

**STATEMENT SUBMITTED TO THE
U.S. COMMISSION ON CIVIL RIGHTS
BRIEFING ON CAMPUS ANTI-SEMITISM**

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Respectfully submitted,

**Susan B. Tuchman, Esq.
Director, Center for Law and Justice
Zionist Organization of America
Jacob and Libby Goodman ZOA House
4 East 34th Street
New York, NY 10016
(212) 481-1500**

My name is Susan Tuchman and I am the Director of the Zionist Organization of America's Center for Law and Justice. The Zionist Organization of America (ZOA) was founded in 1897 and is the oldest pro-Israel organization in the United States. It is a charter member of the Conference of Presidents of Major American Jewish Organizations, with a national membership of more than 40,000, and active chapters throughout the United States. The ZOA works to strengthen U.S.-Israel relations, and educates the American public and Congress about the dangers that Israel faces. It combats anti-Israel bias in the media and on college campuses, and fights anti-Semitism in the U.S. and around the world. The ZOA's past presidents include United States Supreme Court Justice Louis Brandeis, Rabbi Abba Hillel Silver and Rabbi Stephen Wise. 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.

On behalf of the ZOA, I would like to commend the Commission for focusing its attention on the issue of campus anti-Semitism. Highlighting and discussing this serious problem is an important step toward rectifying it and working toward creating a climate on our campuses that is tolerant and respectful. Thank you also for inviting the ZOA to participate in this briefing.

Anti-Semitism – hatred toward Jews – has been increasing in frequency and severity since the start of the 21st century, and the roots of the problem run deep. So says our own government in a Report on Global Anti-Semitism that was issued by the U.S Department of State and released in January 2005. The State Department has recognized that anti-Semitism has several sources. It can take the form of intimidation and attacks against Jews (e.g., the use of

degrading and demeaning slurs, threats and physical assaults) and Jewish property (e.g., vandalism of synagogues, the desecration of Jewish cemeteries, and anti-Semitic graffiti on walls and buildings). Anti-Semitism may also be expressed as traditional anti-Jewish prejudice, including assertions that the Jewish community controls governments, the media, international business and the financial world.

Significantly, the State Department report also recognizes that certain forms of anti-Israel sentiment are an expression of anti-Semitism, rather than legitimate criticism of the State of Israel and its policies and practices. When Israel is demonized and its leaders are vilified – by comparing them to Nazi leaders or by using Nazi symbols to caricature them – that, according to the State Department’s report, is not valid criticism on controversial issues, but rather indicates a bias toward anti-Semitism. I thank this Commission for publicly commending the State Department’s report after it was issued.

Though some have described anti-Zionism as the “new” anti-Semitism, it is not new. The understanding of anti-Zionism as a strain of anti-Semitism was recognized and publicly pronounced almost 40 years ago by Dr. Martin Luther King, when he said that “[w]hen people criticize Zionists, they mean Jews, you are talking anti-Semitism.” More recently, in July 2004, the Catholic Church issued a similar statement, condemning anti-Zionism as “a manifestation of anti-Semitism.”

It would be wrong and unfair to say that all criticism of Israel and the Israeli government is anti-Semitic. The policies and practices of the State of Israel -- like any other country – can and should be open to rigorous scrutiny and legitimate criticism. But when Israel alone is singled out for condemnation, when the criticism uses anti-Jewish images and caricatures to

attack Israel and its policies, and when the criticism is factually inaccurate or lacks any semblance of balance, then the criticism should be seen as an insidious expression of anti-Semitism.

However broadly anti-Semitism is defined, there is no question that hatred expressed toward Jews threatens the safety and well being of the Jewish community. However anti-Semitism is expressed, through words or actions, it causes pain, discomfort and fear. This is true on our college campuses where, unfortunately, anti-Semitism is a growing problem. Jewish students are facing anti-Jewish speech and conduct on campuses throughout the United States. For example, in 2003, swastikas were spray-painted on the Hillel building at Rutgers University in New Jersey, and on the porch and front door of Alpha Epsilon Pi, a historically Jewish fraternity. In 2004, the Rutgers student newspaper published a cartoon showing a man throwing a ball at another man sitting on an oven. The text for the cartoon included the following: “Knock a Jew in the oven! Three throws for one dollar!” In June of 2004, arsonists attacked the Hillel House at the University of California at Santa Cruz. In May 2005, vandals scrawled swastikas and ripped down posters advertising a pro-Israel program. There have been numerous anti-Semitic incidents reported at the University of Indiana, Bloomington, in 2004 and 2005, including the drawing of swastikas on campus, anti-Semitic comments, harassment, physical intimidation, physical assault and vandalism. One recent example of campus anti-Semitism that has received publicity in the media is the hostility and intimidation that Jewish students have faced at Columbia University in New York. A professor told one Jewish student at Columbia that she had no claim to the Land of Israel or a right to express her opinion about Israeli-Palestinian Arab issues because she had green eyes and therefore could not be a Semite.

The effects of anti-Semitism on Jewish college students are serious. Many who are exposed to it feel marginalized, unwelcome, intimidated and afraid. For some students, this may result in their being uncomfortable to wear anything on campus that identifies them as Jewish. Or, it may mean not affiliating with Jewish programs or causes on campus, for fear of being targeted. For some students, it can be difficult for them to concentrate on their academic responsibilities because their thoughts are so focused on their discomfort or even on their fear for their physical safety on campus.

The effects of anti-Semitism extend beyond the campus. For Jewish students who are exposed to it, they surely take with them into the world after college whatever feelings were engendered by the hatred and degradation to which they were subjected. For those who perpetrated the anti-Semitism, it is difficult to conceive that the hatred and bias they expressed will suddenly disappear once they leave the confines of a college campus.

I am most familiar with the problem of anti-Semitism as it has affected the Jewish community at the University of California at Irvine (UCI). UCI is located in Orange County in southern California. There are about 24,000 students there, approximately 1000 of whom are Jewish. Since at least 2002, if not earlier, Jewish students have faced a pattern of anti-Semitism on the UCI campus that in 2003 and 2004, escalated into destruction of property, physical threats and violence.

In 2002, an article appeared in a UCI student publication that repeatedly emphasized the Nazi-like notion that Jews are genetically different and separate from non-Jews. Starting at about that time, signs began being posted on campus, picturing the Star of David dripping with blood, and equating the Star of David with the swastika.

In 2003, Jewish students constructed a Holocaust memorial on the UCI campus, which was supposed to be set up for an entire week. One night, the memorial was destroyed. At a candlelight vigil held at about the same time to commemorate the Holocaust, a swastika was carved into one of the tables nearby.

These anti-Semitic incidents – which could properly be characterized as hate crimes – were reported to the UCI administration and the campus police, but the University never even acknowledged to the UCI community that the incidents had occurred. The official response was a problem for several reasons. First, the University’s failure to inform the community about the attacks lessened the likelihood that the perpetrators of the attacks would be apprehended and punished. In fact, the perpetrators were never caught. Second, the University lost an important opportunity to send a strong message to the campus community that bias and hate would not be tolerated on campus. Finally, and perhaps most destructive, UCI’s failure to comment publicly sent the message to some students that it was insensitive to hate crimes directed toward Jews.

Anti-Semitic speakers have repeatedly been invited to speak on the UCI campus. In early 2004, one speaker told his audience that if Al Gore had become president, the Mossad – Israel’s intelligence agency – would have had him assassinated so that the Democratic Vice Presidential candidate, U.S. Senator Joseph Lieberman – who is Jewish – could have assumed the presidency. This speaker also told the audience that “there are good Jews and bad Jews,” and he told them about his “Jewish Cracker theory”: that Jews are plagued with arrogance that comes from a combination of white supremacy and the notion that Jews are the chosen people. The speaker spoke from a lectern with the UCI emblem on it, thereby suggesting that his conduct bore the imprimatur of the University.

Every year at UCI, a registered student group on campus sponsors a weeklong event that, over the years, has been given a variety of titles. At one point, the event was called “Anti-Zionist Week.” Then, the title was change to “Zionist Awareness Week.” Most recently, in 2005, the title of the event was “Israel Awareness Week.” But whatever the title, the event has been about attacking Jews, Zionists and those who believe that the State of Israel has the right to exist.

Here are some examples of what said about Jews at this event in 2004. There were repeated references to the Jewish lobby and how it controls the U.S. government. Students were told that Jews use the media to “brainwash” others. They were told that Jews need to be “rehabilitated.” They were told that there is a “psychosis” in the Jewish community.

The effects of the anti-Semitism at UCI have been serious. Since at least 2002, many Jewish students have felt marginalized and afraid. Some have been afraid to identify themselves as Jewish, or to wear anything that might identify them as Jewish, such as yarmulkes and Stars of David. Other students have been reluctant to affiliate with Jewish groups or programs. Some have altered their usual routes on campus, or have avoided certain areas of the campus entirely, so that they will not have to see and hear attacks on Jews and on Israel. Some students have actually feared for their physical safety.

As early as 2002, Jewish students were expressing their fears and concerns to the University. Here is an excerpt from a letter that a Jewish graduate student sent to the UCI Chancellor and several administrators in April 2002:

Not only do I feel scared to walk around proudly as a Jewish person on the UC Irvine campus, I am terrified for anyone to find out. Today I felt threatened that if students knew that I am Jewish and that I support a Jewish state, I would be attacked physically. It is my right to walk around this campus and not fear other students

and hear condemnation from them. It is my right for my government to protect me from harm from others. It is my right as a citizen who pays tuition and taxes to be protected from such harm. . . . YOU may claim the first amendment. I claim the right to be safe and secure. You cannot use the first amendment as an argument against my safety. MY SAFETY SUPERCEDES FIRST AMENDMENT RIGHTS [emphasis in original].

The Chancellor never responded to this student's letter. One of the administrators who did respond reacted in a telling way: He suggested that the student visit the Counseling Center on campus to help her work through her feelings. The response to this student's call for help epitomizes the problem at UCI and may well be a sign of what is happening elsewhere: The administration has not viewed the harassment and intimidation of Jewish students as a problem that it has the responsibility to address. It is the Jewish students who have a problem, and they had just better learn to deal with it.

In 2005, Jewish students at UCI were subjected to more anti-Semitic speech – speech that was intended to incite hatred of Jews. In February 2005, a speaker on campus had this to say about Jews: “You know the kind of stuff that they’re doing, the type of spying network that they have, in this country. Stand up to them.” In May, this same speaker talked about the “den of spies that the Jewish lobby has, people in the Jewish lobby spying on behalf of” Israel. The speaker said that five Israelis were filming the bombing of the World Trade Center and they were celebrating, as part of a spy ring in the U.S. He talked about how arrogant the Jews are. And he said that their “days are numbered.” This was precisely the kind of speech that the State Department recently recognized in its report as anti-Semitism.

Anti-Semitic speech, unless it immediately incites to violence, is protected speech under the First Amendment and cannot be suppressed. But that does not mean that it cannot, and

should not, be addressed and responded to as anti-Semitic bigotry, plain and simple. One legal commentator who has focused on how racist speech affects its victims has paid particular attention to hate speech and harassment at universities. Calling universities “special places” with duties “to a constituency with special vulnerabilities,” this commentator has emphasized the enormous damage that results from a university’s tolerance of hateful speech:

Many of the new adults who come to live and study at the major universities are away from home for the first time, and at a vulnerable stage of psychological development. Students are particularly dependent on the university for community, for intellectual development, and for self-definition. Official tolerance of racist speech in this setting is more harmful than generalized tolerance in the community-at-large.

Matsuda, *Public Response to Racist Speech: Considering the Victim’s Story*, 87 Mich. L. Rev. 2320, 2370-71 (1989).

As this commentator recognized, official tolerance of racist speech “is harmful to student perpetrators in that it is a lesson in getting away-with-it that will have lifelong repercussions.” *Id.* at 2371. A university’s tolerance of racist speech is also harmful to the targets of the speech, “who perceive the university as taking sides through inaction, and who are left to their own resources in coping with the damage wrought.” *Id.* Finally, “it is a harm to the goals of inclusion, education, development of knowledge and ethics that universities exist and stand for. Lessons of cynicism and hate replace lessons in critical thought and inquiry.” *Id.*

There is another reason why hateful speech toward Jews must be confronted head on. When it is not immediately and directly acknowledged and condemned, and when comprehensive programs and systems are not in place to adequately address it, slurs and gestures may escalate into violence. According to the Center for the Prevention of Hate Violence at the

University of Southern Maine, in virtually every one of the investigations of serious violence or threats in high schools or colleges conducted by the Maine Attorney General's Office over the past eight years, the same pattern exists: the act of violence was not the beginning but rather the end of a stream of escalating harassment which at some point began with the use of degrading language.

That is what happened at UCI. By 2003, there were physical attacks on property, when the Holocaust memorial was destroyed and the candlelight vigil in memory of Holocaust victims was desecrated by the carving of a swastika into a table at the vigil. In 2004, the problem of anti-Semitism escalated into several instances of outright physical threats and violence against Jewish students at UCI.

In January 2004, a Jewish student who was wearing a tee shirt that said, "Everybody loves a Jewish boy," was walking by a table on the campus where members of a student group were distributing flyers. Rocks covered the flyers to keep them from blowing away. As the Jewish student passed the table, a rock flew in front of his face, barely missing him. The student turned and saw a student holding a young child and saying to the child, in a very sarcastic voice, "Don't do that, that's not right! – as though the child had thrown the rock. The Jewish student said nothing and just kept walking. But the experience made him afraid to wear anything that identified him as a Jew ever again on campus.

In February 2004, a Jewish student, who is of Sephardic descent and speaks and understands Arabic, was walking toward the Dean of Students' office with a box of office supplies. He was wearing a pin on his sweatshirt that said, "United We Stand," with an imprint of the American and Israeli flags. He passed two students who stared at his pin and said, "Ee

Bakh al Yahud,' which means "Slaughter the Jews" in Arabic. The Jewish student ignored the comment and kept walking. A heated dialogue ensued, and the Jewish student was surrounded and threatened.

In or about March 2004, this same Jewish student was wearing a yarmulke and carrying a prayer book while walking toward UCI's science library. He walked by a familiar-looking student and said, "What's up?" The student made an obscene gesture toward the Jewish student and his prayer book. They began to argue and the Jewish student was subjected to threatening language and hurtful ethnic slurs, including being called a "dirty Jew." This student could no longer take what he felt was a hostile environment for Jewish students at UCI, and he left to study elsewhere. He is not the only one; at least one other Jewish student left UCI because of the hostile environment he experienced there and transferred to another university.

Federal law requires that recipients of federal funding ensure that their programs and activities are free from harassment, intimidation and discrimination on the basis of race, color and national origin. The law is Title VI of the federal Civil Rights Act of 1964. Colleges and universities that receive federal funding from the U.S. Department of Education must comply with Title VI, and the Office for Civil Rights (OCR) in the Department of Education is charged with the responsibility of ensuring that colleges and universities are in compliance.

Historically, OCR interpreted Title VI as not protecting against anti-Semitism, on the ground that the law did not cover religious discrimination. In the fall of 2004, OCR changed its policy and confirmed that Jewish students are a protected class under Title VI. We at the ZOA view this policy change as an important development. It is consistent with United States Supreme Court decisions that recognize that being "Jewish" is not simply a religious

characteristic; it is also a racial and ethnic characteristic, describing a people who share not only a religion, but also a common ancestry, history, language, heritage and culture.

In October 2004, the ZOA filed a complaint with OCR under Title VI on behalf of Jewish students at UCI, contending that the University had long been aware of a hostile and intimidating environment for Jewish students, but that UCI had not taken adequate steps to address the problem. After reviewing the allegations of the complaint, OCR determined that an investigation was warranted, and the investigation is underway.

It cannot be stressed enough that the UCI case is not about the suppression or restriction of offensive and bigoted speech. The ZOA, and the students on whose behalf the complaint was filed, recognize and fully support the protections afforded to speech and expressive conduct under the First Amendment. But colleges and universities like UCI have a clear obligation under Title VI to provide an educational environment that is comfortable and conducive to learning. Colleges and universities like UCI have a legal obligation to ensure that Jewish students are not subjected to harassment, intimidation or discrimination.

One important way that colleges and universities can address the problem is to recognize anti-Semitism when it occurs, and to speak out and condemn it, clearly and unequivocally. Colleges and universities have First Amendment rights, too. Their failure to speak out against hatred expressed toward Jews sends the message, however unintentional, that such hatred is tolerable and will be accepted by the campus community. Those who perpetrate the hate are given the message that they can get away with their anti-Semitic speech and conduct. For the victims of anti-Semitism, the message is that by saying and doing nothing, the University has in effect taken the side of those who are perpetrating the hate. The end result is that unwittingly or

not, the University has contributed to Jewish students feeling isolated, marginalized, unwelcome and afraid.

The Rutgers University community appropriately responded to the anti-Semitic cartoon in the student publication I mentioned earlier, which mocked the Holocaust. The president of Rutgers issued a strong statement describing the cartoon as “outrageous in its cruelty.” He noted that though the publication was protected by the First Amendment, it was “vicious, provocative and hurtful,” and “completely at odds with” the values of the university. The president of Rutgers publicly “urged the students involved in the publication to reflect on what they have done, take responsibility for their actions and apologize for the hurt they have caused to our community.” In addition to the president’s statement, the Rutgers University Senate passed a resolution disassociating the Senate from the anti-Semitic message of the cartoon. The students involved in the publication issued an apology, which, as the president of Rutgers said, was hopefully a sign of progress toward students exercising First Amendment rights in a more responsible way.

hateful and bigoted speech and conduct by college and university administrators is endorsed by the American Association of University Professors (AAUP). This is an organization founded in 1915, comprised of faculty librarians and academic professionals at two- and four-year accredited public and private colleges and universities. Its mission is “developing the standards and procedures that maintain quality in education and academic freedom in this country’s colleges and universities.” The American Civil Liberties Union (ACLU) has also endorsed colleges and universities condemning anti-Semitism and all forms of bigotry. Though it has a long history

of guarding our civil liberties and our right to free speech under the First Amendment, the ACLU has emphasized that “campus administrators on the highest level should . . . speak out loudly and clearly against expressions of racist, sexist, homophobic and other bias, and react promptly and firmly to acts of discriminatory harassment.”

Speaking out, clearly and unequivocally, against all facets of anti-Jewish bigotry is only part of the obligation of our colleges and universities in order to deal with the problem of campus anti-Semitism. Colleges and universities must also ensure that they have systems and programs in place in order to work, on an ongoing basis, on monitoring the climate on campus, and then instituting the necessary changes so that the university community is encouraging vigorous debate and academic freedom, while also promoting the values of respect, tolerance, diversity and inclusiveness. There should be a structure and a process for gathering information about the campus climate, and for generating change and improvements. There should be an office or team whose specific mission is to shape the climate on campus.

There should also be ongoing campus-wide courses, workshops and other programs that address the values of respect, tolerance, diversity and inclusiveness. Administrators, staff, faculty and students need the tools to understand the meaning of anti-Semitism in all its facets, and the impact of anti-Semitic bias and prejudice. They also need the practical skills for intervening in low-key ways when students and others use degrading or demeaning language – before the anti-Semitism escalates to physical threats or actual violence.

The problem of anti-Semitism can only be effectively addressed if it is responded to in a sustained and continuous way. Ad hoc and sporadic efforts are not enough.

In the course of my work on the UCI case, I have reached out to many experts who work full-time on combating hate and intolerance on college campuses. One of the significant points I have learned from them is that if there is anti-Semitism on a campus, it is likely that other minorities are also being targeted. Accordingly, effectively addressing hatred toward Jews on college campuses should have a positive impact on the way in which other minority groups are treated on their campuses. We at the ZOA are hopeful that the UCI case will set an important precedent for colleges and universities across the country. The case should reinforce the understanding of colleges and universities that anti-Semitism is a serious problem, that it takes an enormous toll on the Jewish community on campus, and that as educators and leaders, they have an obligation under the law to correct the problem. No student should feel afraid or intimidated on his or her campus, or reluctant to be who they are for fear of being harassed, threatened or even physically attacked.

Last year, when this Commission commended the State Department for its report on anti-Semitism, Commission Chairman Reynolds noted that “[t]he trend toward increasing violence and hate disrupt freedom for many individuals and can only be reversed with leadership.” We at the ZOA could not agree more. That is why the ZOA filed its complaint on behalf of Jewish students at UCI. The Commission has already demonstrated its leadership role in the fight against campus anti-Semitism by taking on the problem and holding this briefing. Respectfully, I would like to suggest other steps for the Commission to consider taking to combat hate and prejudice against Jews on our college campuses.

First, I would suggest that the Commission issue its own report acknowledging that anti-

Semitism is a serious problem on our campuses. This would send a powerful message to colleges and universities. In the report, it would be valuable for the Commission to recognize, as did the State Department, that anti-Semitism is not simply comprised of slurs, physical threats and assaults, and the destruction or defacement of property. The American public should be educated to understand that anti-Semitism embraces more than that, and can sometimes be expressed in more subtle and insidious ways. Speech and conduct that single out and demonize Israel – without regard for the facts and with no sense of balance or sensitivity to the nuances of a complicated political situation – may be an expression of anti-Semitism, and this is a phenomenon to which we should all be sensitive.

It would also be beneficial if the Commission would urge colleges and universities to speak out and condemn hateful speech and conduct, loudly and clearly, as one tool for fighting campus anti-Semitism. We must all stand up for free speech and vigorous debate – and certainly that is true when it comes to an academic environment where the free exchange of ideas should be encouraged. But hateful, degrading and demeaning speech and conduct is just that – hateful, degrading and demeaning, no matter where it occurs. None of us should lose our common sense and sound judgment about what is hateful just because the hate is expressed on a college campus.

The effects on the students subjected to the hate should not be minimized. Our colleges and universities need to be leaders, too, in combating anti-Semitism. They must educate and inform their communities that anti-Semitic speech and conduct is not consistent with the values of their universities, and that with freedom – including the freedom of expression – comes responsibility. A message to this effect from the Commission would encourage colleges and universities to assume a leadership role. If they continue to ignore anti-Semitism on their

campuses, or pay lip service to these issues, then they become complicit in perpetuating the problem and, intentionally or not, make Jewish students feel even more marginalized and unwelcome.

Second, I would suggest that the Commission obtain input from experts who develop remedies for preventing and combating anti-Semitism on college campuses. Colleges and universities need specific and effective tools for preventing and responding to bigotry, and strategies for building respect, tolerance, and inclusiveness among students. Administrators, staff and educators need training to recognize anti-Semitism when it occurs, and to respond to it appropriately.

Third, I would suggest that the Commission voice its concern about campus anti-Semitism, in all its facets, to OCR, and urge OCR to conduct a thorough investigation of the complaint against UCI, with consideration of all of the available evidence. It is my understanding that the complaint against UCI is the first case of anti-Semitism that OCR has agreed to investigate. Although it is a complaint about anti-Semitism at only one university, the problem is not unique to UCI. Whatever the outcome of OCR's investigation, the case will hopefully send a message to colleges and universities across the country: While our government stands behind the principles of free speech and open debate, it is also committed to ensuring that students are not subjected to hostility, harassment and intimidation on the basis of their race or ethnicity. A message from this Commission to OCR, urging a complete and thorough investigation, has implications not only for the UCI case, but for other colleges and universities where anti-Semitism is a problem.

On behalf of the ZOA, I thank you again for drawing attention to these serious issues, and for giving me an opportunity to participate in this briefing. Hopefully, your efforts will help stem the hatred and violence that many Jewish college students have been facing. Your efforts will help to encourage an environment on our campuses that is tolerant, respectful and appreciative of our individual differences.