



ZIONIST ORGANIZATION OF AMERICA

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May 5, 2017

VIA EMAIL

President Melvin Oliver
Pitzer College
1050 N. Mills Avenue
Claremont, CA 91711

Dear President Oliver:

I write on behalf of the Zionist Organization of America (ZOA), the oldest pro-Israel organization in the U.S., whose mission includes fighting anti-Semitism and anti-Israel bias on college campuses. We are deeply concerned about the hostile environment that Jewish and pro-Israel students are facing at Pitzer College. Of particular concern is the Student Senate's decision to amend the Budget Committee Bylaws to prohibit Student Activities Funds from being used to "make a payment on goods or services from any corporation or organization associated with the unethical occupation of Palestinian territories."

The amendment is ambiguously phrased. But there is no doubt that the intent is to single out and target Israeli entities and entities that do business or affiliate with Israel. It would force students and student groups such as Hillel to endorse a discriminatory and indeed anti-Semitic practice with which they disagree. And, it would prevent students and student groups from exercising their right to affiliate with and support Israel and entities associated with Israel.

I am aware that Hillel International and the Academic Engagement Network have written to you numerous times, expressing concern about the amendment, as well as its timing and the process that was used to pass it. Notice of the vote on the amendment was inadequate, and the vote was held on Easter and Passover when many students could not be present and were denied their right to weigh in and express their views. Hillel International and the Academic Engagement Network also expressed concern about the upcoming referendum on the amendment, which will not give students the opportunity to decide whether singling out and targeting Israel is fair or appropriate. Instead, they will be forced to decide how singling out and targeting Israel should be accomplished. Making matters worse, the referendum is taking place during the time that students observe the Jewish Sabbath.

We at the ZOA share the concerns expressed by Hillel International and the Academic Engagement Network. We know from our work with college students at schools across the country that BDS initiatives divide a campus, build animosity toward Israel and Jews, and create a campus environment that feels hostile and unwelcoming to many students. For all these

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reasons, it is imperative for Pitzer's leadership to reject the Student Government's actions and make it crystal clear to the Student Senate and the Pitzer community that anti-Israel boycotts at the College will not be permitted.

There is also a legal imperative for the leadership to take immediate action. If Pitzer permits the Student Senate to proceed with its objective to allocate student fees in a way that is hostile to and discriminatory against Israel, then the College would be violating the First Amendment rights of students who object to the anti-Israel budget amendment as offensive and even anti-Semitic.

In *Board of Regents v. Southworth*, 529 U.S. 217 (2000), the U.S. Supreme Court considered a First Amendment challenge to a mandatory student fee imposed at the University of Wisconsin to support student organizations – a fee similar to the one that Pitzer College imposes on its students. Students at the University of Wisconsin alleged that the fee violated their First Amendment rights of free speech, free association, and free exercise, and that the university had to grant them the choice not to fund organizations that engage in political and ideological expression offensive to their personal beliefs.

The Supreme Court decided that the university could impose a mandatory student activities fee. But if it did, then the university had to satisfy the “viewpoint neutrality” requirement, i.e., it “may not prefer some viewpoints to others.” *Id.* at 233. According to the Supreme Court, “the whole theory of viewpoint neutrality is that minority views are treated with the same respect as are majority views.” *Id.* at 235.

Based on the Supreme Court's decision in *Southworth*, we believe that if Pitzer College does not put a stop to the Student Senate's actions to discriminate against Israel in the allocation of student fees, then it will be violating the First Amendment rights of students who are being required to subsidize anti-Israel and anti-Semitic actions that they oppose.

Pitzer is, of course, a private, not a public institution, and thus is not directly bound by the First Amendment which limits only government action. But since Pitzer has held itself out as a bastion of free thought and expression, and represents itself as “stand[ing] behind the principles of free speech,” we believe that Pitzer would be held to the same standards under the First Amendment as a public institution and would be required to comply with the viewpoint neutrality requirement in the allocation of its mandatory student fees.

In an email that Hillel International and the Academic Engagement Network sent to you on April 23rd, they informed you that Vassar College – also a private institution – faced the same type of student government budget situation that is now at issue at Pitzer. Vassar's then-president Catharine Hill addressed the problem, warning the student government that it risked losing control of all student government funding if it proceeded with its manipulations, or the president herself would veto the legislation. President Hill may well have issued this warning with knowledge of the constitutional requirements set forth by the Supreme Court in *Southworth*.

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To avoid a constitutional problem, we urge you and the Pitzer leadership to act immediately and put a stop to the Student Senate's efforts to establish and enforce an anti-Israel boycott by the College. In addition to the illegality of these actions, they are divisive, anti-Semitic and contribute to creating a hostile campus environment for Jewish and pro-Israel students.

We look forward to your response and would be pleased to work with you to ensure that Pitzer is a safe, tolerant and welcoming environment for all students.

Respectfully,



Susan B. Tuchman

cc: Pitzer College Board of Trustees