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Via email to [president@fsu.edu](mailto:president@fsu.edu)

December 15, 2020

**Re: Anti-Palestinian Environment at Florida State University**

Dear President Thrasher,

We write on behalf of Florida State University (“FSU”) students Ahmad Daraldik and Jack Fox Keen to express our serious concerns with respect to FSU’s decision to publicly condemn Ahmad for remarks critical of Israel’s occupation, investigate Jack over statements critical of a student resolution seeking to adopt the International Holocaust Remembrance Alliance (“IHRA”) Working Definition of Antisemitism and otherwise encourage and tolerate a hostile environment against Palestinians and students supporting Palestinian rights on campus.

All evidence indicates that your actions were based on the viewpoints that Ahmad and Jack were expressing, and on Ahmad’s national origin and ethnicity. Your actions violate the First Amendment, and could give rise to a violation of Title VI of the Civil Rights Act. Accordingly, we demand that you immediately apologize to Ahmad and Jack, rescind FSU’s adoption of the IHRA Working Definition of Antisemitism, and cease investigating FSU students for their protected political speech supporting Palestinian rights.

**I. Ahmad Daraldik**

Ahmad Daraldik is a 20-year-old junior at FSU majoring in International Affairs.

Ahmad was born and raised in Tallahassee, Florida. When Ahmad was five, he and his family moved back to Palestine, where his family has lived for generations, for a year. He lived

in the Israeli occupied West Bank on-and-off between 2005-2014, during which time the Israeli army regularly raided the villages where he stayed.

While living under Israeli military occupation, Ahmad was routinely teargassed by the Israeli army as he walked to and from school.<sup>1</sup> When he was 14, the Israeli army shot a tear gas canister through his living room window. As the fumes filled his living room, Ahmad hid in the back of the house, frantically trying to shield his 7-year-old sister, who had asthma, from the gas.

In 2013, when Ahmad was 12, he saw a picture of what he believed to be an Israeli soldier with his foot on a Palestinian child. As a child living under Israeli occupation, and not understanding the difference between Israeli soldiers and the Jewish people, he shared the picture on Facebook (“Facebook post”) with the words, “stupid jew thinks he is cool.”<sup>2</sup>

When Ahmad turned 14, he and his family permanently moved back to Florida. He deactivated his Facebook account at this time, believing it would provide a clean break from his experiences living under occupation. At the same time, Ahmad sought to teach his peers about his lived experiences as a Palestinian. As part of a high school history project, he created a website where he drew parallels between Palestinians and other groups who have faced colonization, discrimination, and apartheid throughout history. This included descriptions of Palestinians living under siege in Gaza, compared with Jewish experiences in the Warsaw ghetto.<sup>3</sup> Ahmad was fifteen when he made this website.

Ahmad also started running for office, believing it was important for Arab and Muslim students to have representation and a voice. This passion for making school a better environment for all students continued when he started at FSU, where he became a student senator in the spring of his freshman year in 2019 and later served as Vice Chair and Chair of the Student Life and Academic Affairs Committee.

While at FSU, Ahmad has been active with the Center for Academic Retention and Advancement, where he helped underrepresented students of color and students who, like himself, were the first in their families to attend college. In his sophomore year, Ahmad became president of the Arab Student Union. Throughout his college career, Ahmad has also worked various part-time jobs during the week and on weekends. One of his many part time jobs was with the Office of the President.

In the summer of 2019, Ahmad went to the West Bank to visit his family. While there, he went to see a statue of Nelson Mandela that was gifted to the Palestinian people by the City of

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<sup>1</sup> The West Bank and Gaza Strip have been under Israeli military occupation since 1967.

<sup>2</sup> The post has since been removed.

<sup>3</sup> The website has since been taken down by the server.

Johannesburg. He took an Instagram picture of himself next to the statue. Inspired by Mandela's words that, "[w]e know too well that our freedom is incomplete without the freedom of the Palestinians," Ahmad posted the picture ("Nelson Mandela post") with the caption "Iconic. #fucktheOccupation #fuckIsrael."<sup>4</sup>

### **A. Ahmad becomes FSU's first Palestinian-American student senate president**

In his sophomore year at FSU, Ahmad was elected Vice President of the Senate ("Pro Tempore") by a popular vote of FSU student senators. While serving in his various elected positions at FSU, Ahmad consistently voted on and encouraged legislation protecting Jewish students, including legislation condemning antisemitism and prohibiting the ongoing sale of Nazi flags on campus, and legislation protecting Yom Kippur observances.

In June 2020, then-Senate President Jack Denton was removed following a vote of no confidence. Ahmad, along with two other students, ran to replace Denton as Student Senate President. Ahmad won the election, becoming FSU's first Student Senate President of Palestinian origin.<sup>5</sup>

### **B. Anti-Palestinian groups and politicians demand Ahmad's removal as Ahmad explains why he criticized Israel**

Immediately after Ahmad's victory was announced on June 5, pro-Israel students began combing through Ahmad's social media posts. On June 8, an FSU student shared Ahmad's Nelson Mandela Instagram post on the FSU Class Facebook page.<sup>6</sup> Anti-Palestinian students also posted statements expressing outrage over Ahmad's criticism of Israel on various FSU student pages, some claiming that it disqualified him as a student leader.<sup>7</sup>

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<sup>4</sup> Ahmad later edited the Instagram caption, removing "#fuckIsrael" and adding "#fucktheillegaloccupation." Ahmad Daraldik (@██████████), INSTAGRAM (Aug. 12, 2019) (on file with Palestine Legal).

<sup>5</sup> On October 26, 2020, the FSU Student Supreme Court ruled that former Senate President Jack Denton should be reinstated, after Denton filed a preliminary injunction *in federal court* requesting that he be reinstated as Senate President. *Denton v. Daraldik*, Case No. 2020-CA-1 (Florida State Univ. Student S. Ct. Oct. 26, 2020), available at <https://sga.fsu.edu/Reporter/2020-CA-1-Denton-v-Daraldik.pdf>; see also Plaintiff's Verified Compl. for Declaratory Judgement, Injunctive Relief, and Damages, *Denton v. Thrasher*, Case 4:20-cv-00425-AW-MAF (N.D. Fla. 2020). (The federal district court denied the injunction in part, holding that it would not order Denton's reinstatement given that the term was near an end and such a transition could be potentially disruptive.)

<sup>6</sup> ██████████, Post to *FSU Class Page of 2022 (Official)*, FACEBOOK (June 8, 2020) (on file with Palestine Legal).

<sup>7</sup> ██████████, Post to *FSU Class Page of 2022 (Official)*, FACEBOOK (June 9, 2020) (on file with Palestine Legal); see also ██████████ Post to *FSU Class Page of 2020*, FACEBOOK (June 11, 2020) (on file with Palestine Legal).

On June 9, Ahmad reactivated his Facebook page to post a video explaining why, as a Palestinian, he objected to Israel's human rights abuses against Palestinians.<sup>8</sup> Ahmad spoke about what it was like to grow up as a Palestinian living under military occupation, sharing his experiences of being shot at by Israeli soldiers while walking to school.

On the video, Ahmad explained that his experiences with Israeli soldiers did not cause him to bear any ill-will to the Jewish community:

“I have a right to speak up about violations that go against international law. With that being said, I refuse to accept my disapproval of Israeli policy as a disapproval of the Jewish people. I am *for* the Jewish people as they have also been through racism and harsh times. The Holocaust was a horrific injustice perpetrated by the Nazi party. I do not condone the crimes Hitler committed against innocent Jews.”

He also explained how, just hours before making the Instagram post, when he crossed the bridge from Jordan into the West Bank, Israeli soldiers had detained him, his father and sister for six hours in the brutal sun as they rifled through his personal belongings and demanded to know if he was planning to sell his laptop in the West Bank.

“I was humiliated. I was dehumanized. I was upset. So yes, I took a photo with the statue of Nelson Mandela given to my people from the people of South Africa as a symbol of hope to end the apartheid. I made the post on Instagram to release my frustrations about the situation that persecutes my family, my friends, and all those considered second-class humans in our own country.”

In the following days, anti-Palestinian students continued to comb through Ahmad's freshly reactivated Facebook page. On June 11, an FSU student discovered the post Ahmad made when he was 12 years old and shared it on the FSU Class of 2022 Facebook Page.<sup>9</sup>

On June 12, the pro-Israel student group Noles for Israel released a statement calling for Ahmad's resignation.<sup>10</sup> Other anti-Palestinian students and groups circulated petitions calling for Ahmad's removal.<sup>11</sup> The petitions were circulated on social media and in online newspapers.

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<sup>8</sup> Videorecording: Ahmad's Response to Instagram Post (Ahmad Daraldik 2020) (on file with Palestine Legal).

<sup>9</sup> [REDACTED], Post to *FSU Class Page of 2022 (Official)*, FACEBOOK (June 9, 2020) (on file with Palestine Legal).

<sup>10</sup> Noles for Israel, *Call for Resignation*, FACEBOOK (June 12, 2020), <https://www.facebook.com/NolesForIsrael/posts/4048674198539304>.

<sup>11</sup> *Remove Ahmad Daraldik from FSU Student Senate*, CHANGE.ORG (last visited Oct. 8, 2020), <https://www.change.org/p/florida-state-university-remove-ahmad-eldeek-from-fsu-student-senate>; see

Alums for Campus Fairness (“ACF”), an organization committed to censoring speech critical of Israel on campus, urged student senators to adopt the International Holocaust Remembrance Alliance (“IHRA”) Working Definition of Antisemitism – a broad and widely criticized definition of antisemitism that encompasses criticism of Israel – to be applied retroactively so that Ahmad could be removed for speech supporting Palestinian rights.

Altogether, these petitions garnered over 11,000 signatures.

### C. A Vote of No Confidence Against Ahmad Fails

On June 17, apparently tipped off that a vote of no confidence against Ahmad would be held that evening, Florida State Representative Mike Caruso sent a letter to the FSU Student Body Senate, calling on the Senate, through its impeachment procedure, to take necessary action against Ahmad. Senate advisor Daniel Acosta displayed the letter at the senate session later that day.<sup>12</sup>

That evening, a student senator made a motion for a vote of no confidence against Ahmad. The motion was seconded and over the course of four hours, dozens of senators and students spoke on behalf or against the motion. Several students spoke favorably of Ahmad’s record supporting FSU’s Jewish community.<sup>13</sup> Others noted the difference between criticizing Israeli state policies and expressing hatred of Jews as a people, explaining how it was not antisemitic for a Palestinian to stand up for the rights of their people to live with dignity and equality.

The vote of no confidence – which must garner a two-thirds majority to pass – failed.<sup>14</sup> Another petition urging a second vote circulated online and garnered over 10,000 signatures.<sup>15</sup>

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also CONDEMN AHMAD, <https://www.condemnahmad.com/> (last visited Oct. 8, 2020); see also *Add your name! Counter antisemitism at Florida State!*, ALUMNS FOR CAMPUS FAIRNESS (last visited Oct. 8, 2020), <https://www.campusfairness.org/action/?floridastate>.

<sup>12</sup> Letter from Mike Caruso, Florida State Rep., to Daniel Acosta, Interim Dir. of Student Engagement, and Florida State Univ. Student Body Senate (June 17, 2020) (on file with Palestine Legal).

<sup>13</sup> Florida State University, *SGA Senate Meeting Recording 1*, ZOOM (June 17, 2020), [https://fsu.zoom.us/rec/play/6JR8f-v-qDk3HIKSuASDA\\_AtW468J6Ks1SNM-fFYxB3mASMHNlquYrQVMODVJesqtIykh2a5TNNBqpT?continueMode=true&xzm\\_rtaid=Y60V8lE6RkySJVFWvOJmiQ.1592616203026.053fea76f534e8d4e388a675c84d1b41&xzm\\_rhtaid=884&fbclid=IwAR2oY1adxgQ4zOgg-wKKlaedjcb3MAVtMpzrJk5Valclon-IF8WxZ4eTdU](https://fsu.zoom.us/rec/play/6JR8f-v-qDk3HIKSuASDA_AtW468J6Ks1SNM-fFYxB3mASMHNlquYrQVMODVJesqtIykh2a5TNNBqpT?continueMode=true&xzm_rtaid=Y60V8lE6RkySJVFWvOJmiQ.1592616203026.053fea76f534e8d4e388a675c84d1b41&xzm_rhtaid=884&fbclid=IwAR2oY1adxgQ4zOgg-wKKlaedjcb3MAVtMpzrJk5Valclon-IF8WxZ4eTdU).

<sup>14</sup> Nineteen senators voted in favor of removal and 16 against, with 6 abstentions.

<sup>15</sup> *Vote of No Confidence Fails- Ahmad Daraldik remains in office.*, CHANGE.ORG (June 18, 2020), <https://www.change.org/p/florida-state-university-remove-ahmad-eldeek-from-fsu-student-senate/u/27033573>.

#### D. FSU publicly condemns Ahmad for “anti-Israel” speech

On June 18, the day after the vote of no confidence failed, President John Thrasher released a statement condemning Ahmad’s criticism of Israel: “I am aware of a controversy involving the FSU Student Senate President who has posted offensive **anti-Israel rhetoric online.**”<sup>16</sup>

Several hours later, this June 18 statement appeared altered in a small but significant way. The language “anti-Israel” was deleted and replaced with “anti-Semitic,” to read “I am aware of a controversy involving the FSU Student Senate President who has posted offensive **anti-Semitic rhetoric online.**”<sup>17</sup>

#### E. FSU Investigates Ahmad For Sharing Experiences as a Palestinian

On June 19, Nicole DiBartolo Mahé, the Assistant Director of Student Conduct and Community Standards (“SCCS”)—the FSU office responsible for student disciplinary matters— informed Ahmad via email that FSU received information “related to recent events which are of concern” and that she had scheduled a meeting for June 23.<sup>18</sup> Ahmad responded that he would be happy to attend the meeting and said he would bring an attorney for support. Mahé informed Ahmad that FSU would also need an attorney and thus said she would reschedule the meeting.<sup>19</sup> After some confusion over the Zoom link, FSU ultimately did not pursue the matter.

Alarmed that he could be in trouble for standing up for Palestinian human rights, Ahmad texted President Thrasher on June 19 and asked to talk. On the call, Ahmad asked whether FSU would punish him given the notice from the administrative disciplinary office. Thrasher told Ahmad that “we’re not going to expel you,” but added that he spends “thirty percent of his time” talking to people upset over Ahmad’s criticism of Israel. Ahmad felt relieved that his status as a student was not at risk but felt anxious about the weight of pro-Israel pressure directed towards FSU.

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<sup>16</sup> The original language is no longer on FSU’s website.

<sup>17</sup> *A message from President John Thrasher: Anti-Semitism and religious discrimination*, FLORIDA STATE UNIVERSITY NEWS (June 18, 2020), <https://news.fsu.edu/news/university-news/2020/06/18/a-message-from-president-john-thrasher-anti-semitism-and-religious-discrimination/>.

<sup>18</sup> Letter from Nicole DiBartolo Mahé, Asst. Dir., Student Conduct and Community Services to Ahmad Daraldik (June 19, 2020) (on file with Palestine Legal).

<sup>19</sup> Email from Nicole DiBartolo Mahé, Asst. Dir., Student Conduct and Community Services to Ahmad Daraldik (June 23, 2020) (on file with Palestine Legal).

## **F. Israel advocacy groups and Florida politicians continue anti-Palestinian campaign against Ahmad together with Israel government-funded App**

On June 19, StandWithUs (“SWU”), a right-wing pro-Israel group with a history of promoting lawfare and attacking Palestine advocates<sup>20</sup>, threatened FSU with legal action if the university did not take immediate steps to remove Ahmad from elected office.<sup>21</sup> The letter claimed FSU had an obligation to force the student senate to take another vote of no confidence, or the university would risk violating Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin in programs that receive federal financial assistance.

Other pro-Israel off-campus groups similarly continued to push for Ahmad’s removal because of his criticism of Israel. StopAntisemitism.org, a blacklisting website with Islamophobic and anti-Palestinian content, called for Ahmad’s expulsion.<sup>22</sup> The Centre for Research of Radicalism and National Security, a shadowy Islamophobic website, branded Ahmad “Anti-Semite of the Week.”<sup>23</sup> The executive director of the Academic Engagement Network, an Israel advocacy organization working to censor critical discussion of Israel on college campuses, also accused Ahmad of being unable to respect Jews because of his high school project comparing the Warsaw Ghetto to the open-air prison of the Gaza Strip.<sup>24</sup>

Bizarrely, on June 20, Florida Division of Emergency Management Director Jared Moskowitz, took time away from his primary responsibility of directing Florida’s COVID-19 response and called on FSU to remove Ahmad from his position, even as COVID-19 rates in

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<sup>20</sup> See Corrected Brief for Jewish Voice for Peace, Palestine Solidarity Legal Support, National Lawyers Guild et al. as Amici Curiae Supporting Respondents p. 5-11, *Davis v. Cox* 183 Wn.2d 269 (2015) (No. 90233-0), [https://ccrjustice.org/sites/default/files/attach/2014/12/2014-12-19\\_Davis\\_JVP-PSLS-Corrected-Amicus-Brief.pdf](https://ccrjustice.org/sites/default/files/attach/2014/12/2014-12-19_Davis_JVP-PSLS-Corrected-Amicus-Brief.pdf); see also Maria LaHood, *Legal Bullying May Chill Speech, But Ultimately Cannot Stop a Movement*, CENTER FOR CONSTITUTIONAL RIGHTS (June 17, 2015), <https://ccrjustice.org/home/blog/2015/06/17/legal-bullying-may-chill-speech-ultimately-cannot-stop-movement>.

<sup>21</sup> Letter from Roz Rothstein, CEO and Co-Founder Dir., StandWithUs, Yael Lerman, Dir., StandWithUs Saidoff Legal Dep’t., and Carly Gammill, Dir., StandWithUs Ctr. For Combating Antisemitism, to John E. Thrasher, President, Florida State Univ. and Florida State Univ. Bd. of Trustees (June 18, 2020), <https://www.standwithus.com/post/standwithus-response-to-antisemitism-at-fsu>.

<sup>22</sup> StopAntisemitism.org (@StopAntisemites), TWITTER (June 11, 2020), <https://twitter.com/StopAntisemites/status/1271126343397175297>.

<sup>23</sup> *Anti-Semite of the Week: Ahmad Daraldik – Florida State’s Jew Hating Student Senate President*, CENTRE FOR RESEARCH OF RADICALISM AND NATIONAL SECURITY (June 23, 2020), <http://researchantisemitism.ca/antisemite-week-ahmad-daraldik-florida-states-jew-hating-student-senate-president/>.

<sup>24</sup> Benjamin Kerstein, *Fury at Florida State University After New Student Senate President’s Antisemitic Statements Revealed*, THE ALGEMEINER (June 16, 2020), <https://www.algemeiner.com/2020/06/16/fury-at-florida-state-university-after-new-student-senate-presidents-antisemitic-statements-revealed/>.



Florida skyrocketed.<sup>25</sup> That day, two Florida Jewish Legislative Caucus members also released statements calling for Ahmad to step down.<sup>26</sup>

At the same time, an Israeli government-funded app called “Act.il”—with ties to Israeli intelligence and military<sup>27</sup>—prompted users to apply further and report Ahmad to the FSU administration and demand that he be punished and removed.<sup>28</sup> In an effort to make complaints to FSU appear natural, the app even instructed users to send FSU “personal and authentic” comments on FSU’s Facebook Page and urged them: “please do not copy paste” the talking points provided.

### **G. Ahmad apologizes as his family falls sick with COVID-19; Florida politicians continue campaign**

On June 22, Ahmad apologized for the Facebook post he made when he was twelve, saying: “When I made that post in 2013, I was in Palestine witnessing death on a daily basis... They were not directed to the Jewish community as a whole or at FSU.”<sup>29</sup>

Nonetheless, politicians and pro-Israel groups continued their campaign to remove Ahmad. In a June 23 twitter discussion, State Representative Chip LaMarca raised the possibility of withholding state funds to FSU and urged donors to withdraw funding if FSU did not remove Ahmad from his position.<sup>30</sup> In a June 24 letter, the Anti-Defamation League Florida Region – a pro-Israel organization with a history of falsely accusing Palestine rights groups of antisemitism<sup>31</sup>—urged FSU to “address” Ahmad’s statements supporting Palestinian rights arguing that Ahmad’s criticism of Israel “can feel like an attack to Jewish students.”<sup>32</sup>

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<sup>25</sup> Jared Moskowitz (@JaredEMoskowitz), TWITTER (June 20, 2020), <https://twitter.com/JaredEMoskowitz/status/1274408152923062273>.

<sup>26</sup> Renzo Downey, *Florida Legislative Jewish Caucus leaders denounce FSU Student Senate President’s Comments*, FLORIDA POLITICS (June 23, 2020), <https://floridapolitics.com/archives/342844-jewish-legislative-caucus-leaders-denounce-fsu-student-senate-presidents-comments>.

<sup>27</sup> Daniel Lark, *Call of Duty*, JEWISH CURRENTS (Aug. 10, 2020), <https://jewishcurrents.org/call-of-duty/>.

<sup>28</sup> Behind Israel’s Troll Army (@AntiBDSApp), TWITTER (June 24, 2020), <https://twitter.com/AntiBDSApp/status/1275872002402922497>.

<sup>29</sup> Tamia Streeter, *FSU students petition for the removal of Student Senate President over anti-Semitic posts*, FSUNews (June 22, 2020), <https://eu.fsunews.com/story/news/2020/06/21/fsu-students-petition-removal-student-senate-president-over-anti-semitic-posts/3232810001/>.

<sup>30</sup> Chip LaMarca (@ChipLaMarca), TWITTER (June 23, 2020), <https://twitter.com/ChipLaMarca/status/1275382318795051008>.

<sup>31</sup> *The ADL is Not an Ally*, #DROPTHEADL, <https://droptheadl.org/the-adl-is-not-an-ally/#palestinian-rights> (last visited Nov. 18, 2020); see also Emmaia Gelman, *The Anti-Defamation League Is Not What It Seems*, BOSTON REVIEW (May 23, 2019), <https://bostonreview.net/politics/emmaia-gelman-anti-defamation-league-not-what-it-seems>.

<sup>32</sup> Letter from Sheri Zvi, ADL Florida Regional Director to John E. Thrasher, Florida State Univ. President (June 24, 2020), <https://florida.adl.org/files/2020/06/ADL-Florida-Letter-to-Florida-State-University.pdf>.



On June 26, Ahmad's brother, with whom he shares a bedroom, tested positive for COVID-19, while Ahmad and his younger sister developed symptoms. His father moved out of the apartment to quarantine. His father later tested positive, and Ahmad was tasked with preparing all his meals and taking care of him during his own recovery.

In the midst of his family's health crisis, on June 29, Ahmad wrote a letter to the FSU student body apologizing for the Facebook post he made as a child.<sup>33</sup> In the letter, Ahmad said

"I write to tell you all that I am sorry. **I am simply and deeply sorry** to all community members that were offended by the comments I made, **they were made in ignorance as a twelve-year-old and fifteen-year-old.**

I have since committed myself to learning more about antisemitism, and **while I made my comments from the perspective of a Palestinian child who lived under military occupation** I have since realized that they were wrong and offensive. I would never frame my experience like this or make such comments today.

**I choose solidarity instead**, and I hope you join me in coming together to **heal and move forward.**"<sup>34</sup>

To ensure Jewish students felt supported on campus, Ahmad vowed to continue conversations with Jewish organizations and groups on campus, work with the senate to actively combat antisemitism and religious persecution, and establish a monthly town hall for feedback from FSU students on how the student government is doing.

On June 29, Jewish Voice for Peace South Florida released a statement stating that Ahmad had "recklessly [been] accused of antisemitism simply because he has been a passionate advocate for Palestinian rights."<sup>35</sup> The statement further noted: "Bringing attention to Israel's human rights abuses is not antisemitic, but, rather, is a moral imperative." FSU Students for Justice in Palestine ("SJP") also wrote statements in support of Ahmad and against a campaign that is "racially and politically motivated to smear and silence Palestinian students and critics of the state of Israel."<sup>36</sup>

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<sup>33</sup> Letter from Ahmad Daraldik, Student Senate President, Florida State Univ., to the Florida State Student Body (June 29, 2020) (on file with Palestine Legal).

<sup>34</sup> *Id.* (emphasis added).

<sup>35</sup> Jewish Voice for Peace South Florida, *Statement in Support of Ahmad Daraldik*, FACEBOOK (June 29, 2020), [https://www.facebook.com/JVPSouthFlorida/posts/2644904665797060?\\_tn=-R](https://www.facebook.com/JVPSouthFlorida/posts/2644904665797060?_tn=-R).

<sup>36</sup> FSU Students for Justice in Palestine, *#ImWithAhmad Solidarity Statement*, FACEBOOK (June 13, 2020), [https://www.facebook.com/FSUSJP/posts/3655263667833809?\\_tn=-R](https://www.facebook.com/FSUSJP/posts/3655263667833809?_tn=-R); see also FSU Students

## H. Ahmad receives racist threats and abuse

During this period, as Ahmad began to show COVID-19 symptoms and fell sick, he received dozens of racist anti-Palestinian, misogynistic and Islamophobic messages, including messages threatening to harm Ahmad and his family. These messages include:

- “Dumb ass monkey ass piece of Arab shit.. nothing is different with you dirty ass towel heads always hating Israel and everyone else who isn’t dirt scum like you animals. Hope your credentials are ruined for your whole life”<sup>37</sup>
- “FSU Senate President Ahmad Daraldik must be chastised (castrated) immediately & deported to a Muslim country of his choice – Syria, Iran, France, etc.”<sup>38</sup>
- “Stupid ass sharmuta [whore] . . . Israel supplies all you stupid Palestinians with water and electricity”<sup>39</sup>
- “What is so bad abt the Israeli occupation . . . where do u think ur fucking water comes from. Till the end of time we will see the 6 pointed star fly high as a reminder that you are a failure”<sup>40</sup>
- “Not only [expulsion] deport him to Gaza!”<sup>41</sup>
- “Antisemitic pig [pig emoji]”<sup>42</sup>
- “Hey! You blocked my brother : ) so mean! Don’t worry we’re still getting you kicked out of your position [heart emoji]. Antisemitic hateful propaganda spreading pussy ass bitch. Learn to be unbiased and educate yourself... You’re done.”<sup>43</sup>
- “Shame on you. Go fuck yourself dude. Scumbag”<sup>44</sup>

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for Justice in Palestine, *Renewed Statement in Solidarity with Ahmad Daraldik*, FACEBOOK (June 30, 2020), [https://www.facebook.com/FSUSJP/posts/3704898699536972?\\_tn=-R](https://www.facebook.com/FSUSJP/posts/3704898699536972?_tn=-R).

<sup>37</sup> Direct Message on Instagram, From ██████████ (@██████████), to Ahmad Daraldik (@██████████) (on file with Palestine Legal).

<sup>38</sup> Comment made by ██████████ on an article published by The Jewish Journal (screenshot on file with Palestine Legal).

<sup>39</sup> Direct Message on Instagram, From ██████████ (@██████████), to Ahmad Daraldik (@██████████) (on file with Palestine Legal). *Sharmuta* means whore in Arabic and is also used in Hebrew-speaking Israeli populations.

<sup>40</sup> Direct Message on Instagram, From ██████████ (@██████████), to Ahmad Daraldik (@██████████) (on file with Palestine Legal).

<sup>41</sup> Comment on Instagram made by ██████████ (@██████████) (screenshot on file with Palestine Legal).

<sup>42</sup> Comment on Instagram, From ██████████ (@██████████) to Ahmad Daraldik (@██████████) (on file with Palestine Legal). The comment and pig emoji is in reply to a photo Ahmad posted of his cousin, who wears a Muslim headscarf. The pig emoji has been derogatorily used against Muslims who abstain from pork.

<sup>43</sup> Direct Message on Instagram, From ██████████ (@██████████), to Ahmad Daraldik (@██████████) (on file with Palestine Legal).

<sup>44</sup> Direct Message on Instagram, From ██████████ (@██████████), to Ahmad Daraldik (@██████████) (on file with Palestine Legal).

- “Who’s the raisin?”<sup>45</sup>

Some messages also tagged the social media accounts of Ahmad’s immediate and extended family members, revealing the extent to which bullies searched through Ahmad’s accounts and relations.<sup>46</sup> From the stress of constant bullying messages, his and his family’s illness, and the pressure campaign against him, Ahmad had difficulty sleeping, began to fall behind on classes, and suffered a lost sense of safety and security.

### **I. Florida politicians and local governments continue censorship campaign.**

On July 15, State Representatives Richard Stark and Emily Slosberg, without giving notice, attended a student senate Zoom session to support a resolution that would use a widely contested definition of antisemitism that includes criticism of Israel. This resolution, Resolution 59, would also include language that Ahmad caused “hurt and fear” to the Israeli and Jewish communities.<sup>47</sup>

Student senate officials requested that Reps. Stark and Slosberg be yielded time to speak towards the beginning of the session. Ahmad believed that senate precedent required guest speakers to give advanced notice before requesting to address the senate and that guest speakers ordinarily do not comment on internal student affairs without such notice.

Several senators spoke in favor of yielding time to the guest speakers, including Attorney General Kelvin Ready. At the meeting, Ready requested that Ahmad let the Florida politicians speak “less [sic] we end up before the Student Supreme Court.”<sup>48</sup> Ahmad responded, “I don’t appreciate the threats,” and thanked the Attorney General for his statement.

After conferring with the Interim Parliamentarian for the best course of action, Ahmad agreed to follow precedent and not make a special exception to yield senate time to politicians.

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<sup>45</sup> Instagram comment left in response to an Instagram photo of Ahmad mourning his late grandmother who wears a *hijab*, an Islamic headscarf, and has brown skin. Comment on Instagram made by ██████████ (@██████████) (screenshot on file with Palestine Legal).

<sup>46</sup> On June 11, THE BDSREPORT, an online website that maintains and publishes dossiers on pro-Palestine speakers, commented on its own Instagram feed about Ahmad, writing, “[d]oes Ahmad spread this same Jew-hated and false propaganda at home too?” The post tagged Ahmad, and several of his family members. See Instagram Comment From BDSReport (@BDSReport), tagging Ahmad Daraldik (@██████████) (June 11, 2019), <https://www.instagram.com/p/CBTpQZ-lOal/?igshid=1vmlmz9obfsit>.

<sup>47</sup> Resolution 59, 72<sup>nd</sup> Student Senate (passed July 15, 2020), <https://sga.fsu.edu/archives/72nd-Senate/resolutions/07.21.20-resolution59.pdf>.

<sup>48</sup> Florida State University, *SGA Senate Meeting Recording 1*, ZOOM (July 15, 2020), [https://fsu.zoom.us/rec/play/vJx8JriH\\_W83HNORtASDBPZ7W47vev2s13Id-EFxrQzVSQGO1HwZeEUYuu7zWr9dwYNaTvkH8wExkSE?continueMode=true&xzm\\_rtaid=vSwAiaJzQV2D9V6aR5967Q.1595284440778.97d34dee1d6e4877533bfc1fa0618869&xzm\\_rhtaid=48](https://fsu.zoom.us/rec/play/vJx8JriH_W83HNORtASDBPZ7W47vev2s13Id-EFxrQzVSQGO1HwZeEUYuu7zWr9dwYNaTvkH8wExkSE?continueMode=true&xzm_rtaid=vSwAiaJzQV2D9V6aR5967Q.1595284440778.97d34dee1d6e4877533bfc1fa0618869&xzm_rhtaid=48).

Another student senator made a motion to overrule Ahmad's decision, but it failed to garner the two-thirds majority vote required.<sup>49</sup>

During the ensuing debate on the Resolution, many FSU students expressed concern that by adopting the IHRA Working Definition of Antisemitism, Resolution 59 could chill speech supporting Palestinian human rights. "As a Palestinian this definition will lead to my direct implication as an antisemite for simply criticizing a state that is committing crimes against my community as recognized by international law," said one student.<sup>50</sup>

At the end of the debate, the student body president yielded three minutes of his own time to Rep. Stark, who told the student senate they should vote for the resolution and that "... we [Florida House of Representatives] also control the funding of the school and I am not pleased by what I am hearing tonight."<sup>51</sup>

Rep. Slosberg, also yielded time, spoke in support of the resolution after Rep. Stark. In pushing for a resolution that would censor and stigmatize Palestinians as antisemites for criticizing Israel's oppression of Palestinians, Rep. Slosberg ironically stated that FSU students of all faiths must have protection and freedom from a hostile environment.

After a nearly 7-hour meeting, the resolution passed with 26 votes in favor and 14 against.

Emergency Management Director Moskowitz again joined the fray, tweeting a message at FSU's official twitter account stating "WTF is going on at [@floridastate](#)" in response to a message commenting on Ahmad's decision not to make a special exception for Reps. Stark and Slosberg to speak.<sup>52</sup>

### **J. President Thrasher again denounces Ahmad**

On July 16, after privately meeting with Reps. Stark and Slosberg, President Thrasher sent Ahmad a letter expressing "profound disappointment" in Ahmad's facilitation of the previous night's senate meeting.<sup>53</sup> Although student senators chose not to override Ahmad's

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<sup>49</sup> Eighteen people voted to uphold Ahmad's decision, and 16 voted in favor of overruling the decision. There were 6 abstentions.

<sup>50</sup> *Id.* at 58:40.

<sup>51</sup> *Id.* at 2:33:37.

<sup>52</sup> Jared MASKowitz (@JaredEMoskowitz), TWITTER (July 15, 2020), <https://twitter.com/JaredEMoskowitz/status/1283552911268683780>.

<sup>53</sup> Letter from John E. Thrasher, President, Florida State Univ., to Ahmad Daraldik, Student Senate President (July 16, 2020) (on file with Palestine Legal).

decision declining time to Reps. Stark and Slosberg, President Thrasher chose to single out Ahmad’s actions, which he called “unbecoming.”

Troubled by FSU’s complicity in politician-backed efforts to hinder speech about the oppression of Palestinians, Ahmad filed an internal complaint against President Thrasher for discrimination and for interfering with his education.<sup>54</sup>

### **K. Two Florida cities pass resolutions calling on Ahmad’s removal**

On July 16, the City of Aventura in Florida—a city 470 miles away from FSU—called on FSU to remove Ahmad as student senate president because of his childhood posts criticizing Israel.<sup>55</sup>

On August 6, the City of Hallendale Beach passed a resolution similarly denouncing Ahmad and urging Thrasher to remove him from his position.<sup>56</sup> The resolution was introduced by Commissioner Anabelle Lima-Taub, who was called-out for anti-Palestinian, Islamophobic bigotry in 2019.<sup>57</sup>

### **L. Efforts to remove Ahmad continue**

On July 24, the Noles for Israel student group posted an Instagram video calling for Ahmad’s removal, arguing that his past criticism of Israel’s policies, including the language “Fuck Israel” in his Instagram post, constituted antisemitism under the newly-passed student senate resolution adopting the IHRA definition of antisemitism.<sup>58</sup>

On August 24, Rep. Stark addressed the student organization Noles for Israel, the organization leading the campaign to remove Ahmad. He touted his own history of supporting Florida legislation censoring boycotts for Palestinian rights saying, “you’ve got a legislature here

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<sup>54</sup> Ahmad Daraldik, Florida State University Discrimination Report (July 23, 2020) (on file with Palestine Legal).

<sup>55</sup> Jason Delgado, *Florida city adopts resolution calling on FSU President John Thrasher to remove student government leader*, FLORIDA POLITICS (July 16, 2020), <https://floridapolitics.com/archives/349821-south-florida-city-adopts-resolution-calling-on-fsu-president-john-thrasher-to-remove-student-government-leader>.

<sup>56</sup> Jason Delgado, *Second Florida city adopts resolution urging John Thrasher to remove student government leader*, JEWISH JOURNAL (Aug. 6, 2020), <https://floridapolitics.com/archives/355511-second-florida-city-adopts-resolution-urging-john-thrasher-to-remove-student-government-leader>.

<sup>57</sup> See, e.g., *Florida commissioner reprimanded for saying Muslim Congresswoman might “blow up Capitol Hill”*, WTXL TALLAHASSEE (Jan. 24, 2019), [https://www.wtxl.com/ap/florida-commissioner-reprimanded-for-saying-muslim-congresswoman-might-blow-up/article\\_9a0aab98-2007-11e9-a631-77658505ec27.html](https://www.wtxl.com/ap/florida-commissioner-reprimanded-for-saying-muslim-congresswoman-might-blow-up/article_9a0aab98-2007-11e9-a631-77658505ec27.html).

<sup>58</sup> Noles For Israel at FSU (@nolesforIsrael), *Why FSU’s Senate President Must Step Down*, INSTAGRAM (July 24, 2020), <https://www.instagram.com/p/CDCAysnltGr/>.

that is basically pretty friendly to Jews and Israel.” He added that he regretted acting “out of character” at the July 15 senate session, stating “I probably said some things I shouldn’t have said.” Rep. Stark also recalled a subsequent conversation with President Thrasher in which President Thrasher evidently reassured Rep. Stark that his intimidating remarks regarding removal of funding needed no apology. “Don’t you dare apologize for that. That was an absolute disgrace what [the FSU student senate] president did.”

Unable to remove Ahmad through democratic processes, students disagreeing with Ahmad’s support for Palestinian rights have resorted to misusing administrative complaint processes to punish him.

For example, on July 7, ██████████, an FSU student, petitioned the Student Supreme Court to recommend that Ahmad be permanently removed as president for criticizing Israeli policy. On November 9, the Court dismissed the case due to mootness but noted that Ahmad’s comments were protected by the First Amendment.<sup>59</sup>

On October 7, Student Body Attorney General Ready, filed a complaint against Ahmad in the Student Supreme Court, claiming that Ahmad spread false and misleading information when Ahmad stated that he “didn’t appreciate the threats.”<sup>60</sup> The Student Supreme Court found in favor of Ready, holding Ahmad that this offhand statement constituted “false charges” against another student government officer. On November 9, the Student Supreme Court suspended Ahmad from SGA Student Senate for the remainder of the 2020-2021 academic year and prohibited him from holding office “in the future” despite his intention to run again.<sup>61</sup>

#### **M. President Thrasher takes further measures, formally adopts overbroad definition of antisemitism**

On August 12, President Thrasher issued a statement stating that FSU would “recognize” the controversial IHRA Working Definition of Anti-Semitism and its contemporary examples,

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<sup>59</sup> Pinto v. Daraldik, Order of Dismissal (Florida State Univ. Student S. Ct. Nov. 9, 2020), available at <https://sga.fsu.edu/Reporter/2020-Admin-8-Order-of-Dismissal.pdf>.

<sup>60</sup> Plaintiff’s Verified Complaint for Declaratory Judgement and Injunctive Relief, Ready v. Daraldik (Florida State Univ. Student S. Ct. 2020) (on file with Palestine Legal).

<sup>61</sup> Ready v. Daraldik, Case No. 20202-CA-4 (Florida State Univ. Student S. Ct. Oct. 9, 2020), available at <https://sga.fsu.edu/Reporter/2020-CA-4-Ready-v-Daraldik.pdf>. The Student Supreme Court found Ahmad in violation of Student Body Statute 205.6(A)(2), which restricts a person’s participation in SGA if found guilty of violating two or more provisions. SBS §205.6(A)(2). The Student Supreme Court earlier found against Ahmad in the Denton v. Daraldik case on October 26. See *Denton v. Daraldik*, Florida State Univ. Student S. Ct. (2020). Ahmad appealed the court’s decision in Ready v. Daraldik on November 10, and in Denton v. Daraldik on November 9.



which defines antisemitism to include criticism of Israel.<sup>62</sup> He also stated that FSU would be partnering with Hillel at FSU and local Jewish organizations to create a task force on antisemitism.

## **II. Jack Fox Keen**

Jack Fox Keen is a 29-year-old senior majoring in computational science and biomathematics at Florida State University. Originally from Parkland (South Florida), Jack is a disabled, low income and non-traditional student who has worked three separate part-time jobs to sustain an education at FSU. Jack goes by the pronouns they, their(s), and them.

After running on a platform of increasing mental health awareness at FSU, Jack became Chair of the College of Arts and Sciences Student Leadership Council (SLC) in March 2019. SLC serves as an advisory body and provides to FSU administrators and officials “a student perspective” on issues affecting students and campus life.

### **A. Student Leadership Council discusses Ahmad’s case**

In June 2020, Jack and other students on the SLC became aware of the controversy surrounding Ahmad’s presidency. SLC wished to learn more about Israel and Palestine, antisemitism, and the context surrounding Ahmad’s past remarks, in order to determine whether SLC needed to respond to this matter by either releasing a statement or taking other measures.<sup>63</sup>

Jack invited ██████████, FSU’s Outgoing Director of FSU’s Student Government Assembly Bureau and Director of the Center for Participant Education, to speak to SLC at its June 10 weekly Zoom meeting. ██████████ was asked to share his opinion on whether Ahmad’s past remarks criticizing Israel were antisemitic. ██████████ stated that, as a Jewish studies student himself, he did not believe it was antisemitic for Palestinians like Ahmad and his family to speak about their experiences growing up under Israeli military occupation or to criticize Israel’s harmful policies towards Palestinians.

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<sup>62</sup> *A message from President John Thrasher: An Update on Anti-Semitism and Religious Discrimination*, FLORIDA STATE UNIVERSITY NEWS (Aug. 12, 2020), <https://news.fsu.edu/news/university-news/2020/08/12/a-message-from-president-john-thrasher-an-update-on-antisemitism-and-religious-discrimination/> (citing to *Working Definition & Charters*, INTERNATIONAL HOLOCAUST REMEMBRANCE ALLIANCE (last visited Oct. 9, 2020), <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>).

<sup>63</sup> In the past the SLC had made statements condemning anti-LGBTQ rhetoric and supporting the Black Lives Matter movement.



After this June 10 meeting, another SLC member, ██████ expressed disagreement with ██████'s viewpoint and demanded that SLC release a public statement condemning Ahmad for antisemitism and calling for his immediate resignation as Student Senate President. Several members of SLC disagreed with this approach, and believed Ahmad was not prejudiced against Jews – which would have warranted a removal from office. As a result, Jack followed ordinary SLC precedent requiring unanimity on public statements and declined ██████'s demand, encouraging ██████ to reach out to SLC advisor, Associate Dean Rob Contreras, for support.

That same day, Jack reached out to Contreras for advice on how to move forward after ██████ insisted that SLC publicly call for Ahmad's resignation despite a lack of consensus on the committee. In an email reply, Contreras told Jack that SLC "should not be making statements as a group that involve political themes," but that individuals were free to express their opinions and perspectives under their own names.<sup>64</sup>

### **B. Jack defends Ahmad During Vote of No Confidence**

Throughout the controversy, Jack rigorously committed himself to learning about antisemitism and the IHRA definition. Jack spent over 40 hours of time reading articles on the topic and speaking to students and professors about their experiences with antisemitism on campus.

On June 17, during the student senate debate on whether to remove Ahmad from office, Jack made a public comment in Ahmad's defense, stating that they "do not agree with the idea that a Palestinian is not allowed to compare one oppressive regime they are experiencing to another without being accused of bigotry," and urged the senate to reject a Vote of No Confidence against Ahmad.

### **C. Jack falsely accused of antisemitism, faces bullying from pro-Israel students**

After Jack defended Ahmad, ██████'s hostility to Jack continued. On June 19, ██████ falsely accused Jack of antisemitism for supporting Ahmad and said that Jack's participation in the student senate debate was "invalidating" to the experience of Jews.<sup>65</sup> Not wishing to cause ██████ harm, Jack quickly apologized, stating "I know there's a controversy and I'm doing my best to understand it. I've got a reading list to work through this weekend and I am hoping to

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<sup>64</sup> Email from Robert Contreras, Assoc. Dean, College of Arts, Florida State Univ., to Jack Fox Keen (June 11, 2020) (on file with Palestine Legal).

<sup>65</sup> Text Message from ██████ to Jack Fox Keen (June 17, 2020) (on file with Palestine Legal).

learn as much as possible.”<sup>66</sup> But ██████ later wrote to Jack that, “your comment was very clearly antisemitic. I implore you to consider resigning from your post at SLC.”<sup>67</sup>

On June 29, ██████ accused Jack of making an insensitive, antisemitic comment for trying to schedule an SLC meeting time via a Doodle poll that worked for all members, including ██████. The poll allowed for a Saturday meeting and encouraged members to “please be as flexible as possible.” ██████ responded, “please don’t compare Shabbat to a scheduling conflict.”<sup>68</sup> In response, Jack cordially apologized and rearranged all meeting slots to avoid days tied to Jewish spiritual observances.<sup>69</sup>

#### **D. ██████ files complaint against Jack**

After Jack sent an email in their individual capacity to student senators voicing concerns about adopting the IHRA definition,<sup>70</sup> Jack noticed that ██████ and two other SLC members who also objected to Jack’s opposition to the IHRA definition stopped coming to council meetings. Jack also heard a rumor that a student had filed a complaint against them for voicing their opposition to Resolution 59 and the IHRA definition. On July 10, Jack called Contreras, a faculty advisor to SLC who resolves internal council complaints, to verify whether the rumor was true.

On the phone, Contreras confirmed that, as a result of Jack’s public comment in support of Palestinians being able to talk about their experiences, ██████ filed a complaint accusing Jack of antisemitism. Contreras told Jack that ██████ accused Jack of being unfit to serve as Chair of SLC and demanded that Jack step down as Chair. Contreras further informed Jack that Contreras and Dean of College of Arts and Sciences, Sam Huckaba, would be meeting on Monday, July 13, to discuss the merits of this complaint. In addition to serving as the second faculty advisor to SLC who helps resolve these disputes, Huckaba also played a role in authorizing disability accommodations for Jack over summer semester.

Unsettled by this news of such a highly unusual meeting of two high-ranking deans to discuss the complaint against him, on July 12, Jack texted Contreras and requested that they be allowed to attend this meeting to review the complaint and contest the allegations against them, as was their right under FSU’s Student Code of Conduct.<sup>71</sup> Contreras rejected Jack’s request,

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<sup>66</sup> Jack Fox Keen Harassment and Bullying Report Against ██████ (July 13, 2020) (on file with Palestine Legal).

<sup>67</sup> Text Message from ██████ to Jack Fox Keen (June 19, 2020) (on file with Palestine Legal).

<sup>68</sup> GroupMe Message from ██████ (June 29, 2020) (screenshot on file with Palestine Legal).

<sup>69</sup> GroupMe Message from Jack Fox Keen (June 29, 2020) (screenshot on file with Palestine Legal).

<sup>70</sup> Email from Jack Fox Keen to student senators, Florida State Univ. (July 8, 2020) (on file with Palestine Legal).

<sup>71</sup> *Conduct Process*, FLORIDA STATE UNIVERSITY (last visited Oct. 8, 2020), <https://sccs.fsu.edu/conduct-process>.

stating that the meeting with the Deans was “not possible,” and Jack was not offered an alternative.<sup>72</sup>

Out of fear over retaliation, removal from their position as SLC chair and possible loss of their disability accommodations, Jack decided not to pursue the matter, even though they believed they should be heard, and that it seemed very odd for two deans to discuss a routine complaint.

Because Jack was denied the opportunity to represent themselves, a number of Jewish and non-Jewish students and faculty sent letters on Jack’s behalf to Contreras. The letters emphasized FSU’s obligation to uphold students’ rights to review, discuss and engage with the plurality of viewpoints on the controversial definition of antisemitism.<sup>73</sup>

On July 13, Jack filed a complaint against ██████ to the Office of Student Conduct and the Deans of the College of Arts and Sciences, explaining that they appeared to be the victim of a bullying campaign for supporting the rights of Palestinians to speak about their experiences.<sup>74</sup> In the complaint, Jack wrote, “I am also now put into a position where I am being harassed in my workplace, through Group Chat and private messages, and now with accusations taken to the Deans of my College.”<sup>75</sup>

On July 15, Contreras called Jack to inform them that FSU found no evidence that Jack made antisemitic statements and that FSU was dismissing the complaint against Jack. The Deans agreed that Jack’s public comments supporting the rights of Palestinians to share their experiences, and that Jack’s engagement with other SLC members who disagreed with this view were within Jack’s rights and did not amount to prejudice against Jewish individuals.

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<sup>72</sup> Text Message from Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ., to Jack Fox Keen (July 12, 2020) (on file with Palestine Legal).

<sup>73</sup> Email from ██████, Assoc. Professor of Dance, Florida State Univ., to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ. (July 13, 2020) (on file with Palestine Legal); see also Email from ██████, Adjunct Professor of Theatre, Florida State Univ., to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ. (July 13, 2020) (on file with Palestine Legal); see also Email from ██████, student, Florida State Univ., to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ. (July 13, 2020) (on file with Palestine Legal); see also Email from ██████, student, Florida State Univ., to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ. (July 13, 2020) (on file with Palestine Legal); see also Email from ██████, student, Florida State Univ., to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ. (July 13, 2020) (on file with Palestine Legal); see also Email from ██████, student, Florida State Univ., to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ. (July 13, 2020) (on file with Palestine Legal).

<sup>74</sup> Email from Jack Fox Keen to Rob Contreras, Assoc. Dean, College of Arts, Florida State Univ., and Sam Huckaba, Dean of College of Arts and Sciences, Florida State Univ. (July 13, 2020) (on file with Palestine Legal).

<sup>75</sup> Jack Fox Keen Harassment and Bullying Report Against ██████ (July 13, 2020) (on file with Palestine Legal).

On July 23, Student Conduct Services Division of Student Affairs Administrative Assistant Ayah Mahdy, on behalf of Assistant Director Nicole DiBartolo Mahé, emailed Jack to discuss their own complaint against ██████ for harassment and bullying. A meeting was set for July 29. Although at that meeting, Mahé told Jack that she believed Jack responded “very professionally” to ██████’s hostility against them “with an open-mind which was not returned,” and that Jack “was in the right” even after being pulled into an investigation, Mahé concluded that the ██████’s conduct did not amount to harassment under FSU standards.

██████ stopped coming to SLC meetings at this time. On September 10, in a text message to another SLC member, ██████ wrote that “Jack is antisemitic,” and that she would return to the council only upon Jack’s removal.<sup>76</sup> Disappointed with ██████’s avoidance of her council obligations, Jack asked Student Conduct Services to offer SLC a mediator to help rectify the situation between Jack and ██████, but has not heard back since.

### III. FSU’s Actions Violate the First Amendment

As you are no doubt aware, the First Amendment is binding on public colleges.<sup>77</sup> By explicitly targeting a particular political viewpoint — in this case one calling for the rights of Palestinians to live in freedom and to be able to criticize Israel for its oppression of Palestinians — FSU’s actions strike at the heart of the First Amendment.<sup>78</sup>

The U.S. Supreme Court has declared that, “[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”<sup>79</sup> Students at public universities have the right to debate and share their opinions on a non-discriminatory basis.<sup>80</sup> In other words, FSU may not cherry-pick what student speech it permits or punishes based on its message.<sup>81</sup> To do so casts exactly the type of “disapproval on particular

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<sup>76</sup> Text message from ██████ to [undisclosed] SLC Member (Sept. 10, 2020) (on file with Palestine Legal).

<sup>77</sup> See *Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981) (“With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.”); *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large.”).

<sup>78</sup> *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995) (“It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.”).

<sup>79</sup> *Connick v. Myers*, 461 U.S. 138 (1983).

<sup>80</sup> See, e.g., *Healy*, 408 U.S. at 169.

<sup>81</sup> *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (“If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”); *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949) (“[A] function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or

viewpoints” that the Supreme Court warned “risks the suppression of free speech and creative inquiry [on] university campuses.”<sup>82</sup>

Government actors may violate the U.S. Constitution even by indirectly causing a “chilling effect” on the exercise of First Amendment rights.<sup>83</sup> A “chilling effect” occurs when individuals avoid expressing certain viewpoints in fear of running afoul of an overbroad or vague law, rule, or regulation.<sup>84</sup> Individuals self-censor from expression otherwise protected by the First Amendment in order to avoid possible punishment for violating such a law.<sup>85</sup>

President Thrasher’s public condemnation of Ahmad for “anti-Israel” speech, FSU’s investigation of Ahmad (which was inexplicably dropped), the procedurally questionable meeting of two high-ranking deans to investigate Jack Fox for expressing a view that Palestinians should be allowed to talk about their experiences growing up under military occupation—together with the university’s formal adoption of a definition of antisemitism that includes criticism of Israel—creates a severe chilling effect for students who wish to speak about Palestinian rights or even their own experiences as Palestinians at FSU.

While statements critical of Israel’s treatment of Palestinians – or Palestinians talking about such treatment – may spark complaints by Israel’s supporters, such statements cannot justify different scrutiny than other political speech. A message cannot be treated in a disparate manner based on how much disagreement it may provoke.<sup>86</sup> The Supreme Court has held that:

Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech, though not absolute, [omitted], is nevertheless protected against censorship or punishment. . . .<sup>87</sup>

Not only do FSU’s actions violate the First Amendment, they violate FSU’s own commitments to “the right of all students and individuals to seek knowledge, debate ideas, form

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even stirs people to anger.”); *See also Bd. of Regents of Univ. of Wisconsin Sys. v. Southworth*, 529 U.S. 217, 235 (2000) (“Access to a public forum, for instance, does not depend upon majoritarian consent.”); *Rosenberger*, 515 U.S. at 828 (“Discrimination against speech because of its message is presumed to be unconstitutional.”).

<sup>82</sup> *Rosenberger*, 515 U.S. 819 at 835.

<sup>83</sup> *Laird v. Tatum*, 408 U.S. 1 (1972).

<sup>84</sup> *Virginia v. Hicks*, 539 U.S. 113 (2003.).

<sup>85</sup> *Allen v. Sch. Bd. for Santa Rosa Cty.*, 782 F. Supp. 2d 1304 (N.D. Fla. 2011).

<sup>86</sup> *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949).

<sup>87</sup> *Id.* at 4.

opinions, and freely express views. . . .”<sup>88</sup> FSU’s condemnations and investigations of Ahmad and Jack for statements supporting Palestinian rights and the rights of Palestinians to talk about their experiences also violate FSU’s own rules. There is absolutely no reason why either student should have been under scrutiny for what is clearly political debate on a senate matter or speech on an issue of public concern—to say nothing of any sound reason why current students should be under scrutiny for statements they made when they were children.

Moreover, it appears from the several statements made by students and pro-Israel advocacy groups urging FSU to punish Ahmad, that FSU may be attempting to chill speech supporting Palestinian rights on campus due to HB 741 – which amended Florida’s anti-discrimination law to include a definition on antisemitism that could encompass any and all criticism of Israel. Reps. Stark, Slosberg and Caruso, who were all actively involved with pressuring and even threatening students to admonish Ahmad or adopt the definition, were sponsors of HB 741.<sup>89</sup>

Civil rights groups have long warned Florida that the law violates the First Amendment by circumscribing important and protected political speech activities.<sup>90</sup>

Since the targeting of Ahmad started, Palestine Legal has received inquiries from FSU students questioning the legal extent of their ability to talk about Israel on campus. Students report being unsure what they can and cannot say about Palestinian lives and rights without being subject to investigations, frivolous complaints and administrative scrutiny. There is no telling how many more voices are being chilled by the university’s discriminatory actions. There is no justification for such fears within a university community about the limits of intellectual engagements and critical discussions on matters of political concern, especially at a public university bound by the First Amendment.

#### **IV. FSU’s Actions Violate Title VI of the Civil Rights Act of 1964**

President Thrasher’s statements condemning Ahmad, FSU’s attempt to investigate Ahmad, and the University’s failure to protect Ahmad from the extensive bullying and targeting he experienced violates FSU’s own anti-discrimination policies,<sup>91</sup> as well as Title VI of the Civil

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<sup>88</sup> *Student Conduct Code*, FLORIDA STATE UNIVERSITY at 2 (approved on Aug. 20, 2020), <https://sccs.fsu.edu/sites/g/files/upcbnu2631/files/FSU-ER20-1%20Student%20Conduct%20Code%20Approved%208%2013%202020.pdf>.

<sup>89</sup> H.B. 741, HOUSE VOTING HISTORY, 2019 Leg., (Fla. 2019), available at [https://www.flsenate.gov/Session/Bill/2019/741/Vote/HouseVote\\_h00741c2091.PDF](https://www.flsenate.gov/Session/Bill/2019/741/Vote/HouseVote_h00741c2091.PDF).

<sup>90</sup> See *Florida Anti-Semitism Bill Threatens Free Speech*, NATIONAL COALITION AGAINST CENSORSHIP, <https://ncac.org/news/florida-anti-semitism-bill-threatens-free-speech>.

<sup>91</sup> Equal Opportunity and Non-Discrimination Statement, FLORIDA STATE UNIVERSITY (revised Sept. 20, 2019), [https://www.hr.fsu.edu/PDF/Publications/diversity/EEO\\_Statement.pdf](https://www.hr.fsu.edu/PDF/Publications/diversity/EEO_Statement.pdf).

Rights Act of 1964,<sup>92</sup> which prohibits discrimination on the basis of race, color, or national origin by institutions that receive federal financial assistance. A violation of Title VI may be found where a university has created or is otherwise responsible for a hostile environment due to national origin-based harassment that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to obtain educational services. “A recipient has subjected an individual to discrimination based on national origin if it has effectively caused, encouraged, accepted, tolerated or failed to correct a hostile environment of which it has notice.”<sup>93</sup>

Thrasher’s first June 18 statement condemned Ahmad for “anti-Israel” comments based on posts he made as a child objecting to the military occupation that he was directly experiencing. Thrasher then amended “anti-Israel” to say “anti-Semitic,” further stigmatizing Ahmad as anti-Jewish for expressing his negative views of Israel’s treatment of Palestinians. Rather than correcting the hostile, anti-Palestinian environment that Ahmad was already experiencing, FSU further encouraged it by opening an investigation into Ahmad, capitulating to smear efforts from anti-Palestinian advocacy groups and heeding calls from an Israeli government funded app publicizing statements against Ahmad. FSU further compounded the fostering of this hostile environment by admonishing him in a letter for refusing to bend senate procedure to allow anti-Palestinian politicians time to speak in favor of an anti-Palestinian resolution.

Because of this hostile, anti-Palestinian environment at FSU, Ahmad has found it difficult to concentrate on his studies. Ahmad faced severe anti-Palestinian harassment after Thrasher released his statement falsely condemning him for “anti-Semitic” speech. He was unable to sleep, was plagued by nightmares and spent the majority of his waking hours figuring out how to respond to these distorted accusations and harassment. He was unable to study and focus on his exams during summer quarter. Exhausted and scared, he received a near-failing grade in one of his classes.

This hostile environment took a toll on Ahmad’s physical health as well. In June, Ahmad’s family contracted COVID-19. Ahmad himself was bed-ridden for over a week, as anti-Palestinian attacks on his character continued. With a high fever, he found himself too exhausted and sick to defend himself or respond. When he finally recovered, he struggled between caring for ailing family members and addressing the campaign of anti-Palestinian statements directed at him by FSU, politicians and anti-Palestinian groups around the world.

The barrage of threatening, racist, and Islamophobic messages Ahmad has been subjected to since he became Student Senate President made clear that FSU tolerates and possibly even

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<sup>92</sup> 42 U.S.C. §2000d (1964).

<sup>93</sup> Case No. 02-19-2174 New York University, U.S. Dep’t of Educ. Office of Civil Rights (Sept. 25, 2020), available at <https://jewishinsider.com/wp-content/uploads/2020/09/NYU-OCR-Resolution-Agreement-9-25-20-With-Watermark.pdf>.



encourages bigoted, anti-Palestinian harassment directed at their own students. This is in sharp contrast to the administration's rapid responses to appease a massive campaign by pro-Israel students, politicians, off campus and Israeli government-funded groups and thousands of individuals mobilized against one single FSU student for statements he made when he was a child and for his continued protected advocacy opposing Israel's occupation and human rights abuses. His statements were years old and not directed at any individual or community, either within or outside of FSU.

This experience has left Ahmad feeling unwelcome on campus, fearing for his safety, and afraid that anything he says about his experiences as a Palestinian or about the Israel-Palestine issue will cause more targeting. He suffers deep uncertainty about how to exist as a Palestinian on campus when his ability to talk about the living conditions of Palestinians—or to even share his own journey as a Palestinian—has spurred such intense lobbying campaigns by anti-Palestinian politicians and lobby groups. Mostly, however, he is devastated that FSU's administration not only failed to condemn these campaigns against him but instead joined in the fray. Ahmad faces constant anxiety that the attacks on him will continue if he dares to even mention the word Palestine or Palestinian – much less advocates for his right to exist as an equal human being – and he feels entirely abandoned by the FSU administration, which has only magnified the attack on him.

As a university committed and obligated to provide an educational environment welcoming to all regardless of race, color or national origin, there is no justification for this treatment.

## **V. Conclusion**

We urge FSU to immediately cease encouraging an anti-Palestinian environment on campus that actively harms Palestinian students, and to meet the university's obligations under all relevant U.S. law to protect Palestinian students' and their supporters' rights to openly discuss Palestinian experiences.

To rectify the harm done to Ahmad, Jack and other students on campus, we request that you:

- (1) Issue a public statement apologizing for FSU's mistreatment of Ahmad and Jack.
- (2) Protect students' free speech rights by rescinding FSU's adoption of the controversial IHRA Working Definition of Antisemitism, which falsely conflates criticism of Israel with antisemitism

(3) Cease investigating FSU students for their protected political speech in favor of Palestinian freedom and equality.

We respectfully request a response by January 6, 2021.

Sincerely,



Amira Mattar  
Michael Ratner Justice Fellow  
Palestine Legal



Radhika Sainath  
Senior Staff Attorney  
Palestine Legal



Thania Clevenger  
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