



October 26, 2021

VIA EMAIL

Marcelo Suárez-Orozco, Chancellor
University of Massachusetts, Boston
100 Morrissey Blvd.
Boston, MA 02125
Chancellor@umb.edu

Joseph B. Berger, Provost and Vice Chancellor for Academic Affairs
University of Massachusetts, Boston
100 Morrissey Blvd.
Boston, MA 02125
Joseph.Berger@umb.edu

Gerard T. Leone, General Counsel
University of Massachusetts
One Beacon Street, 31st Floor
Boston, MA 02108
gleone@umassp.edu

Dear Chancellor Suárez-Orozco, Provost Berger, and General Counsel Leone,

We represent the Louis D. Brandeis Center for Human Rights Under Law (the Brandeis Center), a national public interest organization that works to protect the rights of Jewish and Israeli college students as required by law.

We are writing to follow up on complaints submitted by veteran CAMERA reporter Dexter Van Zile to this University regarding his experience at a June 24, 2021, rally hosted by a registered student organization eligible to receive funds from the University of Massachusetts Boston (the University)—namely, Students for Justice in Palestine (UMass Boston SJP). Mr. Van Zile was intimidated, harassed, and assaulted by rally participants who turned on him after another participant identified him as a “rabid Zionist,” based on his knowledge of Mr. Van Zile’s editorials supporting Israel and criticizing its detractors. Mr. Van Zile informs us that he has not received more than a perfunctory response to either of his complaints.

As we explain below, the University’s own Student Code of Conduct applies to misconduct even at off campus events that are hosted by or affiliated with student organizations, registered or unregistered. The Code unequivocally condemns conduct of the type committed here by students, student organizations, and/or their guests, and requires the University to investigate and – as necessary – sanction students or student organizations that violate the Code.

Because the University is aware of the misconduct that occurred at the UMass Boston SJP event, the University should investigate the incident and, to the extent it can identify students who were involved in conduct that violates the Code, appropriately sanction those students. Should the University fail to investigate as required, it will send a message to UMass Boston students that the Code has no teeth, and that students and student organizations are free to intimidate, harass, and assault individuals who attend their events, based on such individuals' perceived support of Israel. Since Jewish students are most likely to be perceived as supporters of Israel, this affects every Jewish student on campus.

I. Mr. Van Zile was assaulted at a rally hosted by UMass Boston SJP.

On June 24, 2021, UMass Boston SJP hosted the "Boston March for Palestine," a rally that the student organization had publicized on its Facebook page.¹ Mr. Van Zile set out to cover the rally, which started outside the Massachusetts State House, and proceeded to the area outside the offices of the Anti-Defamation League (ADL). As Mr. Van Zile relates in his complaint, and as videos taken by other CAMERA reporters present at the rally confirm, he was standing quietly off to one side of the rally before the ADL offices, writing on a pad of paper.

During the event, an individual participating in the rally pointed him out, naming him and identifying him as a "rabid Zionist," *i.e.*, a supporter of the State of Israel, based on his knowledge that Mr. Van Zile has taken pro-Israel positions in CAMERA.

The individual encouraged the audience to chant, "Zionist, go home!" In addition to chanting, rally participants surrounded Mr. Van Zile, shoved him, spat at him (during a pandemic!), threw water on him, and called him a "Nazi" and a "pig," based solely on his perceived identity as a "Zionist." This went on for a full seven minutes until the crowd moved on, apparently heeding the advice of an individual who told them their behavior could "cause trouble for us," and "one Zionist is not worth it." A veteran reporter, Mr. Van Zile stood his ground, though he was terrified. He continues to experience trauma as a result of the incident.

The event is well-documented in videos taken by other CAMERA reporters. *See, e.g.*:

<https://www.youtube.com/watch?v=HH2Tb8Nk9QM>

<https://www.youtube.com/watch?v=AN3fbsxiZGM>

<https://www.youtube.com/watch?v=ZATKGAdbxrI>

See also Mr. Van Zile's report at: <https://blogs.timesofisrael.com/seven-minutes-of-hate-courtesy-of-sjp-and-umass-boston/>.

¹ <https://www.facebook.com/events/210802090891342/>.

On information and belief, one of the persons harassing Mr. Van Zile was a UMass Boston SJP officer named [REDACTED], who can be seen in the video giving Mr. Van Zile “the finger.” Others in attendance – who likely include members of UMass Boston SJP, which hosted the rally – are not known by name. The University should investigate the incident and seek to discern whether Mr. Van Zile’s attackers include any UMass Boston students and/or officers of UMass Boston SJP.

II. The Student Code of Conduct requires the University to investigate the incident.

A. The Code applies to off-campus events hosted by student organizations.

As the University’s Student Code of Conduct makes clear, the University must investigate and sanction students and student organization who violate the Code, which squarely addresses and prohibits the type of misconduct at issue here.

The Code begins by recognizing that the school is set “in an urban 21st Century research setting, and is therefore an inseparable part of the local community and surrounding neighborhoods.” (Preamble to the Code.) The Code was expressly designed not only to inform student behavior on campus, but “to assist students in ... understanding how their behavior impacts others while the University maintains the welfare of the community as a whole.” (*Id.*)

The Code thus “sets a broad range of expectations for students *no matter where or when their conduct may take place*,” and “is not limited to behavior within the formal boundaries of the University premises.” (*Id.*, emphasis added.) The University pledges to “take necessary and appropriate action to protect the safety and well-being *of the University community*, to protect the continuing operation of the University, and to serve as a model representative of the greater Boston community.” (*Id.*, emphasis added.)²

In discussing the University’s jurisdiction, the Code once again emphasizes that its edicts apply to “students whose misconduct has a direct and distinct adverse impact on the University community, its members, and/or the pursuit of its objectives *regardless of where such conduct may incur*.” (Jurisdiction, emphasis added).

According to the Code, a “Member of the University Community” includes “any person who ... receives University services ... in connection with its programs or activities.” As an attendee of the UMass Boston SJP-hosted rally, Mr. Van Zile should be considered a member of the University community. But even if he is not, the Code strongly suggests that the University condemns assaults on members of the local Boston community.

² Students and student organization are “responsible for reading, reviewing, and abiding by the standards of conduct set forth in the Code, as well as the rules, regulations, policies, and procedures contained in other official University publications and announcements.”

B. The Code prohibits assault and the threat of assault.

The misconduct at issue here is particularly egregious. This is not a case of students getting “rowdy” after a night at a local pub. This is a case of assault—in the criminal sense of the term. Indeed, a criminal investigation is ongoing.

Not surprisingly, the Code expressly prohibits assault, or “[h]arming behavior, which includes, but is not limited to: *the threat of or actual physical assault or abuse[.]*” (emphasis added). The videos make clear that Mr. Van Zile was threatened and actually assaulted by individuals attending the UMass Boston SJP rally.

C. The Code also prohibits harassment on the basis of membership in, or association with, a protected group.

The Code also prohibits “harming behavior” in the form of “harassment,” defined as “conduct by another person or persons against another person or persons based upon their legally protected class” that adversely affects, *inter alia*, “participation in the University programs or activities” or that creates “an intimidating, hostile, or offensive working or academic environment.” (Prohibited Conduct.)

Specific “[e]xamples of harassment include, but are not limited to”:

the repeated use of written, oral or electronic communication, or a physical act or gesture by one or more individuals, repeatedly directed at another individual that: (i) causes physical or emotional harm or damage to property, (ii) places the target of such behavior in reasonable fear of harm to self, or of damage to property, (iii) creates a hostile environment or otherwise infringes on the rights of such individual or (iv) substantially disrupts the education process.

All of these examples are relevant here: Mr. Van Zile was subjected to insulting gestures and words as well as physical conduct that placed him “in reasonable fear of harm, as well as creating a hostile environment or otherwise that infringe[d] on the rights of such individual.”

Harassment may also include:

a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, or by association with an individual or group who has or is perceived to have one or more of such characteristics.

As the video footage demonstrates, the students attacked Mr. Van Zile based on his support for the State of Israel, and his association with “Zionists,” a term applied to Jews, and increasingly used as a

synonym for Jews, a “legally protected group” of persons having a shared “religion, ancestry, [and/or] national origin.”

UMass Boston SJP members and their guests (for whom they are responsible, according to the Code) violated Code provisions when they responded to a participant’s statement that Mr. Van Zile was a “rabid Zionist” by shouting “Zionist, go home!” and by surrounding Mr. Van Zile, spitting on him, throwing water at him, giving him the finger, and calling him “Nazi” and “pig.”

Lest there be any question, assaults on “Zionists” may be anti-Semitic when they follow the pattern displayed here, as set forth in the International Holocaust Remembrance Alliance (IHRA) working definition of anti-Semitism,³ which is the leading definition of anti-Semitism, adopted by numerous countries and U.S. agencies, Indeed, the Office for Civil Rights (OCR), which enforces Title VI of the Civil Rights Act, has incorporated the IHRA definition in its active policy portal, and uses it to determine whether conduct is based on unlawful discrimination against Jews.⁴

While speech itself is not actionable, it may provide evidence that an attack is based on anti-Semitism and thus constitutes unlawful discrimination. If an attack is accompanied by language that demonizes Israel by calling it a “racist” or “apartheid” endeavor, or by calling supporters of Israel “Nazis” or “pigs,” as occurred here, this strongly suggests that anti-Semitism was the root cause of the misconduct and actionable as such.⁵

The IHRA working definition of anti-Semitism recognizes that Jews and their associates may be attacked as “Zionists” no matter how they feel about Israel—as demonstrated on the streets of New York and Los Angeles this spring, when persons harboring an animus against Israel went in search of and assaulted Jews, without stopping to ask them how they felt about Israel.⁶

The IHRA definition also reflects the understanding that for many Jews, Zionism is an integral component of their ethnic identity. Jews share not only religious traditions, but also a deep historical sense of Jewish peoplehood. The Jewish people’s history, theology, and culture are deeply intertwined with the Land of Israel. For these Jews, expressing support for the Jewish homeland is a

³ See: <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

⁴ <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>

⁵ A “tweet” published by ██████████ a UMass Boston SJP officer and one of the students who harassed Mr. Van Zile, likewise accuses “Zionists” of racism. In response to an ADL message deploring the attack on Mr. Van Zile, Mr. ██████████ asserts that “[w]hat is deplorable is the promotion of zionism with the claim of anti racism. Zionism is white supremacy!” See: <https://twitter.com/██████████/status/1409234950080155654>

⁶ Indeed, UNESCO has cautioned that “Jew” and “Zionist” are often used interchangeably today in an attempt by anti-Semites to cloak their hate. See UNESCO & OSCE, ADDRESSING ANTI-SEMITISM THROUGH EDUCATION: GUIDELINES FOR POLICYMAKERS, 21, 24, 82–83 (2018), <https://unesdoc.unesco.org/ark:/48223/pf0000263702.locale=en>

sincere and deeply felt expression of the Jewish people's shared ancestral, religious, and ethnic identification with the Land of Israel.⁷

The videos taken by the CAMERA reporters speak for themselves: Mr. Van Zile was attacked at the UMass Boston SJP event because he has been a vocal supporter of Israel. Unfortunately, it appears the University has done nothing in the three-plus months since Mr. Van Zile filed his complaints, accompanied by this documentation. By its silence, the University has implicitly condoned the conduct of UMass Boston SJP, which hosted a rally at which participants attacked Mr. Van Zile after he was identified as a "Zionist." The assault, followed by inaction on the part of the University, hardly fosters a positive image of the UMass Boston or promotes the well-being of the greater Boston community, as the Code entreats students to do. To the contrary, the University's inaction sends a message that the school is a refuge for students (and student organizations) ready to disregard the rights of others and to inflict physical harm on individuals who belong to "out" groups.

The University's inaction also sends a message to the campus community. Students at this University should be able to participate in or observe rallies by student organizations like UMass Boston SJP without fear that they may be assaulted simply because they are recognized or called out as "Zionists"—namely, individuals who support the right of Israel to exist.

Jewish students at the University would reasonably view the unprovoked attack on a non-Jewish supporter of Israel as a threat. If the University fails to act, its Jewish students are left to wonder what might happen to them if they were to go anywhere near a UMass Boston SJP rally, let alone dare to voice their objections to the anti-Semitic discourse of the organization's speakers.

III. A similar attack on a student could implicate Title VI.

As noted above, the University has an obligation, under its own Code, to take action by investigating and sanctioning any students and/or participating members of the registered student organization (UMass Boston SJP) responsible for the event at which Mr. Van Zile was attacked.

The University should also be prepared to deal with similar events if and when they occur again, on or off campus. If a student at the University is threatened or assaulted at a UMass Boston SJP gathering, the University will need to consider not only its own Code, along with state and federal criminal laws; it will need to consider Title VI of the Civil Rights Act of 1964, which requires all

⁷ See Alyza D. Lewin, *Zionism: The Integral Component of Jewish Identity that Jews are Historically Pressured to Shed*, 26 ISRAEL AFFAIRS 330 (2020), available at <https://brandeiscenter.com/wp-content/uploads/2020/09/By-Alyza-D.-Lewin-Zionism-the-integral-component-of-Jewish-identity.pdf>

entities that receive federal funding to prevent discrimination against students who share an “actual or perceived shared ancestry or ethnic characteristics,” including Jewish students.⁸

As discussed above, harassing, marginalizing, demonizing, and excluding Jewish students on the basis of the Zionist component of their Jewish identity (actual or perceived) is discriminatory. It is also unlawful.

IV. The University should investigate Mr. Van Zile’s claims and make a public statement deploring attacks on Jewish students and supporters of Israel.

The unlawful and deeply disturbing assault on Mr. Van Zile at an event hosted by a UMass Boston student organization should be a wake-up call to the University, which is now on notice that UMass Boston SJP is creating a dangerous environment for students and the general public. The violence was a direct consequence of the reckless and irresponsible conduct of the event participants, who targeted, vilified, intimidated and harassed an innocent bystander purely based on his perceived identity as a Zionist. If the University does not take action and send a clear message to the community that such conduct is unacceptable, such violence is likely to recur.

In light of the anti-Semitism on full display at the UMass Boston SJP rally, the University should make a public statement similar to the one made recently by the University of Illinois at Urbana Champaign, advising its community that it will safeguard the rights of Jewish students for whom Zionism is an integral part of their identity:

These students have the right to openly express identification with Israel” and to “participate in university-sponsored activities free from discrimination and harassment. ... We deplore anti-Semitic incidents on campus, including those that demonize or delegitimize Jewish and pro-Israel students or compare them to Nazis. This subjects them to double standards that are not applied to others.

⁸ See 2010 Russlynn Ali, “*Dear Colleague Letter* at 2–3, U.S. DEP’T EDUC.–OFFICE FOR C.R. (Oct. 26, 2010) [hereinafter 2010 Dear Colleague Letter], <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf> (explaining that a university must take “prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring”); see also Kenneth L. Marcus, *Title VI and Title IX Religious Discrimination in Schools and Colleges: Dear Colleague Letter*, U.S. DEP’T OF EDUC.–OFFICE FOR C. R. (Sep. 13, 2004), <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

October 26, 2021

Page 8

The Brandeis Center will be happy to share its expertise in this area of the law should the University wish to consult us. In the meantime, please keep us apprised of your investigation into the assault on Mr. Van Zile.

Sincerely,



L. Rachel Lerman
Vice Chair and Sr. Counsel



Denise Katz-Prober
Director of Legal Initiatives

cc: Garrett Smith, Deputy Chancellor
Garrett.Smith@umb.edu

Shawn DeVeau, Interim Vice Chancellor for Student Affairs
Shawn.DeVeau@umb.edu