable laws, to immediately affirm and uphold its own principles of academic freedom, to dismiss the investigation against Prof. Farnia, and to urgently address the harassment and other attacks against her.

Please feel free to contact me at mlahood@ccrjustice.org or 212-614-6430 if you have any questions or would like to discuss.

Sincerely,

A handwritten signature in blue ink that reads "Maria C. LaHood". The signature is written in a cursive style and is positioned above a horizontal line.

Maria C. LaHood
Deputy Legal Director