



Via Email

May 30, 2017

Chancellor Howard Gillman
University of California Irvine

cc: Diane Fields Geocaris, Chief Campus Counsel; Thomas A. Parham, Vice Chancellor, Student Affairs; Edgar Dormitorio, Assistant Vice Chancellor & Chief of Staff; Rameen Talesh, Assistant Vice Chancellor, Student Life & Leadership; Douglas M. Haynes, Vice Provost for Academic Equity, Diversity & Inclusion; Yvette Gullatt, UC Provost for Diversity and Engagement; Julia Friedlander, UC General Counsel.

Re: UC Irvine must protect Palestinian students and their allies from harassment and discrimination.

Dear Chancellor Gillman,

We write to demand that University of California Irvine (UCI) take immediate action to address severe and pervasive harassment directed at students involved with UC Irvine Students for Justice in Palestine (SJP). As civil rights and community organizations dedicated to ending race discrimination in all forms, we are disturbed that UCI articulates a commitment to “inclusive excellence” while enabling sustained harassment and discrimination against students advocating for Palestinian rights, the majority of whom are Arab, Muslim, and other students of color.

From Monday, May 8, through Thursday, May 11, 2017, a group of non-student Israel Defense Forces (IDF) soldiers called “Reservists on Duty” verbally harassed, surveilled, disrupted, and physically threatened UCI students on campus. The harassment targeted Palestinian members of UCI SJP, along with other students of color active with SJP (“students”). This occurred in full view of administrators who refused to intervene to protect their students from harassment by foreign military agents. When students complained, administrators told them that nothing could be done. Moreover, UCI is now taking steps to discipline the victims of this harassment for calling

out their harassers' behavior during a Question and Answer portion of a panel featuring the soldiers.

This failure to address the harassment the students faced, and your discriminatory handling of the students' engagement at their harassers' event, violates your legal obligations to protect students from race and national-origin discrimination under Title VI of the Civil Rights Act of 1964, and your obligation to uphold free speech protections in a rigorous learning environment.

I. Summary of Facts

Students were subjected to four days of sustained harassment and physical intimidation by IDF soldiers on campus.

During the week of Monday, May 8, 2017, a coalition of student groups including SJP organized events for "Anti-Zionism Week," to educate the campus about the Palestinian struggle for freedom and equality. A coalition of UCI students put up a "Mock Wall" display near the flagpoles on Ring Road to raise awareness about the separation wall that has expropriated Palestinian land, surrounded Palestinian towns, and cut Palestinians off from one another. The purpose of the display was to provide information and stimulate discussion about life for Palestinians living under Israeli military rule. SJP reserved the space to erect the display, and followed university policy in organizing the event. Throughout the week, Palestinian and Middle Eastern students, and students from partner organizations like MEChA, the Black Student Union, and others, volunteered at the display to pass out information.

Early in the day on Monday, May 8, a group of five to six people identifying themselves as Israeli soldiers from the Israeli group "Reservists on Duty" arrived at the Wall display and began a 4-day campaign of harassment, surveillance, disruption and physical intimidation. According to its website, Reservists on Duty brings active service personnel from the IDF to U.S. campuses to fight efforts to boycott, divest from, and sanction (BDS) companies and institutions that are complicit in Israel's violations of international law. In the words of the founder of Reservists on Duty, its intent is to "create a shock wave [to fight BDS] because, otherwise, the efforts are just not working at the moment."¹

For four straight days, for hours each day, the IDF soldiers and accompanying visitors targeted students at the Mock Wall display with sustained verbal harassment including gender, race- and national-origin- based insults, surveillance, disruption, and physical assaults.

The IDF soldiers used racist language to attack Palestinian and Arab students and their allies, the majority of whom were students of color. For example, members of the IDF soldier group repeatedly called Palestinian students terrorists and equated Islam with terrorism. The soldiers wore t-shirts with the slogan, in Arabic, "Israel is the only candle in a region of darkness." The use of Arabic indicates an intent to specifically target students of Arab backgrounds who would understand the insulting script.

¹ Lidar Gravé-Lazi, "Fighting for Israel on another front, Reservists on Duty Group Counters BDS," *Jerusalem Post*, May 30, 2016, <http://www.jpost.com/Israel-News/Fighting-for-Israel-on-another-front-Reservists-on-Duty-group-counters-BDS-455398>

The soldiers and the accompanying community members used racially charged language to target other students who were supporting the Mock Wall display. For example, soldiers repeatedly told a Jewish member of SJP that he is not a real Jew, and that he should take off his Kippah. When a black student asked a hostile visitor to leave, the visitor called the student an “18 year old punk ass bitch.” The visitor proceeded to follow the black student around with a camera yelling that he had been called a racist, when he had not. In response to chants comparing the border wall between U.S. and Mexico with the separation wall in Palestine, the soldiers screamed, “We want the Mexicans!”

The IDF soldiers used derogatory gender-based language to harass Palestinian and Arab students and their supporters. For example, a male soldier told a male SJP member that he is “not a real man.” A male soldier taunted a female demonstrating at the Wall in a sexually threatening tone, in Arabic, saying, “You want me to stick it in you, don’t you.”

The IDF soldiers and their supporters intimidated students by filming their faces close-up, despite students’ objections, in order to disrupt the Mock Wall event and scare students from participating. This occurred throughout the day from Monday through Thursday, for hours at a time. For example, the IDF soldiers forced themselves into crowds in order to aggressively film students, thrusting their arms in students’ faces and jamming their bodies against students, making unwanted physical contact. They appeared to have secret microphones in their bags that they held up close to students’ bodies while interrupting conversations with others who came to the Mock Wall to ask questions.

The soldiers repeatedly wielded video surveillance as a threat to intimidate students. For example, on Wednesday, May 10, during the Question and Answer portion of an event featuring the IDF soldiers, when students complained, “You’ve been in our faces all week,” the IDF camerawoman replied, “And I’ll be in your face all day tomorrow too.” The soldiers also threatened to report students to Canary Mission, a defamatory and McCarthyist blacklisting website that profiles students who are vocal for Palestinian rights, reports students to law enforcement, and harasses them online with the express purpose of ruining careers and reputations.

The IDF soldiers caused a substantial disruption to SJP’s planned events, and showed an intent to disrupt them. For example, the soldiers repeatedly interrupted and commandeered conversations with students who approached the Wall to ask questions and learn. The soldiers’ method was to run over when they saw interested students, interrupt in a loud voice, stand close, make provocative comments, and aggressively film the conversation. Observers reported that by Thursday, students were avoiding the area because of the hostility of the soldiers, which severely diminished the educational impact of SJP’s event.

The IDF soldiers escalated their conduct to physical assault and physical intimidation in several instances. On Wednesday, May 10, during the Question and Answer part of the event with the IDF soldiers, the group’s camerawoman came lunging at SJP students in the audience, gesturing aggressively and yelling. When a student stood in front of the camerawoman to stop her from assaulting other students, the camerawoman put her hands on his shoulders and shoved him aside. Associates of the IDF soldiers tried to restrain the camerawoman, and she resisted. An administrator helped prevent the camerawoman from lunging any further towards students, and then asked the camerawoman to step outside but she refused to comply. The camerawoman was not removed from the event, and it’s not clear if she was admonished in any way.

The following day, the same camerawoman was back on campus, in front of administrators, taunting students, aggressively filming students, and putting her body close to students in a physically intimidating manner. She committed at least one more physical assault when she shoved a protest sign out of the hands of a student, hitting the student in the face with the sign. A student also reported the soldiers standing in uncomfortably close proximity to students, within arms length, while they were trying to have conversations with other interested students. In one instance, when the students asked the soldier to move back, he stepped even closer.

Several Palestinian and Middle Eastern students, on multiple occasions, reported verbally to UCI administrators on the scene that the harassment by IDF soldiers was threatening and caused them to fear for their physical safety. Several students said that their families have directly experienced violence perpetrated by the IDF and thus the harassment by IDF soldiers was especially threatening. For example, a Lebanese-American graduate student who grew up in Southern Lebanon has lived through several bombing campaigns by the Israeli military targeting civilian neighborhoods. During one military assault, she was at home with her family when the balcony of her house crumbled to the ground as a result of a nearby bombing attack. When this student complained to an administrator that the Israeli soldiers were threatening her, the administrator replied, “they don’t have weapons on them.” The administrator took no known action in response to the complaint.

UCI administrators were direct witnesses to the harassment targeting students. Administrators were present for and observed sustained verbal outbursts, surveillance, disruption, and threatening physical behavior and physical assaults. Aside from temporarily restraining the IDF group’s camerawoman while she was in the midst of lunging towards and shoving students, administrators took no other known action to intervene and protect UCI students from the actions of foreign military agents on campus, despite students repeated complaints. At one point, Dean of Students Rameen Taleh, who was observing and witnessed the soldiers’ behavior, told a student who sought his support that nothing could be done because the soldiers had not crossed the line, and because they were not students.

Harassment victims used speech to respond to IDF soldiers in a Question and Answer session.

On the evening of Wednesday, May 10, Students Supporting Israel sponsored a speaking event with the same IDF soldiers from Reservists on Duty. This was at the end of a third day of sustained provocation by the soldiers. A group of 25 to 30 students who had been victims, or witnesses to the harassment by the IDF soldiers – both SJP members and students from partner student groups – attended the Question and Answer (“Q and A”) portion of the event. They agreed in advance to address the soldiers within the Q and A format. They brought a list of questions.

When students asked questions, other students responded in support with vigorous clapping. At times, students spoke spontaneously and emotionally. At other times, students raised their hands, and were called on. Frustrations and tensions rose as the IDF soldiers avoided responding to questions, and students were told they could not make remarks, but only ask questions. Students spoke out to express frustration with the facilitation. A soldier told a student from Gaza who talked about how difficult it is to live as a Palestinian that he is a victim of Hamas terrorists. When a community member asked the students why they had not served in the U.S.

military, one student responded that the military kills children and families. Students clapped vigorously in support. At that point, the camerawoman approached students in the assault described above.

As administrators and associates of the camerawoman tried to restrain her, the room became chaotic. Audience members on both sides were out of their seats and standing, and yelling. One student screamed, “She just attacked him! We are students! Why are foreign military agents attacking students?” It appeared to the students that the aggressor would not be removed from the event, and in fact, that the administrator present was concerned for the aggressor’s safety over the students’ safety, as he turned to face the students with his hands up. At that point, the students broke into spontaneous chants. The chanting organized what had been chaos moments before. The students continued to chant for 3 and a half minutes and then left the room voluntarily. Four minutes after the chants began, the group was gone from the room.

The group remained outside the room, speaking in hushed tones and taking care not to disturb events in surrounding rooms. The camerawoman came out again to taunt the students, exclaiming, “This is why your country is like that.”

II. UCI has a legal obligation to protect students from harassment and discrimination

UCI is required under its own policies and under Title VI of the Civil Rights Act of 1964 to protect students from harassment, intimidation, and discrimination based on their race, color, or national origin. Administrators cannot act with deliberate indifference to a hostile climate of severe or pervasive harassment targeting students based on their race or national origin. UCI policy specifically notes that prohibited harassment may include incidents between members of the university community and visitors.²

Here, there was overwhelming evidence that foreign military agents engaged in sustained harassment of Palestinian students, and other students of color perceived to be allies of Palestinian students. The harassment severely disrupted the educational experience of the students attempting to engage in a discussion of Israeli human rights abuses. The harassment intimidated students and made them fear for their physical safety, and for consequences to their families in Palestine. The harassment made some students stay away from the Mock Wall event and diminished their ability to participate. The evidence suggests that UCI took no steps to protect students.

² UCI Administrative Policies and Procedures, Sec. 700-18: Guidelines for Reporting and Responding to Reports of Discrimination and Harassment, Section C. “Prohibited Conduct,” <http://www.policies.uci.edu/policies/procs/700-18.html>. The policy states, “Note: Discrimination and Harassment may include incidents: between any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients).”

III. Punishing students for speaking to the soldiers in the Q and A panel would constitute viewpoint discrimination in violation of the First Amendment.

Beyond failing to protect victims of harassment, UCI is now blaming the victims, by investigating them for disruption of the Q and A session because they exercised their own speech rights to counter the IDF soldiers' behavior.

The fact that the event provoked heated political argument does not constitute a disruption by the students. The conveners and participants in the event were themselves acting in a confrontational and disruptive manner, both in the days before and during the event. It was the IDF group's camerawoman whose violent charge at students provoked a spontaneous vocal chant.

To punish the students for responding with a short period of chanting near the end of a provocative event, in response to an assault and sustained harassment in preceding days would be a violation of the students' First Amendment rights, of California law, UC policy, and Title VI of the 1964 Civil Rights Act.

Moreover, punishing students for engaging with meaningful questions and statements at a public forum, after days of being harassed by the same speakers with no response from the administration, would constitute unconstitutional viewpoint discrimination. There is considerable evidence in the public record of a pressure campaign by Israel advocacy organizations demanding that UCI suppress student speech critical of Israel and favorable to Palestinian rights. Meanwhile, similar instances of vocal student protests at UCI have gone unpunished, such as the Black Lives Matter protest of Los Angeles Police Chief Beck, in October 2016.³ This evidence indicates that UCI is restricting a particular viewpoint favorable to Palestinian rights in response to demands from Israel advocacy groups that disfavor it.

IV. UCI has a history of ignoring discrimination against Arab and Muslim students while suppressing free speech rights to criticize Israel.

Some of the signatories to this letter wrote on November 21, 2016 expressing concern with UCI's "Higher Ground" report because, while it professed to address intolerance with regard to all communities at UCI, it focused narrowly on the concerns of some Jewish students who advocate a Zionist ideology. The report conflated anti-Zionism with antisemitism, discarded the UC's obligation to protect speech activities, and completely excluded the interests of Palestinian and other vulnerable communities.⁴ We described how the Higher Ground report spent all nine pages

³ Scott Schwebke, "Black Lives Matter protesters shout anti-police chants at UC Irvine to protest L.A. police chief," *OC Register*, October 8, 2016, <http://www.ocregister.com/2016/10/08/black-lives-matter-protesters-shout-anti-police-chants-at-uc-irvine-to-protest-la-police-chief/>. Students at the IDF soldier event used the same chant that protesters used at the Beck event, "Israel, Israel, you can't hide, we charge you with genocide" replacing the keyword, "LAPD" with "Israel." This strongly suggests that one simple word change can trigger drastically different enforcement responses by the administration.

⁴ Letter to President Napolitano, the Chancellors, and the University of California Regents, from Civil Rights Organizations, November 21 2016,

solely on the concerns of Zionist Jewish students without addressing any other community. We wrote, “For a campus concerned about intolerance and diversity, it is alarming to see the total absence of concern about prejudice and harassment experienced by Arab and Muslim students, who have routinely been targeted with harassment and violence and singled out by authorities for investigation and punishment.”⁵ We received no reply from UCI.

V. Conclusion

UCI must act immediately to address an environment of pervasive harassment and suppression targeting Palestinian students and their allies. We request that you:

1. Publicly condemn the presence of foreign military agents on campus, and specifically the acts of Reservists on Duty.
2. Investigate the discrimination complaint filed by students targeted by Reservists on Duty.
3. Hold the Reservists on Duty accountable for violations of policy applicable to visitors, as you would hold any visitor accountable, and especially agents of foreign military governments.
4. Protect the speech rights of Students for Justice in Palestine, and their partner organizations, by immediately closing the investigation that threatens to punish their speech.

We will follow up with your offices to discuss the concerns raised in this letter.

Sincerely,



Liz Jackson
Staff Attorney, Palestine Legal
Cooperating Counsel, Center for Constitutional Rights,

On behalf of:

American Muslims for Palestine
Center for Constitutional Rights
Jewish Voice for Peace
National Lawyers Guild Los Angeles
National Lawyers Guild Orange County
Palestine Legal

<https://static1.squarespace.com/static/548748b1e4b083fc03ebf70e/t/583342e6d482e96ab7ae8639/1479754553079/Letter+to+UC+Regents-UCOP+Nov+21+2016.pdf>

⁵ See, for example, Palestine Legal and the Center for Constitutional Rights, *The Palestine Exception to Free Speech: A Movement Under Attack, Appendix, UC Irvine 11*, “Eleven Students Criminally Prosecuted for Event Walkout,” <http://palestinelegal.org/the-palestine-exception-appendix#irvine3>; see also, Murtaza Hussain, “Students In California Might Face Criminal Investigation For Protesting Film On Israeli Army,” *The Intercept*, June 23, 2016, <https://theintercept.com/2016/06/23/students-in-california-might-face-criminal-investigation-for-protesting-film-on-israeli-army/>.