

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of,

AHMAD AWAD, SOFIA DADAP,
SAPPHIRA LURIE, ~~and~~ JULIE NORRIS,
and VEER SHETTY,

Petitioners,

-against-

FORDHAM UNIVERSITY,

Respondent,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules.

Index No. 153826/2017

**AMENDED VERIFIED
PETITION**

PRELIMINARY STATEMENT

1. This is an action pursuant to Article 78 of the C.P.L.R. against Fordham University which arises out of its decision to deny official recognition to a student club, Students for Justice in Palestine (SJP). Fordham took this action because of hostility to SJP’s views, violating enforceable University policies reflecting its commitment to encouraging a wide diversity of student opinion.

2. Undergraduate students at Fordham sought the University’s recognition of SJP in order to inform members of the Fordham community about Palestinian identity, history, and culture and to raise critical awareness and inquiry around a range of internationally recognized human rights violations committed by the Israeli government against Palestinians.

3. In seeking recognition of SJP, ~~the~~ those student-Petitioners followed all of the procedures set forth by the University. During an unusually long period of delay following the submission of SJP's application, students repeatedly met with and answered numerous inquiries by University administrators, who appeared uniquely concerned—and improperly so, given the University's stated commitment to “freedom of expression and the open exchange of ideas”—with how some members of the University community might react to SJP's advocacy for Palestinian rights.

4. Nevertheless, the entity authorized to approve student groups, the United Student Government (USG), voted to recognize SJP as a student organization and did so while reaffirming University commitment to diverse viewpoints and critical inquiry. That decision, by University policy and custom, should have been final.

5. Yet, in an action apparently without precedent, Fordham administrators intervened to overrule the USG approval decision, and denied recognition to SJP. The original, stated reason for such a remarkable reversal, expressed in a letter from a Fordham Dean, was that SJP would create “polarization” on campus, to which the “complex topic” of Israel/Palestine “often leads.” Given that Fordham does not have any prohibition against students or faculty advocating on behalf of issues that could lead to “polarization” on campus, it is fair to say that it was SJP's advocacy of Palestinian rights, and its criticism of Israel's violation of those rights, that was Fordham's particular concern.

6. After attorneys from civil rights groups wrote University administrators, the University added an additional concern about SJP: the allegedly disruptive conduct by *other* unaffiliated SJP groups at *other* campuses, notwithstanding assurances from the students that the SJP at Fordham would be autonomous and would function independently of any other SJP.

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7. Fordham's decision to deny recognition of SJP because of the University's concern with the subject matter and viewpoint that SJP would promote violates numerous written policies, including the policy against infringement of students' rights to "freely express his or her positions and to work for their acceptance" on campus.¹ The decision also violates University policies setting forth the protocol for acceptance of student groups.

8. As a consequence of being denied recognition, Petitioners' ability to recruit members, disseminate information and organize events reflecting their interests and views has been drastically circumscribed.

9. Petitioners, pursuant to their entitlement as members of the Fordham University community, and in defense of basic principles of free speech, free inquiry and associational freedom, seek judicial review authorized by Article 78 to compel the University to officially recognize SJP as a student club.

VENUE

10. Pursuant to C.P.L.R. §§ 7804(b) and 506(b), venue in this proceeding lies in New York County, in the judicial district in which the Respondent took the action challenged here and where the office of the Respondent is located.

PARTIES

11. Petitioner Ahmad Awad is a ~~senior~~ **atgraduate of** Fordham University and resident of New Jersey. Awad applied to start Students for Justice in Palestine at Fordham ("SJP") in November 2015 and was listed as the prospective club president. Awad wanted to start SJP to foster a greater understanding of Palestine and Israel at Fordham. Advocating against

¹ *Bias-Related Incidents and/or Hate Crimes*, FORDHAM UNIV., https://www.fordham.edu/info/21684/university_regulations/6566/bias-related_incidents_andor_hate_crimes (last visited Apr. 19, 2017).

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oppression and for the basic rights of Palestinians is integral to his identity, as two of his grandparents were born in Palestine prior to the establishment of Israel, and another grandparent was a Polish survivor of Nazi labor camps.

12. Petitioner Sapphira Lurie is a ~~senior~~ **graduate of** Fordham University and resides in New York City. Lurie became interested in joining SJP in fall 2016. Advocating against oppression and for the basic rights of Palestinians is integral to her identity, as she was raised in a Jewish Zionist household. When she moved to New York City and learned more about Palestinians and Israel's occupation and other violations, she decided she wanted to start an SJP.

13. Petitioner Sofia Dadap is a ~~junior~~ **graduate of** Fordham University and resides in New York City. Dadap became interested in joining SJP in spring 2016 in order to contribute to and benefit from education and public events at Fordham about Palestinian rights.

14. Petitioner Julie Norris is a ~~sophomore~~ **senior** at Fordham University and resides in New York City. Norris became interested in joining SJP in fall 2016 so that she and others at Fordham could learn more about the movement for Palestinian rights.

15. **Petitioner Veer Shetty is a student at Fordham University who resides in New York City. When Shetty commenced his studies at Fordham University in January 2018, he became interested in joining an SJP at his university in order to discuss Palestinian rights with his peers, and to do related outreach, organizing, and advocacy on campus.**

16. Respondent Fordham University is a private educational institution with a campus in the Lincoln Center area of Manhattan and where the actions alleged in this Petition occurred.

FACTUAL BACKGROUND**Petitioners' Attempt to Obtain SJP Recognition
Pursuant to Fordham University Policies**

17. On November 19, 2015, undergraduate Fordham University students, including Petitioner Awad, applied to start a student group, Students for Justice in Palestine at Fordham ("SJP") at the Lincoln Center campus. In accordance with Fordham's published rules on starting a new club, the students submitted all of the required paperwork, including the group's constitution.

18. SJP's constitution states that its mission is "to build support in the Fordham community among people of all ethnic and religious backgrounds for the promotion of justice, human rights, liberation, and self-determination for the indigenous Palestinian people." It also states that "SJP is organized around the principles of the call by Palestinian civil society for Boycott, Divestment and Sanctions of Israel."

19. On April 5, 2016, Petitioner Awad, having believed that it would take a few weeks for club approval, and having waited nearly five months since submitting SJP's application for club recognition, wrote Dr. Dorothy Wenzel, Director of the Office of Student Leadership and Community Development and New Student Orientation seeking a response from the administration to their request. He explained that students had "effectively missed a whole semester of being involved on campus, and would appreciate approval soon so we can begin hosting meetings for fellow Fordham students who are interested to learn about what SJP is."

20. On April 26, 2016, Wenzel and a student who was then-Vice President of Operations for USG told Awad and another student that some minor and standard modifications needed to be made to the constitution, and that SJP should be set to be approved in the fall.

Wenzel and Ritchie also asked if National Students for Justice in Palestine (“NSJP”) required anything from SJP.

21. Upon information and belief, on September 7, 2016, at the beginning of the fall semester, a student interested in joining SJP emailed the new Vice President of Operations for USG, notifying her that NSJP needed nothing from SJP, and asking for the status of the approval process. He also asked if it was feasible to begin advertising SJP at Fall Club Day on September 22th, an event at which clubs promote their activities and collect emails of students interested in joining.

22. Over the next couple of weeks, Petitioner Awad and other students interested in starting SJP responded to follow-up email inquiries from administrators on routine matters and requested to meet with USG and Fordham administrators.

23. On October 5, 2016, Petitioner Awad and other students met with Dean of Students Keith Eldredge, Wenzel and the Vice President of Operations for USG. At the meeting, Wenzel and Eldredge expressed concern that SJP’s presence on campus and its potential support for boycott, divestment, and sanctions (“BDS”) would “stir up controversy,” and referenced a controversy that occurred when Professor Norman Finkelstein, whose scholarship supports Palestinian rights, spoke at Fordham in 2009.

24. Wenzel and Eldredge again asked about any requirements NSJP might have of SJP, and also asked if the students would consider not using the name “Students for Justice in Palestine.” The students responded that they had chosen the name Students for Justice in Palestine to connect the group to the broader movement for justice in Palestine and that they wished to keep the name. Wenzel added that she spoke to several Jewish faculty members about

SJP in the previous academic year, and requested their opinion on whether SJP should be established at Fordham.

25. Over the course of the next few weeks, Petitioner Awad and other students interested in starting SJP responded to requests for further edits to the club constitution and questions about NSJP from Eldredge, Wenzel, and USG members.

26. On October 27, 2016, Petitioners Awad, Lurie, Dadap, and other students, along with their proposed faculty advisor Glenn Hendler, met with the USG Operations Committee. At the meeting, the USG Vice President of Operations asked if Governor Cuomo's executive order that purports to punish entities that engage in BDS² or the New York City Council resolution condemning BDS³ prevented the formation of SJP, since SJP's constitution mentions BDS. The students explained that boycotts are protected speech activity and that such legislation could not legally prohibit their advocacy for BDS.

27. The USG Vice President of Operations told Petitioners **Awad, Lurie, Dadap** that she would make sure USG held a vote on whether to approve SJP the upcoming Thursday, or the Thursday after that. She also said that she would inform the Jewish Student Organization (JSO) about the upcoming vote on SJP, as Wenzel had instructed her to let them weigh in on the question of SJP approval. The students told her that it was inappropriate for another student organization to have a say in the establishment of SJP.

The USG's Approval of SJP and Fordham's Reversal of the USG Decision

28. Fordham's 2016-2017 Lincoln Center USG Operations Committee Club Registration Process provides that:

² N.Y. Exec. Order 157 (June 5, 2016).

³ N.Y. City Council Res. 1058-A (Sept. 14, 2016).

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7. ...The Operations Committee will work with you in editing your constitution. After all revisions to the constitution have been made in accordance with constitutional guidelines, the packet will be submitted to the Director of the Office for Student Involvement and then to the Dean of Students.

8. Once the club's constitution is approved by the Director of the Office for Student Involvement and the Dean of Students, the packet will be given to the USG Senate for their recommendations and final approval.

9. Upon approval by above-mentioned parties, the club is considered a registered organization of FCLC and GSB....⁴

29. As SJP had met all the procedural requirements for student group approval, and consistent with Fordham protocols, on November 17, 2016, the USG Executive Board and Senate voted to approve SJP as a club at the Fordham University Lincoln Center Campus. In writing to SJP, the USG stressed that diverse viewpoints and critical inquiry are consonant with the University's stated mission:

United Student Government invited representatives from both Students for Justice in Palestine and the Jewish Student Organization to hear their perspectives and ask questions to both groups.

After careful deliberation, United Student Government has faith that this chapter of Students for Justice in Palestine at Fordham and its members will positively contribute to the Fordham community in such a way that is sensitive to all students on campus. United Student Government is dedicated to the safety of all students and has faith that Students for Justice in Palestine can function on campus respectfully. This chapter of Students for Justice in Palestine at Fordham fulfills a need for open discussion and demonstrates that Fordham is a place that exemplifies diversity of thought. Their presence will help to create a space for academic discussion and promote intellectual rigor on campus. We do not believe that the presence of Students for Justice in Palestine will take away from efforts to promote a safe environment on our campus.

As with all United Student Government decisions, we welcome all students to voice their concerns and participate in the open dialogue which USG promotes.

⁴ Fordham Univ. Lincoln Ctr. Campus United Student Gov't Operations Comm., Club Registration Process, Section I (2016-2017).

30. USG's decision to grant approval was supposed to have been the final word on SJP's status. According to Fordham's 2016-17 Club Registration Process, a "club is considered a registered organization" after the USG has given their "final approval." Nevertheless, Eldredge then wrote Petitioners Awad, Dadap, Lurie and other students stating that he was informed of the decision to approve the SJP club and that he "now need[s] to review the request before it is finalized."

31. On the last day of the fall semester's classes, Eldredge requested a meeting with the students, which eventually took place on December 12, 2016 and included Wenzel, Petitioner Lurie, and another student. Eldredge and Wenzel asked the students their views on BDS and whether it meant the dissolution of Israel, why they would use term "apartheid" to describe Israel, and whether they would work with national advocacy groups Jewish Voice for Peace, J Street, and Seeds of Peace.

32. Petitioner Lurie and the other student explained that BDS is a non-violent tactic to pressure the Israeli government to respect Palestinian rights and offered several examples of discriminatory laws and practices in Israel that they believed fit within the legal definition of apartheid. The two students also replied that they would like to work with Jewish Voice for Peace.

33. On December 22, 2016, the last day of the fall semester, Eldredge wrote Petitioners Awad, Lurie, and Dadap, as well as other students interested in starting SJP, to inform them that, despite the USG's approval of SJP and USG's recognition of the value of critical dialogue and inquiry, Eldredge simply disagreed that SJP's voice should be heard:

After consultation with numerous faculty, staff and students and my own deliberation, I have decided to deny the request to form a club known as Students for Justice in Palestine at Fordham University. While students are encouraged to promote diverse political points

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of view, and we encourage conversation and debate on all topics, I cannot support an organization whose sole purpose is advocating political goals of a specific group, and against a specific country, when these goals clearly conflict with and run contrary to the mission and values of the University.

There is perhaps no more complex topic than the Israeli-Palestinian conflict, and it is a topic that often leads to polarization rather than dialogue. The purpose of the organization as stated in the proposed club constitution points toward that polarization. Specifically, the call for Boycott, Divestment and Sanctions of Israel presents a barrier to open dialogue and mutual learning and understanding....

34. There is no factual basis for the Dean's assertion that "the call for Boycott, Divestment and Sanctions of Israel" has been a "barrier" to dialogue on college campuses. Indeed, campus BDS campaigns, like other current efforts to divest universities from fossil fuel companies and private prisons, have generated widespread conversations among students about their universities' roles in perpetuating injustice.

35. On information and belief, the "political goals" advocated by SJP are consistent with, not "contrary to the mission and values of the University," which include a commitment "to research and education that assist in the alleviation of poverty, the promotion of justice, the protection of human rights and respect for the environment."⁵

36. On information and belief, on no other occasion has the Fordham administration overruled a decision of the USG to approve a club based on the cause advocated by the club.

37. Likewise, on information and belief, on no other occasion has the University prohibited the formation of a club because it believed its views would be polarizing or because some students and faculty members disagreed with its views.

38. On information and belief, the Fordham administration's decision to overrule the approval of SJP was based, at least in part, on the disagreement of JSO members and some

⁵ *Mission Statement*, FORDHAM UNIV. (Apr. 28, 2005), available at http://www.fordham.edu/info/20057/about/2997/mission_statement.

faculty members with the views and mission of SJP and on the group's potential support for BDS.

The Shifting and Improper Justifications for the University's Decision

39. Seeking clarity about the basis for his decision to deny them their entitlement to form a student group, one student wrote Eldredge to inquire:

What specifically do you mean by “conflict with and run contrary to the mission and values of the university?” We do not understand how voicing opposition to certain policies of a government—as anti-apartheid activists did in the case of South Africa and as the College Republicans and College Democrats at Rose Hill do all the time—conflicts with the mission and values of the university. What values do we contradict when we oppose discriminatory laws and practices? If Fordham is “committed to research and education that assist in the alleviation of poverty, the promotion of justice, the protection of human rights and respect for the environment,” as the mission statement says, we believe that vocally opposing uniquely discriminatory laws and practices holistically embraces the mission and values of the university.

40. In response to a student inquiry regarding a process to appeal his decision, on January 6, 2017, Eldredge informed Petitioners Awad, Lurie, Dadap, and other students interested in starting SJP that “there is no appeal of my decision.”

41. On January 17, 2017, counsel for Petitioners wrote Fordham President McShane, explaining that the denial of SJP on the grounds that their message would cause “polarization” was in plain violation of written University policies requiring recognition of diverse and even controversial viewpoints, as well as basic free speech and associational principles. The letter also specifically requested that Fordham permit the formation of SJP.

42. On January 20, 2017, Jeffrey Gray, Fordham's Vice President for Student Affairs, responded to counsel, offering a different justification. He stated that the decision to deny SJP club status “was based on the fact that chapters of this organization have engaged in behavior on *other* college campuses that would violate this University's student code of conduct.” (Emphasis added.) He also said that when Fordham had “asked [students] to change the name of the

proposed club and to distance themselves from the national organization, our students declined to do so.”

43. On information and belief, Fordham has no basis for believing that decisions on programs and activities conducted by SJP at Fordham would be determined by the NSJP or other SJPs.

44. On information and belief, Fordham has no basis for believing that all SJPs do not act autonomously.

45. On information and belief, the Fordham administration’s decision to overrule the approval of SJP was based, at least in part, on SJP at Fordham’s perceived association with SJP groups at other schools.

46. On January 26, 2017, Petitioners’ counsel wrote Gray asking to schedule a meeting to discuss the University’s decision. The letter also stressed that students had repeatedly declared to the relevant Fordham administrators that they were completely independent from NSJP and SJPs on other campuses, and that NSJP’s website states “we do not dictate to SJP chapters: **all individual SJPs are autonomous student orgs** on their respective campuses.”⁶

47. Gray responded a few hours later, stating “We will continue dialogue internally with our own students and student leaders as this situation necessitates.” On January 30, 2017, Petitioners’ counsel wrote to Gray seeking clarification on whether the administration was unwilling to meet with the students and their attorneys to try to resolve the matter. Gray responded seven minutes later, confirming his refusal to meet with the students and their attorneys.

⁶ *About Us*, NAT’L STUDENTS FOR JUSTICE IN PALESTINE, <http://www.nationalsjp.org/about.html> (last visited Apr. 19, 2017) (emphasis in original).

48. To date, the University has refused to recognize SJP at Fordham.

Fordham's Rules and Policies Concerning Free Speech

49. Fordham's Mission Statement states that it "guarantees the freedom of inquiry required by rigorous thinking and the quest for truth[.]. . . seeks to foster in all its students life-long habits of careful observation, critical thinking, creativity, moral reflection and articulate expression[.]. . . seeks to develop in its students an understanding of and reverence for cultures and ways of life other than their own[, and]. . . is committed to research and education that assist in the alleviation of poverty, the promotion of justice, the protection of human rights and respect for the environment."⁷

50. The University's policy governing student demonstrations recognizes the value of dissent and promises to uphold freedom of expression. It stresses that, "[e]ach member of the University has a right to freely express his or her positions and to work for their acceptance whether he/she assents to or dissents from existing situations in the University or society."⁸ According to its own policies, Fordham may not infringe on the rights of students "to express their positions" and engage in "other legitimate activities."⁹ This is because Fordham "values freedom of expression and the open exchange of ideas. The expression of controversial ideas and differing views is a vital part of University discourse."¹⁰

⁷ *Mission Statement*, FORDHAM UNIV. (Apr. 28, 2005), available at http://www.fordham.edu/info/20057/about/2997/mission_statement.

⁸ *Demonstration Policy*, FORDHAM UNIV., https://www.fordham.edu/info/21684/university_regulations/3709/demonstration_policy (last visited Apr. 19, 2017).

⁹ *Id.*

¹⁰ *Bias-Related Incidents and/or Hate Crimes*, FORDHAM UNIV., https://www.fordham.edu/info/21684/university_regulations/6566/bias-related_incidents_andor_hate_crimes (last visited Apr. 19, 2017).

51. By denying recognition to SJP based on how much controversy its viewpoint could provoke, Fordham violates its policy of guaranteeing freedom of inquiry on campus and encouraging education on the promotion of justice and the protection of human rights.

52. Fordham has no policy prohibiting the formation of clubs that advocate on behalf of causes with which some students or faculty might disagree. Indeed, Fordham has granted recognition to other organizations that take positions on issues that others might consider polarizing, or that promote views with which others might disagree, such as In Strength I Stand (Feminist Alliance), Respect for Life, the Rainbow Alliance, Women in STEM, College Democrats, and College Republicans.

53. Fordham has clubs advancing interests, both cultural and political, of various ethnic and national groups. For example, Fordham’s Asian Pacific American Coalition “seeks to enlighten the student body about cultural, social, historical, and intellectual pursuits of the Asian Pacific Islander community.”¹¹

54. On information and belief, SJP was denied recognition because Fordham believed that SJP’s views and/or perceived associations were offensive to some faculty and students.

55. On information and belief, no other student organization has been denied recognition by Fordham because of the views it promotes or because of its perceived associations.

Fordham’s Rules and Policies Concerning Recognition of Clubs

56. As an essential element of its commitment to the expression of diverse ideas, and to engage with those ideas in a meaningful way, Fordham encourages the formation of student clubs.

¹¹ *Asian Pacific American Coalition*, FORDHAM UNIV. OFFICE OF STUDENT LEADERSHIP & DEV., <http://fordhamlc.orgsync.com/org/asianpacificamericancoalition36894> (last visited Apr. 19, 2017).

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57. Fordham is a place where students can get “involved in things like clubs (we’ve got more than 160),” noting that “[i]t’s about serving others inside your community and outside our gates, learning to lead and stretching your boundaries,” and promises that much growth will occur outside the classroom, “from your engagement with the community and the people in it.”¹²

58. Encouraging students to join clubs reinforces Fordham’s stated commitment to controversial ideas and differing views as a vital part of University discourse: “By registering and supporting a wide variety of clubs and organizations . . . the University reinforces its commitment to stimulate the intellectual and personal growth of its students.”¹³

59. Various rights of expression guaranteed by the University are contingent on Fordham’s official recognition of a student organization or club, including distribution of literature,¹⁴ posting of materials,¹⁵ and inviting guest speakers to campus.¹⁶ Without official recognition, a group cannot promote its activities or solicit members at Fordham’s Club Day. Petitioners can only book a room for meetings and invite guest speakers to campus if they are able to have those activities sponsored by another recognized organization or academic department.

¹² *Student Life*, FORDHAM UNIV., https://www.fordham.edu/info/20015/student_life (last visited Apr. 19, 2017).

¹³ *Student Leadership and Community Development*, FORDHAM UNIV., <http://216.230.117.32/section3/section55/index.html> (last visited Apr. 19, 2017).

¹⁴ *Distribution of Literature*, FORDHAM UNIV., https://www.fordham.edu/info/24226/a-z_listing/3710/distribution_of_literature (last visited Apr. 19, 2017).

¹⁵ *Publicity and Posting*, FORDHAM UNIV., https://www.fordham.edu/info/24226/a-z_listing/3733/publicity_and_posting (last visited Apr., 19, 2017).

¹⁶ *Speakers Policy*, FORDHAM UNIV., https://www.fordham.edu/info/24226/a-z_listing/3740/speakers_policy (last visited Apr. 19, 2017).

60. Registered student clubs are also entitled to funding for events and programs.¹⁷

Petitioners cannot receive any funding from Fordham for any SJP activities unless recognized as a club by Fordham.

61. Petitioners **Awad, Lurie, Dadap** and those students working with them followed all the requirements of the rules applicable to the process of forming a club, and did everything Fordham asked of them concerning that process. Upon information and belief, this is the first time a student organization was approved as a club by the student government, but denied by the administration.

CAUSES OF ACTION

First Cause of Action – Article 78/Free Speech and Association

62. Petitioners re-allege the facts set forth in paragraphs 16 through 60.

63. In denying SJP recognition because it may lead to “polarization” and because of its perceived association with and misperceptions about NJSP and SJPs on other campuses, Fordham violated its own policies and rules protecting free speech and the expression of controversial ideas.

64. Fordham’s student speech policies convey at the most basic level that it cannot treat students or groups that promote views that are unpopular or controversial differently or negatively because administrators or others on campus disagree or have negative associations with them.

65. Fordham’s failure to follow its own policies and rules and its reliance on factors for which there is no evidentiary basis is properly reviewable by this court. *Gertler v. Goodgold*,

¹⁷ *Student Activities Budget Committee*, FORDHAM UNIV. OFFICE OF STUDENT LEADERSHIP & DEV., <http://fordhamlc.orgsync.com/org/usglc/SABC> (last visited Apr. 19, 2017).

107 A.D.2d 481, 486 (1st Dep't 1985), *aff'd*, 66 N.Y.2d 946 (1985) (“private colleges and universities are accountable in a CPLR article 78 proceeding, with its well-defined standards of judicial review, for the proper discharge of their self-imposed as well as statutory obligations. . . . Thus, the judgment of professional educators is subject to judicial scrutiny to the extent that appropriate inquiry may be made to determine whether they abided by their own rules, and whether they have acted in good faith or their action was arbitrary or irrational.”); *Hyman v. Cornell Univ.*, 82 A.D.3d 1309, 1310 (3d Dep’t 2011) (“When a university has not substantially complied with its own guidelines or its determination is not rationally based upon the evidence, the determination will be annulled as arbitrary and capricious.”). *See also, Tedeschi v. Wagner College*, 49 N.Y.2d 652 (1980).

66. The understanding of Fordham’s free speech policies—expressive, as they are, of basic constitutional principles of free speech and association—is thus naturally informed by judicial interpretations of those principles.

67. Fordham policies claim to protect the rights of students to “freely express his or her positions and to work for their acceptance whether he/she assents to or dissents from existing situations in the University or society.”¹⁸ This mandates a prohibition of discrimination against a group because of its controversial views. *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995) (“Viewpoint discrimination is thus an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”).

¹⁸ *Bias-Related Incidents and/or Hate Crimes*, FORDHAM UNIV., https://www.fordham.edu/info/21684/university_regulations/6566/bias-related_incidents_andor_hate_crimes (last visited Apr. 19, 2017).

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68. Equally central to the free speech principles reflected in Fordham's policies is the prohibition against curtailing expression because it is opposed by others on campus. *Bachellar v. Maryland*, 397 U.S. 564, 567 (1970) (“[I]t is firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers, or simply because bystanders object to peaceful and orderly demonstrations.”).

69. In basing its decision on the perceived activities of SJPs on other campuses or the NSJP, without any evidence whatsoever that those organizations would influence SJP at Fordham, and in the face of uncontroverted evidence to the contrary, Fordham's action was arbitrary and capricious.

70. In *Healy v. James*, 408 U.S. 169, 173, 179 (1972), a college president rejected a committee's recommendation to approve a group, stating that it would be a “disruptive influence,” “contrary to the orderly process of change” on campus and, despite the students' insistence to the contrary, doubted the group's independence from the national organization.

71. In finding that the president's decision violated the associational rights of students, the Supreme Court held that “guilt by association alone, without establishing that an individual's association poses the threat feared . . . is an impermissible basis upon which to deny First Amendment rights.” *Id.* at 186.

72. Noting that the “right of individuals to associate to further their personal beliefs” is protected, the Court found that “[t]here can be no doubt that denial of official recognition, without justification, to college organizations burdens or abridges that associational right.” *Id.* at 181.

73. The associational right to which the Court referred, and its importance to the right of free expression, has been repeatedly emphasized. In *Citizens Against Rent Control/Coalition for Fair Hous. v. Berkeley*, 454 U.S. 290, 294 (1981), the Court noted that “the practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process,” and that “by collective effort individuals can make their views known, when, individually, their voices would be faint or lost.”

74. By denying SJP club status, Fordham stripped the students of the speech and associational freedoms that its policies guarantee, including allowing students to engage in “the promotion of justice, the protection of human rights,” “the right to freely express his or her positions and to work for their acceptance whether he/she assents to or dissents from existing situations in the University or society,” and “the expression of controversial ideas and differing views.”

Second Cause of Action – Article 78/Procedural Claim

75. Petitioners re-allege the facts set forth in paragraphs 16 through 73.

76. In failing to follow its own policies and procedures and customary practices for the approval of student clubs, Fordham acted arbitrarily and capriciously.

77. According to Fordham’s policy, the role of the Dean of Students and the Director of the Office for Student Involvement is to approve a club’s constitution, and then the USG Senate has the authority to grant a club “final approval,” after which “the club is considered a registered organization.”

78. On information and belief, there is no published procedure or policy giving the Dean of Students veto authority over the USG Senate’s approval.

79. Because Fordham has not substantially complied with its own guidelines and its determination is not rationally based upon the evidence, the determination must be “annulled as arbitrary and capricious.” *Hyman*, 82 A.D.3d at 1310.

RELIEF REQUESTED

WHEREFORE, the Petitioners seek judgment pursuant to C.P.L.R. § 7806:

- (1) Directing Respondent Fordham University to permit Petitioners to form a club named Students for Justice in Palestine (SJP);
- (2) Directing Respondent Fordham University to afford the club SJP official recognition with the same rights and privileges enjoyed by all other clubs at Fordham;
- (3) Declaring that Fordham violated its policies and procedures in overruling USG’s approval of SJP; and
- (4) Granting such other relief as the Court deems just and proper.

Respectfully submitted,



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~~Rahul Saksena (N.Y. Bar No. 4819751)~~

~~Palestine Legal~~

Counsel for Petitioners

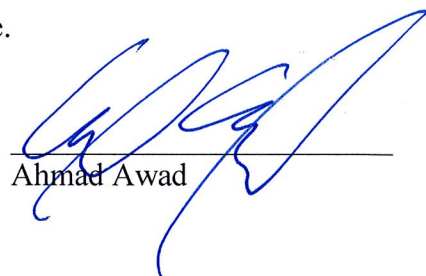
VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Ahmad Awad, being duly sworn, deposes and says that:

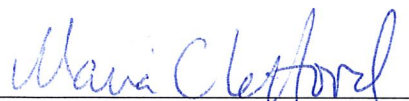
1. I am one of the Petitioners in this proceeding. I make this Verification pursuant to CPLR § 3020 (d).
2. I have read the attached Amended Verified Petition and know its contents.
3. All of the material allegations of the Amended Verified Petition are true to my personal knowledge or upon information and belief. As to those statements that are based upon information and belief, I believe those statements to be true.

Dated: February 7, 2019
New York, New York



Ahmad Awad

Sworn and subscribed to me
this 7th day of February, 2019



Notary Public

MARIA C. LaHOOD, ESQ.
Notary Public, State of New York
No. 02LA6161980
Qualified in Kings County
Commission Expires February 26, 20 19