



May 14, 2026

Niger Thomas
Department of Equity and Civil Rights Compliance
Emory University
305 Administration Building
201 Dowman Drive
Atlanta, Georgia 30322

URGENT

Sent via U.S. Mail and Electronic Mail (niger.thomas@emory.edu)

Dear Director Thomas:

FIRE, a nonpartisan nonprofit that defends free speech,¹ is concerned by Emory University's dismissal of first-year law student Milano Wayne for alleged discriminatory harassment based on six emails sent to faculty and one student in which he used racial slurs and other racially charged language. While many or most people may find Wayne's speech to be deeply offensive, it does not meet the standards for unprotected true threats or discriminatory harassment under American law or Emory policies. We appreciate that Emory is one of relatively few institutions in the country whose free speech policies earn a "green light" rating from FIRE, and why Wayne's expression may be particularly likely to alienate those who hear or read it. Yet dismissing Wayne for his protected speech is incompatible with Emory's laudable commitment to free speech. We therefore urge Emory's Department of Equity and Civil Rights Compliance to reinstate Wayne.

Earlier this year, Wayne sent emails to three faculty members and one student in which he discussed his political philosophy of revolutionary transracialism, the development of his political beliefs, and his "persecution on account of [his] political speech" by Emory.² Two of

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

² Email from Milano Wayne, student, to George Shepherd, professor (Mar. 9, 2026, 1:34 AM) (on file with author); email from Wayne to Paul Koster, professor (Feb. 23, 2026, 9:12 PM) (on file with author); email from Wayne to Koster (Mar. 5, 2026, 3:12 PM) (on file with author); email from Wayne to Koster (Mar. 9, 2026, 7:07 PM) (on file with author); email from Wayne to Adelenia Nini, student (Mar. 21, 2026, 2:37 PM) (on file with author); email from Wayne to Koster (Mar. 23, 2026, 9:01 PM) (on file with author); email from Wayne to Randee Waldman, professor (Mar. 24, 2026, 11:10 PM) (on file with author). We understand you may have additional relevant information and invite you to share it with us. To this end, please find enclosed an executed privacy waiver authorizing you to share information about this matter.

these emails were shared publicly after Wayne forwarded them to classmates. The emails contained multiple instances of racially charged language, including:

- “My outspoken nigger hatred has no bearing on my standing in your class.”³
- “I really didn’t want to settle on the conclusion that to advocate for my existence as Transracial, I have to be anti-nigger.”⁴
- “I’ve reached the conclusion that for me to survive, I must stomp on niggers.”⁵
- “niggers are the primary predator and the cause of all my suffering (and America’s).”⁶
- “Why, then, do niggers hate Transracials so much? Three words: nigger material interests.”⁷
- “nigger-loving Rich Freer”⁸
- “Just look at Freer posing with all those jungle bunnies on MLK Day”⁹
- “DEI under Rich Freer is only for Darkies, Ebonies, and Indians.”¹⁰
- “Fuck the niggerRs”¹¹
- “There’s really nothing I want more than a chance to fight this out with these fucking niggerRs on campus, and this process is giving me just that.”¹²
- “for America to keep its identity, some groups should not continue to exist in America (at least as persons), and I seek to take on the onerous task of cleansing my country of those fucking groups and uproot their ideologies using every legal means at my disposal”¹³

On March 18, Assistant Director of Equity Investigations Ruth Vaughan notified Wayne that Emory’s Department of Equity and Civil Rights Compliance (DECRC) was pursuing an institution-initiated review of him for possible violations of the Equal Opportunity and Discriminatory Harassment Policy 1.3.¹⁴ The investigation was based on allegations that he sent emails to faculty members on February 23, March 5, and March 9, in which he repeatedly used a racial slur—including in reference to Dean Richard Freer—and used “derogatory, offensive language” to refer to “communities of color.”¹⁵ A few days later, DECRC amended the

³ Email to Koster (Mar. 5), *supra* note 2 (capitalization in original).

⁴ Email to Koster (Mar. 9), *supra* note 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Email to Shepherd, *supra* note 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Email to Nini, *supra* note 2; email to Koster (Mar. 23), *supra* note 2; email to Waldman, *supra* note 2 (capitalization in original).

¹² Email to Koster (Mar. 23), *supra* note 2.

¹³ *Id.* (as written).

¹⁴ Notice of Allegations Letter from Ruth Vaughan, Assistant Director of Equity Investigations, to Wayne (Mar. 18, 2026) (on file with author); email from Vaughan to Wayne (Mar. 18, 2026, 2:29 PM) (on file with author).

¹⁵ Notice of Allegations Letter, *supra* note 14.

allegations to include a March 21 email to a law student and March 23 and 24 emails to faculty.¹⁶ DECRC issued its draft investigative report containing its “fact-finding and analysis under Policy 1.3” on April 14.¹⁷

On April 22, DECRC notified Wayne that it was dismissing him from Emory based on its determination that he violated Policy 1.3 by engaging “in a pattern of conduct constituting discriminatory harassment on the basis of race in [his] use of racial slurs, including the n-word 17 times and ‘jungle bunnies’ three times, references to ‘darkies,’ and in [his] reference to advancing violence such as ‘n****R genocide.’”¹⁸

The emails Emory cited as the basis for Wayne’s dismissal, though they may be inflammatory, are protected by the robust protections for free expression enshrined in Emory policy.¹⁹ Emory is legally and morally bound by its own clearly stated policy commitment to free expression, which expressly references the First Amendment principles to which students will in turn reasonably look to understand the nature and scope of rights Emory promises.²⁰

Wayne’s emails explaining his political philosophy and development are protected political speech—the area in which protection for speech “is at its zenith”—under First Amendment principles.²¹ In each of the six emails, Wayne explained his political philosophy and views, the personal experiences that shaped his political development, and his intention to spread his philosophy. The “bedrock principle underlying” freedom of speech is that it may not be restricted on the basis that others find it offensive.²² That is because “[a]s a Nation we have chosen ... to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”²³ Even racial slurs and other hateful expression is protected unless it falls in one of the recognized, narrowly defined categories of unprotected speech, such as true threats or discriminatory harassment.

¹⁶ Amended Notice of Allegations Letter from DECRC to Wayne (Mar. 26, 2026) (on file with author); email from DECRC to Wayne (Mar. 26, 2026, 8:00 AM) (on file with author).

¹⁷ Draft Investigative Report Review Letter from DECRC to Wayne (Apr. 14, 2026) (on file with author); email from DECRC to Wayne (Apr. 14, 2026, 2:00 PM) (on file with author). Wayne was given five business days to review and respond to the report, with his response due at 5:00 PM on April 22. *Id.*

¹⁸ DECRC Determination Letter from DECRC to Wayne (Apr. 22, 2026) (on file with author).

¹⁹ *Open Expression Policy 8.14*, EMORY UNIV. (Mar. 20, 2025), <https://emory.ellucid.com/pman/documents/view/19648/?security=c6f36f9de43a2cd25fc99614d09384f649a313cf> (honoring “the protections and principles of free speech and assembly as set forth in the First Amendment” and committing Emory to protecting “freedom of thought, inquiry, speech, activism, and assembly”).

²⁰ *Morehouse Coll., Inc. v. McGaha*, 277 Ga. App. 529, 531–32 (Ga. Ct. App. 2005) (breach of contract based on failure to follow policy in the student handbook).

²¹ *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.”).

²² *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag was 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”).

²³ *Snyder*, 562 U.S. at 447, 461 (holding signs outside of soldiers’ funerals reading “Thank God for Dead Soldiers,” “Thank God for IEDs,” and “Fags Doom Nations” was expression protected by the First Amendment).

Despite reports that Wayne threatened individuals at Emory,²⁴ Wayne’s emails clearly do not meet the standard for a true threat, which requires that “the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.”²⁵ Free speech principles distinguish unprotected true threats from hyperbole,²⁶ speech conceptually endorsing or celebrating violence,²⁷ and arguments for the “moral propriety or even moral necessity” for violence,²⁸ all of which are protected.²⁹ Wayne’s metaphorical use of violent terms, such as “I must stomp on niggers”³⁰ or “a chance to fight this out with these fucking niggeRs on campus,”³¹ is precisely the type of “emotionally charged rhetoric” expressing “political opposition” that courts have repeatedly held to be protected speech.³² For perspective, none of Wayne’s utterances appear even to reach the level of threatening specificity that the Supreme Court nevertheless recognized in 1969 was protected political hyperbole: a man’s public statement, made before a crowd, shortly after being ordered to his physical for the Vietnam War draft, that “If they ever make me carry a rifle the first man I want to get in my sights is L. B. J.”³³

Nor do the specific emails cited by Emory as the basis for Wayne’s dismissal meet the exacting standard for discriminatory harassment articulated in *Davis v. Monroe County Board of Education*³⁴ and Emory’s harassment policy.³⁵ To qualify as discriminatory harassment, expression must be unwelcome, discriminatory on the basis of a protected status, and “so

²⁴ Letter from Emory Black Law Students Assn. to Richard Freer, dean (Apr. 13, 2026) (on file with author); Madeline Thigpen, *Emory Law Kicks Out Student Who Repeatedly Used Anti-Black Slurs*, YAHOO NEWS: CAPITALB (Apr. 24, 2026, 1:45 PM), <https://www.yahoo.com/news/articles/emory-law-kicks-student-repeatedly-174500754.html>. In January 2026, similar allegations were made that Wayne threatened violence. See Christine Charnosky, *Emory Law School 1L Barred From Campus Over Threatening Social Media Posts About Women*, LAW.COM (Jan. 14, 2026, 6:11 PM), <https://www.law.com/2026/01/14/emory-law-school-1l-barred-from-campus-over-threatening-social-media-posts-about-women/?slreturn=20260512175023>. To our knowledge, Emory has still not provided any evidence that such threats were ever made or the source(s) for the allegations.

²⁵ *Virginia v. Black*, 538 U.S. 343, 359 (2003).

²⁶ *Watts v. United States*, 394 U.S. 705, 706, 708 (1969) (per curiam).

²⁷ *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 902, 928 (1982) (holding that the statement “[i]f we catch any of you going in any of them racist stores, we’re gonna break your damn neck” at a rally was “emotionally charged rhetoric” protected under the First Amendment).

²⁸ *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

²⁹ *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (“The ‘true’ in that term [true threats] distinguishes what is at issue from jests, ‘hyperbole,’ or other statements that when taken in context do not convey a real possibility that violence will follow[.]”).

³⁰ Email to Koster (Mar. 9), *supra* note 2.

³¹ Email to Koster (Mar. 23), *supra* note 2.

³² See *Boquist v. Courtney*, 32 F.4th 764, 781 (9th Cir. 2022) (“Even a statement that appears to threaten violence may not be a true threat if the context indicates that it only expressed political opposition or was emotionally charged rhetoric.”).

³³ *Watts*, 394 U.S. at 706, 708.

³⁴ 526 U.S. 629 (1999).

³⁵ *Policy 1.3: Equal Opportunity and Discriminatory Harassment Policy*, EMORY UNIV. (May 20, 2025), <https://emory.ellucid.com/pman/documents/view/16834/?security=d3b7518a869d72e6d5b0c965c987b3c9053079b3>.

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.”³⁶

While Wayne’s emails contained racially charged language and certainly appear to have been unwelcome to the recipients, there is no evidence that Wayne targeted the four email recipients (Koster, Shepherd, Waldman, and Nini) themselves on the basis of their race. This distinction is crucial. If a person or group can be “harassed” by (admittedly unwanted) expression sent privately from an unrelated author to an unrelated recipient—despite gaining knowledge of the author’s expression only from its exposure by the recipient—no strong opinion in private correspondence is safe from potential punishment by the authorities if it touches on matters of race, sex, nationality, or a multiplicity of other protected classes. Consider, for example, the discussions various Emory students likely had with one another in the wake of the October 7, 2023, attack on Israel by Hamas and the ensuing war in Gaza. Is Emory prepared to apply the standard it has applied to Milano Wayne’s expression, on an evenhanded basis, to any previously private conversation among students whose exposure might offend Arab, Israeli, Muslim, or Jewish community members? If not, how would Emory explain this asymmetry in protection, should it become an issue of wide public and legislative concern (as it did during the war in Gaza)?

Emory has an obligation to prevent discriminatory harassment, but in doing so, it must not sacrifice its stated duty to protect free speech. Only by respecting that commitment can Emory consistently protect its students from both censorship and actual discrimination. While Wayne’s speech is protected, this principle does not shield him from every consequence of his expression—including criticism by students, faculty, and the broader community (which, in this case, we understand to be widespread). Criticism is a form of “more speech,” the remedy to offensive expression that the First Amendment prefers to censorship.³⁷ However, First Amendment principles limit the *types* of consequences that may be imposed and who may impose them.

Given the urgent nature of this matter, we request a substantive response to this letter no later than May 28, confirming that Emory will reinstate Wayne.

Sincerely,



Jessie Appleby

Program Counsel, Campus Rights Advocacy

Cc: Brad Slutsky, Senior Vice President and General Counsel
Richard D. Freer, Dean, Emory Law School
John Felipe Acevedo, Associate Dean of Students and Academic Programs

Encl.

³⁶ *Davis*, 526 U.S. at 650.

³⁷ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).