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Joint Statement on Department of Education Office for Civil Rights Investigations into NYU and UCLA

10 February 2020 – We, the official representatives of the undersigned American academic associations, feel obliged to express our grave concern about the investigations of New York University and the University of California, Los Angeles, that the Department of Education’s Office for Civil Rights (OCR) has recently launched for allegedly discriminating against their Jewish students.

We are, of course, deeply alarmed by the rising tide of racism, xenophobia and anti-Semitism in the United States, and we firmly believe that combating anti-Semitism and all other forms of racism, bigotry and discrimination is an essential duty of universities and colleges. It would appear, however, that the real aim of these investigations is to delegitimize critical perspectives on the Israeli-Palestinian conflict, and those who espouse them on our campuses, by unfairly tarring them with the brush of anti-Semitism. These attacks pose a serious threat to the right to free speech guaranteed by the First Amendment, to academic freedom, and to the independence of our institutions of higher education.

In November 2019 the OCR notified NYU that it had received a complaint alleging that the university had violated Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin, by (as the OCR put it) “failing to respond appropriately to incidents that created a hostile environment for Jewish students at the University.” Deeming the complaint appropriate for investigation, the OCR demanded that NYU produce data regarding a number of incidents allegedly involving discriminatory harassment of Jewish students. An investigation of UCLA along similar lines was launched in January 2020, and investigations of other universities are apparently pending.

Nearly all of the incidents of alleged anti-Semitism cited in the complaints that led the OCR to launch these investigations involve not actual manifestations of anti-Semitism but rather the expression of political opinions critical of Israel or of Zionism as a political ideology, or advocacy for Palestinian rights. The government agency responsible for determining whether discrimination has taken place at U.S. institutions of higher education appears to be deliberately and tendentiously conflating constitutionally protected speech with anti-Semitism. This effort to stigmatize and stifle the free discussion of, and teaching and scholarly research on, Israel, Zionism, the Palestinians and the Israeli-Palestinian conflict in order to further a political agenda evokes memories of other

periods in our history when government investigations subjected faculty and students to harassment and intimidation because of their political opinions. It also threatens the educational and intellectual missions, and the autonomy, of our colleges and universities.

Political speech, including criticism of any government or ideology and advocacy for any group's rights, must remain constitutionally protected in the United States, and such speech should not be conflated with bigotry for partisan political purposes. At our institutions of higher education, the vigorous protection of free speech must be accompanied by rigorous adherence to the standards and traditions of academic freedom in order to insulate faculty from the threat of unjustified intrusions by government agencies.

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