



*The mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination.*

**VIA EMAIL**

April 9, 2024

Chairman Randall V. Becker  
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**Re: Bias and Unfair Investigation Against Black Students**

Dear President Pieczynski and Chief Karlowicz:

The Worcester Branch of the NAACP ("NAACP") and Lawyers for Civil Rights ("LCR") write jointly on behalf of two Black students, Shamar Hall and Giovanni McLaughlin, from Nichols College. These young men were recently disciplined by Nichols College following an off-campus incident in October 2023. The facts surrounding the October 2023 event and the subsequent disciplinary proceedings and criminal investigation, conducted by Nichols College and the Dudley Police Department ("DPD") respectively, raise deeply troubling legal concerns regarding the fairness of the process, racial bias, and disparate discipline along racial lines. We request an emergency meeting with you to discuss your liability and explore potential solutions.

**I. The Incident**

The DPD incident report indicates that the incident at issue occurred on October 28, 2023, at approximately 1:37 AM at a residence near Nichols College. The incident is described as a physical altercation involving students.

Mr. McLaughlin reports that he was present at the student party while Mr. Hall was simply returning to campus after attending his sister's sweet sixteen celebration when the altercation transpired. While driving, Mr. Hall noticed Mr. McLaughlin and male and female friends outside the house where the party was taking place, and he stopped to greet them. Shortly thereafter, Mr. McLaughlin recalls hearing a student shout, "Oh my god, he just hit her!" In response, Mr. McLaughlin instinctively moved to protect his female friends as a physical altercation ensued. Suddenly, Mr. Hall was struck in the head, and Mr. McLaughlin also felt someone attacking him. Both students acted instinctively to defend themselves and those around them. When the DPD arrived on the scene, officers instructed students to return to their dormitories.

## **II. Biased and Unfair Investigation by Nichols College and the DPD**

On October 29, 2023, Nichols College conducted a series of interviews led by Hillary Theofane, Dean of Student Life, and Jessica Ryan, Assistant Dean of Student Life/Title IX Coordinator. It appears that Nichols College staff and administrators primarily targeted students of color in those interviews, while largely ignoring the role of the white students in the incident. Moreover, Nichols College administrators and staff disregarded the accounts of Black students, such as ignoring Mr. Hall's detailed account of being assaulted and acting in self-defense. Mr. McLaughlin faced a similar outcome later that week when Nichols College penalized him, even though he had explained that his actions were in self-defense. In penalizing the Black students, Nichols College relied heavily on a one-minute video that captured only a fraction of the incident. The video is a brief snapshot of the incident and does not meaningfully reflect the full universe of underlying facts, which Nichols College should have explored more fully for evidence that would corroborate the Black students' accounts and mitigate disciplinary action. The students were penalized by Nichols College despite exonerating evidence, including the testimony of other students.

DPD conducted its own investigation into the October 29 incident but apparently only interviewed the white students involved. On October 31, 2023, the young woman whose assault precipitated the incident provided a written statement to the DPD, confirming that one of the white hockey players, Philip Bjorkman, struck her in the face unprovoked. Despite this corroborating statement aligning with our clients' accounts, Nichols College officials and the DPD questioned the validity of the young woman's identification of her assailant. Despite the multi-racial nature of the melee, the DPD investigation issued summonses only to Black students, including Mr. Hall and Mr. McLaughlin.

Both Nichols College and the DPD discounted the weight and value of voices of color to draw conclusions along racial lines. These concerns undermine the integrity of the investigatory process.

On November 17, 2023, Nichols College subjected Mr. Hall to a conduct hearing, and Mr. Hall cooperated with school officials. Although he was allowed to have an advisor present, Nichols College specified that it could not be an attorney. The advisor was also prohibited from speaking during the hearing. This restriction on legal counsel raises serious concerns about Mr.

Hall's due process rights, particularly considering the potential criminal implications of the underlying conduct that was alleged and the ongoing DPD investigation.

During the hearing, Mr. Hall faced racially charged language and questions. When Mr. Hall pointed out that he was a senior with no prior disciplinary issues, Dean Ryan's response was, "Interestingly enough, the only thing on your record is a COVID violation from 2020," as if it were surprising for a Black student to have no disciplinary record. Similarly, in the initial interview after the incident, when Mr. Hall mentioned attending his sister's sweet sixteen party on October 28, he was asked if his formal attire was his Halloween costume and questioned about what his family looks like. Mr. Hall responded, "Black, like me," which was met with laughter from faculty members present. Ultimately, Nichols College unilaterally expelled Mr. Hall. Upon his submission of an appeal, the college rejected it, purportedly based on his limited cooperation during the hearing.

Similarly, on November 20, 2023, Nichols College subjected Mr. McLaughlin to a conduct hearing, and Mr. McLaughlin cooperated with school officials. Like Mr. Hall, Nichols College stripped Mr. McLaughlin of his right to counsel, raising significant concerns about Mr. McLaughlin's right to due process, particularly in light of the ongoing criminal investigation. Mr. McLaughlin provided three supporting statements to corroborate his testimony of the incident and shared personal details explaining how he was deeply affected by the incident, including his firsthand experiences witnessing violence against women in his family. Additionally, Mr. McLaughlin presented the faculty with screenshots from a student online platform called Yik Yak, where Nichols College students anonymously post comments. These screenshots revealed instances of racial discrimination, racial bias, and anti-Black hate speech, including the racially pejorative term "thugsters" paired with images of Black men in prison attire. Mr. McLaughlin requested that Nichols College either shut down the Yik Yak site or remove the offensive posts. However, Nichols College dismissed his concerns, failing to remedy the racially hostile and toxic campus climate. Nichols College removed Mr. McLaughlin from student housing and restricted him from participating in student life activities, including the student groups that he led. Mr. McLaughlin submitted an appeal, but it was also denied.

### **III. Nichols College's and DPD's Exposure to Legal Liability**

During the investigatory and disciplinary processes, Mr. Hall and Mr. McLaughlin voiced serious concerns about the processes being unfairly targeted towards a specific racial group—Black students—despite consistent reports indicating that the altercation was instigated by white students. They observed that only Black students faced interim suspension while the investigation unfolded, and they were the only ones to ultimately face severe disciplinary and criminal implications. Further, Nichols College failed to consider substantial mitigating factors during Mr. Hall's and Mr. McLaughlin's hearings. Both students acted in self-defense and helped to protect victims of violence. They maintained high academic standings and held leadership roles within student organizations on campus. Nichols College faculty and DPD singled out Mr. Hall and Mr. McLaughlin as Black men for disparate treatment, failed to address

parental concerns regarding racial bias during the underlying investigations, and failed to intervene when students engaged in hate speech on a school-sanctioned online platform.

While Nichols College holds the power to discipline its students, this authority is not absolute. It is widely recognized that the relationship between students and colleges is contractual. *See, e.g., Mangla v. Brown Univ.*, 135 F.3d 80, 83 (1st Cir. 1998) (“The student-college relationship is essentially contractual in nature. The terms of the contract may include statements provided in student manuals and registration materials.” (internal citations omitted)); *see also Guckenberger v. Boston Univ.*, 957 F.Supp. 306, 317 (D. Mass.1997) (“Universities are capable of forming legally cognizable contractual relationships with their students. Brochures, policy manuals, and other advertisements can form the basis of such contractual agreements.”). Further, courts have consistently held that a private university may not act in an “arbitrary or capricious” manner in a student’s disciplinary process. *See Doe v. Brandeis Univ.*, 177 F. Supp. 3d 561, 600 (D. Mass. 2016). Indeed, private colleges and universities are not only required to adhere to the policies outlined in the student handbook, but also must adhere to fundamental principles of fairness. *Id.* at 601. Most importantly, colleges and universities cannot subject students to disparate disciplinary treatment based on a student’s racial background. *See Doe v. Harvard Univ.*, 462 F. Supp. 3d 51, 67 (D. Mass. 2020).

Mr. Hall and Mr. McLaughlin have been deprived of their rights and dignity. Despite numerous reports indicating that the incident began with a white student's actions towards a female student, the focus has been disproportionately on Black students. Mr. Hall and Mr. McLaughlin have endured derogatory remarks and discriminatory treatment based on their race, from both fellow students and faculty members at Nichols College. They both witnessed how only Black students faced interim suspensions and severe disciplinary actions. Furthermore, both students were denied the right to have legal representation during their conduct hearings, despite facing pending criminal cases. They were also deprived of the opportunity to review witness statements and evidence against them prior to their conduct hearings and were not permitted to cross-examine witnesses.

The DPD's criminal investigation raises similar grave concerns regarding racial discrimination, in clear violation of established federal and state constitutional protections, including the Equal Protection clause of the 14th Amendment. *See Com. v. Lora*, 451 Mass. 425, 436 (2008). Courts have long held that selective enforcement of the law based on considerations such as race are unlawful. *See Commonwealth v. Dilworth*, No. 1884CR00453, 2019 WL 469356 (Mass. Super. Jan. 18, 2019), *aff'd*, 485 Mass. 1001 (2020). Only Black students faced criminal charges despite clear evidence showing that white students were the instigators of the conflict.

These instances highlight the inability of Nichols College and DPD to provide a fair and unbiased investigatory process to all individuals, irrespective of race. Such actions undermine the core principles of justice and equity that every educational institution and law enforcement agency should uphold. Based on the authorities outlined above, such conduct is not only unacceptable but also unlawful.

#### **IV. Requested Action**

The treatment of Mr. Hall and Mr. McLaughlin by Nichols College and DPD is profoundly impacting Mr. Hall's and Mr. McLaughlin's future educational and career prospects. No student should be subjected to biased and unjust disciplinary and investigatory measures. At this time, our clients are seeking an amicable and expedited resolution to move forward positively. They are willing to engage in discussions with Nichols College and DPD and propose the following actions as essential steps towards resolution:

For Nichols College:

- Reinstatement Mr. Hall as a student in good standing at Nichols College to ensure he can complete his final semester and graduate.
- Allow Mr. McLaughlin back into student housing and student-life activities.
- Provide compensation for the harm Mr. Hall and Mr. McLaughlin endured.
- Conduct a thorough investigation into the hate speech and toxic environment experienced by Black students on Yik Yak, ensuring that all individuals who violated the Code of Conduct are appropriately disciplined. Create an internal mechanism for students to report hate speech on Yik Yak to Nichols College's faculty and administration.
- Conduct a comprehensive review of the disciplinary process to identify and address any instances of racial bias and appoint a Chief Diversity Officer to foster inclusivity and diversity on campus.
- Implement campus-wide training sessions on implicit bias and establish a student forum to facilitate open discussions on racial issues.
- Provide training for staff members on cultural competency and implicit bias, specifically addressing racial biases.

For DPD:

- Review the DPD's policies and procedures to root out racial discrimination. This includes performing an equity audit and assessment of policing practices to ensure that current activities do not produce disparities along racial or ethnic lines. As a part of this review, implement unconscious bias training.

All these steps are crucial for addressing the injustices our clients have endured and for promoting a fairer and more inclusive environment at Nichols College and within the Dudley community. The NAACP and LCR request an immediate meeting with Nichols College and DPD leadership to address the treatment of Mr. Hall and Mr. McLaughlin, with the aim of averting the need for further legal action. To arrange a meeting, please contact Attorney Mirian Albert at [malbert@lawyersforcivilrights.org](mailto:malbert@lawyersforcivilrights.org).

We eagerly await your response.

Sincerely,

Mirian Albert, Esq.

Senior Attorney  
Lawyers for Civil Rights

Fred Taylor  
President  
Worcester, NAACP

cc: Board of Trustees of Nichols College  
Hillary Theofane, Dean of Student Life  
Jessica Ryan, Title IX Coordinator/Assistant Dean of Student Life