



SPEECH FIRST

1300 I St NW Suite 400E
Washington, DC 20005

March 30, 2021

Dr. Gregory L. Fenves
President
Emory University
505 Kilgo Circle
Atlanta, GA 30322

Sent via Electronic Mail (mkivel@emory.edu)

Dear President Fenves:

Speech First is an organization that is dedicated to preserving the First Amendment by fostering a lively marketplace of ideas on college campuses throughout the United States. As you may recall from our work at the University of Texas, we seek to defend and preserve First Amendment principles of free speech and expression through our advocacy and litigation. As President of Speech First, I am writing to implore you to protect these First Amendment principles on your campus by continuing to reject student calls to rename the Donna and Marvin Schwartz Center for Performing Arts.

As you know, Mr. Schwartz sponsored an event featuring Heather Mac Donald on January 28, 2020. Mr. Schwartz sponsored the event because he is “interested in seeing diverse opinions on all campuses.”¹ But some members of the student body were not interested in differing opinions. Instead, Emory’s Student Government Association and College Council overwhelmingly passed resolutions calling on the University to rename the Schwartz Center in retaliation for sponsoring Mac Donald’s speech.²

Emory has admirably rejected this demand to silence unpopular viewpoints and impose uniformity of opinion on campus. As you noted, “Emory’s commitment to free expression compels us to listen, learn, debate, and channel our collective energy into service, creativity, and all manner of intellectual pursuits.”³ To live up to the principles of the Free Speech Clause of the First Amendment, Emory must continue to reject calls to silence speakers.

The Supreme Court has long recognized that “[t]he vigilant protection of constitutional freedoms” such as freedom of speech and expression “is nowhere more vital

¹ Anjali Huynh & Calen MacDonald, “Mac Donald Ignites Controversy With ‘Diversity in Education,’” *The Emory Wheel* (Jan. 29, 2020), <https://bit.ly/2QH94hn>.

² “Editorial: Despite Student Demands, Open Expression Should Prevail,” *The Emory Wheel* (Mar. 24, 2021), <https://bit.ly/3fuhVgT>.

³ Office of the President of Emory University, “Statement on Schwartz Center Name” (Mar. 16, 2021), <https://bit.ly/3ddfqwo>.

than in the community of American schools [of higher education].” *Healy v. James*, 408 U.S. 169, 180 (1972). This “right to speak freely and to promote diversity of ideas and programs is . . . one of the chief distinctions that sets us apart from totalitarian regimes.” *Terminiello v. City of Chicago*, 337 U.S. 1, 4 (1949).

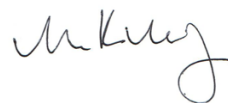
The First Amendment protects not only the speaker but the listener as well: “[f]reedom of speech presupposes a willing speaker. But where a speaker exists, as is the case here, the protection afforded is to the communication, to its source and to its recipients both.” *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council*, 425 U.S. 748, 756 (1976). Or as Frederick Douglass put it, “[t]o suppress free speech is a double wrong. It violates the rights of the hearer as well as those of the speaker.”⁴ American universities are “peculiarly the marketplace of ideas,” training future leaders “through wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, rather than through any kind of authoritative selection.” *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

Those calling on Emory to rename the Schwartz Center base their demands directly on Mac Donald’s purportedly offensive views. But a university should “not suppress expression because it finds that expression offensive.” *Piarowski v. Illinois Community College*, 759 F.2d 625, 630 (7th Cir. 1985). “The discomfort and unpleasantness that always accompany an unpopular viewpoint” is a function of a free society and no university should discourage or silence speech just because students disagree with it. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 509 (1969).

As the president of a university, you have an emphatic duty to stand against the “mobocratic spirit”⁵ that animates calls to wipe away Mr. and Mrs. Schwartz’s names. Without the vigorous exchange of ideas on campuses protected by the First Amendment, “our civilization will stagnate and die.” *Sweezy v. N.H. ex rel. Wyman*, 354 U.S. 234, 250 (1957). As you have recognized, retaliating against Mr. Schwartz “would undermine the freedom to express, share, challenge and discover, which is the bedrock of what a university does.” We encourage you to continue to be vigilant in identifying and forthrightly rejecting threats to the First Amendment at Emory.

Thank you for your time and consideration of these pivotal issues.

Sincerely,



Nicole Neily
President, Speech First

⁴ Frederick Douglas, *A Plea for Free Speech in Boston* (Dec. 10, 1860).

⁵ Abraham Lincoln, *The Perpetuation of Our Political Institutions: Address Before the Young Men’s Lyceum of Springfield, Illinois* (Jan. 27, 1838).