

Motion Sequence #2

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

In the Matter of,

AHMAD AWAD, SOFIA DADAP, SAPPHIRA LURIE,
and JULIE NORRIS,

Index No. 153826/2017

Petitioners,

-against-

Hon. Nancy M. Bannon

FORDHAM UNIVERSITY,

Respondent,

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules.

-----X

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT
OF RESPONDENT'S MOTION TO DISMISS PETITIONERS' VERIFIED PETITION**



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TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

ARGUMENT 3

POINT I..... 3

 THE UNIVERSITY SUBSTANTIALLY FOLLOWED
 ITS CLUB APPROVAL POLICY AND PROCEDURES 3

 A. The University Complied with its Club Approval Policy and Procedures..... 4

 B. The Discrepancy Between the Club Guidelines and the Club Registration Packet 7

POINT II 9

 DEAN ELDREDGE’S DECISION TO DENY SJP CLUB STATUS WAS RATIONAL 9

POINT III..... 12

 PETITIONERS CITE SUPPORT IN FORDHAM’S
 POLICIES THAT ARE FACIALLY IRRELEVANT HEREIN 12

POINT IV 13

 PETITIONERS’ ATTEMPT TO ASSERT A PHANTOM
 VIOLATION OF CONSITUTIONAL RIGHTS CANNOT BE SUSTAINED 13

CONCLUSION 14

TABLE OF AUTHORITIES

Al-Khadra v. Syracuse Univ., 291 A.D.2d 865, 866, 737 N.Y.S.2d 491 (4th Dept. 2002)..... 9

Basile v. Albany Coll. Of Pharm. of Union Univ., 279 A.D.2d 770, 771, 719 N.Y.S.2d 199 (3d Dept. 2001)..... 11, 12

Ebert v. Yeshiva University, 28 A.D.3d 315, 315, 813 N.Y.S.2d 408, 409 (1st Dept. 2006)..... 9

Fernandez v. Columbia University, 16 A.D.3d 227, 228, 790 N.Y.S.2d 603, 603 (1st Dept. 2005) 9

Hyman v. Cornell Univ., 82 A.D.3d 1309, 1310, 918 N.Y.S.2d 226, 228 (3d Dept. 2011)..... 10

Katz v. Bd. Of Regents of Univ. of State, 85 A.D.3d 1277, 1279, 924 N.Y.S.2d 210, 212 (3d Dept. 2011)..... 10

Maas v. Cornell Univ., 94 N.Y.2d 87, 92, 699 N.Y.S.2d 716, 718-19 (1999) (internal citations omitted) 4

Matter of Olsson v. Bd. of Higher Ed. of City of N.Y., 49 N.Y.2d 408, 413, 426 N.Y.S.2d 248, 250 (1980) 3

Matter of Olsson v. Bd. of Higher Educ. of City of N.Y., 49 N.Y.2d 408, 413, 426 N.Y.S.2d 248, 251 (1980) 3

Mitchell v. New York Univ., 129 A.D.3d 542, 544, 12 N.Y.S.3d 30, 33 (1st Dept. 2015) 15

Mu Chapter of Delta Kappa Epsilon, by Swett v. Colgate University, 176 A.D.2d 11, 578 N.Y.S.2d 713 (3d Dept. 1992) 5

People v. Raab, 163 Misc.2d 382, 621 N.Y.S.2d 440 (Dist. Ct., Nassau Cnty. 1994)..... 15

Quercia v. New York Univ., 41 A.D.3d 295, 296, 838 N.Y.S.2d 538, 540 (1st Dept. 2007) 4

SHAD Alliance v. Smith Haven Mall, 66 N.Y.2d 496, 498 N.Y.S.2d 99 (1985) 15

Shah v. Union Coll., 97 A.D.3d 949, 950, 948 N.Y.S.2d 456, 457 (3d Dept. 2012) 12

Starishevsky v. Hofstra University, 161 Misc. 2d 137, 612 N.Y.S.2d 137 (Sup. Ct., N.Y. Cnty. 1994)..... 6

Tauh v. Columbia Univ. in City of N.Y., 149 A.D.3d 413, 413-414, 52 N.Y.S.3d 10, 11 (1st Dept. 2017)..... 12

Tedeschi v Wagner College, 49 N.Y.2d 652, 653, 427 N.Y.S.2d 760 (1980)..... 5

Zartoshti v. Columbia University, 79 A.D.3d 470, 471, 911 N.Y.S.2d 623, 623 (1st Dept. 2010) 9

Motion Sequence #2**PRELIMINARY STATEMENT**

Respondent Fordham University (“Fordham” or the “University”) by its attorneys, respectfully submits the accompanying affidavit of Keith Eldredge, sworn to on July 17, 2017 (the “Eldredge Reply Affidavit”), the accompanying affidavit of Dr. Dorothy A. Wenzel, sworn to on July 17, 2017 (the “Wenzel Reply Affidavit”) and this memorandum of law in further support of Fordham’s motion to dismiss the Verified Petition (the “Petition”) for failure to state a cause of action pursuant to CPLR § 3211(a)(7) and a defense founded upon documentary evidence pursuant to CPLR § 3211(a)(1). This memorandum specifically addresses the arguments made in the opposition papers filed by Petitioners Ahmad Awad (“Petitioner Awad”), Sofia Dadap (“Petitioner Dadap”), Sapphira Lurie (“Petitioner Lurie”), and Julie Norris (“Petitioner Norris”) (collectively, “Petitioners”), students who are or were interested in forming a local, Fordham-supported chapter of a national organization known as Students for Justice in Palestine (“SJP”) on Fordham’s Lincoln Center campus (the “Opposition”).¹

This matter solely concerns Petitioners’ application to form a University sanctioned and financially supported student club. As such, the only University policy implicated is the University Club Guidelines, which contain the official club approval registration process at Fordham. This policy was not only substantially followed, but, as discussed at length below and in the University’s moving papers, it was completely followed.

Petitioners contend that the decision to deny SJP official club status at the University was not rational in the face of their club application and accompanying support thereof. Additionally,

¹ The Opposition includes an affidavit from Petitioner Awad (the “Awad Affidavit”), an affidavit from Fordham employee, Dr. Glenn Hendler (the “Hendler Affidavit”), an affidavit from Ben Lorber, a third party individual who does not attend Fordham (the “Lorber Affidavit”) and an affidavit from Irene Lucia Delaney, a member of the Steering Committee of the National Students for Justice in Palestine (the “Delaney Affidavit”).

they assert that the decision maker, Dean Eldredge, was remiss in both seeking out and engaging different viewpoints from other members of the Fordham community in connection with his decision to deny SJP official club status. Petitioners go on to claim that the contributions and opinions of the Fordham community are irrelevant and/or immaterial and should be ignored. However, Dean Eldredge's thorough examination of the issue, through his engagement in a lengthy review and consideration of comments from all sides of the issue, supports the rational basis of the decision. Dean Eldredge's assessment and research into this proposed local chapter of SJP took many hours over several weeks. Petitioners' position and the position of their supporters, in addition to the contrasting viewpoints of other members of the Fordham community, were equally vetted. On December 22, 2016 in a lengthy email describing his position and based on the totality of the discussions with Petitioners, their supporters, those opposed to the application and the voluminous materials that he reviewed after receiving some from interested parties or after obtaining some on his own, Dean Eldredge denied Petitioners' application due to polarization issues, including the safety and security of the Fordham community.² The mere fact that Dean Eldredge did not support the creation of a Fordham sanctioned SJP chapter simply does not equate to a supposition that the decision is irrational.

Thus, as more fully set forth herein and in the University's initial memorandum of law in support of the motion to dismiss, dated June 5, 2017 (the "Initial Brief"), the initial affidavit of Keith Eldredge, sworn to on June 5, 2017, (the "Eldredge Moving Affidavit"), and the initial affidavit of Dr. Dorothy A. Wenzel, sworn to on June 5, 2017, (the "Wenzel Moving Affidavit"), it is beyond debate that the University's decision to deny SJP official club status at the Lincoln Center campus fully complied with University policies and procedures, was a valid exercise of

² See Eldredge Reply Affidavit at ¶ 17.

discretion, and was neither arbitrary nor capricious nor irrational. The Petition should therefore be dismissed in its entirety.

ARGUMENT

POINT I

THE UNIVERSITY SUBSTANTIALLY FOLLOWED ITS CLUB APPROVAL POLICY AND PROCEDURES

As stated by Petitioners themselves, the intention of SJP was to educate the Fordham community on Israel and Palestine and create an intellectual conversation on this controversy. See Awad Affidavit, at ¶ 9 (“...we wished to politely educate the Fordham community on Israel and Palestine...”); see also Hendler Affidavit, at ¶ 11 (“The students seeking to form an SJP club made clear in their mission statement that they were committed to education, debate, and discussion.”) As such, and as explained further in the Initial Brief, Petitioners’ application clearly invokes an academic discussion concerning their methodology and process as to how they proposed to educate the Fordham community on these complex issues. Consequently, Fordham’s decision concerning the application should be given broad judicial deference. See Matter of Olsson v. Bd. of Higher Educ. of City of N.Y., 49 N.Y.2d 408, 413, 426 N.Y.S.2d 248, 251 (1980) (New York courts do not typically intervene in controversies involving an educational institution’s academic and administrative determinations). “This public policy is grounded in the view that in matters wholly internal [educational institutions] are particularly capable of making the decisions which are appropriate and necessary to their continued existence.” Gertler v. Goodgold, 107 A.D.2d 481, 485, 487 N.Y.S.2d 565, 569 (1st Dept. 1985), aff’d, 66 N.Y.2d 946, 498 N.Y.S.2d 748 (1985). Courts are reluctant to become involved in matters involving colleges and universities, reflecting “...the policy that the administrative decisions of educational institutions involve the exercise of highly specialized professional judgment and these

institutions are, for the most part, better suited to make relatively final decisions concerning wholly internal matters.” Maas v. Cornell Univ., 94 N.Y.2d 87, 92, 699 N.Y.S.2d 716, 718-19 (1999) (internal citations omitted).

However, despite Petitioners’ own words as to the basis and foundation of their proposed club, Petitioners now seek to minimize the import of their club and the resulting decision by contending that a lesser standard of judicial review should apply. See Opposition, at pg. 14. Absent a clear demonstration of a deviation from its policy, Fordham’s decision to deny SJP official club status is entitled to deference and the outcome in this case is no different because the documentary evidence establishes the University unequivocally followed its published policies and procedures.

A. The University Complied with its Club Approval Policy and Procedures

“It is well established that judicial review of an educational institution’s disciplinary determination involving nonacademic matters is limited to whether the institution substantially adhered to its own published rules and guidelines and was not arbitrary and capricious.” Quercia v. New York Univ., 41 A.D.3d 295, 296, 838 N.Y.S.2d 538, 540 (1st Dept. 2007). The Court’s inquiry is limited to whether the university substantially complied with its own guidelines or procedures. See Mu Chapter of Delta Kappa Epsilon, by Swett v. Colgate Univ., 176 A.D.2d 11, 14, 578 N.Y.S.2d 713, 715 (3d Dept. 1992). As seen in the Eldredge and Wenzel Moving and Reply Affidavits and the documents attached thereto, the University complied with each and every step of the University’s club approval process.

Contrary to Petitioners’ claim (see Opposition, at pgs. 2, 14-17), the fact that this case may arguably involve a nonacademic decision does not allow this Court complete freedom to wholly disregard Dean Eldredge’s decision. Not surprisingly, the scope of Tedcschi v. Wagner

College, 49 N.Y.2d 652, 653, 427 N.Y.S.2d 760 (1980) (“Tedeschi”), is far narrower than Petitioners portray in the Opposition. The Tedeschi case concerned the effect of guidelines or rules published by a private educational institution upon its right to suspend a student for reasons unrelated to academic achievement. Petitioners do not recite the full text of the quote from Tedeschi in their Opposition. See Opposition, at pg. 2. A complete version is provided herein for the Court’s convenience:

Suspension or expulsion for causes unrelated to academic achievement, however, involve determinations quite closely akin to the day-to-day work of the judiciary. Recognizing the present day importance of higher education to many, if not most, employment opportunities, the courts have, therefore, looked more closely at the actions of educational institutions in such matters.

Id. at 658. Further, “we hold that when a university has adopted a rule or guideline establishing the procedure to be followed in relation to suspension or expulsion [for something other than unsatisfactory progress in his or her studies], that procedure must be substantially observed.” Id. at 659. Here, whether deemed an academic decision or something more operational in nature, Tedeschi’s guidance favorably controls because Fordham has demonstrated that it fully and completely followed its official Club Guidelines and that the decision not to approve Petitioners’ application was rationally based after reviewing and weighing all of the views and materials received from all participants in the process.

It bears noting that other than Starishevsky v. Hofstra University, 161 Misc. 2d 137, 612 N.Y.S.2d 137 (Sup. Ct., N.Y. Cnty. 1994), the cases cited to on page 16 of the Opposition all involve expulsion or suspension. In these cases, there is a type of tangible injury regarding future academic progress (i.e. an individual can no longer attend school and continue his or her education). Here, the ability to organize and form a University sanctioned club is a privilege, not a contractual right, or an avenue for a potential employment opportunity. The difference between

the present case and the cases listed on page 16 of the Opposition is compelling. Here, Petitioners were not afforded a privilege and are simply unhappy with Dean Eldredge's decision. Students do not have an unqualified right to be recognized by the University's administration. The cases set forth on page 16 of the Opposition involve the potential loss of a contractual right to remain at school as a student, which could be eliminated as a result of an expulsion or suspension.

When students enrolled at the University's Lincoln Center campus want to form a club, the University's Club Guidelines control. See Wenzel Moving Affidavit, at ¶ 7. The Club Guidelines instruct students who wish to form a club on the Lincoln Center campus as to the specific process to be followed. See Wenzel Moving Affidavit, at ¶ 7 and Exhibit "A" thereto. Contrary to Petitioners' contentions (see Awad Affidavit, at ¶ 6 and Opposition, at pg. 4, fn. 4), Dean Eldredge and Dr. Wenzel were both operating pursuant to Fordham's official club registration policy that is set forth in the University's Club Guidelines and has been in existence since April 2015. Petitioners attempt to excuse their own failure to obtain, know and understand Fordham's Club Guidelines by insinuating that Dr. Wenzel or someone else within Fordham's administration created the Club Guidelines for purposes of this litigation and that this policy did not exist in 2015. See Opposition, at pg. 6. Those dark aspersions aside, as both Dr. Wenzel and Dean Eldredge attest, the Club Guidelines have been in existence at all relevant times since 2015 and contain the University's official club approval process. Further proof of their prior existence is a distribution email attaching the Club Guidelines from 2015 which is attached to the Wenzel Reply Affidavit as Exhibit "A". In sum, the University did not "introduce new rules" (see Opposition, at pg. 13) or change the procedure at an advanced stage of the application process.

The Club Guidelines have controlled this process at all times and under those Club Guidelines, the Dean of Students always had final veto power.

A. The Discrepancy Between the Club Guidelines and the Club Registration Packet

Nevertheless, in a misguided effort to show that the University somehow violated its own governing rules, policies or procedures, Petitioners make much of the fact that they were wholly unaware of the University's official Club Guidelines containing Fordham's club approval process. Instead, they contend that they followed the inverted club approval process set forth in the materials that were created and provided to them by their fellow students who were members of the student government organization known as the United Student Government ("USG")³ and therefore their failure to understand the actual, official Fordham Club Guidelines should be excused. This argument is illogical as Petitioners cannot excuse their own negligence in failing to know and understand University policy by complaining that other students apparently misled them. Petitioners do not appreciate, or deliberately ignore, the fact that the University did not create those materials nor is it responsible for any confusion suffered by Petitioners as a result of transcription errors contained therein. And, as soon as Dr. Wenzel discovered the discrepancy, she immediately notified USG on October 28, 2016, which in turn notified Petitioners of both USG's error and the correct club registration and approval policy on October 31, 2016. See Exhibit "E" to the Wenzel Moving Affidavit.

Despite Petitioners' efforts to cloud the issue in an attempt to excuse their own failure to be cognizant of the relevant University policy, the following facts are indisputable: (i) the

³ In this case, USG prepared and provided Petitioners with the aforementioned Club Registration Packet. See Wenzel Moving Affidavit, at ¶ 11. Unfortunately, in the case of Petitioners and others, the student-created Club Registration Packet that they received from USG in fall 2015 and fall 2016 was incorrect in that it showed that the progression for club approval was Director of Involvement, Dean of Students, then USG; and that USG had the final word as to whether a club was approved by the University at the Lincoln Center campus. That was clearly wrong. See Wenzel Moving Affidavit, at ¶ 12.

University has official Club Guidelines; (ii) the version of the Club Guidelines at issue have been in effect since April 2015; and (iii) Petitioners admit that they were notified of the University's Club Guidelines on October 31, 2016, over two (2) weeks before the USG Senate voted on their application and almost two (2) months before Dean Eldredge made his decision on the application. Thus at all relevant times during the decision making process, Petitioners were fully aware of the correct and official University process and were aware that the process was followed in full.

In sum, the University's Club Guidelines, which is the only relevant official policy and procedure for the University with regard to student club approval, set forth the proper approval process at all relevant times herein. Although Petitioners are displeased with the University's decision to deny official club recognition to SJP, governing law dictates that because the University carefully and completely followed its policy, this Court should not second-guess the club approval and deliberation process that took place at the University or substitute its judgment for that of University officials. There is simply no basis for the Court to disturb the University's decision, and the Petition should be dismissed. See e.g. Hyman v. Cornell Univ., 82 A.D.3d 1309, 1310, 918 N.Y.S.2d 226, 228 (3d Dept. 2011) (upholding university's disciplinary decision where there was "no indication that respondent deviated from its procedures, and its determination is amply supported by the evidence"); Ebert v. Yeshiva Univ., 28 A.D.3d 315, 315, 813 N.Y.S.2d 408, 409 (1st Dept. 2006) (affirming university's expulsion decision where university proceeded in accordance with and substantially observed its disciplinary policies and procedures); Zartoshti v. Columbia Univ., 79 A.D.3d 470, 471, 911 N.Y.S.2d 623, 623 (1st Dept. 2010) (upholding two-year suspension where private university substantially complied with its own guidelines and petitioner demonstrated no prejudice resulting from the deviation from literal

compliance with handbook procedures); Fernandez v. Columbia Univ., 16 A.D.3d 227, 228, 790 N.Y.S.2d 603, 603 (1st Dept. 2005) (upholding disciplinary sanction where private university “substantially abided” by its own governing rules and regulations); Al-Khadra v. Syracuse Univ., 291 A.D.2d 865, 866, 737 N.Y.S.2d 491, 492 (4th Dept. 2002) (respondent substantially adhered to the procedures outlined in its Judicial System Handbook).

POINT II

DEAN ELDRIDGE’S DECISION TO DENY SJP CLUB STATUS WAS RATIONAL

“A university’s disciplinary determination will be upheld and not be deemed arbitrary and capricious if it is based on a rational interpretation of the relevant evidence and the ‘university substantially adhered to its own published rules and guidelines’ in arriving at the decision.” Katz v. Bd. Of Regents of Univ. of State, 85 A.D.3d 1277, 1279, 924 N.Y.S.2d 210, 212 (3d Dept. 2011) (quoting Hyman v. Cornell Univ., 82 A.D.3d 1309, 1310, 918 N.Y.S.2d 226, 228 (3d Dept. 2011)). Dean Eldredge’s decision unquestionably represents a rational interpretation of the relevant evidence. Petitioners have attempted to paint this decision as one based on sheer speculation, however, that is not the case. In coming to his decision, Dean Eldredge took time to discuss the matter with representatives from all concerned parties as well as multiple professors familiar with the issues at hand. See Eldredge Moving Affidavit, at ¶¶ 15 – 19. In addition to these discussions, Dean Eldredge conducted his own independent research. Id., at ¶ 20 and Exhibit “J” attached thereto. During the course of his review, Dean Eldredge came upon reports of multiple instances in which different SJP chapters across the country had attempted to seriously disrupt campus events at various universities, including the University of California Irvine, Stanford University, Boston University, Florida International University, University of Georgia, Brown University, Johns Hopkins University, University of California

Santa Cruz, University of Minnesota and Tufts University. Id. at ¶ 17. These incidents represent tangible evidence of the polarizing effects of SJP organizations at other campuses. Further, the concerns manifested by many of the people and groups consulted with by Dean Eldredge were based on these and other tangible reports of disturbance and intimidation tactics employed by various SJP chapters. As such, Dean Eldredge's decision was not one based on suspicion, but rather on tangible evidence and discussion.

The facts here are quite distinguishable from Basile v. Albany Coll. Of Pharm. of Union Univ., 279 A.D.2d 770, 771, 719 N.Y.S.2d 199 (3d Dept. 2001), cited by Petitioners, in which three students were accused and found guilty of cheating by the Albany College of Pharmacy Student Honor Code Committee absent any tangible evidence of cheating. There, the court found that the statistical compilation proffered by the various professors who had made the accusations was based on false assumptions, thereby negating any rational basis. Id. Here, Dean Eldredge's decision was not based on any false assumptions, but rather on tangible materials and discussions with opposing groups and individuals with knowledge on the subject.

As a further example of that effort, Petitioners admit in their Opposition that Dean Eldredge engaged in a lengthy investigation and deliberation as to whether to approve SJP's request to become a club at Fordham's Lincoln Center campus. Specifically, a brief review of the affidavit of Glenn Hendler, an employee of Fordham, demonstrates that Dean Eldredge conducted lengthy due diligence and had a vibrant discussion with Dr. Hendler (see Hendler Affidavit, at ¶ 10), sought input from all constituencies in relation to SJP and thoroughly evaluated both sides of the case. Nowhere in Dr. Hendler's affidavit does he indicate that Dean Eldredge did not listen, discuss, debate and/or understand his position. In fact, as Dr. Hendler's and Petitioner Awad's Affidavits respectively confirm, Petitioners' application, their position

and the position of their supporters were thoroughly vetted. In that same spirit, the contrasting viewpoints of other members of the Fordham community were equally vetted, as seen in Dean Eldredge's Moving Affidavit at paragraphs 15-21 at pages 9-13. As described therein, this process of engagement, exploration and investigation took many hours over several weeks.⁴

In sum, judicial review of a private university's determinations is limited to "whether the university substantially adhered to its own published rules and guidelines for disciplinary proceedings and whether the determination is based on a rational interpretation of the relevant evidence." Shah v. Union Coll., 97 A.D.3d 949, 950, 948 N.Y.S.2d 456, 457 (3d Dept. 2012) (internal citations omitted). To determine whether or not a decision was rational, courts look to the record to find support. See Shah, 97 A.D.3d at 951, 948 N.Y.S.2d 458 (holding that "the record reveals that, among other evidence, his own admissions provided a rational basis."); Taub v. Columbia Univ. in City of N.Y., 149 A.D.3d 413, 413-414, 52 N.Y.S.3d 10, 11 (1st Dept. 2017) (holding "the record establishes that Columbia had a rational basis"), leave to appeal denied, 29 N.Y.3d 990, 53 N.Y.S.3d 256 (2017); cf. Basile v. Albany Coll. Of Pharm. of Union Univ., 279 A.D.2d 770, 771, 719 N.Y.S.2d 199, 201 (3d Dept. 2001) (holding "rationality is what is reviewed under both the substantial evidence rule and the arbitrary and capricious standard.").

As such, in accordance with well-established precedent, the reasoned and rational decision by Dean Eldredge to deny SJP official club recognition at the Lincoln Center campus is entitled to deference and should not be disturbed by this Court.

⁴ Contrary to claim, Petitioners did not receive "extra scrutiny because some people disliked their views." Opposition, at pg. 22. As set forth in Wenzel Moving Affidavit at paragraphs 46-53 and paragraphs 60-64, there was nothing unusual about the time frame in this case or the interactive club approval process between USG, Dr. Wenzel, Dean Eldredge, the University and the SJP proposed club.

POINT III

**PETITIONERS CITE SUPPORT IN FORDHAM'S
POLICIES THAT ARE FACIALLY IRRELEVANT HEREIN**

Recognizing that they do not have the same broader constitutional freedoms that students at public institutions may enjoy, Petitioners attempt to meld together various distinct and inapplicable policies of Fordham concerning Demonstrations on Campus, the Bias Related Incidents and Hate Crime Policy as well as Fordham's Mission Statement (see Opposition, at pg. 17) in an alchemist's cauldron of unrelated theories in an effort to create a constitutional violation where none exists. Specifically, Petitioners contend that Fordham violated its own policies and rules by engaging in "viewpoint discrimination" in denying SJP official club status on Fordham's Lincoln Center campus. See Opposition, at pgs. 13, 19. This argument fails for many reasons.

First, as noted herein, this matter concerns an application to form a Fordham sanctioned and supported student club and, as such, the only policy implicated is the University Club Guidelines. Petitioners cannot cherry pick pieces of different institutional policies and unilaterally deem them to be "rules" (see Opposition, at pg. 3) of the institution. For example, while the University encourages expression of thought and dialogue, there is no "free speech policy" at Fordham despite Petitioners' noteworthy attempt to create one.

Second, there is no demonstration, protest or public gathering at issue in this matter. As such, Petitioners citation to Fordham's Demonstration Policy (see Opposition, at pgs. 3, 17-18) is wholly irrelevant and designed solely to mislead the Court. Similarly, Petitioners did not file a bias claim nor do they allege that they did so. Petitioners' citations to Fordham's Bias-Related Incidents and/or Hate Crimes Policy (see Opposition at pgs. 3, 17-18) are wholly irrelevant.

Finally, Fordham's Mission Statement "guarantees the freedom of inquiry required by rigorous thinking and the quest for truth....seeks to foster in all its students life-long habits of careful observation, critical thinking, creativity, moral reflection and articulate expression... (and) seeks to develop in its students an understanding and reverence for the cultures and ways of life other than their own." Opposition, at pg. 17. Nowhere in the Mission Statement does Fordham create a right for students to have any student club of their choosing, which would receive funding, meeting space and the supervision of a faculty member or administrator that officially recognized student clubs at Fordham enjoy. Establishing a club is not merely "allowing" a student to express a viewpoint; it also involves permissions from the University and the use of University property, which Petitioners acknowledge in their Opposition. See e.g. Opposition, at pgs. 2-3. Petitioners are still free to promote their views, associate with and enjoy the company of like-minded individuals and otherwise support the views of SJP. They simply do not have the right to have Fordham provide the financial, physical, or employee resources to do so and Fordham's Mission Statement does not state otherwise.

POINT IV

PETITIONERS' ATTEMPT TO ASSERT A PHANTOM VIOLATION OF CONSTITUTIONAL RIGHTS CANNOT BE SUSTAINED

Try as they might, Petitioners simply do not enjoy the broader First Amendment privileges at a private institution, such as Fordham, that they may have at public institutions. As noted in the Initial Brief, the First Amendment and New York State Constitution protect individual freedoms from government interference; they do not protect individual freedoms from interference from a private organization. See SHAD All. v. Smith Haven Mall, 66 N.Y.2d 496,, 498 N.Y.S.2d 99 (1985); People v. Raab, 163 Misc.2d 382, 386, 621 N.Y.S.2d 440, 443 (Dist. Ct., Nassau Cnty. 1994). "Neither private universities nor their employees are 'state actors' for

the purpose of constitutional claims, including claims alleging violation of the right to free speech.” Mitchell v. New York Univ., 129 A.D.3d 542, 544, 12 N.Y.S.3d 30, 33 (1st Dept. 2015) (citing Powe v. Miles, 407 F.2d 73, 80-81 (2d Cir. 1968)), leave to appeal denied, 26 N.Y.3d 908, 18 N.Y.S.3d 599 (2015).

In sum, the University is open to dialogue on a variety of viewpoints, but this particular organization has a history of inappropriate conduct which the University does not want to be associated with. Regardless of how they characterize their claim, Petitioners ignore the basic legal tenet that private colleges and universities may more narrowly determine the manner in which issues are disseminated, discussed and debated. That is the institution’s right as a private entity as opposed to the constitutional challenge that a public entity may face when addressing a similar issue and circumstances. Nonetheless, Fordham encourages Petitioners to continue to debate and discuss this very complex and divisive issue. Today, Petitioners are encouraged to continue to have the debate and discourse that the Palestinian-Israeli issues mandate. Their ability to do so is not impacted in any manner by Dean Eldredge’s decision. Petitioners simply cannot do so under the moniker of their choosing.

Based on the foregoing, it is clear that Fordham, as a private institution, in no way impacted Petitioners’ First Amendment rights or otherwise violated its internal policies and thus this cause of action should be dismissed.

CONCLUSION

For the foregoing reasons, the University has demonstrated, as a matter of law, that Petitioners Ahmad Awad, Sofia Dadap, Sapphira Lurie, and Julie Norris have not set forth a cognizable cause of action under New York law. The Petition should be dismissed in its entirety pursuant to CPLR § 3211(a)(7) and CPLR § 3211(a)(1), together with such other relief as this

Court deems just and proper. In the event the Court denies the motion in whole or in part, the University should be permitted to answer the petition pursuant to CPLR § 7804(f).

Dated: July 17, 2017
Garden City, New York

Respectfully submitted,

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