

# StandWithUs

Supporting Israel & Fighting Antisemitism

November 2, 2023

Mr. Gregory Washington, President  
George Mason University  
4400 University Drive, MSN 3A1  
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Dr. Kenneth Walsh, Provost  
George Mason University  
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VIA EMAIL: [gwwashington@gmu.edu](mailto:gwwashington@gmu.edu); [gmutprov@gmu.edu](mailto:gmutprov@gmu.edu)

## Re: Urging Your Administration to Counter Antisemitism at George Mason University

Dear President Washington and Dr. Ginsberg,

We write on behalf of the Saidoff Legal Department and the Center for Combating Antisemitism, divisions of StandWithUs, an international, nonprofit education organization educating about Israel and combating antisemitism.

The purpose of this letter is twofold: (1) to express serious concerns about recent antisemitic incidents on the George Mason University (GMU) campus; and (2) to advise you to take immediate concrete action to address these incidents and the overall hostile climate for Jewish and Israeli students at GMU in the wake of Hamas's brutal massacre, in which its terrorists slaughtered over 1,400 Israelis, injured over 5,000 more, and kidnapped over 200. These atrocities, committed against Jewish elderly, families, children, and babies, have emboldened hateful anti-Israel and anti-Jewish groups and individuals on U.S. campuses overall, and led to harassment and threats of violence toward Jewish and Israeli students on your campus.

**It appears that the GMU administration is deliberately ignoring this continuous and pervasively hostile climate in violation of federal and state laws, including applicable Civil Rights Acts, as well as GMU policies. In its failure to act, GMU is neglecting its duty to report these events as hate crimes in violation of the Virginia Code. As a result, hostilities continue, including a recent assault of a Jewish student and the possible criminal act of a GMU student ripping down posters of hostages displayed on the GMU campus.**

## **I. The George Mason University Campus Environment is Hostile to and Physically Unsafe for Jewish and Israeli Students.**

Following the Hamas massacre on October 7, 2023, GMU student group Students for Justice in Palestine (SJP) held a “rally” on campus during school hours, which included several illegal activities. First, SJP [advised participants](#) to wear masks to disguise their identities despite established Virginia law prohibiting masking (*see* Section II, *infra*). Second, SJP protestors chanted “glory to our martyrs” and “there is only one solution; intifada revolution.” These chants glorify the murder of Jews and Israelis, call for their deaths, are intended to incite violence, and, as a result, are not constitutionally protected “free speech” (*see* Section III, *infra*). Due to this march and the threats of violence against them, Jewish and Israeli students justifiably felt physically unsafe on campus.

In their responses to this incident, President Washington, Vice President of Student Life, and GMU Campus Police Chief all made incorrect statements of fact and erroneous applications of law in an apparent effort to ignore these hostilities, abdicating their responsibility to protect Jewish and Israeli students (*see* Section IV, *infra*).

***Antisemitic incidents within the last week alone include:*** students unlawfully ripping down posters of Israelis being held hostage in Gaza; bigoted flyers distributed around campus alleging antisemitic conspiracy theories (*see* Appendix A); and a physical assault at a fraternity party, where a GMU alumnus attacked a current Jewish student and ripped off his Star of David necklace while yelling antisemitic slurs. Our understanding is that there is a warrant out of the perpetrator’s arrest.

## **II. The Wearing of a Face Covering to Conceal One’s Identity Violates Virginia Law.**

The Code of Virginia § 18.2-422 clearly prohibits the wearing of masks to hide identity. That provision expressly provides:

It shall be unlawful for any person over 16 years of age to, with the intent to conceal his identity, wear any mask, hood or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, to be or appear in any public place, or upon any private property in this Commonwealth without first having obtained from the owner or tenant thereof consent to do so in writing.

GMU allowed marchers supporting terrorism to cover their faces at the [direction of the event organizers](#). Most participants, in fact, wore tactical Arab military scarves as they called for death to Jews and Israelis, further enhancing the [threatening effect](#) of the GMU anti-Israel march and underscoring the [purpose](#) behind Virginia’s prohibition of wearing masks for identity concealment. GMU’s failure to prevent this situation before or during the march resulted in the direct violation of Virginia law by multiple persons on the GMU campus, exacerbating an already hostile campus environment or Jewish and Israeli students.

### **III. The Right to Freedom of Speech Protected by the First Amendment is Not Absolute.**

The First Amendment does not protect all private speech. True threats or “fighting words” fall under the “true threats” doctrine and outside the realm of constitutional protection. Yelling “we want intifada” (a cry for immediate actions of violent behavior) and calling for death to all Jews in Israel is not protected speech. One expression commonly utilized at these anti-Israel events—“From the River to the Sea, Palestine Will Be Free,”—is well known to be a call for eradicating the entire Jewish population of Israel. None of these words are constitutionally protected free speech in the context of a “rally” event.

In [Virginia v. Black](#), the United States Supreme Court held that:

The protections the First Amendment affords to speech and expressive conduct are not absolute. This Court has long recognized that the government may regulate certain categories of expression consistent with the Constitution. For example, the First Amendment permits a State to ban “true threats,” which encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. *The speaker need not actually intend to carry out the threat* (emphasis added). Rather, a prohibition on true threats protects individuals from the fear of violence and the disruption that fear engenders, as well as from the possibility that the threatened violence will occur. Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death. (Internal citations omitted).

President Washington’s statement that “[w]e simply cannot do any of that [barring protests of supporters of terrorism] without running afoul of the First Amendment of the United States Constitution...” is incorrect, constitutes a mass communication of dangerous misinformation, and fails to protect Jewish and Israeli students by permitting people to gather on campus and threaten their lives and safety.

### **IV. Antisemitic and Anti-Israel Incidents Violate Multiple GMU Policies.**

By allowing a masked “protest” during which students called for violence against Jewish and Israeli students, GMU has violated several of its own policies.

[University Policy 1201](#) prohibits discrimination on the basis of race, color, religion, national origin and other protected characteristics. This policy expressly states that any allegation of discrimination or harassment will be taken seriously by the university’s Department of Diversity, Equity, and Inclusion. GMU’s failure to protect Jewish and Israeli students from threats of imminent violence based on an integral component of their Jewish identity plainly amounts to discrimination and directly violates this policy.

[GMU Policy 2208](#), regarding violence protection, prohibits behavior that constitutes violent or abusive conduct. Engaging in behavior that creates a risk of physical injury to or poses a risk to the safety of another person, such as a masked march with calls for death to Jews and Israelis, is strictly prohibited.

[GMU's Frequently Asked Questions](#) defines bias harassment as unwelcome conduct directed at an individual because of one or more of that person's protected characteristics that is so severe or pervasive and objectively offensive that it interferes with, limits, or denies the individual the ability to participate in or benefit from the University's educational or employment programs. The masked rally calling for violence to Jews and Israel, sponsored by GMU's SJP and sanctioned by the GMU administration, clearly constitutes bias harassment against Jewish and Israeli students under this definition.

[University Policy Number 1103](#) regulates use of open space and requires events to advance the educational mission of the university in a manner that does not threaten health and safety. A masked event where marchers loudly chant threats in support of terrorism and death to Jews and Israel can in no way be said to support GMU's educational mission and unquestionably utilizes GMU's open spaces to threaten the safety of Jewish and Israeli students. As such, this event should never have been permitted to take place on GMU property. Nor should any future such events be permitted.

GMU policies frequently state a commitment to preventing discrimination and harassment and to providing a safe campus environment for all students. GMU's failure to prevent or condemn an event in support of terrorism in violation of GMU policies, and failure to make any arrests for violations of Virginia law during the march, is a complete dereliction of its duty to protect Jewish and Israeli students on its campus.

**V. GMU's Responses to Antisemitic Incidents—Including by President Washington, GMU Vice President of Student Life, and Campus Police Chief—Contain Misinformation and Erroneous Applications of Law and Display an Unwillingness to Protect Jewish Students.**

GMU President Washington's letter in response to the issues arising from the above-described SJP event (*see* Appendix B) and the responses of GMU's Vice President of Student Life and campus law enforcement—all of which fail to identify the true threats of SJP's incitement to violence and instead seek to excuse this "demonstration" by wrongly dubbing it "free speech" (*see* Section II, *supra*)—appear to dismiss the event's unlawfulness and the hostilities it created. The President's letter also excludes reference to the fact that the participants illegally hid their identities by wearing masks (*see* Appendix C), in clear contravention of Virginia law (*see* Section IV, *supra*).

Furthermore, the GMU Vice President of Student Life and Campus Police Chief each separately expressed the erroneous position that speech is only unlawful incitement to violence if it is very specific, *i.e.*, "Everyone should go hurt John Smith right now." This is an inaccurate and oversimplification of the law. By attempting to explain a "rally" by masked participants

calling for death to Jews and Israelis as a lawful event protected by the right to free speech, GMU has disseminated false information to minimize the impact of these violations.

## **VI. Campus Law Enforcement’s Failure to Report this Event as a Hate Crime Violates Virginia Law.**

Under the [Virginia Code](#), “Hate crime” is defined as:

- (i) a criminal act committed against a person or his property with the specific intent of instilling fear or intimidation in the individual against whom the act is perpetrated because of race, religion...ethnic or national origin or that is committed for the purpose of restraining that person from exercising his rights under the Constitution or laws of the Commonwealth or of the United States; (ii) any illegal act directed against any persons or their property because of those persons’ race, religion...ethnic or national origin; and (iii) *all other incidents, as determined by law-enforcement authorities, intended to intimidate or harass any individual or group because of race, religion...ethnic or national origin* (emphasis added).

A masked event where marchers call for violence against a protected group of the student population both intimidates and harasses that group; therefore, by definition, this masked “rally” constitutes a hate crime against GMU’s Jewish and Israeli students. Section 5.2-8.5 of the Virginia Code requires all law enforcement agencies to report a hate crime to the Department of State Police for record keeping and analysis, which, based on your administration’s public statements about this event, presumably has not occurred here. This failure of GMU campus law enforcement to properly identify and report this event as a hate crime constitutes an ongoing violation of Virginia law.

## **VII. Hostilities Continue on GMU Campus, Including Possible Criminal Activity, as GMU Student Destroys Poster of Israeli Hostages.**

Following the masked rally supporting terrorism and calling for violence against Jews and Israelis, a GMU student was seen removing postages of Israeli hostages from public spaces on GMU’s campus. Caught and confronted, the student destroyed the poster, referring to it as “propaganda.” We do not believe your administration took any repercussions against this student. This indicates continuing hostilities on campus, and GMU must investigate the [removal of posters](#) on campus as a crime.

### VIII. There is an Urgent Need for Action by GMU Administration.

In light of the foregoing, we urge you to:

1. Issue a statement of moral clarity to your campus community that unequivocally condemns the inhumane terrorist activities of Hamas and its supporters in its massacre of Israeli civilians and others;
2. Take all additional steps necessary to ensure protection for both the physical safety of students, including Jewish and Israeli students, and their ability to fully participate in university life;
3. Correct any and all prior communications wrongfully declaring masked and violent rallies to be “free speech,” and provide appropriate guidance on these issues to the community;
4. Educate Public Safety regarding the very real threats to Jewish and Israeli members of your campus community, including from any anti-Israel events planned to take place on your campus, and their ability to intervene, particularly where such events involve violations of the law, and require heightened security related to such events, as well as heightened vigilance and security in light of the potential for an increase in antisemitic activity as a result of those events;
5. Report this event and any similar future events as hate crimes per the Virginia Code;
6. Investigate possible criminal acts relating to anti-Israel sentiment on campus;
7. Ensure that students know exactly how and to whom they may report hate and/or bias incidents, including criminal activity;
8. Provide training to staff receiving these complaints on how to identify Israeli nationality and antisemitic discrimination and harassment, utilizing the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism. As an organization with expertise in these matters, StandWithUs is available and welcomes the opportunity to partner with you in such efforts.

We urge you to treat these matters with the seriousness they deserve. As such, we look forward to receiving a response to this letter by November 15, 2023.

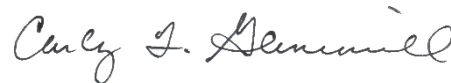
Sincerely,



Roz Rothstein  
CEO and Co-Founder  
StandWithUs

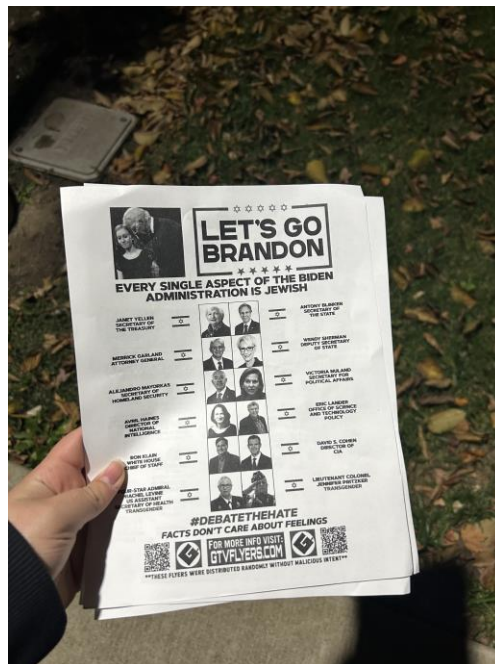


Yael Lerman  
Director  
Saidoff Legal Dept.



Carly Gammill  
Director  
Center for Combating Antisemitism

# APPENDIX A



## APPENDIX B

**Dear Fellow Patriots:**

**In the days since the terrorist attacks on Israel we have been a nation and a community in shock and mourning. Many of us have also been in the throes of the quintessentially American act of speaking out. Indeed, as the regions of Israel and Gaza prepare to enter a period of prolonged conflict, our society will follow along with many passionate demonstrations, speeches, and protests advocating for both sides of the conflict, testing our tolerance of the very free speech rights that help to define us as Americans.**

**Over the past week, George Mason University has seen a number of public gatherings by interest groups related to the Israel-Gaza conflict. Some were discreet, while one in particular was quite visible, in the middle of the Fairfax Campus, in the middle of a day of classes. The messages expressed by all were heartening to supporters, maddening to detractors. We have fielded complaints from all sides, demanding that we bar those with views they oppose from expressing themselves on campus.**

**For every advocate who has called on Mason to muzzle those with opposing views, know that we have also received demands to muzzle your views. We simply cannot do any of that without running afoul of the First Amendment of the United States Constitution, to say nothing of failing you in our guarantee as a marketplace of ideas. The reality is the First Amendment primarily protects speech that we do not like, and even abhor. It can be hateful and demeaning. In fact, one price of free speech is hate speech. Given this reality, it is possible to accomplish multiple things simultaneously that many find unsatisfying: We condemn the craven acts of terrorism by Hamas on innocent Israelis, while acknowledging the plight of the people of Palestine to seek self-government, and the deaths of innocent Palestinians last week.**

**In the days and weeks to come, there will be more conflict. There will be more demonstrations on our campuses. There will be more pronouncements that some will cheer and others try to shout down. That is guaranteed by human nature and the American system of free expression.**

**In that light, what is the commitment of George Mason University, both to this university, and to the community and Commonwealth we serve? We commit our fidelity to our principles, including:**

- 1. Safety** – The safety of everyone at George Mason University’s campuses is paramount, and while measures to assure our collective security are intentionally silent and invisible, they are nonetheless substantial and in place around the clock, with close coordination between university offices that come together to form a 360-degree



university view and a holistic approach to our institutional response. Our aim with First Amendment gatherings is to maintain a safe environment at all times, and to stay out of

the way for as long as safe and lawful conditions remain. Just because you don't see all of the precautions that precede and support a public demonstration does not mean they are not functioning out of sight.

2. **Lawfulness** – Demonstrations represent a long-held American tradition, but actions by demonstrators must remain lawful if they are to enjoy legal and constitutional protection. We do not and will not permit unlawful conduct, even during moments of protest. Just so, it is not lawful for the university to curtail constitutionally protected speech, no matter how outrageous or objectionable others may find it. That includes the right of the street evangelist to shout condemnations into a megaphone to students on Wilkins Plaza for their sexual orientation or gender identity. It includes advocates for both the preservation and the repeal of abortion laws who protest each other at full volume. And it includes all perspectives in the Israel-Gaza debate. In the marketplace of ideas on a public university campus, even hate speech is protected speech.

3. **Freedom and Learning** – This is our institutional motto, and it proves itself indispensable in moments like this. Along with freedom of speech comes the commitment to learning what is happening, why, and what it might lead to. This critical sense-making is the vital role that our faculty play in educating Mason students, and by extension the university community. In the weeks and months ahead, I look forward to shining a spotlight on their contributions to help us all find a way through and beyond this discouraging moment.

Moments like this have the possibility of pulling communities like ours apart, but only if we let them. My hope and optimism lie in our ability to use this as a moment to stay together despite the voices and agendas that seek to pull us into oppositional factions. Ultimately, we can grow stronger together through the experience.

Whether it is your style to pray, meditate, or simply think good thoughts – I invite you to do so on behalf of innocent people in harm's way in Israel and Gaza, as the world waits with dread and resolution to see what happens next. Surely this is something we can all agree upon.

Sincerely,  
Gregory Washington  
President

## APPENDIX C

