



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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Sent via email only to: chancellor@cuny.edu; ogc@cuny.edu

Félix V. Matos Rodríguez
Chancellor
City University of New York
205 East 42nd Street
New York, New York 10017

Re: Case Numbers 02-22-2034 and 02-24-2364 – City University of New York –
Hunter College
Case Numbers 02-20-2335, 02-21-2010, and 02-24-2377 – City University of New York –
School of Law
Case Number 02-21-2082 – City University of New York – Brooklyn College
Case Number 02-24-2365 – City University of New York – Queens College
Case Number 02-22-2094 – City University of New York – Baruch College
Case Number 02-22-2249 – City University of New York – Central Office

Dear Chancellor Rodriguez:

This is to notify you of the determination of the U.S. Department of Education (the Department), Office for Civil Rights (OCR), regarding allegations of discrimination against students, employees, and third parties based on national origin (including shared ancestry and/or the association with national origin/shared ancestry) that OCR opened for investigation under Title VI of the Civil Rights Act of 1964 (Title VI) in the above-referenced cases numbers against the following colleges and schools of the City University of New York (“CUNY” or “the University”): Hunter College (“Hunter”), Brooklyn College (“Brooklyn”), the School of Law (“the Law School”), Queens College (“Queens”), and Baruch College (“Baruch”) (collectively referred to as “the Captioned Colleges”); and the CUNY - Central Office (“Central Office”).

In Case Numbers 02-22-2034 (Hunter), 02-21-2082 (Brooklyn), 02-20-2335 and 02-21-2010 (the Law School), 02-22-2249 (Central Office), and 02-22-2094 (Baruch), the complainants alleged that the University and/or these colleges and/or schools were on notice of and failed to respond promptly or effectively to alleged discrimination and antisemitic harassment by employees and students at the colleges and schools, creating a hostile environment for students of shared Jewish ancestry since academic year 2019-2020.

In Case Numbers 02-24-2364 (Hunter), 02-24-2377 (the Law School), and 02-24-2365 (Queens), the complainants alleged that the University and/or these colleges and/or schools have

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

discriminated against students on the basis of their actual or perceived national origin/shared ancestry (including shared Palestinian, Arab, Muslim, and/or South Asian ancestry and their association with these national origins/shared ancestries) since October 2023. The complainants alleged that the discrimination includes the University's and/or these colleges' and/or schools' failing to respond effectively to reported incidents of harassment of these students by other students, employees, and third parties, and engaging in disparate treatment of students based on their actual or perceived national origin/shared ancestry, or their association with a national origin/shared ancestry.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. §§ 2000d-2000d-7, and its implementing regulations at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color, and national origin in programs and activities receiving federal financial assistance. As recipients of federal financial assistance from the Department, CUNY and the Colleges are subject to Title VI and its implementing regulations.

Before OCR completed its investigation of the allegations, the University expressed an interest in voluntarily resolving in their entirety Case Numbers 02-22-2034 and 02-24-2364 (Hunter), 02-20-2335, 02-21-2010, and 02-24-2377 (the Law School), 02-21-2082 (Brooklyn), 02-24-2365 (Queens), and 02-22-2249 (Central Office), and the alleged discrimination based on national origin (shared ancestry) under Title VI in Case Number 02-22-2094 (Baruch) through a comprehensive resolution agreement (the Agreement). OCR determined that it was appropriate to resolve OCR's compliance concerns about the allegations in the cases under Section 302 of [OCR's Case Processing Manual \(CPM\) \(July 18, 2022\)](#). As detailed below, OCR's concerns pertain to the Captioned Colleges' and the University's constituent colleges' and schools' responses to discrimination, including the existence of a possible hostile environment based on national origin (including shared Jewish, Palestinian, Muslim, Arab, and/or South Asian ancestry and association with these national origins/shared ancestries). OCR also has concerns that the Captioned Colleges and the University's constituent colleges and schools may have engaged in disparate treatment based on national origin (including shared Jewish, Palestinian, Muslim, Arab, and/or South Asian ancestry and association with these national origins/shared ancestries). The University assures OCR that the University, the Captioned Colleges, and all of the University's other constituent colleges and schools will take the actions specified in the Agreement to resolve the compliance concerns OCR has identified to date under Title VI and its implementing regulations at 34 C.F.R. Part 100.

I. SUMMARY OF OCR'S INVESTIGATION AND COMPLIANCE CONCERNS

The University was founded in 1847 as the nation's first free public institution of higher education. For academic year 2023-2024, the University enrolls 225,000 students, 60% of whom are the first generation in their families to go to college. The University has a central office (Central Office) and 25 constituent colleges and schools, including 12 four-year colleges (Baruch College, Brooklyn College, City College of New York, College of Staten Island, Hunter College, John Jay College of Criminal Justice, Lehman College, Macaulay Honors College, Medgar Evers College, New York City College of Technology, Queens College, and York College), seven community colleges (Borough of Manhattan Community College, Bronx Community College,

Guttman Community College, Hostos Community College, Kingsborough College, LaGuardia Community College, and Queensborough Community College), and six professional and graduate schools (Craig Newmark Graduate School of Journalism, Graduate Center, Graduate School of Public Health & Health Policy, School of Labor & Urban Studies, School of Law, and School of Professional Studies).

OCR currently has nine investigations open against the University that are evaluating whether the University, the Captioned Colleges, and various constituent colleges and schools have engaged in disparate treatment and/or failed to respond promptly and effectively to reports of discrimination, including harassment, of students on the basis of national origin (including actual or perceived shared ancestry, actual or perceived national origin/ethnicity, and/or association with certain national origins/shared ancestries). These include:

- Two cases against Hunter, one alleging harassment of students based on national origin (shared Jewish ancestry) in academic year 2020-2021; and the other alleging harassment and disparate treatment of students based on actual or perceived national origin/ethnicity (including shared Palestinian, Arab, Muslim, and/or South Asian ancestry and association with these national origins/shared ancestries) since October 2023.
- One case against Brooklyn, alleging harassment of students on the basis of national origin (shared Jewish ancestry) and actual or perceived race/color in fall 2020.
- Three cases against the Law School, two alleging harassment of students based on national origin (shared Jewish ancestry) during academic years 2019-2020 and 2020-2021; and another alleging harassment and disparate treatment of students based on actual or perceived national origin/ethnicity (including shared Palestinian, Arab, and/or Muslim ancestry and association with these national origins/shared ancestries) since October 2023.
- One case against Queens, alleging harassment and disparate treatment of students based on actual or perceived national origin/ethnicity (including shared Palestinian, Arab, Muslim, and/or South Asian ancestry and association with these national origins/shared ancestries) since October 2023.
- One case against Baruch, alleging, among other things, harassment of students based on their national origin (shared Jewish ancestry) during spring 2022.
- One case against Central Office, alleging harassment of students on the basis of national origin (shared Jewish ancestry) across the University's constituent colleges and schools since academic year 2020-2021.

OCR identified concerns that the University, the Captioned Colleges, and/or the University's other constituent colleges and schools may have failed to respond promptly and effectively to reports of alleged harassment and possible hostile environments for students based on students' national origin (including shared Jewish, Palestinian, Arab, Muslim, and/or South Asian ancestry and/or association with these national origins/shared ancestries). OCR also has concerns that the

University's actions and responses to alleged harassment of students based on their national origin at the Captioned Colleges and the University's other constituent colleges and schools may not have been sufficient to redress and prevent recurrence of hostile environments for these students, and remedy their effects, including, where appropriate, offering individual remedies to students and providing training to University employees/representatives involved. Specifically, the information provided to date indicated that in some instances, the Captioned Colleges appear not to have conducted adequate investigations in response to reports of alleged harassment based on national origin (including shared Jewish, Palestinian, Arab, Muslim, and/or South Asian ancestry and/or association with these national origins/shared ancestries). OCR has concerns that the Captioned Colleges may not have interviewed relevant witnesses, offered appropriate supports to affected students reasonably designed to redress existing hostile environments, or considered whether the conduct alleged subjected the student(s) to a possible hostile environment based on national origin/shared ancestry. In addition, OCR has concerns that the University, the Captioned Colleges, and/or the University's constituent colleges and schools may have subjected some students to disparate treatment based on national origin, including shared ancestry, actual or perceived national origin/ethnicity, and/or association with certain national origins/shared ancestries. Below OCR discusses the applicable legal standards under Title VI; the facts it found regarding the University's anti-discrimination/harassment policies; the alleged discrimination, including harassment, of students based on national origin at the Captioned Colleges and other constituent colleges and schools and the University's and Captioned College's actions to address alleged discrimination, including harassment; and OCR's compliance concerns based on the evidence to date that the University may not have responded to this alleged discrimination as required by Title VI and its regulations.

II. LEGAL STANDARDS

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies.

Title VI's protection from national origin discrimination extends to students who experience discrimination, including harassment, based on their actual or perceived shared ancestry or ethnic characteristics, such as students of Jewish, Palestinian, Muslim, Arab, and/or South Asian descent, or citizenship or residency in a country with a dominant religion or distinct religious identity, or their association with this national origin/shared ancestry. The existence of a hostile environment based on national origin that is created, encouraged, accepted, tolerated, or left uncorrected by a recipient constitutes discrimination on the basis of national origin in violation of Title VI.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on national origin existed; (2) the recipient had actual or constructive notice of a hostile environment based on national origin; and (3) the recipient failed to take prompt and effective action to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

OCR interprets Title VI to mean that the following type of harassment based on national origin creates a hostile environment: unwelcome conduct that, based on the totality of the

circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a recipient's education program or activity. Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment may also be based on association with others of a different national origin (e.g., the harassment might be referencing the shared ancestry of a sibling or parent, for example, that is different from the national origin of the person being harassed whose access to the school's program is limited or denied).

The harassment must in most cases consist of more than casual or isolated incidents based on national origin to establish a Title VI violation. Whether harassing conduct creates a hostile environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the harassment, as well as the identity, number, and relationships of the persons involved. If OCR determines that the harassment was sufficiently severe or pervasive that it would have limited or denied the ability of a reasonable person, of the same age and national origin as the victim, under the same circumstances, from participating in or benefiting from some aspect of the recipient's education program or activity, OCR will find that a hostile environment existed.

A recipient may be found to have violated Title VI if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a hostile environment based on national origin harassment of which it has actual or constructive notice. A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

A recipient violates Title VI if one of its employees or agents, acting within the scope of their official duties, has treated an individual differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to deny or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient. If the alleged harasser is an agent or employee of a recipient, acting within the scope of their official duties, then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment. If an employee harasses a student outside of the scope of their official duties, OCR evaluates if the harassment created a hostile environment for the student, using the factors discussed above with respect to hostile environment harassment.

Once a recipient has actual or constructive notice of a hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely, and effective. The appropriate response to a hostile environment based on national origin must be tailored to redress fully the specific problems experienced as a result of the harassment.

III. SUMMARY OF THE ALLEGATIONS AND EVIDENCE TO DATE

To investigate these complaints, OCR reviewed documentation that the Complainants and the University submitted, as well as publicly available information. OCR also interviewed various

University employees and student witnesses. Below OCR summarizes the complaints' allegations of discrimination and evidence obtained to date that gives rise to its concerns about the University's compliance with Title VI and its regulations.

A. The University's Policies and Procedures

The [University's Policy on Equal Opportunity and Non-Discrimination](#) (the Policy) prohibits discrimination and harassment on the bases of race, color, creed, national origin, ethnicity, ancestry, and religion, among other bases. The Policy also prohibits retaliation for reporting or opposing discrimination or cooperating with an investigation of a discrimination complaint. The Policy covers the conduct of all University employees and students, as well as third parties, and applies to all University programs and activities. The Policy states that there will be a Chief Diversity Officer at every college or unit of the University who will be responsible for, among other things, addressing discrimination and retaliation complaints under this Policy.

The [University's Equal Opportunity and Non-Discrimination Policy web page](#) provides information about filing a discrimination complaint with the University, including that applicants, employees, visitors, and students with discrimination complaints should raise their concerns with the Chief Diversity Officer at their University location. Based on the facts alleged in the complaint, the Chief Diversity Officer may also advise complainants that their situation is more suitable for resolution by another entity within the University. The Policy states that following the discussion with the Chief Diversity Officer, individuals who wish to pursue a complaint of discrimination and/or retaliation should be provided with a copy of the University's complaint form, and that complaints should be made in writing whenever possible, including in cases where the complainant is seeking an informal resolution.

The Policy states that a full investigation of a complaint may commence when it is warranted after a review of the complaint, or after informal resolution has failed. The Policy recommends, among other things, that the intake and investigation include the following, to the extent feasible: (a) interviewing the complainant and obtaining the names of any possible witnesses; (b) interviewing the respondent and obtaining the names of any possible witnesses; (c) reviewing other evidence, including documentary evidence, and speaking with other individuals who may have relevant information regarding the events in question. The Policy states that promptly following the completion of the investigation, the Chief Diversity Officer will report their findings to the President, and if the respondent or complainant is a student, the Chief Diversity Officer will also report their findings to the Chief Student Affairs Officer. According to the Policy, following the report, the President will review the complaint investigation report and, when warranted by the facts, authorize such action deemed necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated, including commencing action to discipline the respondent under applicable University bylaws or collective bargaining agreements. The Policy states that the complainant and the respondent should be notified in writing of the outcome and any action taken as a result of the complaint. The President will sign a form that will go into each investigation file, stating what, if any, action will be taken pursuant to the investigation.

B. Hunter

1. Case Number 02-22-2034

The complaint alleged that Hunter discriminated against students in the Program on the basis of their national origin (shared Jewish ancestry) by failing to respond promptly and effectively to alleged antisemitic harassment by staff and students in the Silberman School of Social Work Program during two Program class sessions on Zoom on [redacted content], 2021. The Complainant alleged that the two Zoom incidents and the Program's and Hunter's responses to these incidents created a hostile environment for students of shared Jewish ancestry in the Program.

The Complainant alleged that on [redacted content] 2021, during the [redacted content] sessions of the Course, held via Zoom, a group of students disrupted the class sessions and made antisemitic comments (the Zoom incidents). The Complainant stated that shortly after the beginning of each of the two class sessions, a group of students in attendance changed their Zoom backgrounds to the Palestinian flag and their visible screen names to "Free Palestine: Decolonize" and read aloud a statement "defaming and demonizing Israel through false accusations of colonization, ethnic cleansing, genocide, and more" (the Statement). The Complainant also stated that some of the disrupting students typed comments in the Zoom chat feature, which overwhelmed the comments that Jewish students attempted to present of a different perspective. The Complainant alleged that the professors in attendance failed to prevent the disruption from occurring and that at least one of the professors participated in the disruptive conduct. The Complainant further alleged that Student A later raised [redacted content] concerns with [redacted content] instructor about what occurred during the class session, and that he was dismissive of [redacted content] concerns and supportive of the disruptive students. Additionally, the Complainant alleged Student B raised concerns about the incidents "to no avail."

Student A stated to OCR that during the [redacted content] session, whenever Jewish students spoke or tried to speak, they were told they should be listening, not speaking. Student A stated that when [redacted content] posted in the chat an opinion critical of the Boycott, Divestment, and Sanctions (BDS) movement, others participating in the chat called [redacted content] a [redacted content]. [Redacted content] stated to OCR that as a Jewish student, [redacted content] felt scared and overwhelmed by [redacted content] experience in the session. [Redacted content] stated that [redacted content] felt so shaken and taken aback that after about 20 minutes, [redacted content] left the class for a few minutes before returning for the remainder of the session.

Student A further stated to OCR that immediately after the large group session concluded, students met with their respective small group cohorts. Student A stated that [redacted content] expressed concern about what had occurred in the large group, stating that what was supposed to be a safe space felt very unsafe, and [redacted content] instructor stated that it was the right time and place for the protest, that sometimes extreme protest must happen for change to happen, and that safe spaces are not meant to be safe for everybody.

The Complainant stated that on [redacted content] 2021, Hunter held a meeting with a group of Hunter students and alumni concerning the issue of antisemitism on campus, during which current students raised concerns about and detailed their experiences with the Zoom incidents.

The Complainant alleged that the student accounts included a student who stated that the Zoom incidents were “a horrifying experience” and that he had always worn a yarmulke but as a result of the fear he felt, for the first time he was considering wearing a hat on campus instead of his yarmulke; a student who, as a result of the Zoom incidents, “expressed feeling like an outsider and unwelcome at [Hunter] as well as feeling scared to walk outside on campus”; a student who “expressed serious dismay about the fact that [redacted content] professors sat in on the Zoom . . . class and said *nothing*”; and a student who stated that the Zoom incidents were “personally ‘traumatic’” and that those students who spoke out against the disrupting students were “harassed and bullied by the other students.” The Complainant alleged that the administration took no action to condemn what occurred during the Zoom incidents, nor took any steps to remedy the harm created by the incidents.

Student A stated to OCR that [redacted content] attended the meeting on [redacted content], 2021, during which [redacted content] raised the issue of whether the Program would issue a statement condemning antisemitism. [Redacted content] told OCR that [redacted content] felt dismissed when Hunter staff stated that they would not issue such a statement.

OCR determined that on [redacted content], 2021, Student A sent the [redacted content] (Professor 1 and Professor 2) an email expressing concerns over what transpired during the class session. In the email, Student A stated that [redacted content] wanted “[redacted content],” explaining that [redacted content] and “[redacted content] [;] it was so personally traumatiz[ing] that [redacted content] left early.” [Redacted content] email further stated that [redacted content] had “spoken with many other Jewish students who have similar feelings” and wanted to speak with Professor 1 and Professor 2 to understand the intent and purpose of the [redacted content]. That same day, Professor 2 responded that faculty were still processing what happened and engaging in their own healing work, and they were hoping to organize something in the coming days that invited multiple voices and was mindful of minimizing any additional pain or trauma. By email to Professor 1 and Professor 2 dated [redacted content], 2021, Student A stated that [redacted content] was following up on [redacted content] earlier email, that it had now been a month since the incident, and [redacted content] was eager to understand what the Program was organizing. On [redacted content], 2021, Professor 1 responded by email stating that they were still gathering facts about what had occurred on [redacted content], 2021. Student A stated that [redacted content] did not receive a substantive response to [redacted content] email and that [redacted content] did not have any further communications with Professor 1 or Professor 2 about the Zoom incidents, nor did any other employee of Hunter contact [redacted content] about the incidents.

OCR also determined that in an email to Hunter’s President on [redacted content], 2021, Student B stated that [redacted content] was concerned by the Zoom incidents. Student B’s email also expressed concern about a “litany of student reported incidents that have gone swept under the rug” and referenced an incident in 2015 when a swastika was found in the bathroom, and in 2020

when students expressed concerns regarding materials used to educate on antisemitism. OCR determined that Hunter also received emails concerning the Zoom incidents from [redacted content] Program alumni in [redacted content] 2021, [redacted content] Hunter alumni in [redacted content] 2021, and [redacted content] third parties between [redacted content], 2021. The Zoom incidents generated both local and national media attention. Hunter told OCR that it did not receive any formal complaints regarding the Zoom incidents.

OCR determined that Hunter's President asked the Office of Diversity and Compliance to investigate, and that on or about [redacted content], 2021, Hunter's Dean of Diversity and Compliance, Title IX Coordinator, and Chief Diversity Officer commenced an investigation into the Zoom incidents. During the investigation, Hunter interviewed the Program Dean, as well as Professors [redacted content] the Zoom incidents occurred. In addition, Hunter reviewed its Course syllabus, the lists of attendees at both sessions, and the chat transcript from the [redacted content] Zoom session. Hunter noted that neither Zoom class session was recorded. Hunter also reviewed various news stories that covered the incident and a discussion on [redacted content]. Hunter used the Bracewell Report, an independent investigative report issued by the law firm Bracewell LLP on September 6, 2016, as a legal framework to guide its investigation of the Zoom incidents. The Bracewell Report addressed incidents of antisemitism occurring between 2011 and 2016 on various University/CUNY campuses and CUNY's response and outlined certain general legal principles on matters including hate speech and the First Amendment.

Hunter also reviewed its policies, including the [Henderson Rules](#) (the Rules). The Rules are the "norms of conduct established to protect [academic] freedom" and to preserve "[t]he tradition of the University as a sanctuary of academic freedom and center of informed discussion." *See id.* The preamble to the Rules states that "[t]he basic significance of that sanctuary lies in the protection of intellectual freedom: the rights of professors to teach, of scholars to engage in the advancement of knowledge, of students to learn and to express their views, free from external pressures or interference. These freedoms can flourish only in an atmosphere of mutual respect, civility, and trust among teachers and students, only when members of the University community are willing to accept self-restraint and reciprocity as the condition upon which they share in its intellectual autonomy." *Id.*

Hunter stated that it completed its investigation in or around [redacted content] 2021, at which time the Dean of Diversity and Compliance drafted and issued a written report to Hunter's President. Hunter shared a summary of the report, but not the report itself, with Professors [redacted content] and the Program Dean. In its report, Hunter first discussed the Course and Program, noting that the Course is a required [redacted content] course for all [redacted content] students in the Program. The Course syllabus states that the Course is designed to assure that students [redacted content]. The [redacted content] of the Course builds on [redacted content] content and [redacted content]. Students were specifically asked to [redacted content].

Hunter found that during the Zoom incidents, a number of students read from the Statement and entered the text of the Statement into the Zoom chat, [redacted content] of the Statement. Hunter was unable to identify the organizers of the disruption but was able to identify [redacted content] students who participated. Hunter concluded that those [redacted content] students had attended [redacted content] class sessions on [redacted content], 2021, for the purpose of

interrupting the educational process, in violation of Henderson Rule 1. Henderson Rule 1 states that “A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from the exercise of their rights. Nor shall he/she interfere with the institution’s educational process or facilities, or the rights of those who wish to avail themselves of any of the institution’s instructional, personal, administrative, recreational, and community services.” Hunter recommended that those students be held accountable consistent with how Hunter handles other student classroom disruptions.

Hunter concluded that the content of the Statement, [redacted content], and the discussions they generated constituted protected speech under the First Amendment even though they may have been upsetting for some students and angered them. Additionally, Hunter did not conclude that the class disruption was “so pervasive or severe as to deny a person’s ability to pursue an[] education or participate in the life of the institution.” In reaching such conclusion, Hunter relied upon the Bracewell Report’s statement that CUNY, as a public university, “cannot punish [hate] speech unless it is part of a course of conduct so pervasive or severe that it denies a person’s ability to pursue an education or participate in University life.” Hunter noted that many students wrote in the chat that they were scared or fearful, but the context of the comments indicated that the students attributed those feelings to being blindsided by students interrupting the class and presenting the Statement. Hunter also found that a number of students challenged the student disrupters and were not silenced or prohibited from expressing their positions during the discussion. Hunter found that in their statements, students did not express fear of physical danger, but repeatedly called for a dialogue that would incorporate more “voices” into the discussion.

Hunter reviewed the chat transcript for potentially harassing comments based on shared Jewish ancestry. Hunter found that some of the statements may have been offensive but could not be characterized as “hate speech” using a definition of hate speech that includes “written, verbal or symbolic communication that attacks in some way a group of people based on some identity factor--race, ethnicity, religion, gender, sexual orientation, disability[, or] national origin. There are various modes of hate speech attack, including insults, dehumanization, demonization, and provocations/incitement to hostility or violence. Courts have consistently held that the First Amendment protects those who want to express in the public sphere their discriminatory or biased views against other groups. Hate Speech cannot be prohibited, limited, censored or punished because its message is racist, xenophobic, sexist or homophobic.” Additionally, Hunter acknowledged that during the Zoom incident, there were many strong comments about Israel’s actions against Palestinians, including the use of terms like “apartheid,” “genocide,” and “ethnic cleansing” in the Statement, and calls for activism, advocacy, and economic reprisals against Israel. Hunter also noted that the Statement claimed to be Anti-Zionist, but not antisemitic. Hunter determined that aside from urging support for the Statement, there was no language in the chat that could be considered discriminatory based on shared Jewish ancestry. Hunter did not interview Student A, who complained about the Zoom sessions, or any other students in the sessions to determine if any discriminatory language based on shared Jewish ancestry was uttered outside the chat or to learn students’ perspective on the impact of the terms used during the chat.

Hunter concluded that Professors 1 and 2 made efforts to create a space where students could hear opposing views and engage in a dialogue, which was part of the nature of the Course. Additionally, Hunter found that although the class sessions were contentious on [redacted content], 2021, Professors 1 and 2 [redacted content], and the discussion did not include shouting, name-calling, or personal attacks. However, Hunter also concluded that there were [redacted content] faculty members present [redacted content] who, in changing their screen names during the [redacted content] class session to “Free Palestine: Decolonize,” and “FREE PALESTINE,” [redacted content] engaged in political advocacy and eroded confidence in the integrity and fairness of their positions. Hunter noted that “it would be hard to expect students to do their best in a class when they thought the faculty would be hostile to their view or worse, hostile to them because of their views.” Hunter recommended taking disciplinary action against [redacted content] as an appropriate consequence for their actions. OCR determined that on [redacted content], 2021, Hunter took formal disciplinary action against [redacted content] for their conduct on [redacted content], 2021. In addition to its investigation and report, Hunter’s President issued a [statement on antisemitism](#) on [redacted content], 2021, and the Program continued to implement an action plan created in fall 2020 to eradicate reported antisemitism in the Program. This action plan included education for incoming students, identification of offices to serve as resources for students, faculty development and in-service training, continuing education, and hosting lectures.

Hunter stated that on or about [redacted content], 2021, prior to the start of the fall semester, [redacted content] invited to a Zoom meeting the [redacted content] students who Hunter had determined participated in disrupting the classes on [redacted content], 2021. Hunter stated that the [redacted content], who “[redacted content] chose to create a ‘teachable moment’ and warn the students not to disrupt another class in the future.” [Redacted content] students attended the Zoom meeting and “accepted primary ownership and responsibility for the disruption that occurred” on [redacted content], 2021. [Redacted content] “admonished the students for disrupting the [redacted content] and asked what they hoped to accomplish,” and [redacted content] “explained to the[] students that they had not learned what the professors hoped to teach in their course which centered on [redacted content], since these students [redacted content].” Hunter stated that Professors 1 and 2 did not seek to impose any sanction on these students “other than to make clear that it was unacceptable behavior and hoped the students would learn from this incident.”

2. Case Number 02-24-2364

The complaint alleged that Hunter has discriminated against students on the basis of their actual or perceived national origin/ethnicity (including shared Palestinian, Arab, Muslim, and/or South Asian ancestry) by failing to respond effectively to reported threats and incidents of harassment of these students by other students, Public Safety Officers, and faculty at Hunter, and members of the public; by not protecting these students and not offering them supports, following a pro-Palestinian rally in October 2023, while offering other students supports during and after the rally; by issuing public statements supporting Israelis and then repeatedly rejecting the requests of Palestinian students and the Palestinian Solidarity Alliance (PSA) to issue a statement supporting Palestinians; by selectively removing only pro-Palestinian flyers posted around

campus by these students while leaving up pro-Israeli flyers posted by other students; and by canceling only a pro-Palestine event involving a film while not canceling pro-Israel events.

In support of the allegations, the complaint alleged that the additional incidents occurred beginning in October 2023, including the following. The complaint alleged that after a PSA rally on October 12, 2023, Hunter did not fully investigate their reports of alleged harassment nor did it provide protection or support for the PSA members. The complaint alleged that in contrast, Hunter offered accommodations to students who felt uncomfortable or unsafe coming to campus because of rallies held by internal organizations on campus that allegedly “support Hamas.” The complaint asserted that Hunter failed to respond promptly and effectively to reports, including by not offering supports to students, among them [redacted content] PSA members, who were doxed when [redacted content]; and when a truck displayed an electronic billboard with the [redacted content]. The complaint also asserted that on October 8, 2023, Hunter’s President issued a statement condemning Hamas’s attack on Israel, but Hunter failed to take any action in response to the PSA’s requests to Hunter’s President in October and December 2023, to acknowledge the killing of Palestinians or to PSA’s request on February 2, 2024, that Hunter recognize the Palestinian people. Additionally, the complaint alleged that after a PSA rally on October 12, 2023, Hunter provided no protection or support for the PSA, despite PSA members’ reporting alleged harassment and defamation experienced by PSA members, nor did Hunter fully investigate their reports. The complaint alleged that instead, Hunter offered accommodations to students who felt uncomfortable or unsafe coming to campus due to “rallies by ‘internal organizations’ who ‘support Hamas.’”

In support of the allegations of different treatment, the complaint alleged that Hunter Public Safety Officers monitored events that the PSA had promoted, including an event on November 4, 2023, hosted by the Pakistani Student Organization. Additionally, the complaint alleged that Hunter Public Safety Officers followed PSA members who were posting flyers on campus and forcibly removed such flyers, recorded students, and took pictures of their IDs, while not removing flyers and posters Hunter students posted in support of Israel. The complaint alleged that an [redacted content] released a video mocking Palestinians on her public Instagram account and failed to respond to the PSA’s complaint to Hunter about the incident. The complaint also alleged that on November 14, 2023, Hunter cancelled the planned screening of the movie, “Israelism,” just hours before it was scheduled to begin.

3. Hunter’s Efforts to Address Harassment

During OCR’s investigation, Hunter provided information related to ongoing and proactive efforts it is making to address discrimination on the basis of shared Jewish ancestry, namely, updating its nondiscrimination policies and procedures to make them more effective, and expanding the scope of resources and relevant educational and programming initiatives. Among other efforts, Hunter is currently participating in Hillel International’s Campus Climate Initiative to ensure that Hunter provides a welcoming environment for its Jewish community. As part of this initiative, Hunter plans to distribute climate surveys to its students in spring 2024, and an advocacy group focused on combatting antisemitism will be conducting a comprehensive review of the University’s policies and procedures pertaining to discrimination and antisemitism, among other topics, and will issue a final report of its findings.

Hunter also advised OCR that it is currently cooperating with an ongoing independent review by a retired judge regarding the University's nondiscrimination and antisemitism policies and procedures. Hunter asserted that the review will include recommended actions for the University to take to bolster its nondiscrimination policies and to help protect Jewish students and faculty from discrimination based on shared Jewish ancestry. Hunter stated that it expects the retired judge to complete his final report in spring 2024.

C. The Law School

1. Case Number 02-20-2335

The complaint alleged that the Law School discriminated against the complainant student (Student C) on the basis of national origin (shared Jewish ancestry) by failing to respond consistent with Title VI to Student C's complaints of antisemitic harassment by staff and other students that created a hostile environment while Student C was attending the School between [redacted content] and the end of [redacted content]. Student C described five incidents of alleged antisemitism. Student C alleged that in or around early [redacted content], on the first day of Student's C's [redacted content] Law class, a student made comments about Palestinians [redacted content] and the professor did not engage with the substance of the comment. Student C also alleged that in or around early [redacted content], students took screenshots of [redacted content] to distribute to [redacted content] students. Student C further alleged that in [redacted content], a Law School counselor stated that Student C's [redacted content]. Student C further alleged that in [redacted content], a teaching assistant confronted Student C about [redacted content], and an administrator instructed Student C that Student C [redacted content]. Finally, Student C alleged that in [redacted content], after [redacted content], fellow students deemed Student C [redacted content]; one student told Student C to [redacted content]. Student C also alleged that a [redacted content] professor referred to [redacted content] and used class time for students to comment [redacted content].

The Law School asserted that although Student C never filed a formal discrimination complaint alleging antisemitic harassment, the Law School took the following actions. The Law School informed OCR that in or around [redacted content], after Student C reported receiving an anonymous email stating Student C [redacted content], Law School administrators distributed a message to all students affirming that the Law School community must be tolerant of differing viewpoints and respectful of an individual's freedom of speech. The Law School informed OCR that administrators met with Student C at least four times between [redacted content] to discuss Student C's concerns. During a meeting on [redacted content], administrators reviewed with Student C the Policy, and the Law School's commitment as an academic institution to diversity, freedom of speech, and an environment free from discrimination. The Law School stated that administrators affirmed to Student C that each student is free to express their beliefs in an atmosphere of mutual respect, civility, and trust, and that at no time did Student C have to engage in or have conversation with a student who made [redacted content] feel uncomfortable in any way. The Law School stated that the administrator informed Student C that Student C could reach out to Law School staff, including counseling staff, with concerns and could file a complaint of discrimination or harassment, pursuant to the Policy, if Student C felt [redacted

content] had been the victim of such conduct. During a meeting with administrators on [redacted content], Student C stated that Student C was contemplating withdrawing from the Law School. The Law School did not provide OCR with information indicating that it took any further action to assess Student C's concerns or determine what occurred, such as by interviewing Law School staff and other students involved in the alleged incidents. Student C [redacted content].

2. Case Number 02-21-2010

The Complainant alleged that the Law School discriminated on the basis of national origin (shared Jewish ancestry) by failing to respond consistent with Title VI to a videotaped incident of a student of the Law School holding a lighter flame close to a sweatshirt bearing the emblem of the Israel Defense Forces worn by an unidentified individual, stating that she hated the sweatshirt and was going to set it on fire. The Complainant alleged that the incident constituted antisemitic harassment, and that the incident and the Law School's response to it, after the Complainant brought it to the Law School's attention in September 2020, created a hostile environment for students of shared Jewish ancestry on campus. During the course of investigation, the Complainant also raised concerns with OCR regarding Law School commencement speakers in May 2022 and May 2023 whom the Complainant alleged called for the destruction of Israel. The Complainant also complained regarding a Law School faculty endorsement of a student government resolution in May 2022 relating to boycott, divestment, and sanctions.

The Law School informed OCR that it never received a formal discrimination complaint about the [redacted content] incident, although students and outside individuals raised concerns about it. The Law School stated that it met with two students who expressed concern about the [redacted content] incident, but neither filed a formal discrimination complaint regarding [redacted content]. The Law School stated that it also spoke with the student who [redacted content].

On September 22, 2020, the Law School initially posted a message on its website regarding the video incident on its social media accounts, referring to it as provocative and hurtful, and implying that the video incident reflected "antisemitism." Later on September 22, 2020, this message was removed and replaced by an internal email that the Law School dean sent to the Law School community that again referred to the video as provocative and hurtful, but this time referred to "threatening behavior" rather than "antisemitism." In the email, the Law School dean referred to the first message as a mistake, and stated:

In that post, the header said that the Law School "stands against hate and antisemitism." I know the difference between opposition to Israel's armed forces (or Israel's policies towards Palestine) and antisemitism, and the student's post was clearly expressing the former. This was not the message that I intended and taking the word off did not correct the problem. As a Law School with our values, this mistake is inexcusable.

The Law School informed OCR that it concluded that the student's conduct constituted off-campus protected speech, and therefore, it did not [redacted content] the student. In [redacted

content], the Law School publicly stated that it did not discipline the student. In addition, in September 2023, the Law School announced that it would have no student speaker at its commencement ceremony in May 2024.

3. Case Number 02-24-2377

The complaint alleged that the Law School has engaged in an ongoing pattern and practice of anti-Palestinian discrimination against students on the basis of their actual or perceived national origin/ethnicity (including shared Palestinian, Arab, and/or Muslim ancestry), or their association with this national origin/ethnicity. In support of the allegation, the complaint asserted that the alleged pattern and practice included the Law School's failing to respond effectively to reported incidents of harassment of these students by other students and third-parties at the School since October 2023; cancelling events supporting Palestine hosted by these students, while not cancelling events hosted by other students unrelated to Palestine since October 2023; removing only flyers supporting Palestine posted around campus by students with actual or perceived shared Palestinian, Arab, and/or Muslim ancestry, while not removing flyers posted by other students unrelated to Palestine since October 2023; and having significant police presence at and surveillance of activities of students supporting Palestinians, while not having similar presence at and surveillance of activities of other students since October 2023. The complaint also alleged that the School terminated its practice of having a student-elected commencement speaker for academic year 2023-2024, noting that in prior years, the elected speakers were "brown-skinned, ethnically Arab, visibly Muslim women who each wore a hijab during their respective commencement speeches."

The complaint provided information in support of the allegations, including that on November 2, 2023, the Law School approved the Muslim Law Student Association (MLSA) to host an event, titled, "Fighting Complicity Against Genocide," on November 15, 2023. However, in an email dated November 14, 2023, the Law School informed [redacted content] MLSA [redacted content] that the Law School had canceled the event due to the Law School's not having enough time to implement an appropriate safety plan to address the need for a "heightened public safety presence" due to unidentified "safety concerns." In response to the MLSA's requests for clarification regarding the event cancellation, the Associate Dean stated in an email dated November 22, 2023, that the Law School learned that the Law School's Public Safety Department required advanced notice of student events in order to offer proper support and that the Law School would update its events guidelines accordingly and notify student organizations of the same.

D. Brooklyn – Case Number 02-21-2082

The complaint alleged that Brooklyn discriminated on the bases of national origin (shared Jewish ancestry) and/or actual or perceived race (white) by failing to respond consistent with Title VI to incidents of alleged harassment involving staff and students that created a hostile environment based on national origin and/or race for students in Brooklyn's Graduate Program in Mental Health Counseling (the MHC Program), in the fall 2020 semester. In support of the allegations, the complaint raised various incidents pertaining to (a) classes and presentations in the MHC Program in summer/fall 2020; and (b) communications in and around September and December

2020, involving the MHC Program and reported concerns regarding student peer-to-peer harassment based on race and/or shared Jewish ancestry.

The complaint alleged that the professor of the [redacted content] class (Professor 1) stated during a class on [redacted content] 2020, that [redacted content]; during a class in [redacted content] 2020, Professor 1 stated that white people [redacted content]; and during a class in [redacted content] 2020, a [redacted content] student (Student D, who is [redacted content]) voiced concern about Professor 1's previous comments pertaining to white people and that Professor 1 responded [redacted content] that because Student D is "[redacted content]," Student D could not [redacted content] that Professor 1 described and should "[redacted content]."

The complaint alleged that on [redacted content] 2020, a student (Student E) spoke to the Deputy Director regarding Student E's concerns about the bullying and harassment that Jewish students were experiencing (Report 1). The complaint asserted that the Deputy Director responded by stating that white students [redacted content] (Student F) should "keep quiet" and "keep their heads down" and that Student E's [redacted content] would not save Student E. The complaint stated that Student E interpreted from the Deputy Director's comment that the Deputy Director assumed that because Student E is [redacted content] that Student E is also [redacted content]; however, Student E identifies as [redacted content]. The complaint asserted that Student E also interpreted the Deputy Director's comment to imply that because Student E is [redacted content], she is considered [redacted content] and privileged. Information that Brooklyn provided to OCR indicated that on [redacted content] 2020, Student F reported to Brooklyn's Title IX Coordinator that Professor 1 told another student (Student G) to "[redacted content]" (Report 2).

The complaint also alleged that in or around [redacted content] 2020, Student E reported to the MHC Program Director that Student E had been bullied so severely and persistently by another student that Student E was too afraid to speak up in class and had considered transferring to another school. The complaint asserted that although the MHC Program Director told Student E that the College "plan[ned] to enforce appropriate limits on any inappropriate, intimidating behavior," the Director merely told Student E to "keep [Student's E's] head down" and took no action (Report 3).

On September 21, 2020, all first-year students were required to attend a presentation about "anti-oppression processing" to address "[i]ssues of identity and privilege." The complaint alleged that during the event, Jewish students asked administrators to establish ground rules prohibiting bullying and threats in the [redacted content] group chats. However, a student (Student 1) stated that she opposed ground rules because racism needs to be condemned. The complaint alleged that the MHC Program did not implement any ground rules.

Students in Professor 1's [redacted content] class (course 1) were a part of a [redacted content] group chat. The complaint alleged that during a chat on or about [redacted content] 2020, Student 1 expressed the desire to [redacted content] Student D in response to Student D's comments in class about national origin. The complaint alleged that when Student F voiced discomfort about the alleged threat, Student 1 accused Student F of being racist, claiming that Student F was "part of the [redacted content] culture" of "[redacted content] people" who

“continue to perpetuate power structures.” The complaint further alleged that by email dated [redacted content] 2020, Student F reported to the professor of a [redacted content] class (Professor 2) that Student F was distressed by the [redacted content] group chat; and Professor 2 responded by encouraging Student F to leave the group chat if Student F felt unsafe. Professor 2 further stated: “[redacted content]” (Report 4).

The complaint alleged that during a course 2 class session on [redacted content] 2020, Professor 2 instructed students to discuss and rank their identities. The complaint alleged that Student F shared with a group of students that because Student F identifies with Student F’s [redacted content] and does not feel an affinity for “[redacted content]” identity, Student F ranked [redacted content] identity first and “[redacted content]” identity last. The complaint asserted that students suggested that Student F’s [redacted content] identity should have figured more prominently and insisted that because Student F is [redacted content] and part of the [redacted content] culture, Student F did not understand oppression and therefore incorrectly ranked her identities.

The complaint also alleged that in [redacted content] 2020, Student F reported concerns about national origin harassment of Jewish students to the Deputy Director, who the complaint alleged responded sympathetically but took no action (Report 5). The complaint alleged that in [redacted content] 2020, Student F also reported to an MHC Program administrator that Student F was concerned about the hostility directed at Jews and white students. The complaint asserted that the administrator responded by telling Student F to keep her head down. The complaint further stated that when Student F stated that Jews should not have to identify as [redacted content] the administrator allegedly replied, “That’s never going to happen” (Report 6).

The information that Brooklyn provided to OCR, to date, did not include information about its responses to the alleged harassment described in Reports 1, 3, 5, and 6. With respect to Report 2, information that Brooklyn provided to OCR indicated that it investigated Report 2 between [redacted content] 2020 and [redacted content] 2021 by speaking with Student G and interviewing student witnesses in the class at the time the alleged comment was made, including Students E and F. While Brooklyn determined that Professor 1 made the comment, as alleged, Brooklyn determined that the conduct did not rise to the level of a hostile environment. Information Brooklyn provided indicated that Brooklyn counseled Professor 1 on appropriate speech with students but did not indicate that it offered counseling or other supports to Students E, F, or G and other potentially affected students.

With respect to Report 4, Brooklyn stated that on [redacted content] 2020, Student F also reported to the College’s Title IX Coordinator that she felt discriminated against on the basis of her perceived race ([redacted content]) when, in response to her stating in the [redacted content] group chat that she did not appreciate Student 1’s threatening Student D, Student 1 replied that Student F was part of the [redacted content] culture and therefore, did not have a say. In support of her claim, Student F included screenshots of the [redacted content] group chat conversation.

On [redacted content] 2020, the Title IX Coordinator determined that there was insufficient evidence of discrimination based on race and referred Report 4 to the Office of Student Affairs

(OSA) to ascertain whether code of conduct charges should be brought against Student 1. The OSA emailed Student F twice and called her once to determine whether she wanted to pursue a code of conduct violation complaint against Student 1. Having heard nothing from Student 1, the OSA closed the case and Brooklyn took no further action regarding Report 4.

E. Queens – Case Number 02-24-2365

The complaint alleged that the Queens has discriminated against students on the basis of their actual or perceived national origin/ethnicity (including shared Palestinian, Arab, Muslim, and/or South Asian ancestry) by failing to respond effectively to reported threats and incidents of harassment of these students by other students, faculty, and third parties at the College since October 2023; not protecting these students and not offering them supports during and following a rally hosted by these students in October 2023 or during and after related protests and counterprotests in and since October 2023, while offering other similarly situated students supports in and since October 2023; having significant police presence at and campus security surveillance of activities of students with shared Palestinian, Arab, Muslim, and/or South Asian ancestry, while not having similar presence at and surveillance of activities of other students since October 2023.

In support of the above allegations, the complaint further alleged that the following occurred: (a) during protests on October 18 and November 27, 2023, College students were verbally harassed and called names, such as “ISIS” and “terrorists;” (b) the College failed to investigate a formal complaint that a student [redacted content] during the November 27th protest; (c) a student was subjected to repeated verbal harassment for wearing a keffiyeh on campus; (d) following an event at the College on November 28, 2023, a student and an alumnus were doxed when their personal information was shared online and they subsequently received harassing messages and threats, including comments on social media calling the alumnus an “[redacted content]” and calling for him to be [redacted content]; (e) on March 4, 2024, the College failed to respond appropriately to a counter protest about an Israeli Defense Forces soldier speaking on campus where the NYPD behaved aggressively towards College students; and (f) the College treated students of shared Palestinian, Arab, Muslim, and/or South Asian ancestry differently from other students by cancelling events hosted by the Muslim Students Association.

F. Baruch - Case Number 02-22-2094

The complaint alleged that Baruch discriminated on the basis of national origin (including shared Jewish ancestry) by failing to respond consistent with Title VI to incidents of alleged harassment that created a hostile environment during the spring 2022 semester. The Complainant stated that he has heard and/or heard about slurs used on campus, such as ““fucking jew,” or “fucking Jew who doesn’t want to wear a mask.” The Complainant further reported that despite an incident that occurred during the virtual graduation in May 2021 ([there was a “Free Palestine” comment posted in the live chat during the speech of the Jewish valedictorian](#)), Baruch never issued a statement condemning antisemitic harassment. Baruch did not provide to OCR information regarding complaints of national origin harassment (including shared Jewish ancestry) during the spring 2022 semester. Publicly available information references harassing conduct that persisted

at Baruch during the fall 2023 semester, similar to the Complainant's allegation. On November 20, 2023, a [Shore News Network article](#) described a Baruch student who attacked a Jewish person in public and shouted that "Jews are all sh*t and need to die." On November 28, 2023, the [Jewish Press](#) published [an article entitled, "Large Swastika Found in New York's Baruch College Bathroom,"](#) and described that a Jewish student at Baruch had discovered toilet paper arranged in the shape of a swastika on that date.

G. Central Office - Case Number 02-22-2249

The complaint alleged that the University discriminated against students on the basis of their national origin (shared Jewish ancestry) by failing to respond to incidents of discrimination and harassment at a number of the University's constituent colleges and schools, including Hunter, Brooklyn, the Law School, Baruch, CUNY – Kingsborough Community College, and CUNY – John Jay College, and thereby creating a hostile environment University-wide. The complaint further alleged that on [redacted content], 2022, Jewish students and professors testified at a [redacted content] that they had been targeted; feared for their physical and emotional well-being; had been assaulted, demonized, and harassed; and regularly heard antisemitic slurs, including calls for the murder of Jews. The complaint alleged that CUNY administrators who attended the hearing admitted that the University did not have system-wide training on antisemitism and did not log antisemitic incidents.

IV. ANALYSIS

While OCR's investigation of these nine cases are in various stages of progress given their differing filing dates and the status of document production and witness availability for interviews among the cases, OCR has determined that sufficient concerns identified in the investigation to date warrant comprehensive resolution now, consistent with OCR's Complaint Processing Manual Section 302, regarding University-wide fulfillment of Title VI obligations not to discriminate by treating people differently based on national origin and regarding prompt and effective responses to notice of harassment that may create a hostile environment based on national origin for Jewish, Israeli, Palestinian, Muslim, Arab, and/or South Asian students to ensure that the University and each of its constituent campuses fulfill their Title VI responsibilities. The investigation of these nine cases to date reflect concerns across constituent campuses (1) that multiple constituent campuses including specifically Hunter, the Law School, and Brooklyn, appear not to evaluate whether a hostile environment exists based on sufficient information to support a conclusion, potentially allowing a hostile environment to persist unremedied; and (2) that the University and its constituent campuses may treat students differently based on their national origin with respect to implementation of policies and procedures governing student conduct and events on campus. In addition, OCR identified concerns that particular constituent campuses, such as Hunter, the Law School, and Brooklyn appear not to have taken sufficient action in response to the existence of a potentially hostile environment, as evidenced by the persisting and sometimes escalating incidents. For example, OCR is concerned that Brooklyn appears not to have either promptly or effectively responded to reports and incidents of discrimination, including harassment of students, based on race and shared ancestry.

OCR describes specific examples of concerns at constituent campuses below:

A. Hunter College – Case Number 02-22-2034

With respect to Hunter (Case Number 02-22-2034), OCR determined that Hunter conducted a timely investigation of the Zoom incidents and appropriately interviewed the Program Dean, [redacted content] and reviewed relevant documentary evidence. OCR also determined that Hunter took various actions in response to the Zoom incidents. The evidence Hunter has produced to date in this investigation does not reflect that Hunter took any action to communicate to affected students regarding the results of Hunter’s investigation or that Hunter took actions to redress any hostile environment students may have experienced even though Hunter’s investigation specifically noted, at minimum, that “it would be hard to expect students to do their best in a class when they thought the faculty would be hostile to their view or worse, hostile to them because of their views.” The evidence reflects that the Course was required for students to complete their degree and that Student A repeatedly sought a substantive response from the Program but received none, and there is no evidence to date that Hunter took any other actions to communicate to affected students to redress any hostile environment they experienced.

Based on the evidence produced to date, OCR has a concern that Hunter appears to have failed to take steps necessary to determine whether a hostile environment exists for students. Hunter failed to interview Student A, who reported feeling “so personally traumatized that [[redacted content] left] early,” or any other students who attended the Zoom class sessions on [redacted content] 2021, including the other Jewish students identified by Student A as having “similar feelings,” and who expressed concerns in the chat transcript from the [redacted content] Zoom session, and those students who, according to the Complainant, stated during the meeting on [redacted content] 2021, that the Zoom incidents were a horrifying and traumatic experience. Without interviewing these students, Hunter could not have adequately determined what statements were made in the Zoom sessions, apart from the chat transcript, and whether any statements created a hostile environment for students based on their shared Jewish ancestry. In addition, without even interviewing affected students, Hunter did not have a basis to support its determination that the impact of the incidents was not so severe or pervasive as to limit or deny students’ access to education. OCR is further concerned that Hunter’s failure to communicate to its students its response to and result of its investigation, may have allowed a hostile environment based on national origin to exist for some students of shared Jewish ancestry in the Program, including those who had to take the [redacted content] course to complete their degree.

B. The Law School

1. Case Numbers 02-20-2335 and 02-21-2010

Based on the evidence produced to date, OCR is concerned that the Law School may have had notice of the existence of a potentially hostile environment based on national origin affecting students on its campus based on the numerous reports made and concerns raised by students, incidents involving third parties on campus, and related media accounts, and may not have taken appropriate action in response to such notice. OCR also has a concern about the adequacy of the Law School’s investigation and whether the incidents reported may have created a hostile

environment for Student C and/or other students based on their shared Jewish ancestry. The Law School's incomplete investigation may have allowed a hostile environment based on national origin to exist for some students of shared Jewish ancestry.

2. Case Number 02-24-2377

Based on the information the complainant provided, OCR has concerns that the Law School may have failed to respond in a manner consistent with the requirements of Title VI to alleged harassment of students based on actual or perceived national origin/ethnicity (including shared Palestinian, Arab, Muslim and/or their association with these national origins/shared ancestries) by other Law School students and employees, and members of the public, and that the Law School may have violated Title VI by engaging in disparate treatment of students based on their actual or perceived national origin/ethnicity (including shared Palestinian, Arab, Muslim, and/or South Asian ancestry and/or their association with these national origins/shared ancestries). In particular, OCR notes that the Law School's apparently pretextual stated reason for canceling an approved and scheduled MLSA event – that it did not have enough time to arrange a safety plan for the event it had approved almost two weeks beforehand – and its failure to follow an established institutional requirement to provide the Public Safety Department with advance notice of the event, claiming it was unaware of such requirement – raise concerns that the Law School may have treated the student members of MLSA differently from other students based on shared ancestry.

C. Brooklyn - Case Number 02-21-2082

Based on the evidence to date, OCR is concerned that Brooklyn did not take sufficient action in response to the existence of a potentially hostile environment affecting students on its campus given that Brooklyn had notice of such potential environment based on the numerous reports made and concerns regarding incidents involving Students D, E, F, and G, incidents involving faculty. Additionally, OCR is concerned that Brooklyn did not take sufficient action in response to the existence of a potentially hostile environment given that Brooklyn continued to receive complaints and incidents persisted. OCR is concerned that Brooklyn failed to promptly and/or effectively investigate and/or respond to reports and incidents of discrimination, including harassment of students, based on race and shared ancestry.

OCR also has a concern about the adequacy of Brooklyn's investigation and whether the incidents that Student D, E, F, and G reported created a hostile environment for Students D, E, F, and G and/or other students based on their shared Jewish ancestry. Brooklyn's failure to conduct a complete investigation may have allowed a hostile environment based on national origin to exist for some students of shared Jewish ancestry.

D. Hunter – Case Number 02-24-2364, Queens – Case Number 02-24-2365, Baruch – Case Number 02-22-2094, and Central Office – Case Number 02-22-2249

Based on the information the complainants provided, information OCR has obtained with respect to several CUNY colleges and schools summarized above, and publicly available information, OCR has concerns that Central Office may have failed to respond in a manner consistent with the

requirements of Title VI to alleged harassment of CUNY students based on national origin/shared ancestry (including shared Jewish, Palestinian, Arab, Muslim, and/or South Asian ancestry) across its colleges and schools since 2021-2022, including by not providing system-wide training on antisemitism. These concerns, as well as the information the complainants provided, likewise support resolution of the investigations Queens and Baruch and a second investigation of Hunter based on the terms in the attached Agreement, to ensure systemwide compliance with Title VI as well as such compliance at the individual constituent campuses. Prior to the completion of OCR's investigation, the University signed the attached Agreement to voluntarily resolve the compliance concerns OCR has identified to date, as detailed above, under Section 302 of OCR's CPM.

V. OVERVIEW OF RESOLUTION AGREEMENT TERMS

Pursuant to the Agreement, the University will:

- Reopen or initiate investigations of complaints and reports alleging discrimination, including harassment, on the basis of national origin, including shared Jewish, Palestinian, Muslim, Arab, and/or South Asian ancestry, or association with these national origins/shared ancestries.
- For each investigation, provide OCR with the results of the investigation, and for each finding of a hostile environment created by harassment based on national origin/shared ancestry, report to OCR any remedial action to be taken by CUNY, including actions to remedy the effects of the environment and prevent recurrence.
- Provide training to employees responsible for investigating complaints and other reports of discrimination, including harassment, based on national origin/shared ancestry or association with the national origin/shared ancestry, to ensure thorough and impartial investigations, including that the investigators know how to identify relevant witnesses to interview and how to conduct interviews about such harassment and whether it created a hostile educational environment.
- Provide training for campus peace officers on CUNY's Title VI obligations not to discriminate based on national origin, including shared ancestry, how to engage effectively with CUNY students and the campus community, and how to ensure accurate collection and reporting of complaints and other information regarding interactions between public safety officers and students, as required by Title VI.
- Ensure that each of CUNY's 25 constituent colleges and schools administers at least one climate survey to students no later than September 30, 2024.
- Continue the third-party reviews currently being conducted of CUNY's nondiscrimination and antisemitism policies, at the direction and request of New York State Governor Kathy Hochul, and the other by an advocacy group.

VI. CONCLUSION

When fully implemented, the Agreement will address the evidence obtained and all of the allegations investigated. OCR will monitor the University's implementation of the Agreement

When fully implemented, the Agreement will address the evidence obtained and all of the allegations investigated. OCR will monitor the University's implementation of the Agreement until the University is in compliance with the terms of the Agreement and the obligations under Title VI and its implementing regulations at 34 C.F.R. Part 100 that were at issue in the case.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainants may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the University with OCR.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Sincerely,

/s/

Rachel Pomerantz
Regional Director

Attachment