



Luoluo Hong  
Vice President of Student Affairs & Enrollment Management  
San Francisco State University  
1600 Holloway Avenue, Administration Building 562  
San Francisco, CA 94132

June 22, 2018

**Re: Immediate Intervention Required**

Dear Dr. Hong,

I write on behalf of graduating students [REDACTED] [REDACTED] and [REDACTED] [REDACTED] to demand your immediate intervention to avoid severe and further violation of the law.

**Background**

As you may know, [REDACTED] and [REDACTED] are currently under threat of sanctions as a result of volunteering their time to host an educational event for their peers. [REDACTED] and [REDACTED] were members of a committee of students and staff who put on a Know Your Rights Fair at SF State on February 28, 2017. SF Hillel asked for tabling space at the fair, and the committee declined this request. Complaints were then filed against the committee accusing the committee of religious discrimination. This baseless charge was dismissed, but the committee was instead found to have engaged in “viewpoint discrimination” (and retaliation, which [REDACTED] and [REDACTED] were ultimately cleared of).

According to a July 13, 2017, investigative report from the Office of Equity Programs & Compliance, “Viewpoint discrimination” is prohibited under SF State Time, Place, Manner Policy, University Executive Directive #89-13, which states, “There shall be no restrictions on legally protected free speech activity based on the content of such speech or expression, or on the political, religious or other affiliations of speakers.” This vague sentence is in a section of the directive that describes speech that is and is not protected under the First Amendment. Though designed as a shield to protect student speech from institutional restriction—perhaps better written as “The university shall not restrict legally protected free speech activity...”—SF State is now wielding this vague sentence as a weapon against students.

**Appeal Process**

The students appealed the decision to the CSU Chancellor's Office, which remanded the investigation back to SF State to make findings about individual committee members. In an amended investigation report dated Feb. 8, 2018, the Office of Equity Programs & Compliance found that [REDACTED] had “limited involvement in the relevant decision-making” and “did not

contribute to the adverse action.” (p. 14). The office also found that ██████ was motivated by Hillel’s viewpoint.

The students continued their appeal. On April 13, 2018, the CSU Chancellor's Office confirmed ██████’s lack of involvement. The Chancellor’s Office also noted that in regard to ██████, it would not review the viewpoint finding since it was outside the scope of EO 1096/1097. CSU directed the campus to notify ██████ of campus level processes through which she could appeal this finding. The campus never notified ██████ of any such process.

### **Office of Student Conduct’s Disregard of Policies and Facts**

The Office of Student Conduct contacted ██████ and ██████ on May 22, 2018, directing them to attend conferences with Shimina Harris to discuss sanctions for allegedly violating Executive Directive #89-13. The Office of Student Conduct has refused to explain how they allegedly violated this policy.

In a May 29, 2018, email to ██████, Ms. Harris said that “this conference is to discuss sanctions and that the findings of the case investigated by Equity Programs & Compliance remains final and the specifics of the investigation, and its findings, are not up for debate.”

Prior to their meetings with Ms. Harris, the students and I both raised numerous concerns with the charges and the manner in which she was handling this process. We noted that Ms. Harris failed to provide several pieces of information required in a notice of conference under EO 1098: which section of Executive Directive #89-13 the students are alleged to have violated; a factual description of the students’ alleged conduct; a proposed sanction or range of sanctions, and the location of the students’ disciplinary file. Ms. Harris did amend the notice with some information on proposed sanctions and the location of the files. However, when the students asked to be provided with a factual description, Ms. Harris stated that it was her office's business practice not to comply with that requirement. The students did not receive an appointment to view their files until the day before the meeting.

These violations of procedure are significant because, again, the university has not explained to the students in writing or in the various conferences how their conduct violated the vague free speech sentence cited from Executive Directive #89-13.

In their meetings with Ms. Harris, the students were not given any opportunity to contest the findings. They were told that if they did not agree to Ms. Harris’s proposed sanctions, they could have a hearing, which would again cover only sanctions, not findings. They were told that this meeting would likely result in harsher sanctions. Ms. Harris refused to acknowledge the findings in ██████’s file that they had no responsibility in the incident. She also misconstrued CSU’s instructions to inform ██████ of the appeal possibilities as somehow demonstrating that they had waived their right to appeal.

Despite their lack of wrongdoing, the students were willing to agree to reasonable sanctions in order to resolve this matter as soon as possible, having undergone this ordeal for nearly 16 months. However, Ms. Harris has been adamant on imposing disciplinary probation even though,

as they have informed Ms. Harris, this sanction will impede or at the very least delay [REDACTED] and [REDACTED]'s plans for graduate and medical school. While they would be willing to accept the indignity of being punished for something that was not wrong and that they did not do, the lasting impact of disciplinary probation is unacceptable, especially for working class students who have gone against all odds to succeed academically.

### **Students Have No Duty To Be Viewpoint Neutral**

The Office of Student Conduct has refused to explain to the students how they have allegedly violated Executive Directive #89-13. The “viewpoint discrimination” policy in Executive Directive #89-13 has no applicability to [REDACTED] and [REDACTED] as students who were not operating in any official university capacity.

Executive Directive #89-13 states, “There shall be no restrictions on legally protected free speech activity based on the content of such speech or expression, or on the political, religious or other affiliations of speakers.” This statement limits university action, not the activities of students and student organizations. If it is meant to apply a viewpoint neutrality rule to individual students organizing student-run events, no reasonable student could discern so from the vague language.

If there were responsibility on the part of the university not to refuse Hillel’s request, that responsibility falls on the administrators in the committee, or on Ms. Harris, who was aware of the committee’s decision regarding Hillel, but failed to ensure that the committee was informed of her concerns and disagreement with the decision.

Ms. Harris was involved in the incident, bears the most responsibility for it, and was a named defendant in a lawsuit regarding the incident. She is now a decisionmaker in the case. She has also informed the students that if they choose to have a hearing, she will play an integral role in testifying against them. Given that Ms. Harris must blame someone for this incident or herself be blamed, she cannot play a neutral objective role that fundamental due process requires.

### **SF State Is Sanctioning [REDACTED] Despite Finding That They Played No Role**

As noted above, SF State has already found that [REDACTED] had “limited involvement in the relevant decision-making” and “did not contribute to the adverse action.” It violates fundamental fairness and due process to impose sanctions or put them through a hearing when the university has already concluded that they have done nothing wrong.

### **Students Have Had No Opportunity To Appeal the Viewpoint Finding**

Ms. Harris has violated EO 1098 by telling the students that the findings are final and that their conferences and hearings are only to discuss sanctions.

Limiting the conference and hearing to sanctions would only be appropriate for conferences and hearings regarding Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking. A conference regarding an alleged violation of Executive

Directive #89-13 would be governed by Article III of EO 1098. Under this article, the conference should allow students an opportunity to respond to the charges against them, not merely sanctions.

SF State disregarded express instructions from the CSU Chancellor's Office to provide [REDACTED] an opportunity to appeal the viewpoint finding and is now violating its own student conduct procedures by denying the students an opportunity to demonstrate the inapplicability and inaccuracy of the findings against them.

Any sanction against [REDACTED] and [REDACTED] is unjust without a clear finding of policy violation for which they bear individual responsibility. But they would be willing to accept reasonable sanctions to put an end to an investigation that has dragged on for nearly 16 months.

The students have been given until Monday, June 25, 2018, to agree to proposed sanctions or schedule a hearing. They cannot agree to Ms. Harris's proposal as it currently stands. I urge you to intervene and ensure that the Office of Student Conduct complies with university policies and the fundamental fairness demanded by due process. If students are given reasonable sanctions, they would be willing to agree to them and end this process amicably.

Thank you for your time and attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zoha Khalili', with a stylized flourish at the end.

Zoha Khalili  
Staff Attorney, Palestine Legal