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President Christina Paxson
Brown University
1 Prospect Street
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VIA MAIL AND EMAIL

Dear President Paxson:

In the past year, the ACLU of Rhode Island has followed with both interest and concern Brown University's response to the Gaza War-related protests that have taken place on campus. As you are well aware, these protests have been pervasive in many universities and college campuses across the country over the past year, and the response to them raises important issues regarding the protection of free speech rights in a community that is dedicated to the principle of open discussion. That is what prompts this letter.

On behalf of our Affiliate and the Brown University Chapter of the ACLU of RI, we write at this time in specific response to the University's decision three months ago to suspend, as an "interim measure," the campus chapter of Students for Justice in Palestine (SJP). We find your administration's actions against the SJP deeply troubling, as we believe they directly contradict the University's core mission and cast a chill on campus free speech.

We have not spoken out sooner because we only recently obtained a copy of the suspension letter that was sent to the leaders of SJP by Associate Vice President for Campus Life and Dean of Students Koren Bakkegard on October 24. That letter and the decision it embodies severely undermine the University's stated commitment to "upholding the principles of freedom of expression for all views and perspectives," and lack even the most rudimentary ideals of fairness.

It is first important to note the extraordinarily broad scope of the "interim measures" that have been imposed on SJP, measures that, by virtue of their preliminary nature, are being enforced before any of the University's more formal procedural protections have been provided to the organization. Further, the University has taken this extreme step based solely on alleged misconduct that occurred on one day during an SJP rally, and not on any history of conduct violations by the group.

Rather than temporarily barring, say, any further sponsorship of demonstrations or rallies by the group, since that is the context in which the alleged misbehavior occurred, the suspension letter has ordered "the cessation of all meetings, social events, educational

events, and physical and social media postings,” bars SJP from merely attending other groups’ events or activities, and even goes so far as to prevent any use of the SJP name itself. In short, an important, if controversial, student political group has been completely silenced on campus, all before having any formal opportunity to contest the allegations lodged against it. This hardly displays the respect for free speech that the University’s policies purport to embrace. That this “interim” punishment has already lasted three months only heightens the gravity of the University’s actions.

The severity of these sanctions becomes even more problematic when one considers the allegations of misconduct that have led to SJP’s suspension. Shockingly, the suspension letter spends the entirety of *one sentence* to lay out the basis for this harsh pre-hearing punishment. That sentence refers to protesters at the rally “banging” on, and blocking passage of, a vehicle, “screaming profanity at individuals,” and directing “a racial epithet” at one person.¹ The letter doesn’t even bother to cite the specific sections of school policies that have been purportedly violated. While the unacceptable nature of the conduct described in that one sentence may seem obvious, a group being punished for this conduct – and punished so severely – should at least be given the procedural courtesy of notification by citation of the specific school rules they are alleged to have violated.

This is made even more troubling when one recognizes that the letter offers no explanation as to why all of the misconduct is being attributed at this stage to SJP as opposed to particular individuals. While we can envision circumstances when student groups should be held responsible for the misbehavior of its members, some measure of reason is required to prevent the interim imposition of group punishment due solely to what may be the unsanctioned behavior of a few individuals (such as, in this case, the purported use of a racial epithet). Otherwise, every student group’s existence is at the mercy of its least responsible member.²

Section 5.21 of the University’s Student Conduct Procedures for Student Groups notes that interim sanctions may include such measures as no-contact orders, “housing relocation, change in housing permissions, as well as restrictions on campus, including hosting and participating in activities.” While the section makes clear that these specified measures are not exclusive, a fair reading of it would lead one to conclude that, because the punishment is

¹ We leave to the side any disputes as to how much of this misconduct should be deemed “minor” or “major,” a determination that University policy leaves to the complete and standardless discretion of the Director of Student Conduct & Community Standards. But it is worth noting that, at least under some conditions, the University considers property damage and community disruptions to be “minor” acts of misconduct. See Section 3.b of the Student Conduct Procedures for Student Groups.

² A letter sent to the university community by Interim Vice-President for Campus Life Russell Carey shortly after the protest refers to “troubling” media reports that it was “the expressed intent of some organizers to provoke discomfort and ultimately targeted individuals.” But this hearsay surely cannot be the basis for the decision to focus on punishing the SJP as an organization since it is not mentioned anywhere in the suspension letter. In any event, rather than serving as the basis for banning a political student group, dealing with student activity that “provokes discomfort” among high-ranking, policy-making University officials should be considered part of the job description for running the Corporation.

interim in nature and before any formal procedures have taken place, any sanctions imposed should be tailored to prevent potential harms in the time before official hearings play out. In this case, however, the University has employed a full-scale attack on the student group prior to those hearings, eliminating its very existence on campus.

In light of all this, we can't help but recoil at the doublespeak in Dean Bakkegard's letter where he deems this draconian suspension justified "based on the severity of the alleged behavior" while also purporting to claim that it does "does not prejudge the merits of any future proceeding that might occur to determine whether BJSP violated University policy." To the contrary, this heavy sanction clearly is a pre-judgment on the merits. Indeed, by deeming the alleged conduct so reprehensible that it warrants the elimination of a political group from campus life for an indefinite period, even before any formal fact-finding has been done, there will be inherent pressure on the University to ultimately uphold severe sanctions against the group or else face backlash for having prematurely stifled a political organization's free speech rights for no legitimate reason.

After all, the free speech impact of this "interim" suspension of all of SJP's activities can never be undone; the months of silence imposed by this preliminary order cannot be "corrected" by a later finding that the punishment was unwarranted. Rather, the order amounts to a complete prior restraint on this group's speech. And it is no answer to say that the *individual members* of this temporarily-extinct group retain the right to speak out on SJP's issues. Nobody could seriously argue that banning the ACLU or any other civil rights group from running its organization for a period of time was supportable simply because individual members could continue to speak in support of the organization's causes.

Through this action against SJP, the University has given to itself the exceptional power to undercut any political organization on campus on an interim basis. It has short-circuited fundamental due process rights that university policy purports to uphold and, for an indeterminate period of time, has eradicated, not defended, freedom of expression for this admittedly controversial group. This suspension and a purported commitment to free speech on campus cannot co-exist.³

We therefore call upon you to immediately revoke the suspension as described in Dean Bakkegard's October 24 letter to the SJP, and to instead allow the group to resume its

³ This is not the occasion to also relay all of our concerns about some of the specifics of the University's various free speech-related policies, but at least one is worth mentioning. Although SJP complied with this obligation, we seriously question the provision in the university's "Green Space Usage Policy" that requires groups to provide at least 14 days advance notice in order to guarantee it can hold a large protest on campus. Many protests and rallies – whether in response to the beginning of the Gaza war, the death of George Floyd, the overturning of *Roe v. Wade*, or any other lightning rod incident that takes place in the public sphere – are often, and necessarily, spontaneous and demand immediate action. To require two weeks advance notice is incomprehensible in those situations. It is our understanding that the university does not rigidly apply this standard, as the requirement seems to be (we hope) more of an effort to prevent conflicting uses of campus space rather than to censor speech. Nonetheless, the policy should make explicit note of an exception for time-sensitive rallies. Otherwise, it gives the University unbridled discretion to engage in arbitrary and selective enforcement of this advance notice requirement.

activities pending any decisions, after formal due process proceedings, by the Student Conduct Board. At most, we would argue that the only interim restriction that would come close to being acceptable under the current facts would be a limit on the group's ability to hold public rallies.

Just this week, in response to some of the Trump Administration's disturbing edicts that may adversely affect higher education's mission, you expressed to the University community your commitment to the "spirit of free inquiry" and remarked that "students must be free to study, examine and debate subjects of their choosing without restriction." Respectfully, those words ring hollow as long as this interim punishment against SJP stands.

Thank you for considering our views, and we look forward to hearing back from you about it at the earliest possible opportunity in light of the critical free speech issues at stake.

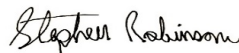
Sincerely,



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