



CAIR
PHILADELPHIA

ADC
TRULY ARAB, FULLY AMERICAN.

October 29, 2024

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RE: TITLE VI COMPLAINT AGAINST SWARTHMORE COLLEGE

Assistant Secretary Lhamon, et al:

The Philadelphia Chapter of the Council on American-Islamic Relations (“CAIR-Philadelphia”) and the American-Arab Anti-Discrimination Committee (“ADC”) write on behalf of specific individual Swarthmore College (“Swarthmore” or “the college”) students and faculty who have been the target of anti-Palestinian, anti-Arab, and anti-Muslim harassment and discrimination on campus since October 7, 2023. Palestinian, Arab, and Muslim students, as well as students from other backgrounds who are associated and affiliated with their Palestinian, Arab, and Muslim peers, report being discriminated against by other Swarthmore students, the

Swarthmore administration, and Swarthmore Public Safety. Swarthmore's response to these allegations of discrimination has been to criminalize and discipline Palestinian, Arab, and Muslim students. The Swarthmore administration has ignored reports of discrimination from Palestinian, Arab, and Muslim students, creating a hostile environment inflicted upon these students by their peers and administration. Attempts to address the discrimination occurring against Palestinian, Arab, and Muslim students have been rebuffed by Swarthmore. Based on the allegations in this complaint, we urge systemic investigation of Swarthmore and remediation under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq. ("Title VI"), its implementing regulations, and related policies and guidance of the Office of Civil Rights ("OCR") within the U.S. Department of Education ("DOE").

I. INTRODUCTION

Palestinian, Arab, and Muslim students and faculty report that they feel unwelcome on campus and feel excluded from the greater Swarthmore community. Swarthmore has initiated disciplinary proceedings against a disproportionate number of Palestinian, Arab, and Muslim students based on frivolous charges and has failed to afford these students fundamental due process rights during these proceedings. Most egregious, Palestinian, Arab, and Muslim students and faculty report that the Swarthmore administration, especially Vice President of Student Affairs Stephanie Ives, exude disdain and hatred towards these students and faculty during interactions such as meetings and public statements.

Swarthmore has created an environment where Palestinian, Arab, and Muslim students feel targeted, threatened, and unsafe. The administration has taken a hostile approach toward Palestinian, Arab, and Muslim students by ignoring their complaints of discrimination, pursuing student disciplinary proceedings against these students, limiting and prohibiting their on-campus

and speech-related activities, and ignoring requests by civil rights organizations to address concerns of discrimination. Palestinian, Arab, and Muslim students, and those associated and affiliated with Palestinians, feel that their voices are being silenced due to their racial, ethnic, and religious backgrounds, as well as their association with Palestinian identity.

Swarthmore has rigorously pursued student disciplinary proceedings against Palestinian, Arab, and Muslim students for nonviolent, protest-related activities that were previously and concurrently permitted by Swarthmore of other student groups. Thousands of dollars and countless hours and resources are being used to criminalize Palestinian, Arab, and Muslim students. Members of the Muslim community have reported that they feel like “non-entities” and feel excluded from the Swarthmore community. This past year there have been numerous actions by the administration to make Palestinian, Arab, and Muslim students and faculty feel this way including student disciplinary proceedings, public statements against organizations composed of Palestinian, Arab, and Muslim students, public statements and displays of support for only Israeli victims, and even in Swarthmore’s academic curriculum. After years of hostile behavior to Muslim faculty members who oversaw the Islamic Studies Program, this year Swarthmore has chosen to discontinue the Islamic Studies Program entirely.

II. JURISDICTION

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin by institutions that receive federal financial assistance. 42 U.S.C. § 2000d.

Swarthmore is a private college that is a recipient of federal funds and is therefore subject to Title VI. 34 C.F.R. §§ 101.1—101.2. The allegations in the complaint reflect national-origin discrimination, ethnic discrimination, and religious discrimination based on shared ethnic and

ancestral characteristics, against Palestinian, Arab, and Muslim students, as well as those who are perceived to hold, or who are associated and affiliated with Palestinian identity.

The discriminatory conduct mentioned in this Title VI Complaint started after October 7, 2023, and continues to the date of this filing. The discriminatory student conduct disciplinary hearings are still ongoing which is the most recent discriminatory act by Swarthmore—falling within the 180 day timeline required by Title VI. Students, faculty, and community organizations made numerous attempts to address and rectify the concerns of discrimination with Swarthmore, but the Swarthmore administration ignored or rebuffed all of these attempts, necessitating the filing of this Title VI Complaint to ensure these students’ concerns are properly investigated and addressed.

III. STATEMENT OF FACTS

A. Swarthmore Discriminates Against Palestinian, Arab, and Muslim Students through the Bias Incident Reporting System

Swarthmore has an online system for reporting bias incidents (“Bias Incident Reports”) where the reports are then referred to administrative staff to address. Swarthmore’s Code of Conduct defines Bias Incidents as:

Bias incidents are acts of conduct, speech, or expression that target individuals and groups based on their actual or perceived race/color, religion, ethnicity, national origin, gender, gender identity/expression, age, disability, or sexual orientation. Bias-related incidents, while abhorrent and intolerable, do not alone meet the necessary elements required to prove a crime, or even a violation of College policy. However, to be successfully addressed, bias-related incidents do require the active participation of a community committed to fundamental human dignity and equality.¹

Swarthmore discriminates against Palestinian, Arab, and Muslim students through its implementation of the Bias Incident Reporting System by failing to thoroughly

¹ <https://www.swarthmore.edu/public-safety/bias-incident-harassment-and-hate-crime-response>

investigate claims of bias submitted by Palestinian, Arab, and Muslim students, and also by weaponizing the system against Palestinian, Arab, and Muslim students through the student disciplinary process.

i. Bias Reports Submitted by Palestinian, Arab, and Muslim Students

Between December 1, 2023 and March 26, 2024, students affiliated with the Students for Justice in Palestine (“SJP”) and at least one faculty member submitted at least ten (10) Bias Incident Reports. The SJP is composed of Palestinian, Arab, and Muslim students, as well as other students of color from protected racial, religious, and ethnic backgrounds who stand in solidarity with the Palestinian, Arab, and Muslim students and community. Unlike other colleges and universities, the SJP at Swarthmore is mostly composed of Palestinian, Arab, Muslim, Black, and other students of color and does not have a large White student membership. To date, none of these Bias Incident Reports have been resolved or adequately addressed.

The specific Bias Incident Reports filed by the Palestinian, Arab, and Muslim community, as well as their supporters, include the following:

1. Between December 4, 2023 and December 10, 2023, [REDACTED], a Palestinian, Arab, and Muslim student, submitted a Bias Incident Report detailing that members of the SJP were being called “terrorists” by other students. [REDACTED] had reported this incident to Swarthmore administration, specifically to the Vice President for Student Affairs Stephanie Ives, prior to submitting the Bias Incident Report. On October 27, 2023, Vice President Ives had a meeting with [REDACTED] and was dismissive of [REDACTED] complaint. Vice President Ives told [REDACTED] to “go to Public Safety” to which [REDACTED] responded that many students were reluctant to go to Public Safety because Public Safety personnel had inflicted harm on the students previously. Vice President

Ives offered no alternative process for addressing this reporting of bias despite herself overseeing Swarthmore's Bias Incident Response process.

2. On May 1, 2024, [REDACTED], a LatinX student associated and affiliated with Palestinians, submitted a Bias Incident Report that Palestinian flags hung by the First Generation and/or Low Income Council, a student group, on their designated board within a Swarthmore building were taken down by Public Safety. The Bias Incident Report was received by the Associate Director of Public Safety Colin Quinn. The Associate Director of Public Safety informed [REDACTED] that Public Safety had concluded its investigation and that all relevant information was shared with Swarthmore's Bias Incident Response Team. The Associate Director of Public Safety also indicated that an individual was identified as having removed the Palestinian flags and indicated that all further communication regarding this incident would come from Swarthmore's Bias Incident Response Team. The Bias Incident Response Team never reached out or followed up with [REDACTED].
3. On December 1, 2023, [REDACTED], an Arab and Muslim student, submitted a Bias Incident Report regarding a meeting the SJP had with the Vice President of Student Affairs Stephanie Ives on November 8, 2023. The Bias Incident Report detailed that at this meeting, SJP members complained about discrimination they are facing on campus. Vice President Ives' response to the SJP members was that she [Ives] cannot change the color of her skin. The Bias Incident Report was received by Associate Dean Michelle Ray who indicated the Bias Incident Report was shared with Human Resources. Five months later, in May 2024, [REDACTED] received an email from an external investigator that she will be potentially contacted over the summer for an interview.

4. On December 1, 2023, [REDACTED], an Arab and Muslim student, submitted a Bias Incident Report complaining that members of SJP were being called “terrorists” by other students. Vice President Ives dismissed and downplayed their concerns and indicated that Jewish students were complaining about being called “colonizers” and “white supremacists.” The Bias Incident Report was received by Associate Dean Michelle Ray who indicated the Bias Incident Report was shared with Human Resources. Five months later, in May 2024, [REDACTED] received an email from an external investigator that she will be potentially contacted over the summer for an interview. [REDACTED] was interviewed by Cozen O’Connor in August 2024, but the investigators spent the majority of the time questioning [REDACTED] about her own protest-related activity. To date, [REDACTED] [REDACTED] has not received notification of the results of the external investigation.
5. Between December 1, 2023 and December 11, 2023, [REDACTED], a Muslim student of Uzbek ethnicity who is associated and affiliates with Palestinians, submitted a Bias Incident Report detailing an encounter with a professor while trying to put flyers on the Science Center Bulletin Board. The Bias Incident Report was received by Associate Dean Michelle Ray who asked Public Safety to investigate this matter. To date, there has been no follow up to this Bias Incident Report.
6. Between December 1, 2023 and December 11, 2023, [REDACTED], a Black student associated and affiliated with Palestinians, submitted a Bias Incident Report detailing that he witnessed two faculty members—a current and former faculty member—removing Swarthmore Palestine Coalition fliers near Kohlberg Hall. The Bias Incident Report was received by Associate Dean Michelle Ray who asked Public Safety to investigate this matter. To date, there has been no follow up to this Bias Incident Report.

7. Between December 1, 2023 and December 22, 2023, [REDACTED], a Black student associated and affiliated with Palestinians, submitted a Bias Incident Report regarding a meeting the SJP had with the Vice President of Student Affairs Stephanie Ives on November 8, 2023. SJP members complained that they were being called “terrorists” by other students and Vice President Ives dismissed and downplayed their concerns and indicated that Jewish students were complaining about being called “colonizers” and “white supremacists.” The Bias Incident Report was received by Associate Dean Michelle Ray who indicated the Bias Incident Report was shared with Human Resources. Five months later, in May 2024, [REDACTED] received an email from an external investigator that he will be potentially contacted over the summer for an interview. In August 2024, [REDACTED] was interviewed by the external investigator but has not heard from Swarthmore about the results of this investigation.
8. Between December 1, 2023 and December 6, 2023, [REDACTED], a Muslim student of Pakistani ethnicity who is associated and affiliated with Palestinians, submitted a Bias Incident Report regarding pro-Israel posters on campus that contained a QR link to anti-Palestinian and/or Islamophobic articles depicting women brutalized by sexual violence. Public Safety took down the pro-Israel posters. [REDACTED] then informed Public Safety that more of these posters still remained in other locations on campus. Associate Dean Michelle Ray emailed [REDACTED] stating that Swarthmore identified the person who put up the posters and sent them a warning. No discipline or charges were brought against the individual who posted the fliers containing anti-Palestinian and Islamophobic information.

9. Between December 1, 2023 and December 12, 2023, [REDACTED], a Muslim student of Pakistani ethnicity who is associated and affiliated with Palestinians, submitted a Bias Incident Report regarding two faculty members—a current and former faculty member—who were tearing down Swarthmore Palestine Coalition posters and also threatened a student with expulsion. The Bias Incident Report was received by Associate Dean Michelle Ray who indicated she asked Public Safety to investigate the matter. To date, there has been no follow-up to this Bias Incident Report.
10. Between December 1, 2023 and December 15, 2023, [REDACTED], a Muslim student of Pakistani ethnicity who is associated and affiliated with Palestinians, submitted a Bias Incident Report regarding a meeting the SJP had with the Vice President of Student Affairs Stephanie Ives on November 8, 2023. SJP members complained that they were being called “terrorists” by other students and Vice President Ives dismissed and downplayed their concerns and indicated that Jewish students were complaining about being called “colonizers” and “white supremacists.” The Bias Incident Report was received by Associate Dean Michelle Ray who indicated the Bias Incident Report was shared with Human Resources. Five months later, in May 2024, [REDACTED] received an email from an external investigator stating that she will be potentially contacted over the summer for an interview.
11. On or around February 13, 2024, [REDACTED], a Muslim student of Pakistani ethnicity who is associated and affiliated with Palestinians, submitted a Bias Incident Report that an unknown individual was recording a SJP rally that occurred outside of the Swarthmore dining hall and that the person recording called the SJP students terrorists. The Bias Incident Report was received by Associate Dean Michelle Ray. [REDACTED] was offered a

meeting with the Director of Public Safety Michael Hill, but [REDACTED] did not accept the meeting because of Public Safety's previous attempt to surveil and discipline pro-Palestinian students.

12. On March 26, 2024, [REDACTED], a faculty member who is associated and affiliated with Palestinians and the SJP, submitted a Bias Incident Report regarding an incident occurring on October 9, 2023 where a woman was tearing down SJP posters and called both [REDACTED] and SJP terrorists. On December 18, 2023, [REDACTED] saw the same woman who called her a terrorist at a Chabad reception on campus. [REDACTED] discussed the incident with Associate Dean Tiffany Thompson who passed a photo of the woman who called [REDACTED] a terrorist to Vice President Ives on December 18, 2023. Vice President Ives and the rest of the Swarthmore administration did not do anything regarding the derogatory comment. [REDACTED] emailed Vice President Ives on March 22, 2023 to follow up and was told to file a Bias Incident Report more than three months from when she first informed Swarthmore administration of the person who called her a terrorist. [REDACTED] filed a Bias Incident Report on March 26, 2024, noting in the report that the person who called her a terrorist is a music instructor on campus. [REDACTED] was contacted by an external investigator in May to potentially set up an interview over the summer and was finally interviewed in August 2024. To date, [REDACTED] has not heard the results of this investigation, and the music instructor is still listed as an instructor employed by Swarthmore.

13. On or about May 25, 2024, [REDACTED], a Muslim and Arab student, submitted a Bias Incident Report detailing how Acting Co-President and Provost of the College Tomoko Sakomura physically restrained her during a protest activity in December of 2023,

grabbing her by the arm and squeezing. Later that night, Acting Co-President Sakomura acknowledged grabbing [REDACTED]. [REDACTED] was contacted by an external investigator in June 2024 and was interviewed in August 2024; she has not received any further communication from Swarthmore about the Bias Incident Report.

As detailed above, the Swarthmore administration has not adequately responded to, investigated, or addressed Bias Incident Reports submitted by Palestinian, Arab, and Muslim students, as well as those associated and affiliated with Palestinians. In some instances, Swarthmore simply never followed up and in other instances Swarthmore responded many months later. Palestinian, Arab, and Muslim students, as well as those associated and affiliated with Palestinians, have reported to faculty and outside organizations that the Swarthmore administration does not care when these students are discriminated against and the Swarthmore administration does not thoroughly investigate any allegations of discrimination these students make. Faculty report that Swarthmore retained an external investigator in October 2024 to discuss the Bias Incident Response process with a handful of faculty committees, but the students and faculty members affected by the failures of the process have yet to be contacted by this investigator.

Vice President Stephanie Ives has been a leading culprit in the discrimination against Palestinian, Arab, and Muslim students and has ignored their well-founded reports of discrimination. When Palestinian, Arab, and Muslim students have told Vice President Ives about being called “terrorists,” she dismissed their concerns by saying that Jewish students have been called “colonizers” and “white supremacists.” Vice President Ives dismissed the Palestinian, Arab, and Muslim complaints of discrimination simply because another protected group may or may not have also been discriminated against. Vice President Ives also makes

misguided, if not blatantly racist, remarks, such as she cannot change the color of her skin, when engaged in uncomfortable conversations with students from protected backgrounds. It is reported that Vice President Ives referred to Palestinian, Arab, and Muslim students as “terrorizing the faculty” for conducting nonviolent, peaceful protests occupying campus facilities. The choice of words by Vice President Ives is indicative of how she treats and thinks of Palestinian, Arab, and Muslim students.

ii. Bias Reports Submitted against SJP Students

Not only are Bias Incident Reports submitted by Palestinian, Arab, and Muslim students not adequately investigated, the Swarthmore administration moves swiftly to investigate Bias Incident Reports that allege wrongdoing by SJP members, specifically Palestinian, Arab, and Muslim students.

1. On October 30, 2023, [REDACTED], a Jewish student, submitted a Bias Incident Report alleging that [REDACTED], an Arab and Muslim student, called [REDACTED] a “Zionist” on [REDACTED] Instagram page. Public Safety Director Mike Hill ordered Associate Director Colin Quinn to begin investigating the report on November 3, 2023, only four days after receiving the Bias Incident Report. The Report was referred to external investigators on December 11th, 2023, and an investigation was completed by April 9, 2023.
2. On November 6, 2023, [REDACTED], a Jewish student, submitted a Bias Incident Report alleging that [REDACTED], an Arab and Muslim student, slapped [REDACTED] across the face at a party in 2022. The Bias Incident Report was submitted a full year after the alleged conduct. Public Safety Associate Director Colin Quinn began investigating the incident that same day, on November 6, 2023. The Report was referred to external

investigators on December 11th, 2023, and an investigation was completed by April 9, 2023. This Bias Incident Report is the underlying basis for student discipline charges against [REDACTED].

3. On December 5, 2023, an anonymous complainant submitted a Bias Incident Report alleging that [REDACTED], an Arab and Muslim student, slapped [REDACTED] across the face at a party in 2022. This anonymous Bias Incident Report was immediately incorporated into Public Safety's investigation and used in support of student discipline charges against [REDACTED].

When students from other racial, ethnic, and religious backgrounds allege that Palestinian, Arab, and Muslim students committed discriminatory acts, the Swarthmore administration and Public Safety have investigated those claims the very same day. Not only does Swarthmore investigate such reports expeditiously, Swarthmore also uses these allegations—including allegations based on hearsay from events occurring more than a year prior to the reports—against Palestinian, Arab, and Muslim students for disciplinary charges and proceedings.

This discrepancy is not highlighted to insinuate such allegations should not be investigated, rather it emphasizes that Swarthmore has the capabilities and resources to perform investigations in a timely and thorough manner—yet refuses to do so regarding any reports of discrimination brought by Palestinian, Arab, and Muslim students, as well as those affiliated and associated with Palestinians. Swarthmore, either explicitly or implicitly, discriminates against Palestinian, Arab, and Muslim students by not affording them the same protections from harassment that Swarthmore affords students from differing racial, ethnic, and religious backgrounds.

iii. Effect of Discriminatory Practice of Bias Incident Reports Investigations

Swarthmore's dismissive attitude towards complaints of discrimination and harassment against Palestinian, Arab, and Muslim students has caused distrust between these students and the administration and Public Safety. This has led to an under-reporting of Bias Incident Reports by these students. Additionally, students and faculty at Swarthmore have reported that any measures the administration takes to actually investigate their complaints has led to an interrogation of the people reporting the discrimination. This is highlighted and evidenced by Vice President Ives dismissing complaints of discrimination by Palestinian, Arab, and Muslim students by indicating that other students are being called names—implying that this would somehow justify the discrimination against Palestinian, Arab, and Muslim students.

B. Swarthmore Public Safety Discriminations Against Palestinian, Arab, and Muslim Students and Faculty

Swarthmore Public Safety has repeatedly demonstrated an unwillingness to act swiftly against verbal and/or physical threats directed at students associated with Palestinian identity on campus. These groups of students are mostly Palestinian, Arab, and Muslim students, as well as those associated and affiliated with Palestinians. Public Safety's response to threats against these students has been underwhelming at best, and explicitly discriminatory at worst. The actions by Public Safety detailed below demonstrate the explicit and/or implicit discrimination Palestinian, Arab, and Muslim students face and have created an environment of distrust with these students and Swarthmore as a whole, including Public Safety.

i. Targeting Palestinian, Arab, and Muslim Students

A recently graduated Palestinian student reports that the student was followed by Public Safety officers on numerous occasions. Public Safety officers approached and questioned the

student while simply sitting on a bench on campus. It is reported that such interactions occurred multiple times.

██████████, a Palestinian student, has twice been mis-identified as participating in protest activities at which she was not present. She believes that she has been misidentified and profiled because she is one of the few Muslim students on campus who wears a hijab. She received a disciplinary warning in October 2023 which Swarthmore administration rescinded after ██████████ informed them of their error. Vice President for Student Affairs Stephanie Ives publicly informed faculty that ██████████ received a profuse apology for Swarthmore's error, but ██████████ received no such apology. When faculty wrote to Vice President Ives requesting clarification on ██████████ treatment by Swarthmore, Vice President Ives did not respond. ██████████ is currently facing further major misconduct charges for protest activities despite providing Swarthmore administration with records of identification card swipes on another area of campus during the date and time in question.

ii. Dismissing the Concerns of Palestinian, Arab, and Muslim Students

Palestinian, Arab, and Muslim students have been targeted and even attacked on campus several times, by other students and outsiders. During these occurrences, Public Safety has failed to intervene to protect Palestinian, Arab, and Muslim students and has also dismissed concerns raised by these students.

1. On February 12, 2024, an unknown individual—who was not identifiable as a student or faculty member of Swarthmore—was observed by Public Safety personnel walking toward student protesters and filming them. This individual continued following the students into the dining center and continued to film them in an attempt to provoke their response. Public Safety did not take any measures to confront this unknown

individual nor did they take any measures to protect the students who this individual was approaching. Rather, Associate Director Quinn admonished students by telling them “not to touch anyone” and that he found it “troublesome that the protesters felt physically empowered to police their own events using real and ‘made-up’ rules.” Not only did Public Safety personnel fail to take any actions to protect these student protesters mainly of Palestinian, Arab, and Muslim backgrounds, as well as those associated and affiliated with Palestinians, they prevented these students from taking any actions to protect themselves.

2. On May 17, 2024, a group of about twenty individuals who did not appear to be students at Swarthmore approached the encampment on campus that was erected by members of the SJP. This group of unknown individuals chanted in support of former U.S. President Donald Trump and threatened students by asserting that if students do not remove the encampment then they would take it upon themselves to do so. Despite this warning, a group of five to six unknown individuals attacked the encampment later that night around 11:00PM by shooting fireworks at the SJP members at the encampment. Public Safety personnel were late to the scene and made no attempts to apprehend the retreating assailants—even though Public Safety personnel communicated with each other via radio warning of the potential of gunshots. Public Safety personnel were concerned about the possibility these individuals would use gun violence and had advanced warning that they intended to attack the encampment, yet did nothing to prevent the attack or apprehend the perpetrators after it occurred. Public Safety typically issues warning notices to campus between one-and-a-half to nine hours after an incident or disturbance, yet for

this incident an email was not sent out until the following day, and only after repeatedly urged by faculty members for Public Safety to acknowledge the attack. When Public Safety finally sent out an email in response to the attack, Public Safety presented a false narrative and a different set of facts than were reported by eyewitnesses. Specifically, Public Safety referred to the fireworks—banned items on campus—as firecrackers, intentionally minimizing the severity of the incident, and did not disclose that the fireworks were fired towards and in the vicinity of students. Over the following days, the Director of Public Safety, Michael Hill, rebuffed students presenting video evidence and testimony of the attacks.

Public Safety failed to protect the SJP members, failed to apprehend the culprits of the attack, and dismissed evidence of the attack—signaling to the SJP members and broader Swarthmore community that violent attacks against Palestinian, Arab, and Muslim students are permissible. The very department responsible for protecting students is complicit in attacks against students, leaving Palestinian, Arab, and Muslim students undefended.

iii. Racial/Ethnic Profiling of Palestinian, Arab, and/or Muslim Faculty

A Public Safety officer approached an Arab faculty member who was simply eating in the dining center in order to identify the faculty member by name. Public Safety included this faculty member's name in an incident report that was incorporated into an investigative report utilized in the student discipline process. This interaction highlights that Public Safety investigates and files incident reports for Arab faculty members conducting normal everyday activities that are common on a college campus, including speaking with students and eating on campus. This action has caused many Palestinian, Arab, and Muslim students and faculty

members to conclude that they are being surveilled and watched by Swarthmore Public Safety solely due to being Palestinian, Arab, and Muslim.

C. Swarthmore Discriminates Against Palestinian, Arab, and Muslim Students by Limiting Their Rights, Privileges, and Activities as Compared to Other Students

Swarthmore is regarded as an elite, Quaker institution that describes itself as “a liberal arts college that fosters intellectual curiosity, creativity, and social responsibility.” Students have a long history of activism on campus at Swarthmore, yet Palestinian, Arab, and Muslim students are treated differently for their activism than students in the past.

i. Differential Treatment of Palestinian, Arab, and Muslim Students Regarding Protest Rights

Swarthmore, by the nature of its Quaker foundation, has throughout history attracted students who seek knowledge, peace, and tolerance. Swarthmore students have always been involved in protest movements depending on the pressing issues at the time. In recent history, student groups like Mountain Justice/Sunrise Swarthmore (2012-2017), #BLM and the Black Affinity Coalition (2015-present), and Solidarity at Swat (2022-present) have occupied hallways and offices, used bullhorns in both indoor and outdoor spaces, affixed posters, hung banners, and engaged in other protest activities—most, if not all, of these actions were permitted and students did not face disciplinary measures.

Despite the SJP members participating in many of the same activities as these aforementioned groups, the Palestinian, Arab, and Muslim students in SJP, as well as those associated and affiliated with Palestinians, have been disproportionately disciplined and charged with excessive violations. Violations such as “disorderly conduct,” “assault,” and “banners, chalking, and posters” have been selectively enforced and used as a basis for charges against SJP members when other student groups participated in the very same activities but did not face any

disciplinary consequences. The differential treatment of SJP members by Swarthmore appears to, at a minimum, be in part due to the racial, ethnic, and religious background of the students who make up the SJP.

Swarthmore has charged 25 different members of the SJP with violations of the Student Code of Conduct, including 10 major misconduct charges and 20 minor misconduct charges. Anecdotally, and according to available information and data, Swarthmore has not pursued this number of charges against students in the past—even students who participated in the very same protest activities. Between 2013 and 2017, Swarthmore reported an average of 4.5 behavioral misconduct cases per year. In 2024, Swarthmore exceeded this average by over 500%, largely due to the involvement of an external law firm that was hired to conduct preliminary investigations of students and to prepare and recommend charges against students. The hiring of external investigators is a departure from the previous standard practices of Swarthmore. The charges levied against Palestinian, Arab, and Muslim students are extremely excessive and, in many cases, unfounded.

Swarthmore senior administration has repeatedly mis-characterized the nature of this protest to the campus community: in a September 11, 2024 all-faculty meeting regarding the student disciplinary charges, Vice President Stephanie Ives falsely framed the charges as a response to injuries visited upon students. She suggested multiple scenarios in which students were harmed by other students or reported being harmed by other students and identified SJP as the perpetrator of this harm. No student disciplinary charges or evidence files for protest-related activities undertaken by Arab, Muslim, or Palestinian students or students affiliated and associated with Palestinians or SJP include any mention of student harm.

After Vice President Ives spoke, multiple faculty members reiterated the notion that the disciplinary charges relate to physical injury inflicted upon students by other students, raising alarm about SJP's protest activity more broadly. Such unfounded and prejudicial claims damage students' academic and advising relationships with Swarthmore faculty. Moreover, faculty serve on the College Judiciary Committee, the decision-making authority in student discipline hearings, and these claims unduly and maliciously prejudice committee members hearing disciplinary cases against students facing charges. Faculty misconceptions were not corrected by Vice President Ives or other members of Swarthmore senior administration.

On September 16, 2024, some faculty members sent an email to Vice-President Ives requesting that she substantiate her public claims or retract them in a message to the campus community. This email raised concern about the prejudicial effects of such mischaracterizations, stating that they risked "endangering the integrity of our students' upcoming cases and tainting the campus climate as a whole." It also warned of the risk of creating a hostile environment for Muslim, Arab, and Palestinian students and students of color affiliated and associated with Palestinians, stating:

Given the disproportionate number of Palestinian and other BIPOC activists among the 25 students who have been charged, we are concerned that such unsubstantiated claims that students have been harmed will evoke stereotypes of irrationally violent Arabs, Muslims, and other students of color—stereotypes that are themselves harmful to our students. We are aware, moreover, that such statements further the anti-Arab bias and racism many experience on our campus.

Vice President Ives has not responded. Faculty have reiterated their request multiple times to no avail.

ii. **Differential Treatment of Palestinian, Arab, and Muslim Students Regarding Extended Housing and Employment Opportunities**

Most of the SJP members who applied for extended housing and/or summer employment opportunities at Swarthmore were denied. Typically, in the past Swarthmore has extended summer work to most individuals who apply due to being short staffed over the summer. All of the SJP members who applied for extended housing were denied. The application period for extended housing and employment opportunities was during the encampment that many members of the SJP participated in. Due to the actions of Swarthmore against the Palestinian, Arab, and Muslim students, as well as those who are associated and affiliated with Palestinians, further investigation into the reasoning to deny these students housing and employment is warranted and raises suspicions of unlawful discrimination.

iii. Changes to the Student Code of Conduct Targeting the Expression of Palestinian, Arab, and Muslim Students

Swarthmore made changes to its Student Code of Conduct for this academic year in direct response to protests and activism by Palestinian, Arab, and Muslim students. In the past decade the Student Code of Conduct has undergone minimal substantive changes, despite large and disruptive protests for racial justice, fossil fuel divestment, and a series of campaigns to close fraternities on campus. After the 2023-2024 academic year, Swarthmore overhauled its Student Code of Conduct to enumerate and prohibit protests activities undertaken by pro-Palestine students, mostly Palestinian, Arab, and Muslim.

iv. Differential Public Messaging about Violence Committed Against Arab, Muslim, and Palestinian Persons

Swarthmore has regularly issued community-wide emails on national and international acts of violence, such as the police killings of Michael Brown and George Floyd and the Russian invasion of Ukraine. October 10, 2023, President Valerie Smith sent a community-wide email expressing grief at the “horrific attacks by Hamas against the people of Israel.” Muslim, Arab,

and Palestinian students and students associated and affiliated with Palestinians have asked the Swarthmore administration to send a similar email publicly recognizing and grieving the ensuing Israeli attacks on the Palestinian people. To date, Swarthmore has never publicly recognized the Palestinian death toll or infrastructural devastation in Gaza since October 2023. In December 2023 and May 2024, during student negotiations with Swarthmore administrators, Arab, Muslim, and Palestinian students expressed feelings of grief, isolation, and alienation on campus as a result of this silence. Palestinian students told administrators that their humanity as Palestinians was not publicly recognized in the way that other populations were. In May 2024, student negotiators asked if Swarthmore would issue an email that mirrored the one sent in October 2023, i.e., describing the horrific attacks by the Israeli military against the people of Palestine. Swarthmore senior administrators refused to do so. The clear double standard occasioned by public silence in the face of loss of Arab, Muslim, and Palestinian life after a history of publicly acknowledging acts of violence perpetrated against other racial and ethnic groups produces a hostile living and educational environment for Arab, Muslim, and Palestinian students.

D. Swarthmore Discriminates Against Palestinian, Arab, and Muslim Students in Disciplinary Proceedings

Swarthmore has weaponized the student disciplinary process to target Palestinian, Arab, and Muslim students due to their association with Palestinian identity. Students are being charged for violations of the Student Code of Conduct for the same actions that students of other backgrounds took but faced no consequences. Swarthmore's administration, specifically Vice President Ives, has admitted to faculty that the same actions in the past did not lead to disciplinary proceedings. Further, the timing and manner in which Swarthmore initiates student disciplinary proceedings against Palestinian, Arab, and Muslim students raises concerns that the

administration is retaliating specifically against Palestinian, Arab, and Muslim students in-part due to their association with Palestinian identity.

The SJP, composed of many Palestinian, Arab, and Muslim students, was in negotiations with the Swarthmore administration during the spring of 2024 over a list of demands. There were meetings and dialogue between SJP and the Swarthmore administration, where the administration indicated that no disciplinary charges would be pursued against students for their on-campus activism. After taking the students' demands and negotiation updates to the Swarthmore Board of Managers, the administration abruptly cut off negotiations and announced disciplinary proceedings against 25 students.

i. Palestinian, Arab, and Muslim Students are Disproportionately Charged

Of the 25 students facing charges for allegedly violating the Student Code of Conduct, 20 are students of color—including many Palestinian, Arab, and Muslim students. As indicated earlier, the yearly average number of student disciplinary proceedings is merely a handful of students, yet Swarthmore initiated student disciplinary proceedings against 20 students of color. Although there were many White students at the same protests which underlie the disciplinary charges, few White students are facing any disciplinary measures. The Palestinian, Arab, and Muslim students facing disciplinary proceedings have repeatedly asked Swarthmore for CCTV footage of the protests, which was used by the external law firm to initiate charges against students, yet Swarthmore denies their requests. Many Palestinian, Arab, and Muslim students believe the CCTV footage would demonstrate Swarthmore's pattern of selectively targeting students of color, since the CCTV footage would reveal there were many White students at these protests—participating in the same actions—who were not disciplined.

ii. Lack of Due Process Afforded to Palestinian, Arab, and Muslim Students

The entire process of the student disciplinary proceedings, in addition to the underlying discrimination, lacks fundamental due process. The Palestinian, Arab, and Muslim students have repeatedly asked for evidence and clarification about particular charges, yet Swarthmore withholds the evidence and refuses to answer essential questions that address the basis of particular charges. Although the Student Code of Conduct asserts that hearings will occur within twenty days barring scheduling difficulties, these student disciplinary proceedings were initiated last May and are still ongoing, leaving Palestinian, Arab, and Muslim students in limbo for more than five months.

a. [REDACTED] Student Disciplinary Proceeding

Most notably, the student disciplinary proceeding against [REDACTED] highlights the lack of due process afforded to Palestinian, Arab, and Muslim students. [REDACTED] faced major misconduct charges including “harassment of a protected class” and “assault.” These charges stem from an alleged incident that was not reported to Swarthmore until a year after it purportedly happened, and was seemingly retaliation by another student against [REDACTED] for her pro-Palestine activism. [REDACTED]

[REDACTED] Despite the lack of evidence, Swarthmore pursued charges against [REDACTED] for over five months.

Swarthmore administrators repeatedly denied [REDACTED] requests to call witnesses who participated in conversations with the students planning to file multiple bias reports against [REDACTED] in the fall of 2023. These witnesses describe the students planning to use the bias reporting system to retaliate against [REDACTED] for her support for Palestine. These bias reports became the basis of the charges Swarthmore pursued against [REDACTED].

Additionally, regarding harassment of a protected class, Swarthmore refused to indicate which protected class [REDACTED] was accused of harassing. When asked directly whether the case involved antisemitism, Swarthmore administration and officials explicitly indicated that none of the student disciplinary proceedings involve allegations of antisemitism. [REDACTED]

[REDACTED] Throughout the entire process [REDACTED] was not informed what the alleged protected class actually was.

Further, the administration attempted to preclude [REDACTED] from providing a written statement during her student disciplinary proceeding. [REDACTED] was only permitted to have her written statement be part of the evidence due to extensive pressure by Swarthmore faculty members. [REDACTED]

[REDACTED] repeatedly requested to be allowed legal representation during the disciplinary process, as Swarthmore hired the Chair of Montgomery, McCracken, Walker & Rhoades to investigate, recommend charges, vet evidence, and speak at the hearing to justify the charges against [REDACTED], despite Student Conduct Policies which prohibit the presence of attorneys in disciplinary hearings. Swarthmore administration ignored or denied [REDACTED] requests to similarly have an attorney present during the hearing. Taken together, these actions violated [REDACTED] contractual right to the “full and fair” hearing proscribed by the Swarthmore Student Conduct Policies and Procedures.

After the College Judiciary Committee found [REDACTED] not responsible for all charges in October 2024, [REDACTED] requested that Swarthmore investigate her repeated assertion that students collaborated to file malicious and retaliatory Bias Incident Reports and testimony in the

aforementioned disciplinary process. [REDACTED]

[REDACTED],
Swarthmore administration declined to investigate the students.

E. Swarthmore Discriminates Against Palestinian, Arab, and Muslim Faculty and Staff

Faculty and staff members have reported that Swarthmore administration and Public Safety discriminate against Palestinian, Arab, and Muslim faculty in numerous ways. Due to the sensitive and confidential nature of employment matters, many concerns and complaints are not detailed in this Title VI Complaint. However, there is merit to these allegations and additional information can be provided to the Office of Civil Rights upon request. Faculty allege that Swarthmore surveils Palestinian, Arab, and Muslim faculty members, limits employment opportunities, and creates an environment where these faculty and staff members are made to feel that they do not belong.

F. Community Efforts to Address Discrimination were Ignored by Swarthmore

CAIR-Philadelphia and the ADC have fielded numerous complaints from Palestinian, Arab, and Muslim students and faculty members in 2024. On June 26, 2024, CAIR-Philadelphia and the ADC approached the Swarthmore administration in a good faith effort to let the administration know how these students were feeling, the concerns of discrimination that these students raised, and to extend an invitation to collaborate to address and rectify these concerns. See June 26, 2024 Email (attached as Exhibit A).

On June 27, 2024, the Acting Co-President at the time, Rob Goldberg, responded with the following:

We have received your joint letter. While we appreciate your outreach, we take issue with the broad accusations included in your letter. Swarthmore College

takes all instances of bias very seriously and has not treated students differently based on their national origin, religion, race, ancestry, political views or the nature of their complaints. Moreover, we reject any notion that our student conduct process is discriminatory and we stress the importance of holding all members of our community accountable for their actions. Indeed, accountability is a critical part of creating a respectful and productive educational community.

We would, however, be happy to meet with you to discuss your concerns. We will reach out to find a time for our team to meet with you, either in-person or via zoom in the coming weeks.

See Email from Rob Goldberg, June 27, 2024 (attached as Exhibit B).

It is alarming that when confronted with information that Palestinian, Arab, and Muslim students feel they are being discriminated against—Swarthmore does not address their Bias Incident Reports and Swarthmore disproportionately charges these students for disciplinary violations—the Acting Co-President categorically denied that discrimination occurs. As detailed earlier in this Title VI Complaint, there are numerous instances of Bias Incident Reports filed by Palestinian, Arab, and Muslim students—enough to warrant further investigation. Yet, the Acting Co-President seemingly performed his own internal investigation in less than a day and determined otherwise. It is hard to imagine that the Acting Co-President and administration respond to other organizations on behalf of students from protected classes in the same manner. Further, although Co-Acting President Goldberg indicated he would reach out to schedule a meeting, no such outreach occurred. CAIR-Philadelphia and the ADC followed up almost two months later to try and restart the dialogue, but a contemplated meeting was ultimately cancelled by Swarthmore.

Swarthmore's response to civil rights organizations that defend and protect Palestinian, Arab, and Muslim students matches how these students describe the actions of Swarthmore—that they are either dismissed or ignored.

IV. SWARTHMORE VIOLATES TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin by institutions that receive federal financial assistance 42 U.S.C. § 2000(d). A university or college recipient of federal funding may be found to have violated Title VI in one of two ways: (i) if it commits a discriminatory act of its own, or (ii) if it permits a hostile environment, when harassment by a third party or student is “so severe, pervasive, and objectively offensive that it effectively bars the victim’s access to an educational opportunity or benefit.” See Davis ex rel. LaShonda v. Monroe Cty. Bd. Of Educ., 526 U.S. 629, 633 (1999). Although Davis is a Title IX case, the same legal standards are applied to Title VI enforcement. See Fitzgerald v. Barnstable Sch. Comm., 555 U.S. 246, 258 (2009) (“Congress modeled Title IX after Title VI of the Civil Rights Act of 1964, and passed Title IX with the explicit understanding that it would be interpreted as Title VI was”).

An educational recipient of federal funding that has actual or constructive knowledge of a hostile environment must take prompt and effective steps that are reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effect, by ensuring that students are not restricted from participation in or benefiting from their educational opportunities as a result of a hostile environment. See Letter from Melanie Velez, Reg’l Dir., Dep’t of Educ. Office for Civil Rights Region IV to Kathryn LeRoy, Superintendent of Polk County Pub. Schs. at 3 (Mar. 23, 2016) (RE: Case No. 04-14-1664).

Discrimination and harassment of Palestinian, Arab, and Muslim students on the basis of race, national origin, and shared ancestry or perceived race, national origin, or shared ancestry is actionable under Title VI when such harassment impedes the educational opportunities of the targeted students. Swarthmore has been made aware numerous times by students, faculty, and community organizations that Palestinian, Arab, and Muslim students face discrimination on

campus and has failed to take any meaningful, let alone any action altogether in order to address the hostile environment these students have been subject to on campus.

The environment of discrimination at Swarthmore is unlike many other college campuses where the discrimination against Palestinian, Arab, and Muslim students is being committed by other students. Here, the majority of discrimination against, and creation of a hostile environment for, Palestinian, Arab, and Muslim students is by Swarthmore and its administration itself. The most egregious offender is Vice President Ives, who is directly responsible for many of the allegations made in this Title VI Complaint. It is reported by students and faculty both that Vice President Ives treats Palestinian, Arab, and Muslim students in a discriminatory manner and many have reported that she exudes an outward disdain and animosity towards Palestinian, Arab, and Muslim students and faculty. The administration as a whole has failed to address the Bias Incident Reports submitted by Palestinian, Arab and Muslim students and has disciplined Palestinian, Arab, and Muslim students for activities that have been permitted by Swarthmore of other student groups in the past. There are allegations of an administrator assaulting an Arab student and the administration has used inflammatory, if not directly racist, language while talking to or about Palestinian, Arab, and Muslim students. It has been reported that, on an occasion when students interrupted a speaker during the question-and-answer session following a public lecture, Vice President Ives and the Acting Co-President and Provost Tomoko Sakomura began yelling at Muslim and Palestinian students. Acting Co-President Tomoko Sakomura told the Palestinian student that “human beings don’t act like this.” Such treatment is demeaning of Palestinian, Muslim, and Arab students and exceptional for Swarthmore.

It has been reported that, while referring to Palestinian, Arab, and Muslim students conducting a nonviolent sit-in in a campus building, Vice President Ives used the word “terrorizing.” Students at Swarthmore have complained about being called “terrorists” by other students, yet the Swarthmore administration uses the same racist, Islamophobic terminology. This language by Vice President Ives highlights the general feeling that Palestinian, Arab, and Muslim students and faculty feel while conversing with her, and paired together with the lack of follow up on the Bias Incident Reports and the explicit targeting of these students for student disciplinary procedures, demonstrates a hostile environment for Palestinian, Arab, and Muslim students where they feel unwelcome on campus and limits their educational opportunities at Swarthmore.

The numerous allegations of discrimination against Palestinian, Arab, and Muslim students asserted herein warrant a thorough investigation by the U.S. Department of Education’s Office of Civil Rights.

V. REMEDIES REQUESTED

Swarthmore must change course with how it interacts and engages with its Palestinian, Arab, and Muslim students, as well as those associated and affiliated with Palestinians. It is imperative that Swarthmore take the following measures to protect and to stop discriminating against its Palestinian, Arab, and Muslim students:

- i. reconsider the recent and ongoing disciplinary actions against Palestinian, Arab, and Muslim students, and those associated therewith;
- ii. agree to a constructive dialogue process via structured meetings with affected Swarthmore community members and advocacy groups working with them to listen to their concerns;

- iii. conduct an internal investigation to determine how and why bias reports submitted by Palestinian, Arab, and Muslim students and those associated therewith are being ignored;
- iv. take corrective actions to ensure all bias reports are adequately addressed and following up with the students who submitted the bias reports;
- v. develop accessible support systems for students reporting grievances or facing disciplinary action;
- vi. implement the necessary trainings to administration and university personnel to prevent further discrimination against Palestinian, Arab, and Muslim students; and
- vii. take all necessary actions to eliminate the hostile environment against Palestinian, Arab, and Muslim students.

VI. CONCLUSION

For the above-mentioned reasons, CAIR-Philadelphia and the ADC urge the U.S. Department of Education's Office of Civil Rights to investigate Swarthmore's compliance with Title VI of the Civil Rights Act of 1964.

Respectfully submitted,

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