

October 31, 2023

President Gregory L. Fenves
Emory University
Mailstop #1000/001/1AP
505 Kilgo Circle
Atlanta, GA 30322

Dear President Fenves:

We, the undersigned, are writing in response to your email about the October 25, 2023, protest at Emory University, where—after Hamas terrorists entered Israel from Gaza and brutally murdered over 1300 and kidnapped over 200 Israelis—students repeatedly chanted antisemitic slogans and phrases, including “from the river to the sea.”¹

It is admirable that you sent out a timely email to the community strongly condemning the protesters. This is certainly a welcome contrast to the actions of the presidents of other academic institutions who, when faced with similar situations, were much slower to condemn them, or did not condemn them at all.

We write today to inquire how else Emory will respond.

As you are aware the referenced slogan has been used by the terrorist group Hamas to reflect its goal of Israeli and Jewish genocide. According to the Anti-Defamation League (ADL):

This rallying cry [from the river to the sea] has long been used by anti-Israel voices, including supporters of terrorist organizations such as Hamas and the PFLP [Popular Front for the Liberation of Palestine], which seek Israel’s destruction through violent means. It is fundamentally a call for a Palestinian state extending from the Jordan River to the Mediterranean Sea, territory that includes the State of Israel, which would mean the dismantling of the Jewish state. It is an antisemitic charge denying the Jewish right to self-determination, including through the removal of Jews from their ancestral homeland.²

At the very least, this phrase is antithetical to the peace-oriented two-state solution and instead depicts a vision of a Middle East devoid of a Jewish presence. However in the immediate wake of the October 7, 2023, terrorist attack by Hamas on Israel, where civilians were targeted and brutally and barbarically murdered, the use of this slogan by protesters at Emory takes on an

¹ While your communication states protestors used this phrase, your use of the plural “antisemitic slogans and phrases,” indicates that additional nefarious epithets were made. We hope that such other phrases are made known to the Emory public and are considered in any future Emory response.

² See ADL, *Allegation: “From the River to the Sea, Palestine Will be Free”*, Oct. 26, 2023, available at <https://www.adl.org/resources/backgroundunder/allegation-river-sea-palestine-will-be-free>.

even more vile meaning. We believe these chants call for additional violence against the Jewish community.

Available crime statistics support this belief. Since the October 7 Hamas massacre of Israeli civilians, reported incidents of antisemitic harassment, vandalism, and assault increased by 400% in the United States when compared to the same time period of last year.³

While the United States and the Emory community value free speech, there are ethical and legal limits to free speech when it becomes an incitement to violence.⁴ The protesters' rhetoric has created an unsafe environment for Jewish students at Emory, and by default, the Emory community at large. News reports have indicated that Jewish students at Emory have felt unsafe and unprotected after this protest and did not want to return to campus.⁵

Under Emory's Undergraduate Code of Conduct, the University expects each student to act responsibly, being accountable for the safety and wellbeing of themselves and others and strives to protect the community from the influence of those who do not embody these values in their conduct.⁶ More specifically, the Code prohibits "Engaging in conduct that is likely to cause foreseeable physical injury, or intentional or reckless conduct of an outrageous or extreme nature that causes severe emotional distress."⁷

Given the hateful and threatening statements made at the protest—and your acknowledgment that those statements were in fact antisemitic—it is our hope that Emory enforces its Code of Conduct and takes any other appropriate action.⁸ Inspired by our own education at Emory, and

³ See ADL, *ADL Records Dramatic Increase in U.S. Antisemitic Incidents Following Oct. 7 Hamas Massacre*, Oct. 24, 2023, available at <https://www.adl.org/resources/press-release/adl-records-dramatic-increase-us-antisemitic-incidents-following-oct-7>.

⁴ See, e.g., *R.A.V. v. City of St. Paul*, 505 U.S. 377, 388 (1992) ("[T]hreats of violence are outside the First Amendment [to protect] individuals from the fear of violence, from the disruption that fear engenders, and from the possibility that the threatened violence will occur.").

⁵ See, e.g., Atlanta News First, *Emory University Responds to Campus Protest Targeting Jewish Community*, Oct. 27, 2023, available at <https://www.youtube.com/watch?v=juvcTD03-4s>; WSB-TV News, *Protestors Yell Antisemitic Chants During Demonstration at Emory University, President Says*, Oct. 26, 2023, available at <https://www.wsbtv.com/news/local/protesters-yell-antisemitic-cheers-during-demonstration-emory-university-president-says/IPPAMO6L6ZFLHPNI5M7IEXGQCM/>. Unfortunately, this feeling is not unique to Emory. See, e.g., Jewish Link, *Jewish Students Feel Unsafe on College Campuses*, Oct. 26, 2023, available at <https://jewishlink.news/jewish-students-feel-unsafe-on-college-campuses/>.

⁶ See Emory University, *EMORY UNIVERSITY UNDERGRADUATE CODE OF CONDUCT, Philosophy and Purpose*, p. 1, Last Revision Date: Sept. 21, 2018, available at <https://emory.ellucid.com/documents/view/19651?security=c8554f380ea59f01798570311c5732b4b791b82e>.

⁷ See, *id.* at § 8.1.1(II)(b), p. 3.

⁸ The ADL and the Louis D. Brandeis Center for Human Rights Under Law has suggested federal prosecution under 18 U.S.C. 2339A and B for potential violations of the prohibition against materially supporting a foreign terrorist organization. While it is our understanding that such enforcement authority may be limited to the federal government, we believe the organizations' statement underscores the seriousness of the allegations.

other academic leaders, we hope the University takes additional affirmative and intentional measures advocating for a mutually respectful dialogue free from vitriol and threats.⁹

While we understand that Emory may not be able to publicly divulge information regarding disciplinary actions, we hope you will somehow assure us that more formal measures are underway. We are buttressed by your agreement that this rhetoric has no place in the Emory community, or any society that values the physical safety of its members.

Sincerely,

Micha Joffe, MD
'95 College, '00 Medicine

Jason Schlosberg
'97 College

And those signing the related online petition.

⁹ See, e.g., Amaney Jamal and Keren Yarhi-Milo, *The Discourse Is Toxic, Universities Can Help*, THE NEW YORK TIMES, Oct. 30, 2023, available at <https://www.nytimes.com/2023/10/30/opinion/princeton-columbia-israel-gaza.html>.