



April 5, 2024

**VIA EMAIL**

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Re: Title VI Complaint Against University of North Carolina-Chapel Hill (National Origin–  
Palestinian)

Dear Secretary Cardona, Assistant Secretary Lhamon, and Deputy Assistant Attorney General  
Smith:

Palestine Legal is writing on behalf of Professor Elyse Crystall and graduate student  
Kylie Broderick to file a complaint against the University of North Carolina-Chapel Hill for its  
discrimination against Palestinian students and students perceived to be Palestinian or affiliated  
with Palestinians. UNC-Chapel Hill has engaged in a pattern of different treatment when it  
comes to Palestinian students and their allies.

Based on the facts described here, we urge you to conduct a systemic investigation into  
UNC-Chapel Hill for violating its obligations under Title VI of the Civil Rights Act of 1964.

## I. Incidents of Anti-Palestinian Discrimination

### *UNC-Chapel Hill Provides Resources to Israeli Students, But Not Palestinian Students*

On October 10, 2023, the Dean of Students office sent an email to all current and former students whose birthplaces were listed “in or around Israel” in UNC records to extend support and resources—including mental health counseling and academic accommodation.<sup>1</sup> According to students we have spoken with, several Palestinian students received this message because their birthplace was listed as Israel. No other Palestinian students reported receiving this message. UNC Chancellor Kevin Guskiewicz and Vice Provost for Equity and Inclusion and Chief Diversity Officer Leah Cox also met with members of North Carolina Hillel for two hours that night and sent a follow-up email to “Hillel Friends and Students” on October 12.<sup>2</sup>

On October 13, Chancellor Guskiewicz sent a university-wide email stating that “senseless acts of terror in Israel by Hamas are horrifying,” but did not similarly acknowledge the indiscriminate killing of Palestinians by the Israeli government.<sup>3</sup> The chancellor’s email explained that “Jewish and Muslim students are affected by this violence in different ways,” but only stated that “there is no place for antisemitism or prejudice on our campus,” failing to similarly condemn racism against Muslims. By reducing the issue to one that affects students based on their religious identities, the chancellor omitted the ways national origin also shapes how people, particularly Palestinians, are affected by the indiscriminate killing of Palestinians, irrespective of their religious affiliation or lack thereof.

Unlike the university’s rapid response and proactive outreach to hear the concerns of and provide support to Israeli and Jewish students, administrators did not attempt to connect with Palestinian students or other groups associated with Palestinians (or with a high percentage of Palestinian members) on campus until they themselves requested a meeting. On October 13, leaders of the Arab Student Organization and Muslim Students Association requested a meeting with campus administrators to address the university’s discriminatory treatment. On October 17, the leaders of these groups as well as Students for Justice in Palestine met with UNC-Chapel Hill leadership, including Chancellor Guskiewicz, Vice Chancellor for Student Affairs Amy Johnson, and Vice Provost for Equity and Inclusion Leah Cox. In that meeting, the student leaders raised concerns about the lack of reference to Palestinians in the chancellor’s October 13 statement. The students also pointed out that the chancellor’s claim that Jewish and Muslim students are affected by violence differently foments anti-Muslim animus by suggesting that October 7 was a religious conflict and that the chancellor failed to acknowledge the needs—or even existence—of Palestinians who are not Muslim.

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<sup>1</sup> Exhibit 1: Email from Dean of Students to current and former Israeli students (Oct. 10, 2023).

<sup>2</sup> Exhibit 2: Email from Chancellor K. Guskiewicz to Trustees (Oct. 12, 2023).

<sup>3</sup> Exhibit 3: University-wide email from Chancellor K. Guskiewicz to all students, faculty, and staff (Oct. 13, 2023). An earlier draft of the email by the chancellor’s chief of staff had mentioned “the devastation in Gaza” in the same sentence. Exhibit 4: Email from Chief of Staff Christi Hurt to Chancellor K. Guskiewicz (Oct. 13, 2023). According to time stamps on the chancellor’s emails, this was apparently removed between 12:34 p.m. and 4:58 p.m. that day. Compare Exhibit 5: Email from Chancellor K. Guskiewicz to Director of Executive Communications Lucy Dunderdale Cate (Oct. 13, 2023) with Exhibit 6: Chancellor K. Guskiewicz to UNC President Peter Hans (Oct. 13, 2023). The chancellor had reached out to Hillel International Vice President for University Initiatives and General Counsel Mark B. Rotenberg, who had urged the chancellor to issue a statement, for a phone call between these drafts. Exhibit 7: Email from Chancellor K. Guskiewicz to Mark B. Rotenberg (Oct. 13, 2023).

The student leaders additionally shared that the October 10 email sent to Israeli (current and former) students demonstrated the university's different treatment and lack of regard for Palestinian students. Because they were not informed of or directed to access UNC-Chapel Hill support services, Palestinian students were given no support while Israeli students were given access and encouraged to use these services. Administrators claimed that an email had also been sent to all groups affiliated with Palestine. Students explained that this was false.

On October 18, the dean of students, who had sent the October 10 email to current and former Israeli students, sent a similar message to the leaders of the Arab Student Organization, the Muslim Students Association, and Students for Justice in Palestine.<sup>4</sup> While the emails claimed to address members of the organizations, they were not sent to the organizations' membership, which is on file with the university. By October 18, Israel had killed almost 3,500 Palestinians in Gaza and 12,000 had been wounded in its 10-day long siege.<sup>5</sup> Notably, the message included no tailored support to Palestinian students whose family had been killed or injured, nor to Muslim students who had experienced Islamophobia on campus. It is unclear whether the university made any effort to identify and reach out to Palestinian students. Besides the Palestinian students who had received the October 10 email by virtue of having Israel listed as their birthplace in school records, Palestinian students did not report receiving any targeted email from the university.

On November 17, student leaders of the Arab Student Organization, Muslim Students Association, and Students for Justice in Palestine met again with Vice Chancellor for Student Affairs Amy Johnson and Vice Provost for Equity and Inclusion Leah Cox where they emphasized again the lack of resources provided to students whose families were being indiscriminately killed in Palestine. The administrators promised that they would reach out to provide additional resources, but the students never received such a message.

### ***UNC Silent While Palestinian Students and Their Allies Endure Bullying and Harassment***

On October 12, the UNC chapter of Students for Justice in Palestine held a rally, where students and a faculty member, Religious Studies professor Evyatar Marienberg, shouted at the students calling them "Nazis."<sup>6</sup> According to a statement circulated by current and former students from UNC's Religious Studies department, "Marienberg is not new to this kind of behavior: on numerous occasions dating back to 2016 he has targeted faculty in our department who are Muslim and have shared information about boycott, divestment, and sanction efforts in support of Palestinians, facing little-to-no repercussions or formal disciplinary actions from department heads," the statement said. According to emails obtained by the *Daily Tar Heel*, Marienberg sent emails to the department listserv that said "many Muslims are very much involved in recent years in horrific acts of violence against minorities, gay people, civilians, other countries, airplanes, and more." After Marienberg's verbal attack on student protesters, several students and faculty reported the incident to UNC's Equal Opportunity and Compliance Office, and all the complaints were reportedly dismissed.

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<sup>4</sup> Exhibit 8: Email from Dean of Students to Arab Students Organization (Oct. 18, 2023).

<sup>5</sup> Exhibit 9: CNN, "Israel-Hamas war news," <https://www.cnn.com/middleeast/live-news/israel-news-hamas-war-10-18-23/index.html> (Oct. 18, 2023).

<sup>6</sup> Exhibit 10: *Daily Tar Heel*, "Professor's past comments, actions at protest raise concerns among students," (Nov. 20, 2023)

The university has also failed to take any apparent action to protect students who have faced doxing, harassment, and threats as a result of their actual or perceived Palestinian identity or affiliation.<sup>7</sup>

### ***UNC Stands by Trustee's Racist Crusade Against Students for Justice in Palestine***

UNC administrators have acquiesced to racist and anti-democratic demands made by UNC Board of Trustees member Marty Kotis. Many of these revelations were detailed in a December 5, 2023, piece in *The Daily Tarheel*, titled “UNC administrators, state politicians alarmed by Students for Justice in Palestine.”<sup>8</sup> Palestine Legal wrote to the university on December 8 calling on it to distance itself from Kotis’ racism,<sup>9</sup> but the university denied wrongdoing and failed to denounce Kotis or apologize to students for his racism.<sup>10</sup>

Kotis said in an October 12 email referencing the campus rally for Palestine that had been held that day that “it’s been reported that some of the speeches today were given in Arabic and the need [sic] to translate those to ensure there were not calls for or threats of violence.”<sup>11</sup> Frederick E. Sellers, the vice president for safety & emergency operations for the UNC System, responded to Kotis on October 12, saying both university and government security forces monitored the situation, including “conversations conducted in foreign languages.”<sup>12</sup> State Rep. Jon Hardister reiterated this demand in a follow-up email to Kotis, stating, “I would like to know if any remarks were made in Arabic and, if so, whether or not those remarks were recorded. If they were, then I would strongly recommend that a translator review the audio to determine what kind of messages were being sent — and whether or not threatening verbiage was utilized.”<sup>13</sup> Administrators also informed students in their October 17 meeting that there would be a threat assessment conducted into “Arabic chants.” The baseless association of the Arabic language with threats reflects longstanding anti-Arab and anti-Muslim tropes.<sup>14</sup> This reference to a threat assessment was particularly problematic because students had reported to administrators during that same meeting that students who participated in the campus rally had been doxed and had received death threats online, but administrators did not acknowledge or provide students any support for the threats they were facing.

On October 13, Kotis called for defunding Students for Justice in Palestine, suggesting that a special meeting of the board could be held.<sup>15</sup>

On October 16, Kotis sent an email to the provost saying that the wearing of masks during the October 12 rally seems to violate state law and university policy.<sup>16</sup> Less than two

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<sup>7</sup> Exhibit 11: *Daily Tar Heel*, “Op-ed: UNC SJP responds to hostile campus climate and anti-Palestinian racism” (Nov. 2023)

<sup>8</sup> Exhibit 12: *Daily Tar Heel*, “UNC administrators, state politicians alarmed by Students for Justice in Palestine” (Dec. 5, 2023).

<sup>9</sup> Exhibit 13: Letter from Zoha Khalili to Vice Chancellor for Student Affairs Amy Johnson (Dec. 8, 2023).

<sup>10</sup> Exhibit 14: Email from Vice Chancellor and General Counsel Charles Marshall to Zoha Khalili (Dec. 15, 2023).

<sup>11</sup> Exhibit 15: Email from Trustee Marty Kotis to Provost J. Christopher Clemens (Oct. 12, 2023).

<sup>12</sup> Exhibit 16: Email from Vice President Frederick E. Sellers to Trustee Kotis (Oct. 12, 2023).

<sup>13</sup> Exhibit 17: Email from Rep. Jon Hardister to Trustee Kotis (Oct. 13, 2023).

<sup>14</sup> See Sahar F. Aziz, *Sticks and Stones, the Words That Hurt: Entrenched Stereotypes Eight Years After 9/11*, 13 N.Y.C. L. Rev. 33 (2009).

<sup>15</sup> Exhibit 18: Email from Trustee Kotis to Chief Strategy Officer and Assistant Secretary to the Board of Trustees Christopher McClure (Oct. 13, 2023).

<sup>16</sup> Exhibit 19: Email from Trustee Kotis to Provost J. Christopher Clemens (Oct. 16, 2023).

weeks later, the provost sent a campuswide email drawing attention to the university's rules against masking during demonstrations.<sup>17</sup> This email did not acknowledge that North Carolina law specifically permits wearing masks to protect "the physical health or safety of the wearer or others" or that the university was not only encouraging the wearing of masks to combat COVID-19, but was also actively distributing masks on campus. On October 25, Students for Justice in Palestine clarified in a public Instagram post that their masking policy was for the protection of their immunocompromised members and allies.<sup>18</sup> On March 21, 2024, the provost sent an email to Students for Justice in Palestine calling on them to "ask the students not to wear masks (except for allowable medical exceptions or religious head coverings) for their protests. This practice, currently encouraged by leadership, runs counter to our campus norms and is a violation of UNC policy and State law."<sup>19</sup> This email, sent on the eve of a campus action for Palestine, sparked serious concern among students, prompting Palestine Legal to reach out to the school for clarification on whether the school viewed the Students for Justice in Palestine masking policy, as elucidated in their October 25 Instagram post, as a violation of state law or university policy.<sup>20</sup> The provost did not reply to this inquiry.

On November 17, members of Students for Justice in Palestine and allied groups held a peaceful sit-in in support of Palestinian lives in a waiting area of South Building on the UNC campus for three hours.<sup>21</sup> Though UNC buildings are generally open to the public from 7:30 a.m. to 7:30 p.m. on weekdays,<sup>22</sup> the building was locked down once the sit-in started, limiting students' access to bathrooms, food, and water. The building was ultimately closed early, and the sit-in ended after students were threatened with arrest and academic sanctions if they did not leave.

In response to this protest, Kotis pushed for students to be named and punished, telling the *Daily Tar Heel* that the university should "identify individual students who participated in the sit-in and sanction them depending on their role and previous history, potentially 'leading up to expulsion.'"<sup>23</sup> An earlier student sit-in, unrelated to Palestine, that blocked the entrance to South Building for 32 hours in February 2023, took place with no report of police involvement or conduct charges.<sup>24</sup> Instead university staff accommodated the protest, the chancellor even moving a meeting to the entrance in order to hear the students' demands without requiring them to end their sit-in.

Unlike the university's approach nine months earlier, the university reacted to the sit-in for Palestine with a police response. Rather than hearing out Palestinian students' concerns, the

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<sup>17</sup> Exhibit 20: Email from Provost J. Christopher Clemens to Carolina Community (Oct. 24, 2023).

<sup>18</sup> Exhibit 21: @uncsjp, Instagram, <https://www.instagram.com/p/Cy1MfX5J-as/?hl=en> (Oct. 25, 2023).

<sup>19</sup> Exhibit 22: @uncsjp, Instagram, <https://www.instagram.com/p/C4yim18uxkg/?hl=en> (March 21, 2023).

<sup>20</sup> Exhibit 23: Email exchange between Provost J. Christopher Clemens and Zoha Khalili (March 22-23, 2024).

<sup>21</sup> Exhibit 24: UNC Students for Justice in Palestine (SJP), Statement on Our November 17th Sit-in at South Building, [https://docs.google.com/document/d/e/2PACX-1vT0je8EqOldIc6WKDU-kB\\_w\\_QztHvTjBmiZ4OMCFXBrAsTR5GjLM6k5fZcMqG-Rh6ockI0Qw5blSu1H/pub](https://docs.google.com/document/d/e/2PACX-1vT0je8EqOldIc6WKDU-kB_w_QztHvTjBmiZ4OMCFXBrAsTR5GjLM6k5fZcMqG-Rh6ockI0Qw5blSu1H/pub) (Nov. 24, 2023).

<sup>22</sup> Exhibit 25: Building Access, UNC <https://facilities.unc.edu/services/building-access>.

<sup>23</sup> Exhibit 12: *Daily Tar Heel*, "UNC administrators, state politicians alarmed by Students for Justice in Palestine" (Dec. 5, 2023).

<sup>24</sup> Exhibit 26: *Daily Tar Heel*, "No body or mind left behind': The 32-hour fight for accessibility at UNC" (March 1, 2023).

university closed down the building and threatened students with arrest. The university is now pursuing student conduct charges against Students for Justice in Palestine over the sit-in.

## II. UNC-Chapel Hill's Actions Violate Title VI of the Civil Rights Act of 1964

As an institution that receives federal financial assistance, UNC-Chapel Hill is required to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, which protects individuals from being “excluded from participation in, be[ing] denied the benefits of, or be[ing] subjected to discrimination” on the basis of race, color, or national origin. Title VI’s implementing regulation at 34 C.F.R. Part 100 prohibits discrimination on the basis of race, color, or national origin in education programs and activities that receive federal financial assistance from the U.S. Department of Education.

A university recipient of federal funding may be found to have violated Title VI in one of two ways: if it commits a discriminatory act of its own or if it permits a hostile environment, i.e., when harassment by a third party or student is “so severe, pervasive, and objectively offensive that it effectively bars the victim’s access to an education opportunity or benefit.”<sup>25</sup>

A university recipient that has actual or constructive knowledge of a hostile environment must take prompt and effective steps that are reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects, by ensuring that students are not restricted from participating in or benefiting from educational opportunities as result of a hostile environment.<sup>26</sup> A university that responds with deliberate indifference or fails to take appropriate responsive action to a known hostile environment violates Title VI and risks losing federal financial assistance.<sup>27</sup>

Targeted and pervasive harassment of Palestinians and groups associated with Palestinians on campus on the basis of national origin or perceived national origin is actionable under Title VI where such harassment impedes the educational opportunities of the targeted students. As a university obligated to provide an educational environment welcoming to all regardless of race, color, or national origin, UNC-Chapel Hill cannot justify its failure to address the hostile anti-Palestinian environment students have been subjected to by its own administrators, professors, and police department.

The discrimination, stereotyping, different treatment, and racial profiling described above were not isolated instances. They are the product of both a deep-rooted, dehumanizing bigotry against Palestinians, as well as organized campaigns by anti-Palestinian groups and their allies to suppress speech supporting Palestinian rights on college campuses—which the university not

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<sup>25</sup> See *Davis ex rel. LaShonda v. Monroe Cty. Bd. Of Educ.*, 526 U.S. 629, 633 (1999). Although *Davis* is a Title IX case, the same legal standards are applied to Title VI enforcement. See, e.g., *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 258 (2009) (“Congress modeled Title IX after Title VI of the Civil Rights Act of 1964, and passed Title IX with the explicit understanding that it would be interpreted as Title VI was.”)

<sup>26</sup> See, e.g., Letter from Melanie Velez, Reg’l Dir., Dep’t of Educ. Office for Civil Rights Region IV to Kathryn LeRoy, Superintendent of Polk County Pub. Schs. at 3 (March 23, 2016) (RE: Case No. 04-14-1664), available at <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/04141664-a.pdf>.

<sup>27</sup> 42 U.S.C. § 2000d-1 (1964).

only did nothing to address or distance itself from, but further contributed to by committing discriminatory acts of its own.

Palestinian students and those associated with Palestinian identity through their membership in Students for Justice in Palestine have not been afforded equal access to support from their university and have been singled out for intimidation and investigation at a time when a genocide is unfolding before their eyes. Through the university's different treatment of Students for Justice in Palestine, the university is not only harming the Palestinian and perceived Palestinian members of the organization, but it is also creating a hostile environment for other Palestinian students on campus who may be less inclined to publicly exist as Palestinians on campus because of the university's open hostility toward a student organization devoted to justice and equality for Palestinians.

There is simply no justification for UNC-Chapel Hill's different treatment of Palestinian students and students associated with Palestinian identity. Through lack of support and discriminatory enforcement of its policies, UNC-Chapel Hill's actions violate Title VI of the Civil Rights Act of 1964.

### **III. Remedies: OCR Should Require UNC-Chapel Hill to Comply with Title VI by Ensuring That Palestinian Students (and Students Perceived to Be Palestinian) Have Equal Access to Educational Opportunities at UNC-Chapel Hill**

OCR should require the university to take the following steps:

#### **a. UNC-Chapel Hill Must Ensure That Palestinian Students Are Able to Access Services on a Basis Equal to Other Students**

UNC-Chapel Hill's actions demonstrate a systemic failure to address the needs and concerns of Palestinian students. OCR should conduct a review and establish ongoing monitoring of UNC-Chapel Hill's handling of complaints of discrimination against Palestinian students and their allies, and where necessary, reopen investigations that were not conducted properly. The university must adopt mandatory training across campus on anti-Palestinian racism. UNC-Chapel Hill must also implement mechanisms to protect students from discriminatory harassment by external and internal entities for their campus activities.

In order to ensure that UNC-Chapel Hill provides Palestinian students equal access to services on an ongoing basis, the university must also establish a formal mechanism, such as an advisory committee on Palestinian student life, to allow students to voice their needs and concerns and to monitor actions by the university to remedy its discriminatory treatment of Palestinian students.

**b. UNC-Chapel Hill Must End Discriminatory Investigations of Palestinian (or Perceived Palestinian) Groups, Students, Faculty, or Staff and Their Allies Who Advocate for Their Equal Treatment**

UNC-Chapel Hill must cease discriminatory, intrusive investigations of Palestinian students, Students for Justice in Palestine, faculty, staff, or other student groups who advocate for Palestinian rights or criticize Israel. Because Palestinian students and those who believe in equality for Palestinians are subjected to campaigns of harassment and intimidation by anti-Palestinian groups,<sup>28</sup> UNC-Chapel Hill must ensure that processes are put in place, including the trainings on anti-Palestinian and anti-Arab racism described above, to ensure that Palestinians and their allies are not further victimized by investigations that validate and give fuel to these campaigns of hate.

**c. UNC-Chapel Hill Must Apologize for Its Actions and Issue a Statement Condemning Anti-Palestinian Racism and Discrimination**

UNC-Chapel Hill must issue a public statement condemning anti-Palestinian racism on its website, on social media, and to the campus community. The university must apologize for its failures to provide support to Palestinian students and its selective targeting of Palestinian students/groups for intimidation and investigation. The statement must use the word Palestine or Palestinian—not simply an overbroad category such as Arab or Muslim, which in the wrong context could contribute to Palestinian erasure.

**IV. Conclusion**

For the above-mentioned reasons, we urge OCR to investigate the UNC-Chapel Hill's compliance with Title VI of the Civil Rights Act of 1964.

Sincerely,



Zoha Khalili  
Senior Staff Attorney  
Palestine Legal

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<sup>28</sup> See CTR. FOR CONSTITUTIONAL RIGHTS & PALESTINE LEGAL, THE PALESTINE EXCEPTION TO FREE SPEECH: A MOVEMENT UNDER ATTACK IN THE US (2015), available at <https://cjrjustice.org/the-palestine-exception>; 2022 Year-in-Review: Bolder and More Resilient Palestine Advocacy Resists Growing Backlash, PALESTINE LEGAL, <https://palestinelegal.org/2022-report>.