

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

December 12, 2024

Interim President J. Larry Jameson &
The Board of Trustees of the University of Pennsylvania
Office of the University Secretary
University of Pennsylvania

[REDACTED]

Cc:

Dean Sophia Z. Lee
University of Pennsylvania Carey Law School

[REDACTED]

General Counsel Wendy S. White
Office of the General Counsel
FMC Tower at Cira Centre South

[REDACTED]

Re: Letter Regarding Academic Sanctions Against Professor Amy Wax

Dear Interim President Jameson and the Board of Trustees of the University of Pennsylvania,

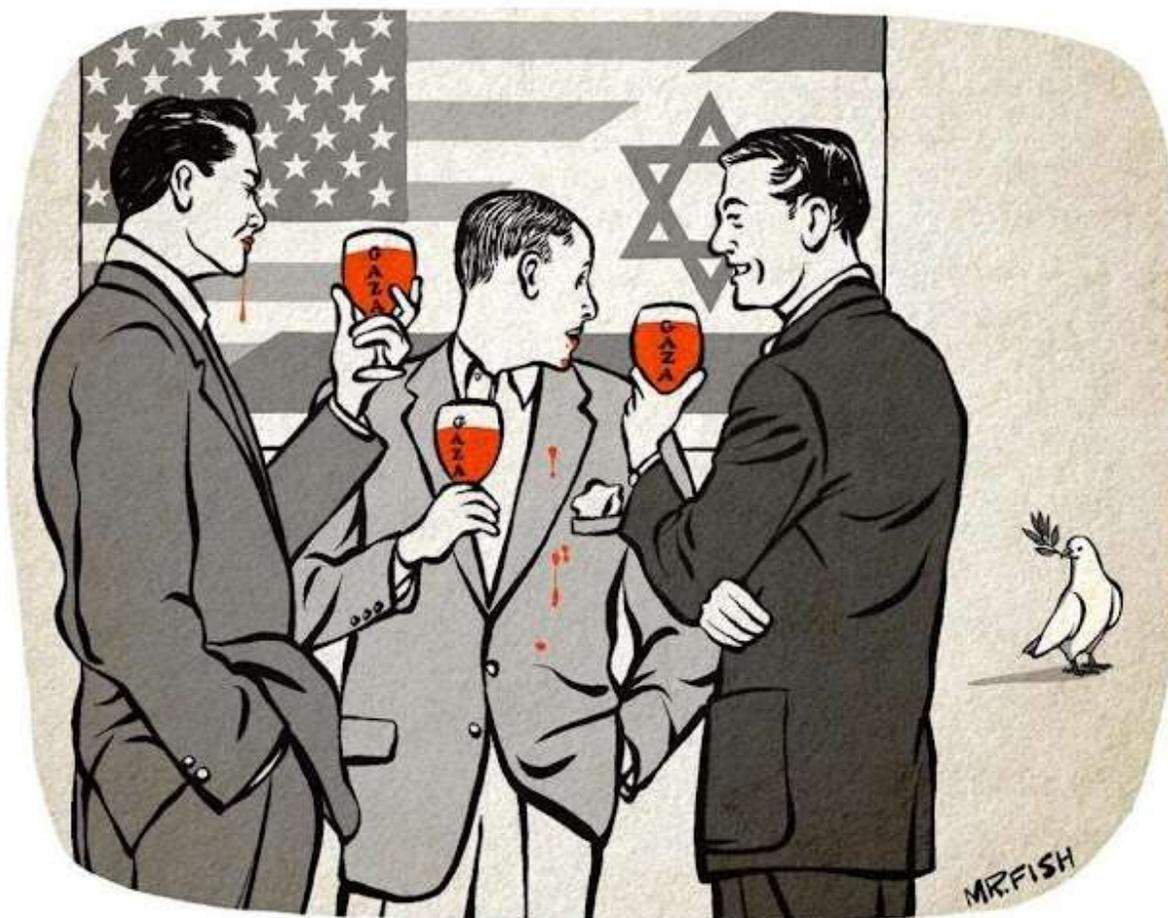
I represent Professor Amy Wax and write concerning the University of Pennsylvania's (the "University's" or "Penn's") decision to impose academic discipline for statements made by Professor Wax. Upon reviewing the University's proposed discipline, we believe that the imposition of those penalties would violate both federal and state law.

In particular, the proposed penalties would violate Titles VI and VII of the Civil Rights Act of 1964, as well as 42 U.S.C. § 1981, by enforcing the University's speech policy in a manner that discriminates on the basis of race. In addition, the penalties violate Pennsylvania contract law, since (1) Professor Wax's contract with the University expressly includes protections for free speech that, in the University's own telling, are the same as protections under the Free Speech Clause of the First Amendment—which the academic discipline would plainly violate; and (2) the

University violated numerous procedural requirements and protections in its rush to impose discipline for disfavored speech.

While the University's proposed discipline against Professor Wax is putatively based on the alleged, so-called "harm" that her speech caused—"harm" the university has never identified or defined—we note that other professors and lecturers at the University have engaged in speech far more egregious, and thus potentially "harmful," which the University has never taken steps to sanction.

For example, the University failed to discipline Dwayne Booth, a lecturer in one of the undergraduate departments, for his blood libel cartoons against Jews. Here is one example of his speech that went unsanctioned:



"Who invited that lousy anti-Semite?"

You, President Jameson, issued a statement condemning this cartoon, but lecturer Booth has to date received no official sanctions as levied against Professor Wax. In fact, the Jameson Statement (available at <https://penntoday.upenn.edu/announcements/statement-political-cartoons->

[j-larry-jameson-interim-president-university](#)) implied that Penn’s “bedrock commitment to open expression and academic freedom” required that Penn impose no sanction against Booth because Booth and other speakers with his views have the “right and ability ... to express their views, however loathsome we find them.”

Or another: Professor Ahmad Almallah, a Palestinian poet and artist-in-residence at Penn who also lectures at the University, reportedly led a rally in Philadelphia where he chanted “[t]here is only one solution” regarding Israel. Congressman Jim Banks raised this to then-President Magill during the now-infamous congressional hearing, asking why Penn did not discipline Almallah, to which President Magill replied that Penn’s speech policy “is guided by the United States Constitution,” which of course includes the First Amendment Free Speech Clause.

More recently, Professor Julia Alekseyeva posted a video openly celebrating the fact that the alleged murderer of Brian Thompson, the CEO of UnitedHealth Group, was an alumnus of the University and called the assassin “[t]he icon we all need and deserve.” Professor Alekseyeva captioned the video with a statement that she “ha[s] never been prouder to be a professor at the University of P3nnsylvania [sic],” thereby explicitly reveling in a politically motivated assassination.

Not only has the University taken no action to discipline Professor Alekseyeva to date, but it has previously lauded her with a Dean’s Award for Mentorship. Professor Alekseyeva is thus “proud[]” of the University for producing an alumnus that was a political assassin, while the University is proud of the values that Professor Alekseyeva is inculcating in its students through her mentorship. Nor has the University given any indication that Professor Alekseyeva might face academic discipline for her speech, even though it is incontestably more “harmful” than the speech for which you seek to discipline Professor Wax.

These are but three examples of the University’s highly selective enforcement of its speech policies, as well as the moral rot that the University’s Administration and Trustees have permitted to fester. The proposition that Professor Wax’s speech merited disciplinary action based on the putative “harm” caused by her speech—but *none* of the foregoing instances did—is preposterous. In short, the University’s commitment to free speech appears to be as thin as its moral fiber.

But worse than being merely inconsistent, the University’s speech policies—including its actions against Professor Wax—transparently discriminate on the basis of race, including most notably the race of the subject of the speech at issue. As such, they violate federal law’s various prohibitions against race-based discrimination, including Titles VI and VII and 42 U.S.C. § 1981. In addition, the University’s content-based discrimination against the speech that is at issue here violates the University’s contractual promise to Professor Wax (and all other tenured professors) to abide by First Amendment principles. And the procedures that the University employed to determine that discipline was warranted were also gravely flawed and violated the contractual tenure protections of basic due process and fundamental fairness that Professor Wax enjoys. The procedures further contravened the Americans with Disabilities Act, since they failed to accommodate Professor Wax’s then-ongoing cancer treatments adequately (or even minimally).

Given the manifest illegality of the proposed discipline against Professor Wax, I ask that you formally and conclusively disavow imposition of the proposed discipline by close of business on Thursday, December 19. Should you fail to do so, Professor Wax will file suit against the University.



Jason B. Torchinsky
Counsel for Professor Amy Wax