

## Committee for Open Expression report

**Title:** Report on Open Expression Violations Related to the First Anniversary of the October 7, 2023, Hamas Attack and Gaza War

**Name and title of the Persons preparing the Report:** Prof. Ilya Nemenman, Professor of Physics and Biology, CFOE Chair

**Committee members voting for report:** 7 affirmative votes received

**Date of submission:** 11/07/2024

**Duration of the investigation:** 10/07/2024 – 10/17/2024

**Summary:** This report addresses two incidents involving potential violations of Emory University's Respect for Open Expression Policy (RFOE) around the first anniversary of the October 7, 2023, Hamas attack in Israel and the beginning of the war in Gaza. The first incident occurred during a pro-Palestinian protest on October 4, 2024, when participants entered the Emory bookstore and used amplified sound, despite explicit warnings from Open Expression observers not to do so. The Committee finds this to be a clear violation of the RFOE Policy. The second incident involved the defacement of memorial chalking organized by Emory Students for Justice in Palestine (ESJP) on the Quad on October 8, 2024. While the individuals responsible for the defacement have not been identified, this act also constitutes a violation of the Policy. The Committee recommends that both cases be referred to the Office of Student Conduct for further investigation and possible disciplinary action, ensuring that consequences are proportional to the severity of the violations. Additionally, the Committee stresses the importance of continued education about the RFOE Policy to reduce future violations.

### 1. Introduction:

This report addresses two potential violations of Emory University's Respect for Open Expression Policy (RFOE), which occurred around the first anniversary of the October 7, 2023, Hamas attack in Israel and the beginning of the war in Gaza. The first incident took place on October 4, 2024, during a pro-Palestinian protest in the Oxford Road Building. During this protest, participants entered the Emory bookstore without authorization and used amplified sound to chant, despite explicit warnings from Open Expression observers advising against this. The event has been documented through both direct complaints and an article in the [\*Emory Wheel\*](#).

The second incident, occurring on October 8, 2024, involved the defacement of memorial chalking organized by Emory Students for Justice in Palestine (ESJP) on the Quad. This chalking was part of a memorial event, and the defacement was submitted for review by ESJP, as documented in their submission (see Attachment for further details).

Both incidents have been brought to the attention of the Committee for Open Expression (CFOE) for review. This report seeks to determine whether these events violated the RFOE and whether further disciplinary action is warranted.

## 2. Background:

Emory University, as a private institution, is not bound by the First Amendment in the same way as public universities. However, the University has voluntarily adopted the **Respect for Open Expression Policy (Policy 8.14)** (hereafter, the Policy), which governs expression, protest, and dissent on campus. The Policy affirms that: *“Emory University . . . is committed to an environment where the open expression of ideas and open, vigorous debate and speech are valued, promoted, and encouraged. As a community of scholars, we affirm these freedoms of thought, inquiry, speech, and assembly.”* Additionally, it states that *“Emory University respects the Constitutional rights of free speech and assembly.”* This has consistently been interpreted by the CFOE as providing the same protections to Emory community members as the First Amendment affords to members of public university communities.

As a **community compact**, the Policy relies on all members of the Emory community to adhere to its guidelines and respect others’ right to express themselves freely. The Committee for Open Expression (CFOE) is tasked with **promoting and protecting** the rights and responsibilities of community members concerning speech, debate, open expression, protest, and related matters. The Policy authorizes the CFOE to refer violations to disciplinary authorities when necessary: *“Actions that violate other Community expectations such as the Undergraduate Code of Conduct, the conduct expectations of the graduate and professional schools, or any other appropriate University policy, may be referred to the appropriate body.”* (Section 8.14.4.3) Importantly, any disciplinary actions taken must be **proportional**, ensuring that consequences reflect the severity of the violation.

The CFOE has previously addressed similar violations involving defacement of flyers and chalkings on campus. In our August 2024 report on **Written Open-Expression Violations during Fall of 2023**, we emphasized that tampering with or defacing materials—such as flyers or chalkings—compromises the free expression rights of those who participate in these acts of expression.

## 3. Scope of the Investigation:

The Committee for Open Expression has been asked to report on two specific potential violations of the Respect for Open Expression Policy:

- **October 4 Protest in the Oxford Road building:** Does this incident constitute a violation of the Policy, and should this violation be referred for further disciplinary action under Emory’s conduct codes?
- **Defacement of memorial chalking on the Quad:** Does this incident constitute a violation of the Policy, and should it be referred for further disciplinary action?

## 4. Process:

The Committee discussed the available information through a combination of an in-person meeting and emails. A draft report was prepared by the Chair, reviewed by all committee members, and subsequently edited and voted on via email.

## **5. Findings:**

Upon review, the Committee for Open Expression has concluded that violations of the Respect for Open Expression Policy (RFOE) occurred in both incidents. A detailed analysis of each event follows:

### **Protest in the Oxford Road Building and Unauthorized Entry into the Emory Bookstore**

The first incident involved a protest on October 4, 2024, in the Oxford Road Building. The protest was organized by multiple groups: Emory Stop Cop City, Emory Divest, Students for Socialism at Emory (see Attachment for event flyers). The violation occurred when participants entered the Emory bookstore and used amplified sound to chant, despite explicit instructions from Open Expression observers to avoid entering the bookstore and refrain from using amplified sound. The protest organizers ignored these warnings and proceeded into the bookstore with the crowd, chanting loudly.

The RFOE Policy requires that open expression activities comply with university guidelines regarding **time, place, and manner** to avoid disrupting university operations or infringing on the rights of others. In this case, the use of amplified sound in the bookstore—an area designated for commercial activities—directly interfered with its normal functioning and violated the Policy’s restrictions on disruptive behavior.

Furthermore, the failure of the protest organizers to relay the Open Expression observers’ warnings to the other participants meant that many individuals likely engaged in these activities without being fully aware that they were violating the policy. While ignorance of policy violations does not excuse misconduct, the **responsibility lies with the organizers** for failing to communicate the restrictions.

Given these facts, the Committee finds this incident to be a clear violation of the Respect for Open Expression Policy. While the Committee has identified some of the organizers involved, not all individuals have been identified. Their identities are withheld in this report but will be provided to disciplinary authorities if requested.

### **Defacement of Memorial Chalking on the Quad**

The second incident concerns the defacement of memorial chalking organized by the Emory Students for Justice in Palestine (ESJP) on the Quad. This chalking was part of a memorial event marking the anniversary of the war in Gaza following the October 7, 2023, Hamas attack in Israel. Shortly after the event, the chalking was defaced by unknown individuals.

The act of defacement violates the RFOE Policy, which protects the rights of individuals and groups to express themselves through approved forms of expression, including chalking, provided they comply with university regulations. As outlined in the CFOE’s August 2024 report on defacement of flyers and chalking, **tampering with or defacing of others’ speech and expression** infringes upon the expressive rights of those involved.

In this case, the individuals responsible for the defacement have not been identified, despite the availability of video surveillance footage. While this complicates potential disciplinary action, the act itself constitutes a violation of the Respect for Open Expression Policy.

### **Summary of Findings:**

1. **Protest in the Bookstore:** The Committee finds that the protest organizers violated the RFOE Policy by entering the bookstore without authorization and using amplified sound. The organizers ignored direct warnings from Open Expression observers, and some participants likely engaged in the violation unknowingly due to the organizers' failure to communicate the instructions.
2. **Defacement of Memorial Chalking:** The defacement of memorial chalking on the Quad is a clear violation of the RFOE Policy, as it interfered with the rights of others to engage in protected expression. Further investigation is needed to identify the responsible parties.

### **7. Recommendations:**

Based on the findings in this report, the Committee for Open Expression (CFOE) makes the following recommendations:

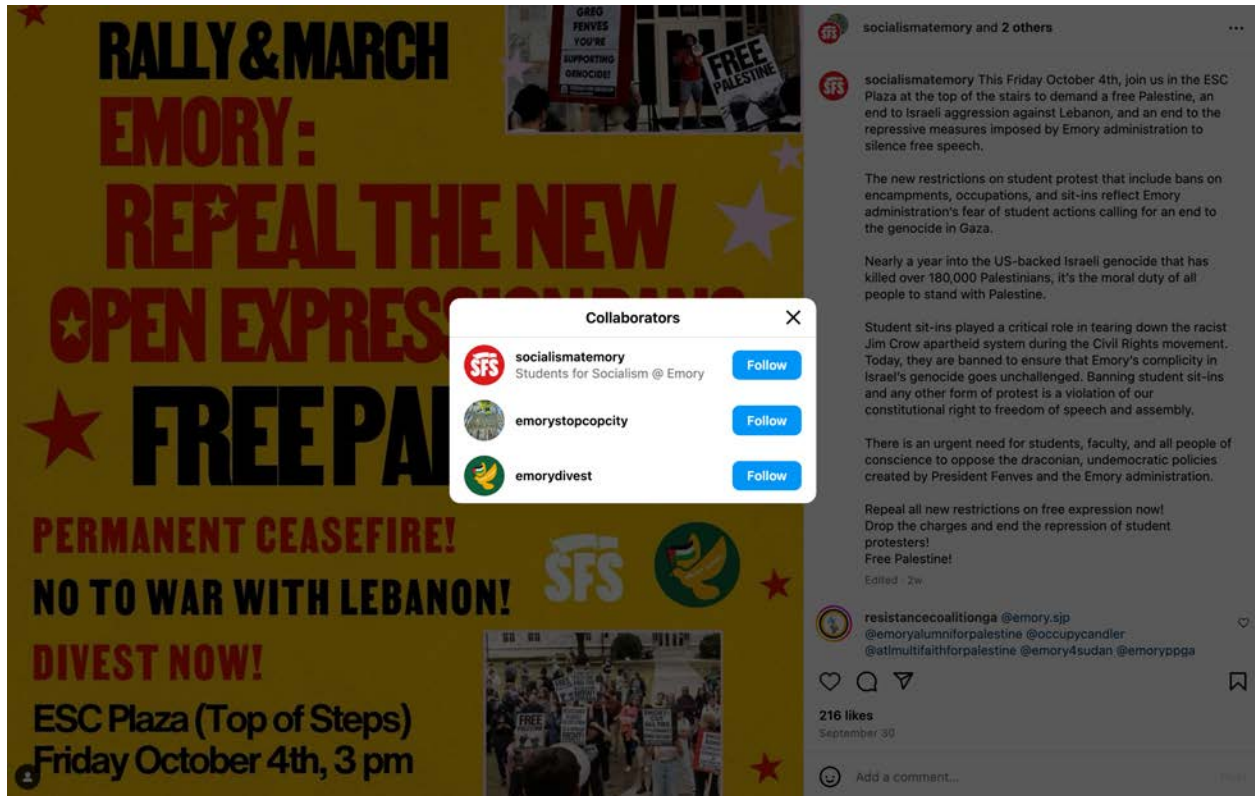
1. **Investigation and Disciplinary Actions:** The Office of Student Conduct should investigate both violations of the Respect for Open Expression Policy discussed in this report to determine whether disciplinary actions are warranted, provided that the perpetrators can be clearly identified. Any actions taken must be **proportional to the magnitude of the violation**, ensuring that responses are balanced and appropriate to the specific circumstances of each case.
2. **Strengthening Education and the Community Compact:** The University Senate should continue its efforts to educate the Emory community about the Respect for Open Expression Policy and the responsibilities that come with it. These educational initiatives should aim to strengthen the community's commitment to the policy, fostering a shared understanding that reduces the frequency of policy violations. By reinforcing this community compact, the University can help ensure that incidents of noncompliance are minimized and the rights of all members are respected.

### **8. Confidentiality:**

The CFOE is withholding the known identities of some of the organizers involved in the first incident detailed in this report to protect their privacy. However, these identities will be provided to the Office of Student Conduct upon request, should further investigation or disciplinary actions be pursued.

### **9. Attachments:**

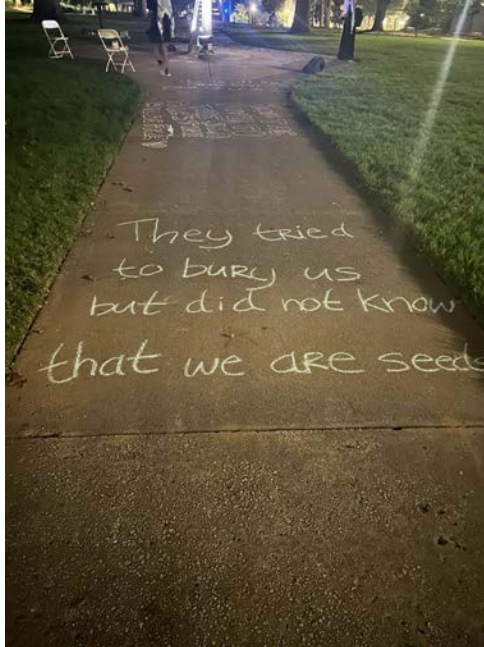
Flyer for Oct 4 protest listing the sponsoring groups:



Complaint from ESJP regarding the chalking defacement:

## Open Expression Report - Emory Students for Justice in Palestine October 12, 2024 Memorial Chalk Vandalism

On October 8th, 2024, Emory Students for Justice in Palestine (ESJP) hosted a memorial on the quad sponsored by several other student organizations to mourn the Palestinian and Lebanese citizens that had been killed by Israel over the prior year. During the memorial, chalk was made available to attendees in order to write prayers and messages by the flagpole in the center of the quad. This chalking occurred until approximately 9:00pm, and ESJP members concluded cleanup and left by 10:00pm



The next morning (October 9th), at approximately 8:25am, an ESJP member noticed that the chalk had been smudged out and opposing messages had been chalked by and on top of the memorial chalk. The previous night, someone asked an ESJP member for chalk and then walked away, so it may have been that student along with others. This is clearly a violation of the open expression policy and ESJP would like it to be investigated and for the violators to be prosecuted to the full extent of the policy along with restorative measures.











