



# FIRE

Foundation for Individual  
Rights and Expression

December 13, 2023

Peter Salovey  
Office of the President  
Yale University  
P.O. Box 208229  
New Haven, Connecticut 06520-8229

*Sent via U.S. Mail and Electronic Mail (president@yale.edu)*

Dear President Salovey:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned by your recent statement that Yale University will punish students for publicly calling for the genocide of Jews. Fleeting, untargeted political statements, without more, are protected under Yale's laudable commitment to free speech and cannot form the basis of university discipline. Weakening this commitment now will only inflame existing campus tensions around the Israeli-Palestinian conflict and diminish Yale's core mission of knowledge-building and truth-seeking. Fulfilling that mission requires the maximally open climate for speech and debate that Yale's policies already provide. FIRE urges Yale in the strongest possible terms to stand by its free speech commitment.

Our concerns focus on your statement to the *Yale Daily News* about whether calls for the genocide of Jews violate Yale's policies, in which you stated that any such speech is "harassing, intimidating, and discriminatory" and Yale would punish "individuals culpable of such speech."<sup>2</sup> Yale should not adopt such a blanket exemption from its longstanding stated

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<sup>1</sup> For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our recently expanded mission and activities at [thefire.org](https://thefire.org).

<sup>2</sup> Benjamin Hernandez, Salovey breaks with peer University presidents' indirect answers, updates response to hypothetical question from House antisemitism hearing, *YALE DAILY NEWS* (Dec. 7, 2023), <https://yaledailynews.com/blog/2023/12/07/salovey-breaks-with-peer-university-presidents-indirect-answers-updates-response-to-hypothetical-question-from-house-antisemitism-hearing>. The recitation here reflects our understanding of the pertinent facts. We appreciate that you may have additional information to offer and invite you to share it with us.

commitment to upholding free speech rights consistent with First Amendment principles,<sup>3</sup> as calls for violence, without more, are not unprotected true threats, intimidation, or discriminatory harassment,<sup>4</sup> and punishing them will do little to address anti-Semitism on campus.<sup>5</sup> University leaders cannot censor their way to a more tolerant and welcoming campus.<sup>6</sup> Since 1975, Yale’s free speech policies have wisely cautioned against misguided efforts to punish hateful but protected speech, explaining: “The banning or obstruction of lawful speech can never be justified on such grounds as that the speech or the speaker is deemed irresponsible, offensive, un-scholarly, or untrue.”<sup>7</sup>

As an Ivy League university, Yale is uniquely situated to counter hateful speech with education instead of censorship. Using your institution’s profound power to enlighten and potentially eradicate hate is a far more effective alternative than attempting to suppress protected student and faculty speech. Yale can inform its campus community how the robust protection for political speech—of vital necessity in times of intense disagreement on global affairs—encompasses rhetorical hyperbole, the conceptual endorsement of violence,<sup>8</sup> or assertions of the “moral propriety or even moral necessity for a resort to force or violence.”<sup>9</sup> And it can explain how this protection balances the fundamental right to discuss public issues with universities’ obligation to ensure campus safety.

If Yale chooses to water down its free speech commitments to exempt expression construable as calls for genocide, it opens the door to more censorship of a limitless array of views on campus, to the detriment of robust academic debate and the ability of opposing activists to find common ground.<sup>10</sup> FIRE urges Yale to instead stand up for free speech by holding fast to its

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<sup>3</sup> *Guidance Regarding Free Expression and Peaceable Assembly at Yale*, YALE UNIV., <https://secretary.yale.edu/student-life/guidance-regarding-free-expression-and-peaceable-assembly-yale>. [https://perma.cc/7KZC-PQKY] (“Yale has a deep history of fostering expressive activity. As an academic institution dedicated to free inquiry and the search for truth, the university is committed to free expression.”).

<sup>4</sup> Aaron Terr & Matthew Harwood, *Why (most) calls for genocide are protected speech*, FIRE (Dec. 8, 2023), <https://www.thefire.org/news/why-most-calls-genocide-are-protected-speech>; *Unprotected Speech Synopsis*, FIRE, <https://www.thefire.org/research-learn/unprotected-speech-synopsis>.

<sup>5</sup> Adam Satariano & Christopher F. Schuetze, *Where Online Hate Speech Can Bring the Police to Your Door*, N.Y. TIMES (updated Jan 21, 2023), <https://www.nytimes.com/2022/09/23/technology/germany-internet-speech-arrest.html>. Betsy Reed, *Antisemitic acts have ‘exploded’ in France since 7 October, interior minister says*, THE GUARDIAN (Nov. 5, 2023), <https://www.theguardian.com/world/2023/nov/06/antisemitic-acts-have-exploded-in-france-since-7-october-interior-minister-says>.

<sup>6</sup> Zach Greenberg, *A world without hate speech*, FIRE (Oct. 12, 2017), <https://www.thefire.org/news/world-without-hate-speech>.

<sup>7</sup> *Report of the Committee on Freedom of Expression at Yale*, YALE UNIV., <https://secretary.yale.edu/report-committee-freedom-expression-yale> [https://perma.cc/DKP2-HYYN].

<sup>8</sup> *Watts v. United States*, 394 U.S. 705, 708 (1969).

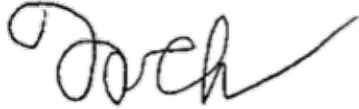
<sup>9</sup> *Noto v. United States*, 367 U.S. 290, 297–98 (1961).

<sup>10</sup> Eugene Volokh & Will Creeley, *The trouble with Congress or college presidents policing free speech on campuses*, L.A. TIMES (Dec. 10, 2023), <https://www.latimes.com/opinion/story/2023-12-10/antisemitism-campus-speech-penn-president-liz-magill-resigns-harvard-mit> (“The 1st Amendment doesn’t have an ‘advocacy of genocide’ exception, nor do the promises of student free speech that many private universities properly make. And for good reason: Students must be free to debate what is proper to do in war, and what wars are just.”).

laudable commitment to First Amendment standards. We would be pleased to help Yale educate its campus community on the value of that commitment.<sup>11</sup>

We request a substantive response to this letter no later than close of business December 28, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Zach", with a long, sweeping flourish extending to the right.

Zachary Greenberg  
Senior Program Officer, Campus Rights Advocacy

Cc: Board of Trustees

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<sup>11</sup> FIRE offers a variety of educational resources, free of charge, for incoming students about free speech rights and the principles behind the First Amendment, which can be adapted for Yale's needs. *Free Speech Free Speech at Freshman Orientation*, FIRE, <https://www.thefire.org/research-learn/free-speech-freshman-orientation>.