



April 5, 2024

VIA E-MAIL

Mr. Brian Blake
President
Georgia State University
Office of the President
P.O. Box 3999
Atlanta, GA 30302-3999
Email: president@gsu.edu

Re: Passover Accommodations Request for Spring 2024 Finals Schedule

Dear President Blake:

By way of introduction, the American Center for Law and Justice (ACLJ) is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in several significant cases involving the freedoms of speech and religion.¹ We are writing because it has been brought to the ACLJ's attention that Georgia State University's final exam schedule is in conflict with observation of the Jewish holiday Passover.

Jewish students, across the country, have faced increasing hostile environments on university campuses, and that hostility greatly increased in the fall of last year. As you are aware,

¹ See, e.g., *Pleasant Grove v. Summum*, 555 U.S. 460 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors have First Amendment rights); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause). As a part of the organization's commitment to the freedom of speech, ACLJ attorneys regularly handle cases specifically involving the protection of academic freedom.¹ Our organization is dedicated to protecting constitutional liberties—especially the rights to free speech and religious expression—by engaging legal, legislative, and cultural issues through advocacy, education, and litigation.

on October 7, 2023, the antisemitic genocidal terrorist group Hamas perpetrated the barbaric slaughter of over 1500 men, women, and children, in the deadliest attack against Jewish people since the Holocaust. They raped, tortured, mutilated, killed, and defiled the corpses of everyone from infants to the elderly, and they filmed themselves doing it to further victimize members of the families and of the broader Jewish community. As President Biden described it, these were acts of pure evil. Incredibly, however, on campuses across the country, a number of student groups and individuals stood up to *defend the terrorists*, including by *denying* that Hamas did the very things they proudly and openly filmed themselves doing. This depraved antisemitic support for an organization whose charter literally calls for the extermination of every Jewish person in the world - including on your campus- is both shocking and terrifying. Jewish students watching the mass denial of the slaughter of their people were and are rightly terrified.

This first Passover following the horrific attack on Israel and the Jewish people is especially meaningful to many Jews, and even those who do not generally take part in the full religious observance of Passover will want to do so this year.

As currently scheduled, the exam testing period shall run from April 23, 2024 - April 30, 2024. This year, the first Passover seder will commence at sundown on Monday, April 22, 2024. Observation of the holiday continues through nightfall on April 30, 2024. Passover is a religious holiday integral to the Jewish faith, and religiously observant Jewish students at the University may encounter difficulty completing any exams that are scheduled during the days of the Passover. Observation practices include synagogue services and special meals. For many, they also include abiding by the rules of the Sabbath, such as abstaining from traveling, using technology or electricity, and working during the first and last two days of Passover.

In light of the above, we respectfully ask that you proactively address this conflict for the students and faculty by publicly acknowledging that a conflict exists and directing them to the accommodation procedure to rectify this issue.

The ACLJ has taken action on numerous occasions to stand in the gap and protect Jewish students and professors from harassment and discrimination using Title VI of the Civil Rights of 1964.² A recent survey indicates that antisemitism remains a persistent, pervasive, and disturbing problem in contemporary American society, and that Jewish people continue to be a targeted minority in the United States.³

From its inception, the United States has been dedicated to ensuring people of all religious faiths are endowed with the benefits of religious liberty. One need look no further than the First Amendment to see the prominent role this liberty plays in the lives of Americans.

² 42 U.S.C. § 2000d.

³ Compare The State of Antisemitism in America 2022: AJC's Survey of the General Public, AM. JEWISH COMM., <https://www.ajc.org/AntisemitismReport2022/GeneralPublic> (last visited Mar. 20, 2024), with The State of Antisemitism in America 2022: AJC's Survey of American Jews, AM. JEWISH COMM., <https://www.ajc.org/AntisemitismReport2022/AmericanJews> (last visited Mar. 20, 2024).

Additionally, United States Title VI of the federal Civil Rights Act of 1964⁴ requires recipients of federal funding to ensure their programs and activities are free from harassment, intimidation, and discrimination on the basis of race, color, and national origin. In a September 13, 2004, Dear Colleague letter,⁵ the Department of Education Office for Civil Rights (OCR) clarified that their jurisdiction extends to antisemitism complaints to the extent that they implicate ethnic or ancestral bias. As the OCR policy directive explained, “[g]roups that face discrimination on the basis of shared ethnic characteristics may not be denied the protection of our civil rights laws on the ground that they also share a common faith.”⁶ This reasoning has been confirmed in court as well.⁷

The executive order, “Combating Anti-Semitism,” not only restated longstanding OCR policy that Jewish students are protected against antisemitism under Title VI; it states that all federal agencies—including the Department of Education—should consider the International Holocaust Remembrance Alliance’s (IHRA’s) definition of antisemitism in the enforcement of Title VI.⁸ The Biden administration has repeatedly confirmed that this executive order remains binding policy for the Department. By signing the annual Title VI compliance form and accepting federal assistance, your school has accepted an affirmative obligation to ensure that *all* students, including Jewish students, have a harassment-free educational environment in which to learn. Now is an especially difficult time for many Jewish students, and your University has the opportunity to be a leader among universities and to provide Jewish students with support and accommodations that ensure the hostility that they have faced from others is not added to by an inability to simultaneously practice their faith and pursue their education on your campus.

⁴ *Civil Rights Requirements: A. Title VI of the Civil Rights Act of 1964*, 42 U.S.C. 2000d et seq. (“Title VI”), U.S. DEP’T OF HUMAN RESOURCES, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needy-families/civil-rights-requirements/index.html#:~:text=Title%20VI%20of%20the%20Civil%20Rights%20Act%20of%201964%2C%2042,or%20other%20Federal%20financial%20assistance> (last updated July 26, 2013).

⁵ Kenneth L. Marcus, Deputy Assistant Sec’y for Enforcement, Office of Civil Rights, U.S. Dep’t of Educ., Dear Colleague Letter: Title VI and Title IX Religious Discrimination in Schools and Colleges (Sept. 13, 2004), <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

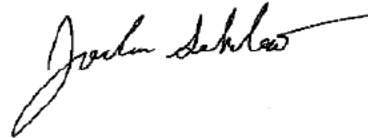
⁶ *Id.*

⁷ *T.E. v. Pine Bush Cent. Sch. Dist.*, 58 F. Supp. 3d 332, 354 (S.D.N.Y. 2014).

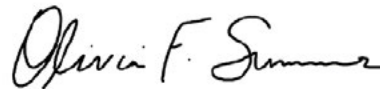
⁸ Executive Order 13899 of December 11, 2019 (84 FR 68779). That definition states, “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

We request your response on or before April 12th stating (1) your assurance that this reasonable accommodation will be resolved, and (2) providing explanation as to when and how it will be resolved.

Sincerely,



Jordan Sekulow
Executive Director



Olivia F. Summers*
Senior Litigation Counsel
AMERICAN CENTER FOR
LAW & JUSTICE



**Admitted in VA & DC*