



27 January 2020

Dr. Andrew D. Hamilton
President, New York University
andrew.hamilton@nyu.edu

Dear President Hamilton:

We write to you on behalf of the Middle East Studies Association and its Committee on Academic Freedom with regard to the investigation of New York University launched in November 2019 by the U.S. Department of Education's Office for Civil Rights (OCR). The OCR initiated this investigation under Title VI of the 1964 Civil Rights Act in response to a complaint it had received in April 2019. That complaint, which the OCR deemed "appropriate for investigation," alleged that (as the OCR's letter put it) NYU had "discriminated against students of Jewish descent on the basis of national origin by failing to respond appropriately to incidents that created a hostile environment for Jewish students at the University."

We are of course deeply distressed by the rising tide of racism, xenophobia and anti-Semitism in the United States, and we firmly believe that combatting anti-Semitism and all other forms of racism, bigotry and discrimination is an essential duty for colleges and universities. However, we regard this investigation as a politically motivated assault on academic freedom and on the constitutionally protected right of free speech, as well as a threat to the autonomy and integrity of NYU and every other institution of higher education in this country. We therefore call on you and your administration to respond to this investigation in a manner that fully respects and defends the principles of academic freedom and the First Amendment rights of NYU students, faculty and staff.

MESA was founded in 1966 to promote scholarship and teaching on the Middle East and North Africa. The preeminent organization in the field, MESA publishes the *International Journal of Middle East Studies* and has over 2,700 members worldwide. MESA is committed to ensuring academic freedom of expression, both within the region and in connection with the study of the region in North America and elsewhere.

The complaint which prompted this investigation was submitted to the OCR on behalf of a single NYU undergraduate, a self-proclaimed "pro-Israel" activist who claims to speak for other (unnamed) Jewish students at NYU. The complaint alleges that NYU has for years not only tolerated but fostered "extreme anti-Semitism" on its campus, thereby denying Jewish students "their rights under the law to an environment on campus free of hostility created by anti-Semitism." This "intolerable and unlawful hostile atmosphere for Jewish students" was the result, the complaint contends, of the activities of a recognized NYU student organization, Students for Justice in Palestine (SJP), which it describes as "an avowed anti-

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Semitic organization with known terrorist connections.” SJP’s activities, in its public events and through its work with NYU’s undergraduate student government, allegedly “caused Jewish and pro-Israel students to feel unwelcome and unsafe.” The fact that in April 2019 SJP was awarded NYU’s President’s Service Award, which honors students and student organizations that have contributed significantly to the NYU community through community service and civic engagement or student leadership and campus programming, is offered as further evidence of discrimination against Jewish students by the university.

In support of its claims, the complaint cites a number of events in which SJP was involved that took place at NYU during 2018. We are not in a position to assess the accuracy of the complaint’s description of these events, but its dubious and reckless allegations about SJP’s “avowed” anti-Semitism and connections to terrorist organizations, and its hyperbolic tone, do not inspire confidence. It is worth noting in this regard that at NYU (as elsewhere), the SJP branch includes a number of Jewish students, and other Jewish students reportedly collaborate closely with it; so the complaint cannot reasonably claim to represent the perspective of all or even most Jewish students at NYU. But more importantly, the alleged manifestations of anti-Semitism cited in the complaint seem to involve SJP members expressing their support for Palestinian rights and/or their opposition to Israeli actions and policies with regard to the Palestinians, to Israel as a state or to Zionism as a political ideology.

Both the complaint and the OCR, which took the complaint’s allegations seriously enough to launch an investigation of NYU, have thus clearly chosen to construe such expressions of political opinion as self-evidently anti-Semitic. However, as we have [pointed out](#), it is both wrong and dangerous to deliberately and tendentiously conflate all criticism of Israel or of Zionism with actual manifestations of anti-Semitic bigotry. Such conflation, often perpetuated by organizations based outside of academia seeking to further their political agendas, and now by an agency of the U.S. government, is apparently intended to delegitimize and stifle certain opinions by tarring them with the brush of anti-Semitism. This not only threatens the constitutionally protected right to free speech but may also have a chilling effect on research, teaching and public discussion of the Israeli-Palestinian conflict on college and university campuses, thereby undermining the academic freedom that is so vital to the mission of our institutions of higher education. It may also divert attention and resources from efforts to combat real anti-Semitism.

This politically motivated investigation of NYU, and the equally specious investigation of the University of California, Los Angeles, that was launched in early January 2020, appear to have been initiated at the direction of Kenneth Marcus, who was confirmed in June 2018 as the Department of Education’s Assistant Secretary for Civil Rights. As we have noted [elsewhere](#), Mr. Marcus has a lengthy record, as a federal government official and as a political activist, of seeking to pressure universities to limit or suppress free and open discussion of the Israeli-Palestinian conflict and to silence faculty and students who express criticism of Israeli policies or advocate for Palestinian rights.

We note further that this campaign of harassment and intimidation being waged by Assistant Secretary Marcus and others against U.S. colleges and universities has



been bolstered by President Trump's Executive Order of 11 December 2019, which states that "discrimination against Jews may give rise to a Title VI violation when the discrimination is based on an individual's race, color, or national origin." This construal provided legal grounding for the reference in the OCR's letter to NYU defining the group allegedly subjected to discrimination as "students of Jewish descent on the basis of national origin." However, as we have [pointed out](#), Jews in the United States and elsewhere identify themselves in a wide variety of ways, so the Executive Order's implication that all Jews share a common national origin is not a statement of fact but an ideological claim. Like all other citizens and residents of the United States, Jews are entitled to protection against discrimination; but the current investigations of NYU and other universities demonstrate all too clearly how this Executive Order can be deployed to support a campaign aimed at suppressing the expression of certain political views by students and others, and to undermine academic freedom.

We therefore call on you, President Hamilton, and on NYU's leadership as a whole, to respond to this investigation by making clear your firm commitment to combating anti-Semitism and all other forms of racism, but also your rejection of all efforts to weaponize allegations of anti-Semitism in order to advance a political agenda. We further urge you to vigorously and publicly reaffirm your belief that all political speech, including criticism of any government or ideology and advocacy for any group's rights, is, and must remain, constitutionally protected in the United States. Finally, we call on you to ensure that at NYU this constitutional protection will always be accompanied by rigorous adherence to the standards and traditions of academic freedom, including freedom from the threat of politically motivated intimidation and harassment by government agencies.

We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dina Rizk Khoury', with a long, sweeping underline.

Dina Rizk Khoury
MESA President
Professor, George Washington University

A handwritten signature in black ink, appearing to read 'Laurie Brand', with a stylized, cursive script.

Laurie Brand
Chair, Committee on Academic Freedom
Professor, University of Southern California