

**THE ZIONIST ORGANIZATION OF AMERICA'S  
MEMORANDUM IN SUPPORT OF ITS  
TITLE VI CLAIMS AGAINST  
RUTGERS UNIVERSITY**

**U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS**

**CASE NO. 02-11-2157**

**Respectfully submitted,**

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## **I. INTRODUCTION**

The Zionist Organization of America (“ZOA”)<sup>1</sup> submits this memorandum in support of its claims under Title VI of the Civil Right Act of 1964 (“Title VI”), made on behalf of Jewish students at Rutgers University, The State University of New Jersey (“Rutgers” or the “University”). The evidence presented to the Office for Civil Rights (OCR) establishes that Jewish students have been subjected to anti-Semitic harassment, intimidation and discrimination at Rutgers, University officials knew about these problems, and they failed to remedy the problems in violation of Title VI.

## **II. PROCEDURAL HISTORY**

On July 21, 2011, the ZOA sent a letter complaint to OCR, alleging that Rutgers failed to respond to the harassment, intimidation and discrimination against Jewish students, in violation of Title VI. The ZOA described the anti-Semitic hostility in detail.

In a letter dated October 26, 2011, OCR notified the ZOA that it would investigate Rutgers’ response to the following three allegations of the complaint: (1) that “the Outreach Coordinator for the University’s Center for Middle East Studies harassed a student (Student 1)<sup>2</sup> because of his national origin by physically threatening him in November 2009, and posting anti-Semitic comments about him on Facebook on December 9, 2010”; (2) that “other students harassed Student 1 because of his national origin by posting threatening comments on his Facebook page on or around January 31, 2011”; and (3) that “a student group called ‘Belief Awareness Knowledge and Action’ [BAKA] . . . treated Jewish students differently, on the basis of their national origin, by charging an admission fee for an event only to Jewish and pro-Israel students on or around January 29, 2011.”<sup>3</sup>

In the ensuing investigation, OCR conducted telephone interviews of seven current and recently graduated Jewish students at Rutgers, all of whom described the harassment, intimidation and discrimination that they and other Jewish students were subjected to on the campus, the efforts they made to get the University administration to address these problems, and

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<sup>1</sup> Founded in 1897, the ZOA is the oldest and one of the largest pro-Israel organizations in the United States. With offices around the country and in Israel, the ZOA works to strengthen U.S.-Israel relations, it educates the American public and Congress about the dangers that Israel faces, and it combats anti-Semitism and anti-Israel bias in the media and on college campuses. Under the leadership of such illustrious presidents as U.S. Supreme Court Justice Louis Brandeis, Rabbi Dr. Abba Hillel Silver, and current National President Morton A. Klein, the ZOA has been on the front lines of Jewish activism. The ZOA’s Center for Law and Justice was established to meet the need for greater organizational involvement in legal matters that affect relations among the United States, Israel and the Jewish people.

<sup>2</sup> “Student 1” is \_\_\_\_\_.

<sup>3</sup> OCR decided that the remaining allegations of the ZOA’s complaint were not appropriate for investigation. The ZOA filed a request for reconsideration of this decision, which OCR denied on May 21, 2012.

the administration's failure to do so.<sup>4</sup> In addition, OCR interviewed \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_,<sup>5</sup> who not only corroborated the students' assertions, but also provided troubling information about the University's indifference to the problems that Jewish students were facing. The ZOA also furnished OCR with documentary evidence in support of its claims.<sup>6</sup>

### **III. ARGUMENT**

#### **A. Rutgers Is Obligated Under Title VI to Remedy Anti-Semitic Harassment and Discrimination**

In a "Dear Colleague" letter on bullying dated October 26, 2010, OCR made it clear that Jewish students are entitled to the protections of Title VI. *See* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>. OCR stated:

[G]roups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection under Title VI on the ground that they also share a common faith. . . . Thus, harassment against students who are members of any religious group triggers a school's Title VI responsibilities when the harassment is based on the group's actual or perceived shared ancestry or ethnic characteristics, rather than solely on its members' religious practices.

*Id.* at 5.

OCR noted that harassment "may take many forms," including "verbal acts and name-calling" and "other conduct that may be physically threatening, harmful, or humiliating." *Id.* at 2. To be actionable, the harassment "does not have to include intent to harm, be directed at a specific target, or involve repeated incidents." *Id.* A hostile environment is created "when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school." *Id.*

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<sup>4</sup> At the start of the investigation, the ZOA contacted OCR's investigators to inquire about arranging the agency's interviews of the student victims. One of the OCR investigators responded, stating in an e-mail that OCR was proceeding with interviews of staff members at Rutgers, but "we do not need to interview students at this time." When the ZOA asked whether students would be interviewed at some point, the investigator responded in an e-mail that "we are in discussions as to whether we need to interview other persons, including students."

The ZOA objected, emphasizing that OCR could not possibly do a fair and thorough investigation without interviewing the victims of the harassment, intimidation and discrimination. The ZOA further asserted that OCR would have no way of evaluating the information it obtained from University staff, without also having information from the student victims. Ultimately, OCR agreed to interview seven students.

<sup>5</sup> Footnote redacted.

<sup>6</sup> Relevant documents are being submitted to OCR with this memorandum, in a separate binder.

Once a school knows or reasonably should have known about the harassment, it “must take immediate and appropriate action to investigate or otherwise determine what occurred.” *Id.* If the investigation shows that there was discriminatory harassment, “a school 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.” *Id.* at 2-3. This is the school’s responsibility under Title VI, “regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination.” *Id.* at 3.

As the evidence in this case shows, Rutgers knew about the anti-Semitic harassment, intimidation and discrimination that \_\_\_\_\_ and other Jewish students had been subjected to. Students had complained and filed bias reports. \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, also complained and urged the Rutgers administration to take steps to remedy the problems. When these efforts failed, the ZOA wrote two letters to Rutgers, describing the problems in detail and urging action.

The evidence demonstrates that Rutgers did not respond adequately or effectively, as required by Title VI. Jewish students’ complaints were either insufficiently investigated or not investigated at all. Indeed, senior University officials showed indifference and even disdain toward Jewish students and the anti-Semitic hostility they faced, treating the Jewish students as if they were the aggressors, not the victims. Rutgers failed to impose appropriate sanctions on those who harassed and discriminated against Jewish students in violation of University rules and policies. Instead, Rutgers pushed matters under the rug, justified the wrongdoers’ conduct, and shielded the wrongdoers instead of holding them accountable for their infractions. As a consequence, the harassment of at least one Jewish student continued, and anti-Semitism remains a problem on the campus.<sup>7</sup>

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<sup>7</sup> On December 20, 2011, \_\_\_\_\_, one of the student victims in this case, learned that someone had fraudulently created a Twitter profile for him. The Twitter page used a photo-shopped image of \_\_\_\_\_, depicting him as a Nazi storm trooper. His head was shaven, he was wearing what appeared to be a Nazi brownshirt, complete with a swastika, and he bore an Adolph Hitler-like moustache. Underneath this photo was the statement, “I’m a proud American, a proud Rutgers student, and a member of the white nationalist community. You can check out my posts at stormfront.org.” Stormfront.org is a white supremacist Neo-Nazi Web site. The creator(s) of this fraudulent Twitter account posted several hateful, bigoted and anti-Semitic “tweets” and falsely attributed them to \_\_\_\_\_. The matter was reported immediately to Rutgers officials. The ZOA also notified OCR. The culprits were never identified.

On April 4, 2012, a Rutgers student satirical paper called *The Medium* published an offensive opinion piece called “What About the Good Things Hitler Did?” (See <http://issuu.com/rutgersmedium/docs/dailymedium2012print?mode=window&pageNumber=8>). *The Medium* falsely represented that the piece was authored by \_\_\_\_\_ and posted \_\_\_\_\_’s photo next to the piece. To further encourage readers to believe that \_\_\_\_\_ authored the opinion piece, *The Medium* also deliberately used the same by-line – “\_\_\_\_\_” – that \_\_\_\_\_ used when his regular columns were published in the Rutgers student paper, *The Daily Targum*. *The Medium*’s actions in mocking the Holocaust in \_\_\_\_\_’s name were particularly hurtful to \_\_\_\_\_ because he is the grandson of Holocaust survivors and members of his family were killed in the Holocaust.

## **B. The Evidence Shows that Rutgers Violated Title VI**

### **A Jewish Student was Physically Threatened, Bullied and Intimidated by a Rutgers Official, and Rutgers Failed to Adequately Respond**

\_\_\_\_\_ was in his first semester at Rutgers when in November 2009, he attended a meeting of the Rutgers student assembly. The student assembly was reconsidering its decision to donate students' extra "meal swipes" to an organization called the Palestine Children's Relief Fund (PCRF). The decision to donate funds from the meal-swipe program to the PCRF had been made without the full assembly, and without all the facts. There was evidence that the PCRF had ties to the Holy Land Foundation, a front for the U.S.-designated foreign terrorist group Hamas. Many Rutgers students objected to financially supporting an organization with possible ties to terrorism.

Students and non-students, members of the student assembly, and concerned citizens in the Rutgers community attended the meeting to reconsider the student government's decision to donate funds to the PCRF. The room was crowded; there was standing room only.

\_\_\_\_\_, a Jewish student who headed the \_\_\_\_\_ committee at \_\_\_\_\_, was there. Prior to the meeting, \_\_\_\_\_ had been contacted by the chair of the student government who asked her "not to make it ugly" and not to bring student protestors to the meeting. \_\_\_\_\_ complied with the request.

But according to \_\_\_\_\_, the Rutgers chapter of the PCRF "brought angry protestors" to the meeting. Most of the people who attended the meeting were anti-Israel. There was "a small group of Jewish students," some of whom were wearing kippahs (skullcaps).

At the meeting, the PCRF explained its organization and mission. Then \_\_\_\_\_ got up and explained that she and other students had no problem with the PCRF's mission. The problem was the evidence showing that the PCRF had ties to terrorism. \_\_\_\_\_ and another Jewish student, \_\_\_\_\_, were members of the student assembly. They printed out the writings of the leader of the PCRF, which showed that the group had possible ties to terrorism, and they distributed the writings at the meeting. \_\_\_\_\_ was booed when she spoke.

After the meeting, \_\_\_\_\_ and \_\_\_\_\_ were outside in the lounge area of the Student Center, where the meeting had taken place. \_\_\_\_\_ described the setting as "intimidating": The pro-PCRF students "surrounded us," "asking us questions," and "trying to provoke us."

\_\_\_\_\_ and \_\_\_\_\_ were talking with other students, including a reporter from the Rutgers student paper, *The Daily Targum*. All of a sudden, a woman came charging toward \_\_\_\_\_,

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In or about May 2012, one of the bathrooms at the Alexander Library on Rutgers' College Avenue campus was defaced with a swastika and the following anti-Semitic message: "Finish the job b4 it's too late." A photo of the anti-Semitic vandalism, taken by \_\_\_\_\_, is Exhibit 1, submitted with this Memorandum.

yelling, “Do you want to take me on? “I’m Palestinian. I have thick Palestinian blood.” The woman – whom \_\_\_\_\_ and \_\_\_\_\_ did not know – kept repeating, “Take me on, take me on.” \_\_\_\_\_ observed that the woman was wearing a necklace “with a picture of Israel completely covered with the Palestinian flag,” which he understood as “a message to destroy Israel.”

\_\_\_\_\_ was in “complete shock” and did not understand what was happening. He responded to the woman screaming at him with words such as, “I don’t know who you are,” “I don’t want to fight,” and “I don’t fight women.” \_\_\_\_\_ was “scared,” “shrinking back from her.” He described the woman as “literally lunging toward me, pounding her chest.” People were “holding her back.”

\_\_\_\_\_ was standing behind \_\_\_\_\_; she corroborated his description of the incident. \_\_\_\_\_ saw a woman whom she did not know approach \_\_\_\_\_ and start “yelling at him,” with words such as, “I’m Palestinian. Do you want to kill (or hurt) me and my children?” The woman was “invading \_\_\_\_\_’s personal space,” “getting in \_\_\_\_\_’s face,” “beating on her chest,” and “trying to physically provoke him.” \_\_\_\_\_ observed \_\_\_\_\_ “physically shirk away.” He “leaned back,” “freaked out,” “like ‘what’s going on with her?’”

\_\_\_\_\_ described this woman as having stepped right up to him and the other Jewish students in the area in “an aggressive manner.” She “had a goal,” in \_\_\_\_\_’s view, to “find the Jewish kids and challenge them.” To \_\_\_\_\_, the woman was “looking for a fight,” looking “for someone to take her on, as she expressed multiple times.”

\_\_\_\_\_ described the area as “turning into chaos.” The Rutgers police department has its headquarters in the Student Center. A campus police officer eventually came up to the area and disbursed the crowd.<sup>8</sup>

Neither the police nor any University official detained \_\_\_\_\_ or asked him any questions about the incident. Nor did the University initiate an investigation into what occurred. Not wanting the situation to escalate, \_\_\_\_\_ left the Student Center and walked home, fearing that he was being followed. There were many people at the student assembly meeting who were “anti-Israel and anti-Jewish,” according to \_\_\_\_\_, and he assumed that the woman who had tried to provoke a physical fight with him was one of those people.

\_\_\_\_\_ did not file a complaint against the woman who assaulted him. He was new to Rutgers and did not know the process for filing a complaint. He did not know the identity of the

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<sup>8</sup> It is not clear whether the police were summoned or an officer just happened to be making his usual rounds in the building.

woman who had tried to provoke a fight, nor did he know that she was a University official. \_\_\_\_'s attitude was that "when someone challenges you to a fight, you walk away."<sup>9</sup>

After this incident, the woman who charged at \_\_\_\_ and challenged him to a physical fight continued to bully and harass him.

\_\_\_\_ wrote a regular column on a variety of topics for the student paper, *The Daily Targum*, called "\_\_\_\_." In December 2009, he wrote an opinion piece criticizing the student government's decision to donate its meal-swipe program to the PCRF.

After the article was published, the then-treasurer of the student government, Yousef J. Saleh (who later became student body president) posted the following message about \_\_\_\_ on Facebook:

I just sent an editorial to the Targum concerning "\_\_\_\_ My Words" article concerning PCRF. I want to take a full page ad out in the Targum and Write "FUCK YOU DUMBASS" and all the other people trying to pass off rooster entrails as a smoking gun that PCRF funds terrorists.

Exhibit 2.

Several individuals posted their own comments on Facebook, including someone identified as Shehnaz Sheik Abdeljaber, who referred to \_\_\_\_ as "that racist Zionist pig!!!!!!!!" Exhibit 2 (emphasis added). In her posting, Shehnaz Abdeljaber also tried to incite other Facebook users against \_\_\_\_, encouraging them to "[p]ut his name in fb [Facebook] search . . . he has a fb hate page" – as if celebrating that people were posting hateful messages about \_\_\_\_ and urging others to find the page so that they could read the comments and post their own hateful messages. See Exhibit 2 (emphasis added).

A friend of \_\_\_\_ saw Shehnaz Sheik Abdeljaber's posting and showed it to \_\_\_\_\_. Neither of them knew who Shehnaz Sheik Abdeljaber was.

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<sup>9</sup> At least one University administrator may have been present when the incident occurred. \_\_\_\_ believes that Kerri Willson and/or Karen Ardizzone (both of whom are staff members in Rutgers Student Life) were there. Much later, in September 2011, when \_\_\_\_ met with Gregory Blimling, the Vice President for Student Affairs, Vice President Blimling claimed that Kerri Willson had been present and had called the campus police because \_\_\_\_ and other students were being intimidating. When \_\_\_\_ asked Vice President Blimling for proof of that claim, Vice President Blimling did not respond.

If Kerri Willson and/or Karen Ardizzone had in fact been present when the incident occurred, they should have ensured that the incident was fully investigated – particularly if the University is claiming that the situation required the police's intervention. But there was no investigation; no one from the administration ever contacted \_\_\_\_ or \_\_\_\_ about the incident.

To \_\_\_\_, Shehnaz Sheikh Abdeljaber's name-calling was an "anti-Semitic slur," the same kind of slur that "the Nazis used toward the Jews during the Holocaust." To \_\_\_\_, it was as if Shehnaz Abdeljaber had called him "a Jew pig."

It was not until 2010 – when Shehnaz Abdeljaber initiated a petition to have \_\_\_\_ removed as a columnist for *The Targum* – that \_\_\_\_ learned Shehnaz Abdeljaber's identity and that she was employed at Rutgers.

Shehnaz Abdeljaber had posted her petition against \_\_\_\_ on line, and included an e-mail address, peaceingardens@comcast.net. When \_\_\_\_ learned about the petition, he "Googled" the e-mail address, which revealed Shehnaz Abdeljaber's identity. Shehnaz Abdeljaber was the Outreach Coordinator for Rutgers' Middle East Studies Center.

\_\_\_\_ had been considering minoring in Middle East studies at Rutgers. But once he learned that the woman who had charged at him, tried to provoke a physical fight with him, bullied him, and engaged in anti-Semitic name-calling against him, was the Outreach Coordinator for the Middle East Studies Center, he decided that he could not pursue a minor in Middle East studies.

To \_\_\_\_, Shehnaz Abdeljaber was "like a stalker." She was "obsessed" with doing things to hurt him, whether it was physically threatening him, or trying to "rile people up" against him, or trying to prevent him from exercising his right to free expression.<sup>10</sup> \_\_\_\_ did not file a complaint against Shehnaz Abdeljaber because he did not know that he could; Rutgers did not review its bias and intimidation policies with students.

In April 2011, the ZOA wrote to Rutgers President Richard L. McCormick, calling on the University to address Shehnaz Abdeljaber's outrageous and unacceptable actions, among many other campus problems. The ZOA urged Rutgers to "investigate Shehnaz Sheikh Abdeljaber's conduct. If the evidence shows that she maligned a student, incited hatred of him, and threatened and intimidated him, she should be fired." See Exhibit 4.

When President McCormick responded to the ZOA, he completely ignored the complaint about Shehnaz Abdeljaber's threatening and intimidating conduct toward \_\_\_\_\_. See Exhibit 5. After a second letter from the ZOA (Exhibit 6), President McCormick claimed that the matter had been "investigated and decisions were made based on a review of the facts, law, and university policies." Exhibit 7. President McCormick actually justified Shehnaz Abdeljaber's harassment and bullying of \_\_\_\_\_, writing: "As you are well aware, inappropriate language does not automatically constitute a breach of law or of university policy,

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<sup>10</sup> Ironically, Shehnaz Abdeljaber publicly denounced precisely the kind of conduct she herself engaged in against \_\_\_\_\_. In the February 24, 2011 edition of *The Targum* ([http://issuu.com/targum\\_editor/docs/dt\\_2011-02-24](http://issuu.com/targum_editor/docs/dt_2011-02-24)) Shehnaz Abdeljaber condemned bullying in schools and noted that victims are bullied not just by other students but by teachers, too. She also noted that people bully through the misuse of language, which is exactly what she had done to \_\_\_\_\_ in person and on Facebook. See Exhibit 3.



nor does an individual's private conduct necessarily constitute a breach of professional responsibility.” Exhibit 7.

In September 2011, \_\_\_\_\_ met with Gregory Blimling, the Vice President for Student Affairs, after \_\_\_\_\_ had written a column in *The Targum* criticizing the University’s response to the anti-Semitic hostility he had endured on campus. Vice President Blimling responded to the column, justifying the University’s response (or lack thereof), and invited Mr. \_\_\_\_\_ to meet with him.

When \_\_\_\_\_ told Vice President Blimling about the incident during which Shehnaz Abdeljaber almost physically assaulted him, Vice President Blimling did not express concern for \_\_\_\_\_’s well-being. He did not tell \_\_\_\_\_ that the University would finally be investigating the incident. Instead, Vice President Blimling was dismissive and indifferent to what \_\_\_\_\_ had been subjected to. He responded in a way that was in fact demeaning to \_\_\_\_\_, telling \_\_\_\_\_ that “it's your word against hers.”

In speaking with \_\_\_\_\_, Vice President Blimling also justified Shehnaz Abdeljaber’s right to post hateful and anti-Semitic messages about a student on Facebook, noting only that \_\_\_\_\_ had the “right to be offended” by what Shehnaz Abdeljaber had done. Vice President Blimling did not understand and appreciate that Shehnaz Abdeljaber had physically threatened a student because he was Jewish and pro-Israel. Vice President Blimling did not understand and appreciate that she had engaged in anti-Semitic bullying and name-calling, and tried to interfere with \_\_\_\_\_’s right to free expression in the *Targum* by sponsoring a petition to have him removed as a columnist simply because she did not agree with his views. Vice President Blimling did not understand and appreciate that Shehnaz Abdeljaber’s conduct had interfered with and limited \_\_\_\_\_’s ability to participate in and benefit from the services, activities and opportunities offered at Rutgers. Because of her threatening and harassing conduct, \_\_\_\_\_ was made afraid for his physical safety. He also decided that he could not pursue his interest in minoring in Middle East studies, because Shehnaz Abdeljaber was the Middle East Studies Center’s Outreach Coordinator.

Contrary to the conclusions of President McCormick and Vice President Blimling, justifying Shehnaz Abdeljaber’s conduct, Rutgers’ own policies prohibit her conduct. The policies proscribe all University employees, including student employees, from engaging in harassment or discrimination based on religion, national origin, ancestry and several other enumerated categories. See <http://policies.rutgers.edu/PDF/Section60/60.1.12-current.pdf> (Exhibit 8). Rutgers says that it “is committed to handling complaints and reports of discrimination and harassment swiftly, fairly, and with sensitivity.” Exhibit 8 at Section V. There is a Harassment Complaint Process that Rutgers is supposed to follow; once completed, Rutgers says that it “will take appropriate corrective action, consistent with the results of the investigation,” which could include “disciplinary action, up to and including discharge” of an employee. Exhibit 8 at Sections II, V.

Rutgers did not follow its own policies with respect to Shehnaz Abdeljaber's repeated harassment of \_\_\_\_\_. Once on notice of the harassment, Rutgers did not respond fairly, swiftly or with sensitivity to \_\_\_\_\_. If there was a University investigation, \_\_\_\_\_ was never part of it.

The most telling symbol of Rutgers' inaction and indifference to \_\_\_\_\_'s suffering is the fact that to date, Shehnaz Sheik Abdeljaber is still listed as the Outreach Coordinator for the University's Middle East Studies Center – a position that she is not qualified to hold. It is impossible to imagine how Rutgers could think that Shehnaz Abdeljaber could be doing any constructive outreach with \_\_\_\_\_ or other Jewish students who love and support Israel.<sup>11</sup>

#### A Jewish Student Was Physically Threatened By Another Student And Rutgers Failed to Adequately Respond

On January 29, 2011, the student group BAKA<sup>12</sup> co-sponsored a program on campus called "Never Again for Anyone," which disgracefully compared the Nazi genocide against the Jews during the Holocaust to Israel's defensive policies toward the Palestinian Arabs.<sup>13</sup> On January 31, 2011, the *Targum* published \_\_\_\_\_'s opinion piece entitled "BAKA Must End Hateful Tactics," in which \_\_\_\_\_ criticized BAKA for hosting the event.

After the piece was published, another student named Joseph Tamimi posted a message on Facebook, threatening \_\_\_\_\_'s life:

As I was reading the \_\_\_\_\_ column this morning, I realized how Im [sic] a pretty angry person. Id [sic] be happy to see him beat with a crowbar. Violence doesnt [sic] solve problems but it shuts up people who shouldnt [sic] speak.

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<sup>11</sup> Indeed, at their meeting in September 2011, \_\_\_\_\_ told Vice President Blimling that Jewish student enrollment is effectively non-existent in the Middle East Studies Department. Dr. Vice President Blimling ignored this statement. To \_\_\_\_\_, "it was like we were having two separate discussions."

<sup>12</sup> BAKA is a registered student group at Rutgers whose supposed mission is "to shed light on injustices currently taking place in the Middle East, as well as empower students to elucidate truths and eradicate such injustices." <http://getinvolved.rutgers.edu/organizations/find-an-organization/?category=&search-text=baka>. In fact, as every witness attested to, Israel is part of the Middle East and yet BAKA is not the least bit concerned about any injustices to Israel or the Israeli people. Indeed, many if not most of BAKA's events demonize and delegitimize Israelis and the State of Israel. Some BAKA events are anti-Semitic.

<sup>13</sup> The phrase "Never Again" holds special significance to the Jewish people. It is a vow never again to permit another Holocaust against the Jewish people. BAKA usurped the phrase and misused it for its own purposes, in order to incite hatred of Israel, by promoting the false notion that Israel is committing a Holocaust against the Palestinian Arabs. Comparing Israelis to Nazis is anti-Semitic, according to the working definition of anti-Semitism that the U.S. government employs. See U.S. State Department's Contemporary Global Anti-Semitism Report, at <http://www.state.gov/documents/organization/102301.pdf> at 6-7.

Exhibit 9 (emphasis added).

At least seven of Tamimi's Facebook friends clicked "like" on this message, indicating their approval of the murderous threat made against \_\_\_\_\_. One responded with a chilling threat of his own: "Or makes theme martyrs, furthering the strength behind their beliefs. And skinning them alive so they see the afterlife." See Exhibit 9 (emphasis added).

As \_\_\_\_\_ told OCR, he was frightened when he read the messages; "when someone says they want to kill you, you take them pretty seriously." He immediately went to the Rutgers Web site and had all his contact information removed, so that no one would be able to track him.

\_\_\_\_\_ also went to talk to Andrew Getraer, the Executive Director of Rutgers Hillel. \_\_\_\_\_ planned to file a police report, but he wanted to know if there was something else he should do. He thought about Tyler Clementi, the Rutgers student who, in September 2010, had also been subjected to on-line bullying by other Rutgers students and then killed himself by jumping off the George Washington Bridge.

Andrew Getraer directed \_\_\_\_\_ to the Dean of Students of Rutgers' College Avenue Campus, Timothy L. Grimm. \_\_\_\_\_ went immediately to the Dean's office where they spoke briefly. \_\_\_\_\_ gave the dean a screen shot of the Facebook threats, which \_\_\_\_\_ had printed out at the Hillel office.

Dean Grimm told \_\_\_\_\_ that he would contact \_\_\_\_\_ within a day or two, regarding what the university would be doing in response to the threats. This plan was consistent with University protocol that bias reports would be responded to within 24 hours. See Exhibit 10. After meeting with Dean Grimm, \_\_\_\_\_ filed a police report.

Dean Grimm never followed up with \_\_\_\_\_, and not a single University official reached out to \_\_\_\_\_ after he reported the murderous threats made against him. It was \_\_\_\_\_ who again reached out to Dean Grimm to inquire about the status of the University's investigation. Exhibit 11. Dean Grimm responded with a cursory e-mail – sent more than a month after \_\_\_\_\_ had been threatened – informing \_\_\_\_\_ that there were insufficient grounds to charge Tamimi. Exhibit 11. It is difficult to conceive of what additional grounds the University needed, beyond Tamimi's Facebook posting itself.

When the ZOA wrote to Rutgers president about the student threats made against \_\_\_\_\_ (Exhibit 4), President McCormick initially ignored the subject in his response. See Exhibit 5. The ZOA sent a second letter, raising the threats again. Exhibit 6. In response, President McCormick claimed that "the allegations . . . were investigated and decisions were made based on a review of the facts, law, and university policies." Exhibit 7. President McCormick also

justified the threats, writing that “inappropriate language does not automatically constitute a breach of law or of university policy.” Exhibit 7.

In fact, Tamimi’s conduct violated Rutgers rules and policies. The University has a specific Policy Against Verbal Assault, Defamation and Harassment. *See* [http://compliance.rutgers.edu/images/uploads/file/Policy\\_Against\\_Bullying\\_Harassment\\_Assault\\_Intimidation\\_Defamation.pdf](http://compliance.rutgers.edu/images/uploads/file/Policy_Against_Bullying_Harassment_Assault_Intimidation_Defamation.pdf) (Exhibit 12). The policy emphasizes that “[e]ach member of this community is expected to be sufficiently tolerant of others so that all students are free to pursue their goals in an open environment, able to participate in the free exchange of ideas, and able to share equally in the benefits of our educational opportunities. Beyond that, each member of the community is encouraged to do all that she or he can to ensure that the university is fair, humane, and responsible to all students.” Exhibit 12.

The Policy makes it clear that while the University values and supports “free speech and the open discussion of ideas,” protected speech does not include “verbal assault, even if communicative in nature”; such conduct should be condemned. Exhibit 12. Threatening to use force against a person and harassment (which includes communicating in “offensively coarse language” or in a manner “likely to cause alarm”; threatening to subject someone to “offensive touching”; and engaging in other “alarming conduct”) – “even if communicative in nature” – are prohibited acts punishable by suspension or expulsion. Exhibit 12.

Likewise, Tamimi’s conduct violated several provisions of Rutgers’ Code of Student Conduct. *See* Exhibit 13. The Code specifically prohibits threatening to use force against a person. Exhibit 13 at 6. The Code also prohibits bullying, intimidation and harassment, which includes making “communications (including electronically or through social media) to another person in any manner likely to seriously annoy or cause alarm”; or “threaten[ing] to subject another person to striking, kicking, shoving, or other offensive touching; or “engag[ing] in any other course of alarming conduct . . . with the purpose of seriously annoying or alarming another person.” Exhibit 13 at 6-7.

Rutgers considers each of these offenses to be so serious that any of them can result in either suspension or expulsion from the University. Exhibit 13 at 6. Yet Rutgers did not discipline Tamimi; Dean Grimm informed \_\_\_\_ that Tamimi was simply given a warning. So far as \_\_\_\_ knows, the University never even considered, let alone investigated, the threat made by the other student, Aaron Gevers, to skin \_\_\_\_ alive, since the University never communicated with \_\_\_\_ about it.

As \_\_\_\_ told OCR, when he met with Vice President Blimling in September 2011, Vice President Blimling characterized Tamimi’s Facebook threat to shut up \_\_\_\_ by beating him with a crowbar as “civil and open discussion.” Vice President Blimling told \_\_\_\_ that while he

had “the right to be offended” by Tamimi’s conduct, “the University cannot stop anyone from making a threat unless there is a physical confrontation.”

Vice President Blimling’s assessment of how Rutgers could respond to the threats against \_\_\_\_\_ is wrong. As Vice President Blimling knew or should have known, the University’s rules and policies specifically prohibit threats without a physical confrontation, and considers the infraction to be so serious that a wrongdoer can even be expelled. *See* Exhibits 12 and 13 at 6.

Because the University failed to effectively remedy the campus hostility that was being directed against \_\_\_\_\_, the hostility continued. \_\_\_\_\_ was victimized repeatedly, most recently in April 2012.<sup>14</sup>

Jewish Students Were Harassed and Discriminated Against at a Campus Event, and Rutgers Failed to Adequately Respond

1. BAKA’s “Never Again for Anyone” Event on January 29, 2011

After numerous BAKA events demonizing Jews and Israel during the 2010-2011 academic year, Jewish students were offended and outraged when they learned that BAKA was sponsoring yet another such event, this one called “Never Again for Anyone.”<sup>15</sup>

To \_\_\_\_\_, a program “equating Nazism and the Final Solution against the Jews with Israel’s policies toward the Palestinians” was “offensive and anti-Semitic.” \_\_\_\_\_ explained that “for Jewish people including myself,” an event held “in memory of the Holocaust,” which would be “comparing Israel to the Nazis,” is “a horrific comparison. A large portion of Israelis are Holocaust survivors. And we’ve all had family members killed in the Holocaust. The idea of an event in honor of our ancestors that would be comparing their descendants to Nazis, doesn’t get more anti-Semitic than that. . . . Comparing the gassing of six million Jews to Israel’s acts of self-defense is preposterous and bigoted toward the Jewish community.” \_\_\_\_\_ described being “personally horrified” when she learned about BAKA’s “Never Again for Anyone” event. She is Israeli-American and the grandchild of Holocaust survivors, which is “very much part of my identity and where I am today.”

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<sup>14</sup> *See* n.7, *supra*.

<sup>15</sup> As students told OCR in their interviews, the “Never Again for Anyone” event was just one of many BAKA-sponsored events and activities in the 2010-2011 academic year that demonized and delegitimized Israel, creating a hostile environment for Jewish students. Rutgers Hillel put together a list of all these anti-Israel events. *See* Exhibit 14. These BAKA events went beyond questioning and criticizing Israel’s policies and practices. They demonized Jews and Israel, drew comparisons of Israeli policy to that of the Nazis, and delegitimized the Jewish State of Israel, all of which is anti-Semitism, according to U.S. government standards. *See* U.S. State Department’s Contemporary Global Anti-Semitism Report, at <http://www.state.gov/documents/organization/102301.pdf>.

Many Jewish students and members of the Jewish community decided to attend the event, to challenge the hateful and demonizing falsehoods that would be promoted there and to expose the truth. Some students planned to peacefully protest; they decided to stand up during the event, unzip their jackets, and reveal tee shirts bearing the message, “Don’t Politicize the Holocaust.” Then they would quietly walk out.

2. An Admissions Policy was Unfairly Imposed and Selectively Enforced Against Jewish and Pro-Israel Students

Many Jewish and pro-Israel students and community members tried to attend the “Never Again for Anyone” event. But most could not gain admission. They were subjected to an admissions policy that was discriminatory and anti-Semitic, in violation of University policies.

The event was co-sponsored and organized by several organizations, including BAKA. It had been advertised as “free and open to the public,” including by BAKA.<sup>16</sup>

\_\_\_\_\_ created a Web site on which he was documenting the anti-Semitic and anti-Israel activities on the Rutgers campus, including the “Never Again for Anyone” event. \_\_\_\_\_ videotaped portions of the event. He also posted the Facebook and Craigslist advertisements for the event, both of which clearly stated that the event would be “free and open to the public.” See \_\_\_\_\_. The Facebook advertisement was created by BAKA.

\_\_\_\_\_ told OCR that when he arrived at the event, he saw a flyer on the registration table that said that the event was free, with a suggested donation of \$5.00 to \$20.00. \_\_\_\_\_ told OCR that she also saw a sign which said, at the top, that there was a suggested donation. The bottom part of the sign stated that the event was free and open to the public.

Early arrivals at the event were admitted for free. But according to \_\_\_\_\_, when the event organizers saw the large numbers of Jewish and pro-Israel students waiting to be admitted to the event, the organizers “got together,” “had a quick discussion,” and “announced that now they were going to be charging five dollars.” It was “very apparent” that they “changed the rules” because “a lot of Jewish pro-Israel students” were there and “they did not want us in.”

Sara Kershner, a representative from one of the co-sponsoring outside organizations, announced the change in the admissions policy, that there would now be a charge for admission.

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<sup>16</sup> All of the students interviewed by OCR confirmed that BAKA was one of several co-sponsors of the “Never Again for Anyone” event, and that BAKA had advertised the event as free and open to the public. \_\_\_\_\_ said that BAKA leaders had written an op-ed in the *Targum* about the event, and invited everyone to attend. \_\_\_\_\_ told OCR that “it was clearly, clearly a BAKA event. Their name was billing everything, on every sheet.” In his interview with OCR, \_\_\_\_\_, the \_\_\_\_ of \_\_\_\_\_, corroborated the students’ reports.

When she made the announcement, \_\_\_\_\_ saw a BAKA student standing next to her. Sara Kershner did not explain the reason for the change in policy, at least at first.

After she heard the announcement, \_\_\_\_\_ told OCR that she took out her phone and displayed her Facebook app for the event. She tried to show Sara Kershner that the event had been advertised as free and open to the public, but Sara Kershner “brushed it off.”

The crowd reacted strongly to the sudden change in the admissions policy, chanting “let the students in” and – quoting from the ads for the event – “free and open to the public.” \_\_\_\_\_ and \_\_\_\_\_ saw that the sign for the event had been ripped in half: The bottom part, which had said “free and open to the public,” had been removed.

\_\_\_\_\_ told OCR that he observed that BAKA students were being permitted to enter the event free of charge. Everyone else was told to step aside, that “they would deal with us later.”

\_\_\_\_\_ told OCR that when he arrived at the event, he and other Jewish and pro-Israel students were segregated in a specific area and told to wait. \_\_\_\_\_ saw BAKA students walking around with a booklet of green wristbands. They were handing them out to “anyone who did not look Jewish” or who was “clearly on their side.” When the BAKA students were questioned about the wristbands, they explained that they were handing out wristbands to so-called “volunteers.”

To \_\_\_\_\_, separating the Jews from the non-Jews at the event and treating them differently by charging them an admission fee was “the most discrimination I’ve ever felt in my entire life.” It was “almost like a poll tax” – “the equivalent of taking all the white students in and charging the black students.”

\_\_\_\_\_ told OCR that she observed that BAKA members were “running the event,” “monitoring admission, taking donations, doing crowd control,” including “forming the line.” \_\_\_\_\_ told OCR that he observed BAKA students manning the registration table. \_\_\_\_\_ saw a representative from one of the outside co-sponsoring groups direct a BAKA student to let in people whom the BAKA student knew. The BAKA student “walked down the line,” according to \_\_\_\_\_, letting people in for free whom she knew were “friendly to BAKA’s cause.” The Jewish and pro-Israel students waited in line to pay.

\_\_\_\_\_ and \_\_\_\_\_ told OCR that they also observed “volunteers” being given wristbands and being admitted for free. To \_\_\_\_\_, it appeared that individuals were being designated as “volunteers” right then and there so that they could be admitted without charge. To \_\_\_\_\_, it appeared that certain individuals were being called “volunteers” to enable some

students, but not others, to get in to the event without paying, because there seemed to be a lot of so-called “volunteers.”

\_\_\_\_\_ was a student member of the Rutgers \_\_\_\_\_ and \_\_\_\_\_, the \_\_\_\_\_ student leadership position at the University. He had been invited personally to the “Never Again for Anyone” event. When \_\_\_\_\_ approached the registration table, he told one of the BAKA students that he had been personally invited and should not be required to pay. The BAKA student “looked at [\_\_\_\_\_] coldly,” and told him he would have to pay. \_\_\_\_\_ asked to speak to the president of BAKA, but the BAKA student refused his request. It was “quite obvious” that \_\_\_\_\_ was Jewish. He was wearing a kippah.

Students were told that only BAKA members would be admitted without charge. Many Jewish students thus tried to join BAKA.<sup>17</sup>

\_\_\_\_\_ was one of those students. \_\_\_\_\_ approached the admissions table, which was manned by BAKA students. She took out her student ID and asked to join BAKA. She said that she would write down her name on an e-mail list so that she could get into the event as a BAKA member. A BAKA student told her that she could not join the group, that BAKA was not recruiting new members. \_\_\_\_\_ was told that she had to pay the five dollar admission fee, which she refused to do. BAKA refused to admit her to the event.

\_\_\_\_\_ told OCR that when she approached the table to register, she explained that the advertising for the event was different from the new admissions policy. Her statements were “not received well” by the BAKA students staffing the table. \_\_\_\_\_ also tried to gain entry by showing her student ID. She told the BAKA students manning the table that as a Rutgers student, “everyone is a member of every student group.” But the BAKA students “still wouldn’t let me in.”

\_\_\_\_\_ told OCR that when he approached the registration table, BAKA students told him there was a charge for admission. \_\_\_\_\_ responded that the event had been advertised as free and open to the public. BAKA retorted, “Yes, but now there’s a fee.” After \_\_\_\_\_ took out his wallet to pay, he was asked for his driver’s license, not for his Rutgers ID. \_\_\_\_\_ protested; he had not observed anyone else being required to produce a driver’s license. \_\_\_\_\_ tried to give the BAKA students his money and his driver’s license. But the BAKA students behind the table

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<sup>17</sup> \_\_\_\_\_ and the students interviewed by OCR confirmed that it is standard practice at Rutgers to join a student organization at an event sponsored by the organization. Hillel, for example, operates that way. As \_\_\_\_\_ explained to OCR, when a student arrives at an event, the student gives the organization his/her name and e-mail address. “That’s the mark of membership in a student group” – “getting e-mails from them and being on their e-mail list.” There are “no other steps involved,” there are “no dues.” “Every student pays student activities fees,” which go toward funding all Rutgers student organizations, including BAKA.



refused to “deal with” him and simply ignored him, “moving on” to other people. \_\_\_\_ was not permitted to attend the event. It was clear that \_\_\_\_ was Jewish. He was wearing a kippah.

\_\_\_\_ told OCR that she was far back in the line for admission to the “Never Again for Anyone” event. She could not get to the front of the line because so many people were waiting to be admitted and were being refused entry. There was a sign that said that attendees were required to pay the admission fee unless they were BAKA student members. \_\_\_\_ tried to find out how to join BAKA so that she would not have to pay the fee. But people at the front of the line reported that BAKA was not permitting anyone to join.

\_\_\_\_ told OCR that there were some Jewish students who got in for free, before the admissions policy changed. But after the policy change, \_\_\_\_ is not aware of any Jewish students who were allowed into the event for free. \_\_\_\_ told OCR that he observed “a clear delineation” between people allowed into the event “with no questions asked” and those people who were not. According to \_\_\_\_, if you “looked Jewish” – by your “head covering,” for example – then you were refused admission. If you were dressed in traditional Arab or Muslim garb, then you were let in for free.

\_\_\_\_ observed students wearing hijabs being admitted to the event for free. He and others in the crowd “opened a path for them to let them get in.” \_\_\_\_ observed Jewish students being asked for their ID’s; they were “shuffled around” and most were not let in. Those students who looked “Middle Eastern” were admitted without having to pay the fee, according to \_\_\_\_.

\_\_\_\_ told OCR that Jewish students went to the director of the Student Center where the “Never Again for Anyone” event was being held, to report what they believed was a violation of University policy. The director came down to the event to tell BAKA that students should be allowed to join their group. According to \_\_\_\_, the director was “rebuffed.”<sup>18</sup>

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<sup>18</sup> BAKA has repeatedly refused to permit Jewish students to participate in BAKA events and to join the organization. \_\_\_\_ told OCR that several Jewish students had reported to him that when they went to BAKA meetings to find out more about the group, BAKA members questioned the Jewish students at length, asking “why are you here?” and stating “you don’t belong here.” When the Jewish students responded that they came to find out more about BAKA, BAKA leaders would stall and not proceed with the group’s business until the Jewish students finally got up and left. \_\_\_\_ said that at least one of those students reported this experience to Rutgers administrators in the Student Life office, because the student felt this was a violation of University policy. But the Rutgers administration took no action.

\_\_\_\_ told OCR that she tried to join BAKA. She went to one of the group’s meetings, but there was no sign-in sheet. She e-mailed BAKA twice and got one response. *See* Exhibit 15. She never heard from BAKA again and was never added to the group’s listserv.

\_\_\_\_ told OCR that on the advice of Dean Cheryl Clarke of the Bias Prevention and Education Committee, she went to a BAKA meeting to try to join the group, but she was “discouraged in essence” from joining. At the meeting, \_\_\_\_ put her name and e-mail address on the sign-in sheet. BAKA engaged in delay tactics at the meeting,

Eventually, Sara Kershner, the representative from one of the outside co-sponsoring groups, provided an explanation for the change in the admissions policy. She claimed that because the University was charging a significant fee for the room, the admissions fee was being imposed to cover that expense.

This explanation was not credible, as \_\_\_\_\_ explained to OCR. The event's sponsors knew what the room fee was going to be many weeks prior to the event. If covering expenses had truly been the issue, then the sponsors had plenty of time before the date of the event to advertise that there would now be a charge for admission.

Sara Kershner's explanation for the change in the admission policy was not believable for a second reason: It did not explain why the charge was imposed selectively. Students perceived to be Jewish and pro-Israel were required to pay, while other students were admitted for free.

The actual reason for the change in the admissions policy had nothing to do with the room fee. A student volunteer at the event confirmed the real reason: that so many "Zionists" (meaning Jews) had shown up at the event, and the sponsors wanted to keep them out.

After the event, the student volunteer e-mailed \_\_\_\_\_ and another student, describing how the change in the admissions policy came about. In relevant part, the e-mail stated:

I attended and worked as "security" at the event last Saturday night. I witnessed Sarah Kirshner [sic], after people for the protest showed up, approach the BAKA students at the registration table, instructing them to rip off the bottom of the signs that said "\$5-\$20: No One Will Be Turned Away For Lack Of Funds." Which left only the part that gave a monetary amount. She said "We need to start charging because [sic] 150 Zionists [sic] just showed up!" The 2 BAKA students at the table seem [sic] upset at her decision and seemed apprehensive. Kirshner then proceeded to tell the students, who didn't [sic] know how they were going to enforce a change of admission, "If someone looks like a supporter, they can still come in for free." To this I asked her if this meant that if someone was wearing a yamaka [i.e., a yarmulke or skullcap] we would automatically charge them? To this she shrugged and walked away.

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trying to "wait out" \_\_\_\_\_ and two other Jewish students who were also trying to join, without getting to the business of the meeting. \_\_\_\_\_ eventually left. She also sent an e-mail request to join BAKA, but never received a response from BAKA or any follow-up e-mails from BAKA.

See Exhibit 16 (emphasis added).<sup>19</sup>

\_\_\_\_\_ told OCR that he knew this student volunteer and that the volunteer actually “sympathized with BAKA.” But the volunteer was “so outraged” by BAKA’s conduct at the “Never Again for Anyone” event that the volunteer simply could not be a party to it.<sup>20</sup>

### 3. Rutgers Immediately Drew Conclusions about the Event without Fully Investigating It

Rutgers was informed about the harassment and discrimination that occurred at the “Never Again for Anyone” event. \_\_\_\_\_ complained about it, and several Jewish students filed bias reports. But the University almost immediately made findings and drew conclusions, without first completing an investigation. Jewish students’ bias reports were never fully investigated and resolved. And even though BAKA endorsed and enforced the discriminatory and anti-Semitic admissions policy at the event, Rutgers ignored this information, seemingly determined not to hold this student group accountable for its misconduct.

On January 30, 2011, the day after the “Never Again for Anyone” event, Elizabeth O’Connell-Ganges, the Executive Director of Rutgers Student Life in New Brunswick, sent an e-mail to Rutgers Student Life.<sup>21</sup> See Exhibit 17. Ms. O’Connell-Ganges stated in her e-mail that she was “sharing information” about the “Never Again for Anyone” event where “[t]here is a great deal of misinformation.”

In the e-mail, Ms. O-Connell-Ganges explained the change in the admissions policy at the event as follows: “When the organizer from AMP [American Muslims for Palestine, one of several co-sponsors of the event] saw the crowd (estimated to be 300-

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<sup>19</sup> The student volunteer’s personally identifiable information was redacted from the e-mail before it was provided to OCR, since the volunteer could not be located to obtain the volunteer’s consent to disclosing that information.

<sup>20</sup> When Jewish students met with Rutgers administrators on February 4, 2011, to discuss their grievances, this student volunteer was ready and willing to go to the meeting, to tell the administrators what the volunteer was told: that an admissions fee was imposed at the “Never Again for Anyone” event because so many “Zionists” showed up. But the administration would not allow the volunteer to attend the meeting. See page 22 of this memorandum.

\_\_\_\_\_ and \_\_\_\_\_ brought a copy of the student volunteer’s e-mail to the meeting to give to the administrators. But they were never given the opportunity to present the e-mail, because the administrators lectured them instead of listening to their concerns, and closed off any discussion about the discrimination and hostility they had been subjected to.

<sup>21</sup> The ZOA obtained this e-mail and other documents from Rutgers pursuant to an Open Public Records Act request.

400+) they announced that it would be a \$5 charge. Staff believe the organizers were unprepared for the numbers and concerned about the program running smoothly. The decision to charge was an on-site decision from the event organizer as a way to manage the crowd, the capacity for the MPR and to insure the event ran without disruption.”

This notion that the charge was imposed because the organizers were unprepared for the large number of attendees cannot be true. Rutgers’ own documents, produced pursuant to a public records request, reflect that as of December 16, 2010, American Muslims for Palestine had contracted with Rutgers to hold the “Never Again for Anyone” event in Traves Hall. *See Exhibit 18.* As of that date, American Muslims for Palestine knew that the room rental fee was \$1100.00; the charge is clearly set forth in the contract. *See Exhibit 18.* The Booking Acknowledgement that accompanied the contract states that the room capacity was for 250 people, plainly the number that the organizers were anticipating; otherwise, they surely would have booked a smaller room. *See Exhibit 18.* The Booking Acknowledgement also calls for the set-up of 250 chairs, with the set-up of an additional 100 chairs if the wall in Traves Hall needed to be opened to accommodate a larger crowd. *See Exhibit 18.* In short, Rutgers’ own documents show that by no later than December 16, 2010 – more than six weeks before the date of the “Never Again for Anyone” event – the organizers were fully expecting – and prepared to accommodate – a crowd of at least 350 people.<sup>22</sup>

In her e-mail of January 30, 2011, Ms. O’Connell-Ganges repeatedly stated that her objective in sending the e-mail was to make sure that “everyone has the facts.” But as Ms. O’Connell knew or should have known, she did not have all the facts.

Ms. O’Connell-Ganges acknowledged that “we do have reports from students expressing concerns about incidents pertaining to bias, harassment and intimidation.” Yet she did not indicate that any of those reports had been investigated by the time of her e-mail; indeed, the students’ reports could not possibly have been investigated by that point. Ms. O’Connell-Ganges also noted that there were reports “suggesting violations of student organization policies.” But those reports also could not yet have been investigated; in fact, Ms. O’Connell-Ganges stated in her e-mail that “Kerri [presumably, Kerri Willson, a staff member in Rutgers Student Life] will investigate any reports and respond accordingly.”

In short, Student Life immediately drew conclusions about what occurred at the “Never Again for Anyone” event before Rutgers could complete an investigation and obtain all the facts. On the same date that Ms. O’Connell-Ganges sent her e-mail,

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<sup>22</sup> A representative of American Muslims for Palestine signed the contract on January 19, 2011, and thus knew or should have known by then – 10 days prior to the event – what the room fee would be. *See Exhibit 18.*

Rutgers issued a public statement “to correct a number of assertions that have appeared in some published reports of the event.” *See* Exhibit 19.

The University’s statement did not note that the event had been falsely advertised. It did not acknowledge that the admissions policy was selectively enforced against Jewish and pro-Israel students and thus was discriminatory and anti-Semitic. And the University’s statement did not acknowledge nor condemn any of the anti-Semitic falsehoods promoted at the event, which were intended to incite hatred of Jews and Israel. The statement was prepared and disseminated before Rutgers could possibly have investigated what occurred at the “Never Again for Anyone” event.

Rutgers jumped to conclusions, at the expense of Jewish students who were already viewing the campus as increasingly hostile.

#### 4. Rutgers Failed to Respond Adequately to Jewish Students’ Bias Reports

In addition to failing to fully investigate what occurred at the “Never Again for Anyone” event, Rutgers also failed to respond appropriately to Jewish students’ complaints about the harassing and discriminatory treatment they had been subjected to at the event.

\_\_\_\_\_ told OCR that the day after the event, she filed a bias report with the Bias Prevention and Education Committee. Cheryl Clarke, one of the deans on the committee, responded and set up a meeting with \_\_\_\_\_.

The two of them met on February 2, 2011. \_\_\_\_\_ described to Dean Clarke what had occurred at the “Never Again for Anyone” event. She stated her belief that the admissions charge had been arbitrarily imposed after the event organizers saw how many Jewish students had shown up for the event. \_\_\_\_\_ described what it meant to be a student group – that even if BAKA did not actually pay for the space, it had to take responsibility for the actions of the outside group it worked with. BAKA would be required to know Rutgers policies, including its anti-discrimination policies, and would have to ensure that they were complied with.<sup>23</sup>

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<sup>23</sup> \_\_\_\_\_ was correct that BAKA would be accountable for the misconduct of any outside groups with which it co-sponsored the event. University policies require that organizations “follow all Rutgers University policies and procedures, as well as local, state, and federal laws, and that “organizations and their members . . . comply with the University’s anti-discrimination . . . policies.” *See* Exhibit 20 at 6.

Rutgers policies also provide that a student organization may be held accountable when an offense is committed even by a guest in any one of these circumstances: (1) if the “violation is substantially supported by the organization’s membership”; (2) if “officers or members approves [sic] or has knowledge of the forthcoming violation did not attempt to prevent the infraction”; or (3) if “the organization fails to report or chooses to protect

Dean Clarke told \_\_\_\_ that she was sorry that \_\_\_\_ felt that this all stemmed from \_\_\_\_ being Jewish and that she was discriminated against. The dean told \_\_\_\_ that other deans on the Bias Prevention and Education Committee were also taking reports, and that Dean Clarke would have to wait until those reports were received before any action could be taken.

Dean Clarke told \_\_\_\_ that she would follow up with her. She sent an e-mail to \_\_\_\_, confirming that she “will be in touch.” Exhibit 21. She also sent a letter to \_\_\_\_ confirming that “[w]hen all reports [by the deans on the Bias Prevention and Education Committee] are complete, I will be in touch about the outcomes.” Exhibit 21.

Dean Clarke never followed up with \_\_\_\_ \_\_\_\_.

\_\_\_\_ told OCR that she had also e-mailed Kerri Willson, Director of Student Involvement, about what had occurred at the “Never Again for Anyone” event. \_\_\_\_ had worked with Kerri Willson before and had a “friendly relationship” with her. By the time of her meeting with Dean Clarke on February 2, 2011, \_\_\_\_ had not yet received a response to her e-mail from Ms. Willson.

At the meeting with Dean Clarke, the dean suggested that \_\_\_\_ e-mail Kerri Willson again. Dean Clarke said that it would be good for \_\_\_\_ to speak to Ms. Willson because Ms. Willson was the “go-to person” regarding student life and its policies. \_\_\_\_ followed this suggestion and e-mailed Kerri Willson again, on February 3, 2011.

On the same date, Ms. Willson sent an e-mail to \_\_\_\_ \_\_\_\_, \_\_\_\_ \_\_\_\_, \_\_\_\_ \_\_\_\_, and \_\_\_\_ \_\_\_\_ (another Jewish student who was \_\_\_\_ of \_\_\_\_), to schedule a meeting with Gregory Blimling, Vice President for Student Affairs. Exhibit 22. \_\_\_\_ followed up with an e-mail to ask whether two additional students could attend the meeting: \_\_\_\_ \_\_\_\_ (whom \_\_\_\_ described as the “main point of contact” between Hillel and the pro-Israel group, Scarlet Blue and White) and the student volunteer at the “Never Again for Anyone” event who had first-hand knowledge of the discriminatory admissions policy. Kerri Willson would not permit the two additional students to attend. *See* Exhibit 22.

The four Jewish students who were invited to the meeting with Vice President Blimling were fully expecting to discuss their grievances with the administration,

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those individuals.” *Id.* at 40. All three circumstances occurred here. BAKA knew that the admissions policy was to be applied in a discriminatory way, to keep out the Jewish and pro-Israel students. BAKA did not report the discrimination or attempt to prevent it. Rather, BAKA endorsed and implemented the discriminatory admissions policy.

including the harassment and discrimination they had been subjected to at the “Never Again for Anyone” event. They had prepared talking points and a file of information, which included the e-mail from the student volunteer at the “Never Again for Anyone” event.

But the meeting, on February 4, 2011, was not productive. Vice President Blimling immediately set the tone when he informed the students that he and other University officials had already heard from the BAKA students about what had happened at the “Never Again for Anyone” event. He would not permit the Jewish students to talk about their perspective. According to \_\_\_\_\_, Vice President Blimling “was “about as unsympathetic to us as you can possibly imagine,” and Kerri Willson, also at the meeting, was “following his lead.”

\_\_\_\_\_ managed to speak briefly about why the Jewish students were upset, but she was almost immediately cut off by Vice President Blimling. Vice President Blimling said that the University wanted to move forward, and not talk about the past.

\_\_\_\_\_ tried to talk about her bias report. Kerri Willson had specifically included \_\_\_\_\_ in the meeting because that would be the opportunity to address her bias report and her discussion with Dean Clarke.

But Kerri Willson immediately dismissed \_\_\_\_\_, saying that the “Never Again for Anyone” event was not the appropriate venue to join BAKA. \_\_\_\_\_ told OCR that she felt “very intimidated and unable to speak freely.” \_\_\_\_\_ said that she and the other Jewish students were not permitted to express their views; they had to “sneak” the points they wanted to make into the conversation.

Vice President Blimling lectured the Jewish students about Islamophobia in this country. He said that Fox News demonizes Muslims, and he brought up the objections that had been made to building a mosque near Ground Zero. None of these matters had anything to do with the concerns and problems that the Jewish students came to discuss. \_\_\_\_\_ told OCR that Vice President Blimling told her and the other Jewish students that “we need to be sensitive to BAKA’s concerns,” but this was at the expense of the concerns of Jewish students. Vice President Blimling kept “pinning the blame” on the Jewish students, as if they were at fault.

Kerri Willson said that she had reassured BAKA that the Jewish students were not bringing in a speaker named Pamela Geller. The Jewish students had never planned to bring Ms. Geller to the campus. But they were shocked that after all the anti-Israel and anti-Semitic speakers that BAKA had brought to campus, without a word from any University administrator, Kerri Willson was now commenting on a speaker whom she (wrongly) thought the Jewish

students were sponsoring. To \_\_\_\_, this was “a huge double standard” that was “so offensive.” The University “claimed the mantle of free speech” when it came to BAKA’s anti-Semitic and anti-Israel speakers and programs, \_\_\_\_ said, while “telling us who we shouldn’t bring in [to speak].”

\_\_\_\_ found the meeting “offensive” and “intimidating.” \_\_\_\_ told OCR that she and the other Jewish students were “treated as the aggressors,” even though “we were victimized. It was shocking to me.” \_\_\_\_ was “disappointed” by the meeting. She and the other students there “didn’t get to present our side.” \_\_\_\_ found Vice President Blimling’s conduct “discouraging” and “insulting.” When \_\_\_\_ and the other students left the meeting, “we felt that we had not a single person in the University looking out for our concerns.”

At the meeting, Vice President Blimling expressed an interest in bringing the BAKA leadership and the Jewish student leadership together, a proposal to which the Jewish students agreed. \_\_\_\_ said that the Jewish students followed up a few weeks later with Kerri Willson, but they “never heard” from her, and Vice President Blimling “never followed up” on his plan. \_\_\_\_ followed up at least twice, without success.<sup>24</sup>

With no word from Dean Clarke, \_\_\_\_ e-mailed her on February 14, 2011, to find out what progress had been made on the University’s investigation of the bias reports that she and other Jewish students had filed. \_\_\_\_’s e-mail stated in relevant part:

I wanted to check with you on the promised follow up to the bias incident form that I filled out two weeks ago. Can you update me on the progress of this process? I believe that the meeting I attended where Keri Wilson [sic] was also present [on February 4, 2011] did not address my specific issue and I would be willing to set up another meeting with her. I feel like Keri and I are reading students policies regarding student organizations very differently. In general, I wanted to check in with you first before moving towards setting up an individual meeting with Keri. Thanks very much.

Exhibit 23.

Dean Clarke responded to \_\_\_\_ on February 16, 2011. Her e-mail stated, in relevant part:

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<sup>24</sup> \_\_\_\_ described the efforts that the Jewish students themselves had made to work collaboratively with BAKA. They tried to co-sponsor a charitable event with BAKA to raise money for Israelis and Palestinians, but BAKA refused. BAKA also refused to be part of OneVoice for Peace, a program at which an Israeli woman and a Palestinian woman spoke about their respective experiences in the Middle East conflict.



I am still interviewing students who have filed bias complaints about the Jan. 29 event. Have you tried to join BAKA since then? My suggestion is that you try to do so. If you are not allowed access to membership, then that would be a reason to address the issue to Kerri. As I suggested when we met on Feb. 2, given the disorder that erupted in the Douglass Campus Center that evening, recruitment of new members would have been rather difficult and not a priority that evening.<sup>25</sup>

Exhibit 23.

\_\_\_\_\_ responded, in relevant part, as follows:

. . . I'm afraid I disagree. I must be reading student organizational policy differently then [sic] Student Life, but I don't see why difficulty in recruitment, or the appropriateness of the venue, should be at issue. If student organizations can decide that some times are appropriate to join and some are not, than the right of a student to join any organization is meaningless, because it can be abrogated at the whim or will of any organization – whether the situation is chaotic or not. Is there any university or student life rule stating that some times are appropriate to join and some are not? If so, where is it, and how are such times how are they defined?

I am wondering where the appropriate place to address these concerns is. I believe that the bias issues are intertwined with the issues regarding student life policy, but I don't know where to bring my serious concerns if the bias committee is not the appropriate place.

Exhibit 23.

Dean Clark did not respond to any of \_\_\_\_\_'s questions and offered no help. She responded with a short and unconstructive message: “\_\_\_\_\_ [sic]: I don't know how else to advise you.” Exhibit 23.

\_\_\_\_\_ followed up by asking, “Would you be opposed to setting up a meeting between Kerri, yourself, and me?” Dean Clarke responded with indifference: “If kerri [sic] has time, but if we are not going to cover any new ground, \_\_\_\_\_ [sic], what will be the use. We will not say anything you will agree with.” Exhibit 23.

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<sup>25</sup> Despite how Dean Clarke portrayed it, signing up new BAKA members at the “Never Again for Anyone” event would not have been difficult at all. All of the students interviewed by OCR confirmed that becoming a member of a student group at Rutgers is as simple as signing the sign-in sheet at the group's event, something that BAKA had refused to allow Jewish students to do.

Neither Dean Clarke nor any other University official ever addressed \_\_\_\_'s questions or concerns. \_\_\_\_'s bias report was never resolved.

\_\_\_\_ also filed a bias report based on what occurred at the "Never Again for Anyone" event. She met with Dean Clarke, who went through the bias incident report form and asked questions. Dean Clarke recorded \_\_\_\_'s responses to the questions. At the time her responses were recorded, \_\_\_\_ agreed with how the University was responding to the incident. *See Exhibit 24.*

That changed. \_\_\_\_ had asked the University to intervene and hold a mediated meeting between BAKA and the Jewish students. The meeting never happened. Dean Clarke never followed up with \_\_\_\_ after they met. In \_\_\_\_'s words, the University simply "dropped the ball."

\_\_\_\_ also filed a bias report, because he believed that Jewish students were treated in a biased manner at the "Never Again for Anyone" event, and he felt that there was "a general hostility" toward Jewish students who were pro-Israel on campus. Dean Clarke met with \_\_\_\_, but "showed no empathy" and "seemed unconcerned." She asked \_\_\_\_, "What should I put here under the bias section of the report form?" She "clearly" was not listening to what \_\_\_\_ said, and was "more interested in avoiding" the problem, "rather than confronting it."

Dean Clarke "didn't ask probing questions" or "critical questions that would help in resolving the complaint." To \_\_\_\_, "she seemed unconcerned."

Dean Clarke never explained what the next steps would be in resolving \_\_\_\_'s bias report. The dean briefly mentioned the possibility of a "conflict resolution meeting" between Hillel and BAKA," but it was "only an idea" and "never panned out."

Neither Dean Clarke nor any other University administrator ever followed up with \_\_\_\_\_. He never received so much as a letter acknowledging his concern. Not one administrator even offered to meet with him to determine if he still had concerns. There was "no indication" that Rutgers was going to investigate \_\_\_\_'s complaint, let alone resolve it.

This was particularly troubling because of how involved \_\_\_\_ was in student government. "Tons" of administrators knew that he was concerned about the hostile campus environment for Jewish students. \_\_\_\_ had discussed many of his concerns with Kerri Willson and other University administrators.

On February 8, 2011, \_\_\_\_ e-mailed "a number of administrators and staff," expressing concern that he was the target of a "smear campaign" by BAKA. Exhibit 25. BAKA

had published an op-ed in the *Targum*, specifically naming \_\_\_\_ and other students and falsely insinuating that they had incited a violent crowd at the “Never Again for Anyone” event.

A few staff members responded to \_\_\_\_’s e-mail, reassuring him that he was “still a good guy.” But most administrators did not respond. \_\_\_\_ described himself as being in a “state of emotional distress” when he sent the e-mail. But no one from the Dean of Students office reached out to him; according to \_\_\_\_, “they were unconcerned with my well-being.”

#### 5. Rutgers Failed to Hold BAKA Accountable for Violating University Policies

BAKA may not have initiated the change in the admissions policy at the “Never Again for Anyone” event. But there is no question that BAKA advertised the event as “free and open to the public.” There is no question that when a decision was made to charge an admission fee, BAKA enforced the new policy, and did so in a selective and discriminatory way, requiring those students perceived to be Jewish and pro-Israel to pay to be admitted, while allowing other students in for free. There is also no question that when Jewish students tried to join BAKA so that they could avoid paying the admission fee as other BAKA members were permitted to do, BAKA prevented Jewish students from joining the group – even after the director of the Student Center interceded and told BAKA that students should be allowed to join.

\_\_\_\_ \_\_\_\_, the \_\_\_\_ of \_\_\_\_, who was denied admission to the event, described BAKA’s actions in detail in an e-mail dated February 4, 2011, to Vice President Gregory Blimling. See Exhibit 26.

\_\_\_\_ established BAKA’s role in organizing and running the event, noting that (1) “BAKA ran all the local publicity [for the event], which included the Facebook group for the event and an op-ed in the *Targum* . . . defending the event and inviting people to it”; (2) “At the event itself, BAKA students manned the registration table for entry, and decided who had to pay and who got in for free”; (3) “Inside the event, the president of BAKA . . . acted as MC, welcoming everyone and then telling her family’s story, before introducing the speakers”; and (4) “A student witness (not Jewish, not affiliated with Hillel) will attest to hearing the event organizer tell BAKA students manning the registration tables ‘let in the people who look like you, don’t let in the people who look like them (identifiable Jews/Israel supporters).’ The BAKA students carried out this policy, discriminating as to who got into the event for free and who had to pay. As no Israel supporter would contribute money to the event, it had the effect of barring the Israel supporters, 99.9% of who [sic] were Jewish.”

\_\_\_\_ reported in the e-mail to Vice President Blimling that “at times BAKA students would go down the line and point ‘ok, you come in . . . not you . . . and you . . . not you . . . yes

you . . .’ In essence Jews were lining up to be selected in or out by people hostile to them. Can you imagine how this felt to the Holocaust survivors on the line??? It was chilling to see.”

Unquestionably, BAKA violated University policies. The Student Organization & Advisor Handbook prohibits “false or deceptive promotions or advertising.” *See* Exhibit 20 at 36. BAKA falsely advertised the event, by promoting it as free and open to the public, and then enforcing an admissions fee, at least against some students. Even if the change in the admissions policy was made by one of the co-sponsoring organizations, BAKA is still accountable, because it “substantially supported the violation” of the advertising policy, “fail[ed] to report” the violation, and “chose to protect” the violators. *See id.* at 39. When Jewish students complained to the BAKA students manning the registration tables that they should be permitted to enter for free, consistent with the advertising for the event, BAKA rebuffed the Jewish students.

BAKA also violated Rutgers policy against discrimination, which states: “It is the policy of Rutgers, The State University of New Jersey, to make the benefits and services of its educational programs available to students . . . regardless of race, religion, color, national origin, ancestry, age, sex, sexual orientation, disability, marital status, or veteran status.” *See* <http://compliance.rutgers.edu/nonpol.shtml>.

The Student Organization & Advisor Handbook makes it clear that the University’s policy against discrimination applies to student organizations. *See* Exhibit 20 at 6. Yet the evidence shows that BAKA discriminated against students perceived to be Jewish and pro-Israel at the “Never Again for Anyone” event, by compelling them to pay to attend the event while admitting other students without charge.

Rutgers’ policies against discrimination include prohibiting student organizations from discriminating in their membership practices. The Student Organization & Advisor Handbook states that “[c]lubs and organizations may not deny membership to anyone on the basis of race, religion, color, national origin, ancestry” and several other enumerated categories. *Id.* at 34. As numerous witnesses reported to OCR and \_\_\_\_\_ reported to Vice President Blimling, BAKA discriminated against Jewish students by denying them membership in their group.

\_\_\_\_\_ described the discrimination to Vice President Blimling in his e-mail of February 4, 2011:

To enter the event one had to sign in, including name and “affiliation.” Students who wrote “BAKA member” got in for free. Students who said “I would like to join BAKA” and attempted to write in “BAKA member” were rejected and their names crossed out. This appears to be a violation [of] university policy regarding

student groups. The prime directive, so to speak, of student groups is that ANY Rutgers students can join ANY student group. BAKA violated this regulation.

Exhibit 26.

Rutgers not only failed to hold BAKA accountable for its numerous violations of University policies. The evidence shows that the administration was determined to protect BAKA, at the expense of Jewish students.

6. Rutgers Has Been Indifferent to Anti-Semitic Harassment and Discrimination on Campus

\_\_\_\_\_ told OCR that he had several communications with University officials – including President McCormick and Vice President Blimling – regarding the problems that Jewish students were facing. \_\_\_\_\_ spoke with Vice President Blimling on the Monday following the “Never Again for Anyone” event. He told Vice President Blimling what he had observed at the event, and stated that it was “biased against the Jewish community” and “very offensive.” \_\_\_\_\_ expressed his opinion that BAKA’s actions in charging a fee to some but not others, and in refusing to allow students to join BAKA, was a violation of University policy.

On February 4, 2011, \_\_\_\_\_ e-mailed Vice President Blimling, “laying out the issues involved in the course of a year of anti-Israel events by BAKA.” In the e-mail, \_\_\_\_\_ emphasized that University officials “need to protect Jewish students.” He reported that Jewish and pro-Israel students “have been threatened, cyber bullied, [and] sought counseling.” But “[f]rom the discussions Hillel staff have had with university administrators to date, there is little awareness of Jewish students as potential victims.” As \_\_\_\_\_ told OCR, he made “recommendations in his e-mail [to Vice President Blimling] about what the University could do.”<sup>26</sup>

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<sup>26</sup> Hillel made public the fact that anti-Semitism was a problem on the Rutgers campus, and that BAKA bore some responsibility for it. In a letter published in the *Targum* on February 8, 2011, Hillel reported that “Jewish students . . . have been threatened with violence, made to feel unsafe in their dorms and sought formal counseling because of physical threats as well as emotional and verbal attacks on them. This includes individuals who BAKA has publicly targeted.” [http://issuu.com/targum\\_editor/docs/dt\\_2011-02-08](http://issuu.com/targum_editor/docs/dt_2011-02-08) at 8. \_\_\_\_\_ told OCR that he was involved in preparing the letter. Not one administrator contacted Hillel after the letter was published, to learn more about the serious problems described in the letter so that the University could take appropriate remedial steps.

After the Hillel letter was published in the *Targum*, \_\_\_\_\_ brought the publication of the letter to Vice President Blimling’s attention. See Exhibit 27. Vice President Blimling acknowledged reading the letter. But he did not even comment on what should have been deeply troubling to him and other University officials – that Jewish students had been threatened with violence, made to feel unsafe in their dorms, and sought formal counseling because of the physical threats and emotional and verbal attacks against them.

\_\_\_\_\_ told OCR that there were several Jewish students who have felt threatened, harassed and discriminated against at Rutgers, but who have been reluctant to come forward in OCR’s investigation of this case. Students

Vice President Blimling eventually called a meeting, to which \_\_\_\_ was invited, as were the Jewish chaplains who had not been involved in the “Never Again for Anyone” event. \_\_\_\_ told OCR that the meeting was “less about what occurred” at the event than “the president’s desire that we create a calmer atmosphere on campus going forward.” The “University’s stance” was that the “Never Again for Anyone” event “was technically not a BAKA-sponsored event, even though BAKA’s name was on all the publicity materials. Therefore, the University did not consider BAKA responsible for what occurred” – a conclusion with which \_\_\_\_ and others “vigorously disagreed.”

\_\_\_\_ told OCR that he had a very disturbing exchange with Vice President Blimling, epitomizing the University’s indifference to the concerns of Jewish students. \_\_\_\_ raised with Vice President Blimling the unsatisfactory way in which he and Kerri Willson had handled the February 4<sup>th</sup> meeting with Jewish students. Vice President Blimling responded by stating, “\_\_\_\_, I have to tell you, my staff feels very protective of the BAKA students.” \_\_\_\_ responded, “I hope they feel protective of the Jewish students.” Vice President Blimling ignored \_\_\_\_’s statement and said that the University’s “greatest fear was that a Muslim student would be attacked on campus.” \_\_\_\_ pointed out that he was unaware of any Muslim students who had ever been attacked at Rutgers, while Jewish students had been attacked. He showed Vice President Blimling statistics from the FBI revealing that the overwhelming number of bias crimes are committed against Jews, and he said that the University should be just as concerned about the welfare of Jewish students, as it is about the welfare of Muslim students.

Vice President Blimling did not respond to \_\_\_\_’s comments. Instead, he said that Muslim students come to him and his staff regularly when they have an issue; the Jewish students go to Hillel. To \_\_\_\_, this showed that the “University has relationships that colored their thinking on these issues.” \_\_\_\_ told OCR that the Rutgers administration has “biased feelings toward Jewish students, which Blimling admitted to me!” Vice President Blimling showed no understanding of the problems that Jewish students were facing and had no seeming interest in ensuring that they were remedied.

President McCormick showed the same indifference when the ZOA wrote to him about what occurred at the “Never Again for Anyone” event and how the University responded to Jewish students’ complaints of harassment and discrimination. *See Exhibit 5.* President McCormick claimed that the “event had already been investigated and addressed appropriately.” The president denied “that anyone was denied access to the event,” and he was careful not to ascribe any blame to BAKA. As to Jewish students’ bias reports, President McCormick claimed

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“chose not to come forward” out of “fear of retaliation” or “fear of being involved in a government investigation to which their name would be attached,” which they worried could affect their future.

that Rutgers “conducted appropriate investigations,” when the evidence demonstrates that exactly the opposite is true.

The evidence shows that Rutgers violated Title VI. The University knew that Jewish students were being harassed and discriminated against at the “Never Again for Anyone” event. Almost immediately, Rutgers drew conclusions about what occurred at the event and even issued a public statement about it, without first conducting a full and fair investigation. Bias reports filed by Jewish students were never fully investigated and resolved. The University never held BAKA accountable for its misconduct, even though the group violated Rutgers’ rules and policies. Indeed, the administration bent over backwards to protect BAKA, while showing indifference to Jewish students’ concerns and problems.

#### IV. SUGGESTED REMEDIES

OCR has recognized that to remedy a violation of Title VI, the 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.” Despite numerous efforts by Jewish students, the ZOA and others, the University has refused to take any of the steps necessary to eradicate the anti-Semitic hostility on campus.<sup>27</sup>

It is time for OCR to compel Rutgers to finally redress the problems that Jewish students have been facing. At a minimum, the University should be required to take the following steps:

1. Rutgers should publicly label and condemn anti-Semitism when it occurs on campus, including when it is expressed as anti-Zionist or anti-Israel sentiment that has the effect of promoting prejudice against or hatred of Jews.<sup>28</sup> Rutgers should be guided by the definition of anti-Semitism that the U.S. government employs.

In March 2008, the U.S. State Department recognized that contemporary manifestations of anti-Semitism can include: (1) making demonizing or stereotypical allegations about Jews or the power of Jews as a collective (e.g., by promoting the myth about a world Jewish conspiracy, or of Jews controlling the media, the government or other societal institutions); (2) denying the fact or scope of the Holocaust; (3) accusing the Jews or

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<sup>27</sup> Rutgers recently created an Advisory Council on Jewish Student Life, inviting a number of individuals to join, including \_\_\_\_\_. As of the time of \_\_\_\_\_’s interview with OCR in April 2012, the Advisory Council had not yet met, and it was “unclear what its mission is,” according to \_\_\_\_\_. “No one was consulted before it was created.”

<sup>28</sup> In its “Dear Colleague” letter dated October 26, 2010, OCR recommended “publicly labeling the incidents [creating a hostile environment] as anti-Semitic, as one among several possible remedial steps to end anti-Semitic harassment and prevent its occurrence as required by Title VI. See <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html> at 6.

Israel of inventing or exaggerating the Holocaust; (4) denying the Jewish people their right to self-determination; (5) applying double standards when it comes to Israel, by requiring of Israel a behavior not expected or demanded of any other country; and (6) comparing Israeli policy to that of the Nazis. (See U.S. State Department's Contemporary Global Anti-Semitism Report, at <http://www.state.gov/documents/organization/102301.pdf>.)<sup>29</sup>

This is exactly the kind of anti-Semitism that Jewish students have been subjected to at Rutgers: Anti-Zionist and anti-Israel sentiment that pretends to be legitimate political discourse, but is actually inciting hatred of and promoting bigotry against Jews and Israel. Rutgers should be speaking out and publicly condemning such sentiment when it is expressed on campus. If Rutgers remains silent, it is sending the wrong message to Jewish students, to the perpetrators of the bigotry, and to the rest of the University community: that anti-Semitism is tolerable and acceptable. It isn't.

2. Rutgers must fire Shehnaz Sheik Abdeljaber from her position at the University. It is unacceptable for any University employee to be harassing, bullying and physically threatening any student.
3. Rutgers must hold BAKA accountable for its misconduct at the "Never Again for Anyone event," and impose appropriate sanctions. BAKA violated numerous University policies. It falsely advertised the event. It discriminated against students perceived to be Jewish and pro-Israel, by imposing an admission charge on them while allowing others in for free. It prevented Jewish students from joining BAKA, again in violation of the University's anti-discrimination policies. And it failed to report and instead cooperated with the discriminatory conduct of the co-sponsors at the event.
4. Rutgers must sanction all three outside organizations that helped organize the event – American Muslims for Palestine, the International Jewish Anti-Zionist Network, and the Middle East Children's Alliance. Based on their discriminatory conduct, none of these groups should be afforded the privilege of organizing events at Rutgers in the future.

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<sup>29</sup> In addition to the State Department, another federal agency recognized that anti-Israelism and anti-Zionism can be manifestations of anti-Semitism. After studying the problem of campus anti-Semitism, the U.S. Commission on Civil Rights issued landmark findings and recommendations, which included the finding that anti-Zionist and anti-Israel sentiment can cross the line into anti-Semitism – for example, with "anti-Israel literature that perpetuates the medieval anti-Semitic blood libel of Jews slaughtering children for ritual purpose, as well as anti-Zionist propaganda that exploits ancient stereotypes of Jews as greedy, aggressive, overly powerful, or conspiratorial." Making it clear that "such propaganda should be distinguished from legitimate discourse regarding foreign policy," the Civil Rights Commission declared that "[a]nti-Semitic bigotry is no less morally deplorable when camouflaged as anti-Israelism or anti-Zionism." See <http://www.usccr.gov/pubs/050306FRUSCCRRCAS.pdf>.



5. Rutgers must ensure that each and every bias report by Jewish students is investigated thoroughly and resolved fairly. If the evidence warrants it, all of the offenders should be disciplined appropriately. If the Bias Prevention and Education Committee is not capable of fulfilling its mission to effectively respond to bias reports and restore the environment in the aftermath of a bias incident, then the University should be required to create a new mechanism for handling bias incidents and preventing such incidents from recurring.
6. All Rutgers personnel – faculty, administrators, and staff – must receive training to recognize and address anti-Semitic incidents. \_\_\_\_ \_\_\_\_, the \_\_\_\_ of \_\_\_\_, noted that “one of the foremost failures of the University” is “the failure to educate the administration” about anti-Semitism. In \_\_\_\_’s 11-year experience at Rutgers, the administration is “very sensitive to bias against some students.” A gay student committed suicide in 2010. As a result, the University made “a strong effort” to educate the community about the dangers of bullying directed against the gay community. The administration is “very concerned” – as Vice President Blimling made clear to \_\_\_\_ – about the bullying of Muslim students. But as \_\_\_\_ told OCR, there has been “no education of our staff regarding bias against the Jewish community.”

\_\_\_\_ also told OCR that while the Rutgers administration understands and appreciates the sensitivities of the gay and African American communities, the administration is “ignorant” about the sensitivities of the Jewish community. There is “a historical resonance” to “certain terms and symbols” that the University does not understand – for example, the significance to the Jewish people of the phrase “never again.” Administrators do not understand “basic facts about the Holocaust,” in \_\_\_\_’s view.

\_\_\_\_ \_\_\_\_ echoed Mr. \_\_\_\_’s assessment. \_\_\_\_ told OCR that in his capacity as a student leader on campus, he developed relationships with many administrators, at all levels, all the way up to the president of the University. When \_\_\_\_ discussed anti-Semitism on the campus with administrators, “their ignorance was shocking and irresponsible.” For example, one administrator wrongly understood that anti-Semitism is a term that also applies to Muslims. In fact, anti-Semitism means prejudice or hostility toward Jews. \_\_\_\_ also emphasized that based on his interactions with numerous administrators, University personnel need training to understand that anti-Semitism can include anti-Israel and anti-Zionist speech and conduct.

7. Rutgers must create programs for students that will educate them about the history and dangers of anti-Semitism in all its manifestations. A student article published in the *Targum* shows that such programs are sorely needed. The student writer claimed that Ashkenazi Jews aren’t Semites because they “originated from Germany,” thereby falsely and outrageously implying that not all Jews are affected by anti-Semitism. The student

also claimed that “anti-Semitism refers to the complete disregard of human life.” *See* [http://issuu.com/targum\\_editor/docs/dt\\_2011-01-28](http://issuu.com/targum_editor/docs/dt_2011-01-28) at 9. It does no such thing. Anti-Semitism means discrimination against or hostility toward Jews.

8. Rutgers must educate students about the process for reporting anti-Semitic harassment and discrimination, as well as the process for resolving such complaints. This information must be disseminated to students and University personnel so that the policies and procedures are clear and readily available. (\_\_\_\_\_ told OCR that he did not report the harassment he was subjected to because he was unaware of Rutgers’ policies and practices for dealing with harassment complaints.)
9. Rutgers must conduct outreach in the community by sponsoring programs on the problem of campus anti-Semitism. Members of the Jewish community outside of Rutgers were discriminated against at BAKA’s “Never Again for Anyone” event. Rutgers must demonstrate to the community that such conduct will not be tolerated and that the University is committed to eradicating anti-Semitic harassment, intimidation and discrimination on campus.
10. The president of Rutgers,<sup>30</sup> as well as other University officials in Student Life and elsewhere who have any responsibility for dealing with bias and discrimination, should meet with Jewish students and listen to their concerns. They could attend Sabbath dinners at Hillel and also set up meetings with Jewish students in other venues to promote open discussion, so that they can learn firsthand what Jewish students are experiencing, what impact the campus hostilities are having on students, and how students believe the problems can best be addressed.

Respectfully submitted,

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Susan B. Tuchman, Esq.  
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Zionist Organization of America

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<sup>30</sup> In a few months, Richard L. McCormick will be stepping down as the president of Rutgers and returning to the faculty. <http://president.rutgers.edu/writings/speeches/daily-targum-letter-students>. Robert L. Barchi will begin serving as president on September 1, 2012. <http://presidentsearch.rutgers.edu/about-new-president/about-robert-l-barchi-md-phd>. President McCormick still has an opportunity to right the wrongs committed during his presidency, and the new president has the opportunity to forge a new and constructive path when it comes to responding to and eradicating campus anti-Semitism.

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