



## National Lawyers Guild-South Florida, Center for Constitutional Rights, and American-Arab Anti-Discrimination Committee Respond to FAU Statement

*August 29, 2013* – Florida Atlantic University’s (FAU) recent [public statement](#) about the controversy surrounding the disciplinary process against students who protested an Israeli soldier’s speaking event claims that media outlets inaccurately reported that students were unlawfully disciplined. But it is FAU that has engaged in misleading the public. The statement summarily denies that FAU violated the students’ First Amendment rights without addressing the central facts supporting the allegations that the disciplinary process was unacceptable and potentially unlawful.

First, the statement emphasizes that the students voluntarily agreed to the disciplinary conditions. While it is true that they could have rejected the agreement and gone through a disciplinary hearing instead, the students did not view this as a real choice, given that disciplinary hearings are often highly biased in favor of the University, provide students with few rights, and could result in even harsher sanctions and a disciplinary record. Their decision to sign the agreements was based on their desire to avoid protracted legal battles with the University and a negative disciplinary record, and to resume their studies undistracted by the disciplinary process.

Second, FAU claims offense at the students’ criticism of the anti-bias training they are required to attend, but fails to address the reason for the criticism. The training was developed by the Anti-Defamation League (ADL), which is dedicated to suppressing student views critical of Israeli policies, and has publicly maligned some of these same FAU students and called for their discipline in the past. While these students battle bias against them, the University and outside organizations seek to portray them as bigoted and in need of lessons on diversity, civility and anti-bias. The imposition of the training is especially offensive coming from an organization like the ADL, which attempts to suppress opposing views on one of the most pressing human rights issues of our time.

Third, FAU’s statement fails to address the important fact that the protest in question did not prevent the presenter from speaking. FAU is correct that the rights of free speech and expression are not absolute, and that not all public demonstrations are permitted at all times in all places. However, FAU must also acknowledge that a public university, acting as a “marketplace of ideas,” must not apply regulations that are overly restrictive and must not apply such regulations unevenly in a way that restricts particular viewpoints.

The protest that led to disciplinary actions against some participating students lasted no longer than 1 to 2 minutes, according to the public record. The speaking event went on as planned, and the speakers fully availed themselves of their right to be heard. The [media reports](#) that FAU says are “misleading and inaccurate” are in fact accurate, and based on [two letters to FAU](#), written by concerned civil rights organizations, with supporting case law and a full description of the relevant facts. These letters explain to FAU that the First Amendment protects brief protests at public universities like FAU unless they amount to material and substantial disruption, which was not the case in the protest at issue.

FAU's statement also misleadingly refers to the rule prohibiting yelling "fire" in a crowded theatre. There was nothing in this case that represented a threat of creating disorder or violence, or an intent to provoke violence against anyone. The students were within their rights to briefly and peacefully protest the event, and FAU policies that restrict that kind of speech activity may be unconstitutional.

Unfortunately, FAU has not replied substantively to the issues that the Center for Constitutional Rights, the National Lawyers Guild and the American-Arab Discrimination Committee raised regarding FAU's actions. If it is true that the disciplinary process had "absolutely nothing to do with the message of either the speaker or the protestors," then the University should clarify how their policies are constitutional and their actions were "content-neutral," despite the overwhelming evidence to the contrary.

It is clear that students who have been affected by this disciplinary process, along with others involved in their student group, Students for Justice in Palestine, have been under increasing scrutiny because of false accusations from outside organizations that disagree with their political views on Israel-Palestine. These organizations are engaged in nation-wide campaigns to silence student activism for Palestinian rights. The University has gone to great lengths to prove its commitment to making Jewish students feel welcome on campus. It seems to be doing so, however, at the expense of students who advocate for Palestinian human rights.

Students who wish to engage in speech critical of Israeli policies toward Palestinians would be very grateful to see that the University does not in fact wish to punish their message, and respects their rights to express their views free from unwarranted and heavy-handed disciplinary measures.