



**Middle
East
Studies
Association**
of North America, Inc

Headquarters & Secretariat

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6 November 2024

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Dear President Smith and colleagues:

We write on behalf of the Middle East Studies Association of North America (MESA) and its Committee on Academic Freedom to express our concern about the flawed disciplinary proceedings involving a number of its students that Swarthmore College is currently conducting. We regard these proceedings, along with some of the college's policies and recent actions, as posing a threat to the ability of its students and faculty to exercise their academic freedom and freedom of speech and assembly, thereby calling into question Swarthmore's avowed commitment to upholding these rights.

MESA was founded in 1966 to promote scholarship and teaching on the Middle East and North Africa. The preeminent organization in the field, the Association publishes the prestigious *International Journal of Middle East Studies* and has nearly 2,800 members worldwide. MESA is committed to ensuring academic freedom and freedom of expression both within the region and in connection with the study of the region in North America and outside of North America.

In May 2024, 25 students at Swarthmore College who had engaged in activism in support of Palestinian rights and opposition to Israeli and US policies toward the Palestinians during the 2023-2024 academic year were formally issued letters outlining charges against them; they are currently undergoing disciplinary proceedings. These letters alleged various violations of student conduct policies outlined in the Swarthmore [Student Handbook](#), which differentiates between minor and major forms of misconduct. The character, conduct and context



of these disciplinary proceedings raise serious concerns about due process and selective enforcement.

We find it distressing that Swarthmore chose to outsource, to a private law firm, the investigation of the alleged violations, the authoring of charge letters and the determination of what evidence accused students are allowed to access, with no clear or consistent standard across cases. This decision creates a significant risk that the personnel involved will lack adequate knowledge of Swarthmore College's policies and practices, and that they will not be respectful of due process or of students' right to freedom of expression and to privacy. For example, we note that, in the case of at least one student, the initial charge letter included the following alleged violations of the Student Handbook: "assault," "harassment based on a protected class," and "hate crime." The "hate crime" charge was subsequently dropped because there is in fact no such category of misconduct specified in the Handbook. These issues call into question the fairness of the disciplinary proceedings and are likely to result in deviations from Swarthmore's established disciplinary procedures.

Swarthmore has also denied accused students' requests to have legal representation at disciplinary proceedings, though this is accepted practice at many other colleges and universities. The college has, in addition, allowed the attorney from the external law firm who conducted the investigation and authored the charge letters to participate in the hearings, ostensibly as a witness, which we regard as a gross violation of due process. To make matters worse, reports indicate that Swarthmore has actively encouraged students to initiate criminal or civil proceedings against anyone they believe has committed acts of harassment or assault, if the college has found them guilty of a disciplinary infraction.

The disciplinary proceedings against these 25 students also appear to exemplify selective enforcement. Many of the actions that are being framed as violations of college policy are in fact regular features of the tradition of student activism that Swarthmore College claims to celebrate. We note that students who engaged in protest activity related to sexual harassment and assault, climate change and Black Lives Matter have faced far fewer charges in both number and severity, despite deploying more or less identical methods of protest. At the same time, most of the alleged minor misconduct charges against the 25 students involve posting fliers, putting up posters and chalking political messages in "undesigned areas." Yet Swarthmore students have been doing the same things regarding other issues for years and continue to do so today, without facing investigation or



disciplinary action. This disparity suggests that what is at issue is not the time, place and manner of the actions in which the 25 students are alleged to have engaged but the political perspective they were expressing.

Such content-based discrimination also seems to have informed the Swarthmore administration's interactions with faculty members on several occasions. We note that last spring the college's Board of Management invited several faculty members to a discussion, ostensibly about pedagogy. During the meeting board members questioned individual faculty members about their decision to sign a petition supporting the rights of students critical of Israeli and US policies to hold an encampment. We also note that over the past summer the Swarthmore Bias Incident Response Team (BIRT) sent emails to several faculty members warning them that their decision to follow a satirical Instagram account made some students feel unwelcome in their classrooms. These actions threaten the academic freedom and free speech rights of faculty and are likely to have a chilling effect on their ability to express and share their views on matters of public concern.

This country's institutions of higher education should be places in which all members of the campus community can express their views and seek knowledge freely. In these fraught times college and university leaders have a heightened responsibility to protect the freedom of speech and academic freedom of all members of the campus community. This is all the more important now, when violence is raging in the Middle East, our own government is so deeply involved in what is happening, and various individuals and organizations with a political agenda are seeking to vilify and silence students with whom they disagree.

We therefore call on Swarthmore College to ensure that the investigation and adjudication of disciplinary charges against these 25 students be conducted in a fair and transparent manner, in full conformity with the right to due process. We also call on Swarthmore College to refrain from selective and disproportionate disciplinary measures against students, faculty and staff who are exercising their right to freedom of speech and assembly, and their academic freedom, including by expressing their support for Palestinian rights and for changes in Israel, US and college policies. More broadly, Swarthmore must refrain from adopting any policy, or taking any measure, which is likely to exert a further chilling effect on teaching, learning and freedom of expression on campus. Finally, we urge Swarthmore College to publicly and forcefully reaffirm its commitment to



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protecting the free speech rights and academic freedom, as well as the safety and well-being, of all members of the campus community.

We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Asli U. Bali'.

Aslı Ü. Bâli

MESA President

Professor, Yale Law School

A handwritten signature in black ink, appearing to read 'Laurie A. Brand'.

Laurie Brand

Chair, Committee on Academic Freedom

Professor Emerita, University of Southern California