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VIA EMAIL

Professor Sergiu Klainerman
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Dear Professor Klainerman,

I am writing in response to the formal complaint you submitted to Provost Prentice, Dean Dolan and Dean Jarrett via my office's online discrimination/harassment complaint form on October 4, 2021. In that complaint, you and other faculty members alleged that administrators responsible for the creation of the *To Be Known and Heard: Systemic Racism and Princeton University* website violated several University policies for the purpose of harassing and discrediting Professor Joshua Katz. The policies that you identified in your complaint are *Rights, Rules, Responsibilities* 1.1.5 ("Honesty and Cooperation in University Matters") and 1.2.1 ("Respect for Others"). Given that your complaint was submitted via the online discrimination/harassment form and alleges harassment, the Policy on Discrimination and/or Harassment and *Rights, Rules, Responsibilities* 1.1.3 ("Statement on Freedom of Expression") are also implicated.

Princeton University takes all complaints of misconduct seriously. Given the high value that the University places on free speech as well as its prohibitions regarding discrimination and harassment, your concerns have been reviewed with care. As is the University's practice, we have conducted an initial assessment regarding your complaint. The purpose of the initial assessment is to consider whether the alleged conduct, if substantiated by a preponderance of the evidence, would constitute prohibited conduct under a University policy. Based on the initial assessment, a complaint may proceed to investigation or be referred to another office with jurisdiction over the matter. If the alleged conduct would not, even if substantiated, constitute a violation of applicable policies, then the complaint is dismissed from further review. The dismissal of a complaint during the initial assessment is not subject to appeal. My office has responsibility for the Policy on Discrimination and/or Harassment and its intersection with the Statement on Freedom of Expression. In reaching a determination, I have consulted with Lianne Sullivan-Crowley, the Vice President for Human Resources, whose office has responsibility for the policies on Honesty and Cooperation in University Matters and professional conduct by staff members (i.e., HR Policy 1.1.3, "Responsibilities of Employees"). This letter represents the conclusions of both our offices.

In our initial assessment, we have determined that the alleged conduct could not constitute prohibited conduct under the applicable policies. Therefore, we will not proceed with further investigation into this matter. The discussion below explains my and Vice President Sullivan-Crowley's reasoning.

Policy on Discrimination and/or Harassment

The Policy on Discrimination and/or Harassment applies only to harassment “which is directed at a person based on a protected characteristic.” Protected characteristics are defined as “personal traits, characteristics and/or beliefs that are defined by applicable law as protected from discrimination and/or harassment.” They include “race, creed, color, sex, gender identity or expression, age, national origin, ancestry, religion, physical or mental disability, veteran status, marital or domestic partnership status, affectional or sexual orientation and/or other characteristics protected by applicable law.” Professor Katz’s views on the Black Justice League, reprinted on the *To Be Known and Heard* website, are not a “protected characteristic” within the scope of this policy.

Freedom of Expression

The University’s statement on freedom of expression states that “[b]ecause the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn.” Though the University may “restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University,” it recognizes that “these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.” In considering the website content at issue here, we have assessed whether the speech constitutes harassment under University policy, unjustifiably invades Professor Katz’s privacy, or is directly incompatible with the University’s functioning; our assessment rightly does not consider violations of law, including defamation. As stated above, the University’s definition of harassment does not apply to this allegation and could not result in a policy violation. Likewise, speech in response to Professor Katz’s published views does not violate his privacy.

Further, at Princeton, “concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.” The *To Be Known and Heard* website reflects a discussion of ideas – contentious ideas about race and justice – emanating from the University’s Wintersession programming. The University’s protections for academic freedom and freedom of expression, for which you have been a strong advocate, are not served by censorship; rather those protections safeguard the content of the candid discussion contained in the website, just as they protect the freedom of faculty members to teach, research, and write on topics and with language that other members of the community may find disagreeable or objectionable. We find the website to be compatible with the functioning of the University – and, in fact, it is an example of Princeton’s *commitment* to free speech and expression and the belief that it is the responsibility of “the individual members of the University community” to “openly and vigorously contest[] the ideas that they oppose.”

Respect for Others

Rights Rules Responsibilities 1.2.1 (“Respect for Others”) provides in relevant part that “[a]busive or harassing behavior, verbal or physical, which demeans, intimidates, threatens, or injures another because of personal characteristics or beliefs or their expression, is subject to University disciplinary sanctions.” The complaint asserted that the staff who created the website “harassed and injured Professor Katz because of the beliefs he expressed” in his July 8, 2020 *Quillette* article, including “by eliminating language in which he expressed support for black students on campus.”

In the context of alleged behavior by University staff members, the implementing policy is HR Policy 1.1.3, “Responsibilities of Employees,” which governs professional conduct for staff. This policy requires that employees “understand and comply with University policies and procedures, including *Rights, Rules, Responsibilities.*” Therefore, our assessment of whether Respect for Others is applicable also considered whether the alleged conduct could constitute a violation of HR Policy 1.1.3. As you know, the website includes language published by Professor Katz and responses by members of our community. Given the requirements of the Statement on Freedom of Expression and the policy definition of harassment, while some of the content on the *To Be Known and Heard* website recounting the facts and quoting other members of the University community may be viewed as evaluative of Professor Katz’s previously published speech and expression, harassment cannot be claimed simply based on others’ dissenting reactions or responses to one’s own expressed views. As such, the website does not constitute harassment in violation of HR Policy 1.1.3.

Honesty and Cooperation in University Matters

Rights Rules Responsibilities 1.1.5 provides, in relevant part:

All members of the University community are expected to be honest and straightforward in their dealings with University processes, policies, activities, and personnel. This obligation includes honoring contracts and agreements . . . and providing accurate information on official forms and documents as well as to official University personnel, offices, and committees.

The complaint asserts that the *To Be Known and Heard* website “is an official university document, and someone involved in its creation deliberately provided inaccurate information – specifically, someone doctored a quote from Katz’s article to remove important context without even adding an ellipsis to indicate missing text.” The Princeton University website houses an enormous amount of material, including material that is posted by faculty, students, and others without prior review or approval by the University administration. Simply having a webpage on the University’s website does not give it the status of an “official form [or] document,” and we do not consider the *To Be Known and Heard* website to be an official University document. In addition, on its face, neither the omitted ellipsis nor the omitted “(many black students)” parenthetical substantially altered the substance of Professor Katz’s article so as to rise to the level of being misleading or dishonest in violation of the policy. Therefore, the material contained on the website could not result in a violation of the Policy on Honesty and Cooperation in University Matters.

Conflict of Interest Concerns

Lastly, you raised a concern about conflict of interest. I note that your October 4th complaint identified two staff members in the Campus Life Office of Diversity & Inclusion. The individuals staffing that office have no reporting relationship to my office or to Human Resources, and that office has no role in conducting assessments of alleged violations of University policies. Because we take conflict of interest seriously, Cheri Burgess wrote to you on November 16 requesting details regarding your concern about such a conflict. Your November 18th reply did not identify any additional individual; you wrote that your conflict concern would extend to anyone who was “responsible for producing, or supervising the production of, the materials” at issue or “reviewed those materials prior to their being presented to students.” Neither my office nor Human Resources was involved in the creation of the content at issue; therefore, we have proceeded with the initial assessment of your complaint.

Given the extent of the policies implicated and the important institutional issues involved, it has required time to conduct an appropriate and thorough initial assessment. I appreciate your patience with this process.

Sincerely,



Michele Minter
Vice Provost for Institutional Equity and Diversity

cc: Lianne Sullivan-Crowley, Vice President for Human Resources
Cheri Burgess, Director for Institutional Equity and EEO
Deborah Prentice, Provost
Gene Jarrett, Dean of the Faculty
Jill Dolan, Dean of the College