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January 11, 2023

Rabbi Dr. Ari Berman
President
Yeshiva University
500 West 185th Street
New York, NY 10033

Dear Rabbi Dr. Berman:

As members of the New York State Senate, we are concerned about the discriminatory treatment of LGBTQ students by Yeshiva University (YU) while receiving funds from the Dormitory Authority of the State of New York (DASNY) and other state funds. YU's discriminatory behavior is wholly inconsistent with the purposes for which state funding is provided, namely, to promote the fullest possible participation by all students in the state's educational opportunities.

It further appears that YU made misrepresentations to DASNY about the nature of the university. In *Yeshiva University v. YU Pride Alliance*, YU claims it is not required to recognize the YU Pride Alliance, an LGBTQ student club, because it is a "religious corporation" under New York law. This assertion conflicts with other representations by YU to the State of New York that it is an "independent, coeducational, nonsectarian, non-for-profit institution of higher education" for purposes of obtaining certain bond offerings. On December 15, 2022, the First Department Appellate Division affirmed that YU is violating the law by refusing equal treatment to LGBTQ students, and specifically cited YU's "proffered statements to public authorities" as evidence of its legal status as a covered public accommodation. Given these potential misrepresentations, we request that YU provide an immediate accounting of its use of DASNY funds.

As you are aware, in 2009 and 2011, as well as on multiple occasions in the preceding years, DASNY issued bonds on behalf of the University to finance the construction and renovation of its buildings and facilities. To receive these funds, YU made certain representations pursuant to its loan agreements with DASNY for several offerings, (1) Yeshiva University Revenue Bond Series 2011A (\$90,000,000) (hereinafter "the Series 2011A Bonds") and (2) Yeshiva University Revenue Bond Series 2009 (\$140,820,000)

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(hereinafter after “the Series 2009 Bonds”). As with all its agreements, DASNY issued these bonds based on the University’s representations to DASNY that the university would use these funds in compliance with DASNY’s requirements set forth in its loan agreements. DASNY’s loan agreements with the University also state in relevant part:

“The University agrees that with respect to the Project or portion thereof, so long as the Project or portion thereof exists and unless and until the Project or portion thereof is sold for the fair market value thereof, the Project or any portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; provided, however, that the foregoing restriction shall not prohibit the free exercise of any religion; and provided, further, that if at any time after the date of the Loan Agreement, in the opinion of Bond Counsel, the then applicable law would permit the Project or a portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to the Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether the Project or any portion of real property thereof financed by Series 2011A Bonds is being used for any purpose proscribed by the Loan Agreement.”

According to the Series 2009 Bonds, “[t]he 2009 Project consists of: (i) the financing of the construction, renovation, and equipping of new buildings located at the University’s campuses in the Bronx and Manhattan, in New York City; (ii) financing of the acquisition, construction, renovation, improvement, repair and equipping of the exterior and/or interior, or the potential demolition of existing facilities, located at the University’s campuses in the Bronx and Manhattan, in New York City; and (iii) refinancing of a portion of the debt incurred to acquire and maintain certain facilities located at the University’s campuses in Manhattan, in New York City.”

According to the Series 2011A Bonds, “[t]he 2011 Project consists of the financing or refinancing of the renovation, improvement, repair and equipping of the exterior and/or interior of existing facilities located at the University’s campuses in the Bronx and Manhattan, in New York City, including the refinancing of certain taxable debt that financed a portion of such expenditures.”

We request a full and complete accounting from YU of its use of the DASNY funds from the Series 2009 Bonds and the Series 2011A Bonds described above, with supporting documentation, **within 30 days of the date of this letter**. The public stewardship of the State’s funds requires that all educational institutions in our State comply with their agreements with DASNY to use funds for approved purposes.

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Yeshiva University's discriminatory behavior and claimed status appear to be at odds with the statements the university made to obtain state funds. If so, the university is not using those funds for approved state purposes. We will not abide the use of state funds to support discriminatory behavior that excludes LGBTQ students from their right to an equal education. We urge Yeshiva University to immediately reverse course and cease its anti-LGBT policies.

Sincerely,



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Chair, Senate Judiciary
Committee



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State Senator
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