



NAACP
FLORIDA STATE CONFERENCE



May 21, 2024

Chancellor Ray Rodrigues
Office of the Chancellor
State University System of Florida
325 W. Gaines St.
Tallahassee, FL 32399

Dear Chancellor Rodrigues:

We received your letter of May 9, 2024. Thank you for your response and willingness to engage in dialogue regarding the ongoing student protests at Florida universities. While we appreciate the opportunity to continue this discussion, we respectfully disagree, both as a matter of fact and law, that Florida universities have employed a “measured use of law enforcement” against the student protests or that the use of state and local law enforcement has been a “proper discharge of [your] constitutional and institutional duties.”¹ Instead, we see evidence of viewpoint-based discrimination and ask that you not allow political disagreement to keep you from protecting the rights of Florida’s students. We call on you to adhere to your obligations under the U.S. Constitution.

While your letter denies any viewpoint discrimination in connection with the responses to the current protests on campus, as noted in our initial letter, the situation in Florida suggests otherwise.

The State University System of Florida (“SUS”) and state officials have shown a pattern of antipathy toward pro-Palestinian messages suggesting that the response to the protests has been motivated at least in part by the demonstrators’ viewpoints.² For example, in a recent press conference, the President of the University of Florida referred to many of the student protests regarding the war in Gaza as “stupid and reductionistic”³ and Governor DeSantis has linked pro-Palestinian protesters to Hamas and claimed that student protesters want a “second Holocaust.”⁴ You recently lamented the “shameful” negotiations with students by universities in other states that have led to resolution.⁵

These statements from many of the highest state executives and university leaders indicate that the disproportionate use of force in response to recent campus protests may have been motivated by this pattern of antipathy and constitutes viewpoint discrimination, inimical to the fundamental principles of the First Amendment and the mission of our institutions of higher education. The deployment of the Florida Highway Patrol, mass student arrests with harsh tactics, use of chemical weapons, and the reported use of rubber bullets against overwhelmingly peaceful protesters⁶ demonstrate a lack of proportionality, which has chilled expression and put student and faculty safety at risk.⁷

Your letter also argues that student protests were not peaceful, by which we assume you mean that they were violent or threatened violence: “It follows that failure to follow the law, university regulation, or arming oneself is a far cry from peaceful protest.”⁸ However, failure to follow the law or university regulation does not mean that a protest is not peaceful. The facts you cite, such as students disregarding university policies or warnings or single instances of a student spitting on a law enforcement officer or an individual unaffiliated with the university discovered to be armed,⁹ do not justify the mobilization of such an immense police force, forceful arrests, and the use of chemical weapons. Rather, your allegations that protests were not peaceful lack evidentiary support, mischaracterize the situation, and make an unfair generalization. The conflation of civil disobedience with violence is patently incorrect and reinforces our concerns of bias.¹⁰

You mistake or mischaracterize the “failure to follow the law” or “university regulation” as violence. Peaceful acts of civil disobedience are disruptive by nature and have been used historically by various movements to challenge and change unjust laws and practices. If protesters decide to engage in civil disobedience, such as by refusing to disperse from a protest site, then responses must be proportional and employed in a manner that does not chill constitutionally protected speech.¹¹ Preventing disruption does not justify censorial tactics, and it is also important to note that many schools around the country, including Wesleyan University and Northwestern University,¹² were able to resolve demonstrations on their campuses through negotiation without the use of law enforcement or arrests.

This is a challenging moment for institutions of higher learning, but now is not the time for the forceful suppression of speech; it is an opportunity for meaningful dialogue. The measures you have dismissed as 'shameful'—fostering discourse and finding paths to reconciliation and understanding—should be prioritized. Engaging in good faith conflict resolution in response to student concerns is not a sign of weakness. Quite the contrary: it is the very essence of your responsibility as a leader. By distancing yourself from your own students and labeling them 'lawbreakers' and 'the guilty,' you are failing to meet this responsibility.¹³

The messages and statements of protesters and counterprotesters across Florida campuses deal with issues of deep complexity, turmoil, and pain, often using language that some find highly offensive and intimidating. But this is precisely why your leadership is so critical now. Florida must cease trying to drive out the ideas and identities some may find unfavorable¹⁴ and instead steer us to higher constitutional grounds.

When reports of antisemitism or Islamophobia arise on campuses, university leadership must respond—not with censorship but through due process, transparency, dialogue, and education. Dismissing all student criticisms of the Israeli government, including those by Jewish students, as antisemitic undermines these principles, chills speech, and hampers efforts to effectively address rising antisemitism and Islamophobia by failing to differentiate between hateful but constitutionally protected speech and targeted threats of violence or discriminatory harassment that are not protected by the U.S. Constitution. In the university context, it is crucial to ensure that campuses remain open to the broadest range of views possible to support the academic freedom and open inquiry that are fundamental to all great institutions of higher learning.

We invite you and other members of the SUS to join us in a meeting to discuss our concerns and how we can be of assistance as you navigate these difficult times. Our ability to rise above political differences and adhere to our constitutional principles of free speech is vital and recognized worldwide. As the United Nations Special Rapporteur on the Right to Education, Farida Shaheed, recently stated, free speech is “one of the cornerstones of the United States as a country, which has always been proud of its robust tradition of academic freedom. Today, this foundation is crumbling.”¹⁵ Let us take steps to ensure that Florida does not continue down this path. We appreciate your commitment to “the open exchange of knowledge and ideas.”¹⁶ To that end, we welcome the opportunity to continue this conversation and invite you and other members of the SUS to join us in a meeting to discuss our concerns and how we can be of assistance.

Please advise if you are willing to engage in this conversation and we will make plans accordingly.

Sincerely,

Katie Blankenship
Director, PEN America Florida

Cameron Driggers
Executive Director, Florida Youth Action Fund

Maxx Fenning
Executive Director, PRISM FL

Paulette Granberry Russell
President and CEO, National Association of Diversity Officers in Higher Education

Howard Simon
Interim Executive Director, ACLU of Florida

Irene Mulvey
President, American Association of University Professors

Adora Obi Nweze
President, NAACP Florida State Conference

Nadine Smith
Executive Director, Equality Florida

Cc: Florida university and college presidents;
Commissioner Manny Diaz, Jr.
Chairman Brian Lamb

¹ Letter from Ray Rodrigues, Chancellor, State University System of Florida, to the undersigned (May 9, 2024).

² The statements and actions discussed herein are part of a larger pattern of antipathy towards Pro-Palestinian messages and groups that began in October 2023. For example, the SUS in consultation with Governor DeSantis, attempted to shut down all Students for Justice in Palestine (SJP) chapters at Florida universities. See Johanna Alonso, *Florida Bans Students for Justice in Palestine on Public Campuses*, Inside Higher Ed (Oct. 25, 2023),

<https://www.insidehighered.com/news/students/free-speech/2023/10/25/florida-bans-students-justice-palestine-public-campuses> and PEN America, *Citing Grave Free Speech Concerns, PEN America Rejects Florida Campus Ban on Students for Justice in Palestine* (Oct 26, 2023),

<https://pen.org/press-release/citing-grave-free-speech-concerns-pen-america-rejects-florida-campus-ban-on-students-for-justice-in-palestine/>. Further, the Florida legislature, with Governor DeSantis' support and encouragement, attempted to pass a bill during the 2024 session, SB 470, that set forth vague prohibitions on students "promoting" terrorism in a manner that is inconsistent with federal law. This bill failed to pass. See SB 470: Postsecondary Education Students, <https://www.flsenate.gov/Session/Bill/2024/470>.

³ Jackson Walker, *University of Florida president slams campus protests as 'stupid and reductionistic'*, ABC 15 News (May 8, 2024), <https://wpde.com/news/nation-world/university-of-florida-president-slams-stupid-and-reductionistic-campus-protests-ben-sasse-pro-palestine-anti-israel-gaza-encampments-college-students>.

⁴ Divya Kumar, et al., *Police use tear gas on pro-Palestinian protesters in Tampa*, Tampa Bay Times, May 1, 2024, <https://www.tampabay.com/news/breaking-news/2024/04/30/live-updates-student-protest-standoff-with-police-usf-tampa-campus/>.

⁵ *Governor DeSantis speaks at the University of Florida in front of pro-Palestinian encampment*, FOX 13 Tampa Bay (May 8, 2024), <https://www.youtube.com/watch?v=Z90vJbpZlMM>.

⁶ Kumar, *supra*, note 4; Kylie Jones, *et al*, *USF protester found with gun, 10 arrests made after pro-Palestinian rally on campus: University police*, Fox13 Tampa Bay (Apr. 30, 2024), <https://www.fox13news.com/news/more-usf-protesters-taken-into-custody-after-tear-gas-used-to-disperse-rally>.

⁷ It is also critical for SUS leadership to ensure that their responses are not only proportional but uniform. When the responses to these protests are harsher or more extreme than past student speech or protests, there is again concern of viewpoint discrimination. For example, in 2022, over 250 student protesters disrupted a visit from Ben Sasse inside Emerson Hall. While disruptive, the protestors remained peaceful. The future University president acknowledged the students' right to free speech and the University did not employ use of force, law enforcement, or harsh penalties against the students. See Elena Barrera, *Protesters disrupt first visit to UF for school's presumptive new president*, WUFT (October 10, 2022), <https://www.wuft.org/education/2022-10-10/protesters-disrupt-first-visit-to-uf-for-schools-presumptive-new-president>.

⁸ Letter from R. Rodrigues, *supra* note 1.

⁹ See Kevin Accettulla and Nicole Rogers, *4 USF students among 10 arrested at pro-Palestine protest*, WFLA News Channel 8 (May 1, 2024), <https://www.wfla.com/news/hillsborough-county/4-usf-students-among-10-arrested-at-pro-palestine-protest/>.

¹⁰ This characterization also runs counter to research that has shown that 97% of protests around the country have been peaceful. See Bianca Ho & Kieran Doyle, *US Student Pro-Palestine Demonstrations Overwhelmingly Peaceful*, ACLED (May 10, 2024), <https://acleddata.com/2024/05/10/us-student-pro-palestine-demonstrations-remain-overwhelmingly-peaceful-acled-brief/>.

¹¹ See *Auburn All. For Peace & Just. v. Martin*, 684 F. Supp. 1072, 1077 (M.D. Ala.), *aff'd sub nom. Auburn All. for Peace v. Martin*, 853 F.2d 931 (11th Cir. 1988) (Restrictions "are valid provided that they are justified without reference to the conduct of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.") (citing *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984); See also *Fogarty v. Gallegos*, 523 F.3d 1147, 1161 (10th Cir. 2008) ("force is least justified against nonviolent misdemeanants who do not flee or actively resist arrest.") (internal citations omitted). See also PEN America, *Campus Free Speech Guide*, <https://campusfreespeechguide.pen.org> (including strategies for university administrators to address civil disobedience in a way that does not chill speech).

¹² See Cassandra Day, *Wesleyan leaders agree to pro-Palestinian demands to divest from weapons manufacturers*, CT Post (May 20, 2024), <https://www.ctpost.com/news/article/wesleyan-agrees-pro-palestinian-protesters-divest-19467694.php> and Peter O'Dowd, *How Northwestern University reached a deal with campus protestors*, WBUR (May 2, 2024), <https://www.wbur.org/hereandnow/2024/05/02/northwestern-campus-protestors> ("We thought the best way to sustainably deescalate the situation was to actually talk with our students.").

¹³ Letter from R. Rodrigues, *supra* note 1.

¹⁴ See Amanda Freedman and Vivienne Serret, *UF threatens pro-Palestinian student protesters with suspension, campus ban for 3 years*, Miami Herald (Apr. 26, 2024), <https://www.miamiherald.com/news/state/florida/article288046345.html> ("DeSantis this week said pro-Palestinian student protesters should be expelled from their universities, and that those who are international students should have their visas canceled.").

¹⁵ *Statement by the Special Rapporteur on the right to education, Ms. Farida Shaheed on her visit to the United States of America, 29 April-10 May 2024* (May 10, 2024), <https://www.ohchr.org/sites/default/files/documents/issues/education/statements/20240510-stm-eom-sr-education-usa.pdf>. The United Nations Special Rapporteur on the Right to Education, Farida Shaheed, recently offered findings about the current student protests across the country that are helpful here. She noted the "appalling" and "unequal treatment of protesters depending on their political position. Pro-Palestinian protesters are disproportionately affected by the harsh response, allegedly for their antisemitic views, paradoxically, even if they self-identify as belonging to the Jewish community or represent Jewish student associations." She made clear that "the expression of a critical political opinion is not, and will never be a legitimate ground to restrict freedom of expression."

¹⁶ Letter from R. Rodrigues, *supra* note 1.