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By fax, 818 677-2254; and by e-mail, presofc@csun.edu

Re: AMCHA Initiative's continued demands that California State University violate academic freedom.

Dear President Harrison:

This letter addresses the more than two-year hounding of Professor David Klein of your university and other faculty members at California State University (CSU) and University of California (UC) campuses by AMCHA, which aims to silence expression of personal political views critical of the state of Israel – faculty and students alike. The attacks on Prof. Klein, most recently in September 2013, have wrongly impugned his integrity and lawful status. They are also intended to cause the university to abandon its responsibility to uphold “academic freedom and free speech, which are central to the values and traditions of academia and, indeed, a democratic society.”¹

We write to underscore the fact that all of AMCHA's claims have been fully answered by CSU and no further response to AMCHA's latest email of September 30, 2013, is warranted.

AMCHA demands that you remove Prof. Klein's “Boycott Israel Resource Page” from the CSUN server. It asserts that AMCHA's interpretation of Education Code (EC) Section 89000.5 and its subsections is correct and that Prof. Klein's acts violate them. AMCHA posits that the analyses of the university's general counsel and interim general counsel, and of the state attorney general, who all found that Prof. Klein had not violated the law, are incorrect. Not only is AMCHA's argument frivolous and legally untenable; implicit in its position is that the general counsel for the university and the state attorney general are so incompetent that they did not read the entire statute before reaching their decision, but only AMCHA did. It is an astonishing claim, but totally consistent with other campaigns by AMCHA that distort the law in an effort to suppress any criticism of the state of Israel.²

¹ Former CSUN President Jolene Koester, President's Statement on Faculty Website, December 5, 2011, *available at* <http://web.archive.org/web/20120119120404/http://www.csun.edu/presofc/presletters/presletter-2011-12-05-website.shtml>

² Some examples of AMCHA's many campaigns to suppress criticism of Israel on campus, in violation of basic tenets of academic freedom, include:

The National Lawyers Guild's (NLG) September 20, 2013, letter to the CSU Board of Trustees (cc to you and others) urged that CSU "unambiguously and swiftly ... deter further instances of harassment and defamation to which Prof. Klein has been subjected for years by AMCHA and allied groups." All the claims raised in AMCHA's September 18 and 30, 2013, letters (to the CSU trustees and to you, respectively) have been patiently and repeatedly answered and shown by CSU and CSUN to be unfounded. Continued patience on your and CSU's part will exacerbate the chilling effect already felt by many students and faculty who wish to engage in serious debate about the grave human rights questions surrounding Israel and Palestine. In the words of the attorney general's May 17, 2012, letter, "No further action is required."

Our September 20, 2013, letter and its analysis and discussion should be considered along with this letter. For your convenience, we attach as an appendix a brief summary of the analyses offered by CSU, your university (CSUN) and the state Attorney General's Office. All of these analyses unequivocally found in response to similar complaints that the content of Prof. Klein's home page does not violate university policies, EC section 85005.5 or Government Code (GC) section 8314.

The legal and administrative opinions cited in the appendix below also show the irrelevancy of the question AMCHA posed to the CSU trustees: whether the trustees gave Prof. Klein "permission" to call for a boycott of Israel on his website. Explicit permission would be appropriate where required by the statute, but here, permission was not required because as with faculty web pages generally, the university has made clear that the opinions expressed on Prof. Klein's webpage are not to be seen as

(a) In March 2012, Tammi Rossman-Benjamin, AMCHA initiative co-founder, e-mailed a letter to California politicians and UC administrators accusing UCLA Prof. David Shorter of "misusing" campus resources "for the purpose of promoting the academic and cultural boycott of Israel." Prof. Shorter's UCLA course explored indigenous struggles around the world, and he used his course site to link to indigenous and activist campaigns, including the website of the U.S. Campaign for the Academic and Cultural Boycott of Israel, which is endorsed by hundreds of faculty members from universities across the country. AMCHA's attempt to censor Prof. Shorter's course site was defeated at UCLA.

(b) Ms. Rossman-Benjamin filed a complaint under Title VI of the U.S. Civil Rights Act challenging receipt by UC Santa Cruz of federal funds, alleging violation of Jewish students' civil rights. On August 19, 2013, the U.S. Department of Education's Office of Civil Rights (OCR) dismissed that complaint and two similar ones involving UC Berkeley and UC Irvine. As we discussed in the NLG September 2013 letter, OCR wrote that "robust and discordant expressions ... is a circumstance that a reasonable student in higher education may experience." See http://news.ucsc.edu/2013/08/images/OCR_letter-of-findings.pdf.

(c) On February 13, 2012, Tammi Rossman-Benjamin e-mailed a letter to CSU administrators claiming that professors at three campuses were misusing CSU resources by hosting lectures at which the Israeli Jewish historian Ilan Pappé was scheduled to speak. AMCHA asked that CSU withdraw its support for these forums. The letter was addressed to CSU presidents at its Fresno, Polytechnic, San Luis Obispo and Northridge campuses, to its chancellor and trustees, and to a list of politicians it frequently copies with spurious claims. Professor Pappé, the author of numerous highly regarded books, is critical of the policies of his country and discusses in his lectures the historical record tracing the development of these policies. On February 16, 2012, the presidents of CSUN, CSUF, and Cal. Poly wrote, "(I)t is not appropriate for our universities, as public institutions, to decide whether speakers are permitted to appear on campus based on the ideas they hold." The lectures were held as scheduled, the CSU presidents stating that the professors who invited Professor Pappé "acted within their rights to invite speakers they feel bring a perspective to an issue."

those of the university.³ Clearly, AMCHA demanded a response from the CSU trustees – and to be sure it was a demand – even though none was legally necessary, so it could demonstrate to its supporters its ability to exert power over the trustees. Given AMCHA’s history, it is reasonable to expect that Amcha intends to use this example in further efforts to silence any faculty or students who wish to offer criticism of the policies of the government of Israel.

It is obvious that the EC limitations on “name” use do not apply to the common practice in which CSU students, faculty members and other employees incorporate “CSU” as part of their electronic addresses, for emails or websites. That use of a CSU server does not trigger the Education Code limitations is clear from provisions of CSUN’s *Policies & Procedures: Legal Disclaimers for CSUN Internet Sites/Terms and Conditions*, which state in pertinent part:

“b. CSUN INTERNET SITES: The majority of CSUN web sites do not represent the university itself in any way. Any content contained or accessible from these sites, regardless of access method ... does not reflect the views of the Trustees of the California State University or the Executive Officers.”

Furthermore, if CSU were to restrict the content of faculty websites, it would contradict the American Association of University Professors’ policy on Academic Freedom and Electronic Communications.⁴ The policy states:

Freedom of expression within the academic community may be limited to no greater extent in electronic format than ... in print. ... Any restrictions that an institution feels it must impose on “acceptable use” must ... be clearly and precisely stated, must be content-neutral and narrowly defined, and should address only systemic abuses by users, such as the posting or sending of material that would cause the system to malfunction or would severely inhibit the access of other users.

Most troubling is the disinformation promoted by AMCHA to those who receive copies of its letters. For example, in its September 30, 2013, e-mail AMCHA states: “In light of Professor Klein’s unlawful behavior ...” This deliberate and false assertion, stated as if it were fact, continues with another of AMCHA’s false claims, that Professor Klein’s resource page is anti-Semitic. Such spurious claims of anti-Semitism are used to silence those who criticize the policies of Israel. The CSUN Office of Equity and Diversity’s finding is correct in its conclusion that Prof. Klein’s home page does not refer to Jewish people in a hostile manner, that it does not express prejudice against Jewish people, and that it does not encourage unfair or discriminatory treatment of Jewish people. As Jewish Voice for Peace, and many other anti-racist and Jewish activists worldwide have recognized, it is not anti-Semitic to call for a boycott of institutions complicit in the Israeli system of injustice.

³ Generally, EC 89005.5 describes some circumstances when the name of California State University may not be used. Additionally, EC 89005.5 (a)(2) provides that the trustees may permit the use of its name even when the circumstances are prohibited by this code section. As has been oft repeated, Prof. Klein’s actions did not trigger the requirements of ED 89005.5 (a)(2).

⁴ See American Association of University Professors, Academic Freedom and Electronic Communications, available at <http://www.aaup.org/AAUP/pubsres/policydocs/contents/electcomm-stmt.htm>

Conclusion:

We urge you to denounce AMCHA's repeated and spurious attacks against Prof. Klein. Your July 2012 statement and former President Koester's December 19, 2011,⁵ statement best sum up the University's position, and what now must be done: protect open dialogue on one of the world's most urgent questions.

Sincerely,

Jim Lafferty
Executive Director

Cc:

Bob Linscheid, Chair, California State University Board of Trustees
Timothy P. White, Chancellor, California State University
Andrew Jones, Interim General Counsel, California State University
Attorney General Kamala Harris
Deputy Attorney General Stepan Haytayun
Senior Assistant Attorney General Douglas Wood
California Speaker of the Assembly John A. Perez
California Superintendent of Public Instruction Tom Torlakson
California State Senator Alex Padilla (Northridge)
California Assembly Member Das Williams, Chair, Assembly Higher Education Committee
California Assembly Member Joan Buchanan, Chair, Assembly Education Committee
California Senator Carol Liu, Chair, Senate Standing Committee on Education
U.S. Congressman District 30 Brad Sherman

⁵ "The University believes that removing or censoring Professor Klein's comments because some in the campus community and/or others disagree with him and find them offensive would create a grave precedent for the University and encourage others to demand similar action on other views and comments with which they disagree. Taking action to suppress such views would also send the wrong signal to students who we have charged with educating about how a democracy should address issues involving differing views and be contrary to the University's goal to tolerate open dialogue on even the most difficult issues." See <http://web.archive.org/web/20120119112347/http://www.csun.edu/presofc/presletters/presletter-2011-12-19-webstatement.shtml>

APPENDIX A: Summary of Prior Conclusions by CSU and California State Officials Regarding Prof. Klein's Website:

- A. **Opinion of the state Attorney General's Office**, responding on May 17, 2012, to a similar complaint submitted on April 2, 2012, requesting that the attorney general prosecute Prof. Klein for alleged misuse of the CSU name and resources [EC 89000.5 and GC 8314]: "Because we conclude upon review that the evidence ... does not support a finding of misuse of such name and resources, we find no basis for action on our part."
- B. **Excerpts, findings, opinions and statements of CSUN officials and faculty committees responding to similar if not identical complaints:**
1. CSUN Office of the President (past President Koester), in a December 19, 2011, statement extracted from findings of the Office of Faculty Affairs: The review found no statement or endorsement of the views at the website by CSU or CSUN and concluded "it is unlikely that a reasonable person would interpret the "Boycott Israel" webpage as an endorsement by CSU or CSUN of the material contained herein."
 2. CSUN's Office of Equity and Diversity (OED), charged with investigating allegations of discrimination and harassment, reviewed Professor Klein's website. As to whether it considered the site anti-Semitic, it stated, "I see not a single entry on the site that referred to Jewish people in a hostile manner, that expressed prejudice against Jewish people, or that encouraged unfair or discriminatory treatment of Jewish people."
 3. CSUN OED's report concluded that "Professor Klein has every right to express his opinions about the treatment of Palestinian people at the hands of the government of Israel. Furthermore, based upon his thoughts and feelings about the issue, **he has every right to call for a boycott of the country. Neither action is anti-Semitic.**" (Emphasis added.)
 4. Based on CSUN's administrative reviews, former President Koester "upheld Professor Klein's right to express his views based on the principles and tenets of academic freedom and the nation's guarantees of free speech."
- C. **Excerpt from CSUN's President Harrison's July 22, 2012, statement:** "The university previously found that Dr. Klein's expression of views and use of university resources were not in violation of university or state policies, a conclusion that has been supported by the university's general counsel and the State Attorney General. Further, this conclusion was found to be in keeping with the California State University's Policy on Academic Freedom and Free Speech Rights, as ratified by its Academic Senate. To censor the website would be contrary to the important value of free speech and send a disturbing message that the university is willing to restrict an individual's right to personal expression due to disagreement with those views."
- D. **September 24 and 25, 2013, opinions of Andrew Jones, interim general counsel of CSU:** He concluded that Prof. Klein's actions do not constitute a violation of Education Code 89005.5 or Government Code 8314 and that the call for a "boycott was not tantamount to anti-Semitism."