

centerforconstitutionalrights

on the front lines for social justice

March 13, 2014

Via Email

Debora Spar
President, Barnard College
3009 Broadway
New York, NY 10027

Re: Removal of C-SJP banner

Dear President Spar:

We at the Center for Constitutional Rights are writing to convey our serious concerns with Barnard College's recent removal of a Columbia Students for Justice in Palestine (C-SJP) banner advertising Israeli Apartheid Week (IAW) events. The removal of the banner appears to have been based on the viewpoint of the message. This undermines the free speech principles which Barnard College claims to uphold.¹ Accordingly, we urge you to reconsider your action and stand firm in support of students' rights to free expression.

We understand that the banner's display in front of Barnard Hall was approved under a "long-standing tradition to allow any recognized Barnard or Columbia student group to...hang a banner promoting their event."² The banner contained the message "Stand for Justice, Stand for Palestine, C-SJP IAW" and a hand-drawn map of historic Palestine, which is the logo for C-SJP. It was intended to advertise C-SJP's events for Israeli Apartheid Week. The day after installing the banner for display, the administration removed it after students complained that they were offended by the view that the banner expressed and that its placement in a prominent place implied the University's endorsement of the message.³

It is clear that the objections to the C-SJP banner are based entirely on the viewpoints expressed, and that the University removed it in response to these objections. The map of Israel/Palestine may indeed spark intense controversy and debate, as it surfaces issues about Israel's long-standing occupation of Palestine and related human rights abuses. But the offense that some may feel about a political statement is not a justification to remove the banner where many others have hung in its place. Messages cannot be treated differently based on how much controversy they may provoke. Other student group banners are routinely hung in the same place, some containing political speech. To our knowledge, this is the first time Barnard has removed a banner and certainly the first time the entire policy has been reconsidered because of offense voiced at the political message.

¹ Barnard College Rules of Maintenance of Public Order, available at <https://barnard.edu/node/8039>.

² Dean Avis Hinkson, Barnard to reexamine banner policy (Mar. 11, 2014), at <http://barnard.edu/news/barnard-reexamine-banner-policy>.

³ Samantha Cooney and Christian Zang, Students for Justice in Palestine banner removal sparks debate on free speech, display policy, COLUMBIA SPECTATOR, Mar. 11, 2014, at <http://www.columbiaspectator.com/news/2014/03/11/students-justice-palestine-banner-removal-sparks-debate-free-speech-display-policy>.

March 13, 2014

Page 2 of 2

In recent years, we have witnessed a steep rise in attempts – legal and otherwise – to silence voices that advocate for the human rights of Palestinians. Universities have been at the center of this maelstrom precisely because they are places for critical inquiry, freedom of thought and often, political action – and therefore allow a perspective that very rarely breaks through the orthodoxy on Israeli policy prevailing among elected officials and in the mainstream media. Aggressive campaigns on college campuses around the country often demand that universities condemn and penalize students, faculty, and others for expressing a view supportive of Palestinian rights or critical of Israeli policies. These campaigns disguise their attempts to stifle constitutionally protected speech by mislabeling speech that criticizes Israeli policies as hateful and anti-Semitic and therefore, subject to condemnation and suppression.

This kind of speech, however, is neither anti-Semitic, nor anti-Jewish; it is political speech that deserves the highest level of constitutional protection. Barnard is no stranger to such campaigns, having already been the target of a dismissed Title VI complaint alleging anti-Semitic discrimination. Despite several similar complaints having been filed around the country, public letters issued by the Department of Education have made clear that students taking offense at speech on matters of public concern does not amount to harassment or discrimination under Title VI of the Civil Rights Act. Attached hereto is a letter elaborating on these decisions which we, along with other advocacy organizations, sent to Barnard in October.

The increased scrutiny by universities in response to such pressure harms all campus community members, especially those who are interested in exploring the critical issue of Israel/Palestine. It threatens to shut down robust debate on one of the most urgent foreign policy, moral and political questions of our time. Needless to say, students, faculty and university programs that openly advocate for Israel do not face the same obstacles. The First Amendment and well-established values of higher education that envision the university as the “marketplace of ideas” do not permit this type of viewpoint discrimination.

As a university dedicated to providing a diverse intellectual environment, Barnard should live up to the highest ideals of free speech and inquiry. We urge you to stand firmly in support of student speech rights, and to refuse to accede to demands to burden some speech more than other speech. We also urge you to allow the C-SJP banner to be rehung as originally approved, and to refrain from changing banner policies in reaction to this incident.

Please do not hesitate to contact me to discuss this further.

Sincerely,



Baher Azmy
Legal Director

Encl.: October 28, 2013 letter to Barnard College re: Department of Education Title VI and Civil Rights Act decisions