



April 28, 2026

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URGENT

Sent via U.S. Mail and Electronic Mail (ben.adams@duke.edu)

Dear Associate Dean Adams:

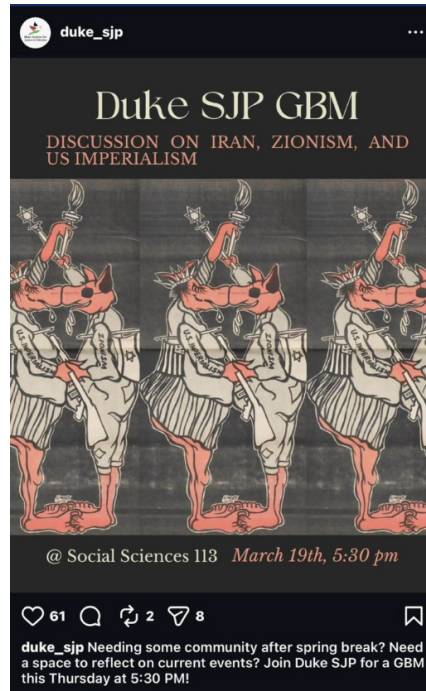
FIRE, a nonpartisan nonprofit that defends free speech,¹ is concerned by Duke University's interim suspension and funding freeze of Students for Justice in Palestine for posting a political cartoon on Instagram depicting Israel and the United States as pigs. While some viewers may perceive the political cartoon as offensive and/or antisemitic, SJP's post is clearly core political speech protected by Duke's laudable commitment to free expression. That protection for free expression is why Duke is one of the relatively few institutions in the country whose policies earn a "green light" rating from FIRE. We urge you to adhere to Duke's written commitments by immediately lifting SJP's suspension and funding freeze and restoring the group to its previous status.

On March 13, Duke SJP posted a flyer to Instagram advertising a March 19 event, "Discussion on Iran, Zionism and U.S. Imperialism."² The flyer featured a 1970 political cartoon from *The Black Panther* newspaper that depicted two pigs shaking hands while gripping a rifle together,

¹ For more than 25 years, FIRE has defended free expression and other individual rights on America's university campuses. You can learn more about our mission and activities at fire.org.

² Heber Ford, *Student Affairs freezes funding, revokes recognized status for Duke's SJP chapter*, DUKE CHRON. (Apr. 14, 2026), <https://dukechronicle.com/article/duke-university-student-affairs-freezes-sjp-funding-students-for-justice-in-palestine-loses-student-group-status-20260415>; Rachel Wolf, *Duke suspends Students for Justice in Palestine following complaints over antisemitic Instagram post*, FOX NEWS (Apr. 15, 2026, 5:53 PM), <https://www.foxnews.com/media/duke-suspends-students-justice-palestine-following-complaints-over-antisemitic-instagram-post>. The recitation here reflects our understanding of the pertinent facts based on public reporting. We appreciate, however, that you may have additional information to offer, and if so, we invite you to share it with us.

one dressed as the Statue of Liberty with “U.S. Imperialism” written on its arm, and the second holding an Israeli flag and Star of David staff with “Zionism” written on its arm.³



Five days after the event, you notified SJP that the university had received multiple complaints that the post contained “antisemitic imagery,”⁴ and the depiction of Israel as a pig holding the Star of David was potentially harassment violating Duke’s Policy on Prohibited Discrimination, Harassment and Related Misconduct.⁵ You told the group that, pending the Office of Institutional Equity’s initial assessment of the complaints, the Office of Student Affairs was suspending SJP as a recognized student organization and freezing its funding.⁶ You also directed SJP to remove the post, which it did.⁷ During a meeting with SJP leadership, you explained that the group was barred from posting to its social media accounts while it was suspended.

³ *Id.*

⁴ Email from Sharon Gooding, Associate Vice President for Institutional Equity, Equal Opportunity and Compliance, to SJP leadership (Apr. 2, 2026, 5:11 PM) (on file with author).

⁵ Email from Ben Adams, Senior Associate Dean of Students for QuadEx, to SJP leadership (Mar. 24, 2026, 4:55 PM) (on file with author); *see also Policy on Prohibited Discrimination, Harassment and Related Misconduct*, DUKE OFF. FOR INSTITUTIONAL EQUITY, <https://oie.duke.edu/policies-procedures-and-statements/policy-prohibited-discrimination-harassment-and-related/> [https://perma.cc/PU3L-J84A].

⁶ Email from Adams, *supra* note 5. You classified the suspension and funding freeze as both interim and supportive measures under Duke policy. *Id.*

⁷ *Id.*

SJP challenged Student Affairs' authority to impose the sanctions.⁸ In response, you explained that the Dean of Students holds independent authority to implement interim measures on recognized student organizations, and that Student Affairs' decision was based on the nature of the current complaints as well as "the cumulative context of prior conversations" with SJP leaders "about the reported impact of the organization's social media activity on other members of the Duke community."⁹

Duke's suspension of SJP for posting a political cartoon to Instagram violates its own stated commitment to free expression. Duke has promised "not [to] take the expedient and dangerous path of shutting down discourse, or worse, exercising a form of prior restraint that prevents ideas from ever emerging to be challenged, even when many of us disagree with the ideas being expressed."¹⁰ Instead, Duke will "stand for freedom of expression, painful though it may sometimes be."¹¹ As a private university, Duke is not directly bound by the First Amendment, but it is legally and morally bound by its own stated commitment to free expression, which students would reasonably understand to provide them expressive rights to engage in political speech commensurate with those guaranteed off campus by the First Amendment.¹²

SJP's social media post featuring the *Black Panther* political cartoon is political speech wholly protected by Duke's commitment to "unfettered debate and deliberation, granting wide freedom of expression to those in our campus community. ... to ensure ideas are tested, challenged, defended and debated in a way that advances knowledge[.]"¹³ The "bedrock principle underlying" freedom of speech is that it may not be restricted on the basis that others find it offensive,¹⁴ and political advocacy is where protection for speech "is at its zenith."¹⁵ The

⁸ Email from SJP leadership to Adams (Mar. 25, 2026, 4:55 PM) (on file with author). SJP challenged Student Affairs' authority to impose the sanctions as supportive measures under the harassment policy because the PPDHRM places the authority to issue supportive measures with the OIE. *Id.* SJP also questioned Student Affairs' authority to impose the sanctions as interim measures under the Duke Community Standard, given that the group was not being investigated for a Community Standard violation. *Id.*

⁹ Email from Adams to SJP leadership (Mar. 26, 2026, 2:24 PM) (on file with author).

¹⁰ *Statement on Open Expression*, DUKE OFF. OF THE PRESIDENT, <https://president.duke.edu/statement-on-open-expression/> [<https://perma.cc/WY2H-LESX>].

¹¹ *Id.*

¹² See *McFadyen v. Duke Univ.*, 786 F. Supp. 2d 887, *aff'd in part, rev'd in part, dismissed in part sub nom. Evans v. Chalmers*, 703 F.3d 636 (4th Cir. 2012) (recognizing the "basic legal relation between a student and a private university ... is contractual in nature," whose enforceable provisions are those "identifiable contractual promise[s]" with "sufficiently definite terms or obligations" not involving "the nuances of educational processes and theories").

¹³ *Statement on Open Expression*, *supra* note 10.

¹⁴ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag is protected by the First Amendment based on the "bedrock principle" that government actors "may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable"); *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973) (holding that a student newspaper's front-page publication of a "political cartoon ... depicting policemen raping the Statue of Liberty and the Goddess of Justice" and use of the headline, "Motherfucker Acquitted," was protected speech).

¹⁵ *Meyer v. Grant*, 486 U.S. 414, 425 (1988); see also, e.g., *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) ("[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.").

relationship between the U.S. and Israel, as well as the ongoing US-Israeli military actions in Iran, are politically salient topics both on and off campus.¹⁶ Discussion on these topics inevitably provokes strong feelings, which is why Duke’s free expression policy acknowledges that protecting free expression may at times be “painful given the presence of “sometimes intense and divisive” debates “over controversial and even hurtful positions taken by members of our community.”¹⁷

Duke administrators may not rely on a harassment rationale to punish speech its policies otherwise protect. Expression, including expression deemed antisemitic, does not constitute harassment unless it meets the exacting standard the Supreme Court articulated in *Davis v. Monroe County of Education*.¹⁸ To qualify as discriminatory harassment, expression must be unwelcome, discriminatory on the basis of a protected status, and “so severe, pervasive, and objectively offensive that it can be said to deprive the victim[] of access to the educational opportunities or benefits provided by the school.”¹⁹

SJP’s post falls well short of this high bar on multiple counts, constitutes fully protected expression under free speech principles, and thus cannot justify Duke’s suspension and funding freeze of SJP. A flyer featuring a 1970 political cartoon commenting on the relationship between the U.S. and Israel used to promote a campus event about recent U.S.-Israeli military actions, which does not target any students at Duke, cannot possibly qualify as so severe, pervasive, and objectively offensive as to deprive anyone of the educational opportunities or benefits Duke provides.²⁰

SJP’s speech is clearly protected by Duke policy. This does not shield SJP from every consequence from its expression—including criticism by students, faculty, or the broader community. Criticism is a form of “more speech,” the remedy to offensive expression that the

¹⁶ See, e.g., William McGurn, *In Iran, Winning Is the Only Thing*, WALL ST. J. (Apr. 20, 2026, 5:06 PM), <https://www.wsj.com/opinion/in-iran-winning-is-the-only-thing-cdb32e81>; *Trump’s War Alliance with Israel is Reshaping the Middle East. But It Carries Risks*, N.Y. TIMES (Mar. 13, 2026), <https://www.nytimes.com/2026/03/13/us/politics/trumps-war-alliance-with-israel-is-reshaping-the-middle-east-but-it-carries-risks.html>; *The dark side of the U.S.-Israel Alliance*, CHATTANOOGA TIMES FREE PRESS (Apr. 21, 2026), <https://www.timesfreepress.com/news/2026/apr/21/times-opinion-the-dark-side-of-the-us-israel/>; *Event: War, Peace, and the Future of the U.S.-Israeli Relationship*, CARNEGIE ENDOWMENT FOR INT’L PEACE (Mar. 18, 2026), <https://carnegieendowment.org/events/2026/03/war-peace-and-the-future-of-the-us-israeli-relationship>.

¹⁷ *Statement on Open Expression*, *supra* note 10.

¹⁸ 526 U.S. 629 (1999). Student speech may also be unprotected if it falls into any of the “historic and traditional categories” of unprotected speech, such as obscenity, defamation, incitement, or true threats. *United States v. Stevens*, 559 U.S. 460, 468–69 (2010). SJP’s Instagram post does not meet the criteria for any of these categories.

¹⁹ *Davis*, 526 U.S. at 650.

²⁰ To deprive a student of educational opportunities or benefits, the speech needs to create a concrete, negative effect, such as a change of study habits, school transfer, a drop in grades, missing school, or being diagnosed with a behavioral or anxiety disorder. See *Davis*, 526 U.S. at 654; *Nungesser v. Columbia Univ.*, 169 F.Supp.3d 353, 368 (S.D.N.Y. 2016); *Mandel v. Bd. of Trustees of Cal. State Univ.*, No. 17-cv-03511, 2018 WL 1242067, at *20 (N.D. Cal. Mar. 9, 2018).

First Amendment prefers to censorship.²¹ Duke’s policy echoes that preference for greater rather than less speech, describing “unfettered debate” as one of its “most cherished values.”²² That means SJP *is* shielded from university punishment—both interim measures imposed by Student Affairs and “supportive measures” imposed by OIE—based on its protected expression.

Given the urgent nature of this matter, we request a substantive response to this letter no later than May 5, confirming Duke Student Affairs will lift the suspension and funding freeze and OIE will close this case without further action upon completion of its initial assessment.

Sincerely,



Jessie Appleby
Program Counsel, Campus Rights Advocacy

Cc: Kimberly Hewitt, Vice President for Institutional Equity
Kim Taylor, Vice President and General Counsel
Mary Pat McMahon, Vice Provost/Vice President of Student Affairs

²¹ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).

²² *Statement on Open Expression*, *supra* note 10.