



May 2, 2023

VIA Electronic Mail

President Mark S. Wrighton  
George Washington University  
Office of the President  
1918 F Street, NW  
Washington, DC 20052  
president@gwu.edu

Re: *The Middle East Studies Association of North America (MESA)*

Dear President Wrighton:

We are attorneys at the Louis D. Brandeis Center for Human Rights Under Law (the Brandeis Center), a national non-profit legal advocacy organization that works to combat anti-Semitism in higher education and to protect the rights of Jewish students and all students. We write to address the continued presence of the Middle East Studies Association (MESA) on George Washington University's (GW's) campus. MESA is housed in the Institute for Middle East Studies (IMES) at GW's Elliot School of International Affairs.<sup>1</sup> MESA has been part of GW since 2019, when it signed a memo of understanding with the University to move its headquarters from the University of Arizona to GW.<sup>2</sup>

MESA was founded as a non-profit, non-political academic association dedicated to the study of the Middle East. But in 2017, MESA's members voted to change the organization's bylaws, removing any mention of their non-political status.<sup>3</sup> Subsequently, in March 2022, MESA abandoned its educational mission in favor of activism by adopting a resolution endorsing the Boycott, Divestment, and Sanctions (BDS) movement. This movement seeks to isolate and eliminate the Jewish State of Israel. MESA's resolution endorses the "2005 call of Palestinian civil society for BDS

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<sup>1</sup> Middle East Studies Association of North America, Inc., Strategic Plan 2021-2025, [https://mesana.org/pdf/Strategic\\_Plan\\_2021\\_digital\\_version\\_1108.pdf](https://mesana.org/pdf/Strategic_Plan_2021_digital_version_1108.pdf).

<sup>2</sup> GW Today, "The Middle East Studies Association Moves to GW," (August 22, 2019), <https://gwtoday.gwu.edu/middle-east-studies-association-moves-gw>.

<sup>3</sup> Middle East Studies Association, The Proposal to Amend MESA's Bylaws, (March 15, 2017), <https://mesana.org/elections/Bylaws-amendment-2017.html>.

against Israel” and directs the “Board to implement the spirit and intent of the resolution.”<sup>4</sup>

In adopting this resolution, MESA transformed itself from a purely academic association into a political advocacy group. MESA’s adoption of the BDS resolution should concern GW’s administration for many reasons, including the following.

*First*, MESA’s promotion of BDS violates GW’s own policy opposing “support [for] divestment, academic boycotts, or other actions called for by BDS.”<sup>5</sup> GW has firmly and consistently distanced itself from BDS. For example, in 2018, your predecessor, President LeBlanc, rejected the GW Student Senate’s resolution encouraging the University to divest from Israeli businesses, stating that the resolution “does not represent the University’s views, and the University will not implement such a proposal.”<sup>6</sup> This stance was reaffirmed in 2020 when GW rejected the application of a professor seeking deanship at the Elliot School because of her participation in the BDS movement.

*Second*, MESA’s BDS resolution violates GW’s academic freedom guidelines, which encourage “free inquiry, free expression, and the vigorous discussion and debate on which the advancement of the University’s educational mission depends.”<sup>7</sup> MESA’s endorsement of BDS means the elimination of Israeli academic institutions from the study of the Middle East – a patent silencing of discussion and debate. As the Alliance for Academic Freedom (AAF) has stated, “Academic freedom cannot exist where entire peoples or nations are effectively excommunicated from the global community of scholars and barred from the inherently collaborative work of research and teaching.”<sup>8</sup>

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<sup>4</sup> The Middle East Studies Association, Frequently Asked Questions about the BDS Resolution, (March 23, 2022), <https://mesana.org/news/2022/03/23/frequently-asked-questions-about-the-bds-resolution>.

<sup>5</sup> GW Media Relations, “University Statement on BDS and recent MESA vote,” (April 5, 2022), <https://mediarelations.gwu.edu/university-statement-bds-and-recent-mesa-vote>.

<sup>6</sup> GW Today, “Message from President LeBlanc on Student Association Resolution,” (April 24, 2018), <https://gwtoday.gwu.edu/message-president-leblanc-student-association-resolution>.

<sup>7</sup> See George Washington University, “Guidelines for Exercising and Defending Academic Freedom,” *available at* <https://provost.gwu.edu/sites/g/files/zaxdzs626/f/downloads/Resources/Academic%20Freedom%20Guidelines.pdf>.

<sup>8</sup> The Alliance for Academic Freedom, “MESA Chooses BDS Over Academic Freedom,” The Third Narrative, (March 28, 2022), <https://thirdnarrative.org/middle-east-studies-association-violates-fundamental-academic-freedom-principles-with-bds-endorsement/>

By calling for academic as well as cultural and economic boycotts of Israel, BDS restricts legitimate intellectual exchange with Israeli scholars, students, and institutions and violates the most basic tenets of academic freedom... In doing so, it tramples on the rights of those who study or teach about the Middle East and North Africa, of all Israeli scholars and students, and of scholars around the world who collaborate with Israelis.<sup>9</sup>

Many universities and colleges have disassociated themselves from MESA for this very reason. Most of the nation's leading Middle East Centers are no longer institutional members of MESA.<sup>10</sup>

*Third*, MESA's continued presence on GW's campus fosters anti-Semitism on a campus already struggling to address its viral spread. Studies show that universities whose faculty actively support BDS are 3.6 times more likely to have acts targeting Jewish and pro-Israel students for physical harm on campus.<sup>11</sup> And the ADL has reported that incidents of antisemitic harassment, vandalism, and assault, are rising on college campuses, noting that in 2021 that 15 percent of antisemitic campus incidents "involved references to Israel or Zionism."<sup>12</sup> A March 8, 2023 letter to the U.S. Department of Education (Ed. Dep't) from 15 members of the U.S. Senate led by Senator Sen. James Risch of Idaho (Risch letter) reflects this concern, explaining that, "A core reason college campuses are plagued by antisemitism is because [pro-BDS] professors who teach the curriculum indoctrinate students with anti-Israel bias and viewpoints."<sup>13</sup> As a result, Jewish students at universities like GW are refraining from publicly identifying as Jewish and are keeping their support for Israel off their social media accounts.<sup>14</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> At the end of 2022, MESA had 43 institutional members; at present, there are only 31. See Martin Kramer, *The Flight from MESA*, Martin Kramer on the Middle East, (March 27, 2023), <https://martinkramer.org/2023/03/27/the-flight-from-mesa/>.

<sup>11</sup> See AMCHA Initiative, "New Study: Faculty-Driven BDS is Fueling Campus Antisemitism", (March 16, 2022), <https://amchainitiative.org/faculty-bds-driving-antisemitism-3-16-22pr/>.

<sup>12</sup> Audit of Anti-Semitic Incidents 2021, Anti-Defamation League, <https://www.adl.org/resources/report/audit-antisemitic-incidents-2021>.

<sup>13</sup> Letter from U.S. Senator James E. Risch, et al. to Secretary of Education Miguel Cardona (March 8, 2023), [https://www.risch.senate.gov/public/\\_cache/files/a/d/ad1db0b9-31a2-4295-bd21-45cfe29af6a0/BDA5AB39BB404B2F10913FD1ADD33C72.letter-to-dept-of-education-on-taxpayer-funded-antisemitism-final-version-risch.pdf](https://www.risch.senate.gov/public/_cache/files/a/d/ad1db0b9-31a2-4295-bd21-45cfe29af6a0/BDA5AB39BB404B2F10913FD1ADD33C72.letter-to-dept-of-education-on-taxpayer-funded-antisemitism-final-version-risch.pdf).

<sup>14</sup> *Id.*

It is well-known that anti-Semitic activity at GW has worsened in recent years. An October 2022 article in the Jewish News Syndicate states, “Rhetoric at [GW] against Israel and Jews has grown increasingly intense, violent, and more confrontational, and has crossed many lines.”<sup>15</sup> Sabrina Soffer, a sophomore at GW and the commissioner of the Presidential Task Force to Combat Antisemitism at GW, remarked, “My own school, [GW], has not been spared from this wave of hate. A number of my Jewish friends tend to conceal their Jewish insignia when walking around campus. They’re often confronted or heckled.”<sup>16</sup> Most recently, the U.S. Department of Education’s Office for Civil Rights (OCR) opened an investigation to determine whether administrators at GW allowed Professor Lara Sheehi to discriminate and retaliate against Jewish and Israeli students in a mandatory course for graduate psychology students,<sup>17</sup> based on allegations, inter alia, that students had their Jewish identities repeatedly denigrated and belittled in front of their peers.<sup>18</sup>

*Fourth*, GW should consider its potential liability for MESA’s conduct. In 2022, GW responded to MESA’s adoption of the BDS resolution by stating, “GW does not support divestment, academic boycotts, or other actions called for by BDS. The recent vote by [MESA] on the BDS resolution is not a statement of GW’s position as an institution.”<sup>19</sup> In the same statement, GW claims that “MESA is an independent legal entity 501(c)3 and “not a GW organization.”<sup>20</sup> But GW’s Elliot School website lists MESA as an affiliated organization of GW.<sup>21</sup> Further, MESA’s headquarters have been incorporated into IMES, a GW academic department under GW’s purview. Finally, MESA depends on GW’s provision of resources to ensure its ongoing mission and continued success.

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<sup>15</sup> Chanidu Gamage, “Anti-Semitic Activity at George Washington University Troubles Jewish Community,” Jewish News Syndicate, (Oct.24, 2022), <https://www.jns.org/anti-semitic-activity-at-george-washington-university-troubles-jewish-community/>.

<sup>16</sup> Sabrina Soffer, “I’ve Been Asked to Help Tackle Antisemitism at George Washington University; Here’s My Take,” The Algemeiner, (March 13, 2023), <https://www.algemeiner.com/2023/03/13/ive-been-asked-to-help-tackle-antisemitism-at-george-washington-university-heres-what-i-plan-to-do/>.

<sup>17</sup> Stand With Us, OCR Opens Investigation Into SWU Title VI Complaint Against GW, (April 4, 2023), <https://www.standwithus.com/post/ocr-opens-investigation-into-swu-title-vi-complaint-against-gw-april-2023>.

<sup>18</sup> *Id.*

<sup>19</sup> GW Media Relations, “University Statement on BDS and recent MESA vote,” (April 5, 2022), <https://mediarelations.gwu.edu/university-statement-bds-and-recent-mesa-vote>.

<sup>20</sup> *Id.*

<sup>21</sup> See Institute for Middle East Studies, About Affiliated Organizations, <https://imes.elliott.gwu.edu/about/>.

MESA has acknowledged and even expressed “gratitude” for these resources and GW’s office space<sup>22</sup> In short, MESA and GW have formed a mutually symbiotic relationship where “MESA members will continue the organization’s work studying the Middle East” and “GW will provide a new home for the body’s executive functions, elevating the University’s profile as a leading center for studying the region.”<sup>23</sup> MESA is now recognized as part of the GW community.<sup>24</sup>

As you are aware, all entities that receive federal funding are bound by Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits universities accepting federal funding from engaging in discrimination against Jews and Israelis based on their “actual or perceived shared ancestry or ethnic characteristics.”<sup>25</sup> As discussed above, MESA’s BDS resolution encourages GW faculty and staff at the Elliot School to boycott scholars from Israeli institutions and organizations. Implementing MESA’s BDS resolution also means rejecting events, activities, and projects involving Israeli academic institutions, refusing to write for Israeli journals, and attending academic conferences in Israel.<sup>26</sup> Moreover, endorsing MESA’s BDS resolution means adherence to the policy of “anti-normalization” whereby Israel is cast as uniquely malevolent and criminal among all the nations of the world, and any and all attempts at mutual understanding and dialogue are to be avoided, including the rejection of those who support Israel.<sup>27</sup>

For most Jews, including many Jewish students at GW, support for the Jewish homeland is a sincere and deeply felt expression of their Jewish ethnic and ancestral

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<sup>22</sup> Ciara Regan, “Middle East Institute Seeks to Raise Research Profile,” The GW Hatchet, (Sept. 9, 2019), <https://www.gwhatchet.com/2019/09/02/institute-for-middle-east-studies-seeks-to-raise-its-profile-among-regions-researchers/>.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See 42 U.S.C. §2000d *et seq.*; Executive Order 13899, Combating anti-Semitism, December 11, 2019, 3 C.F.R. §§68779-68780, available at <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism-EO-13899>). See also *Know Your Rights: Title VI and Religion*, U.S. Dep’t Educ.–Office for C.R., January 17, 2017, available at <https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201701-religious-disc.pdf>.

<sup>26</sup> Michael B. Atkins and Miriam F. Elman, *BDS as a Threat to Academic Freedom and Campus Free Speech in the United States*, 29.2, MICHIGAN STATE INT. L. Rev.219 (2021).

<sup>27</sup> *Id.*

identity.<sup>28</sup> All too often on college campuses, Jewish students who wish to express this part of their Jewish identity encounter deliberate and targeted efforts to isolate, intimidate, demonize, marginalize, and exclude them from campus life and activities.<sup>29</sup> While not all Jews feel a connection to Israel, those who celebrate the Jews' ancestral connection to Israel are expressing a component of their Jewish ethnic identity that is as integral to their identity as observing the Jewish Sabbath or keeping a kosher diet is to the Jewish identity of those who observe those religious practices. Targeting, marginalizing, and excluding Jews on the basis of any component of their Jewish identity – whether it be support for Israel, Sabbath observance, or *kashrut* – is discriminatory. No one is claiming that criticizing Israeli policy or its government is anti-Semitic; however, denying Israel's right to exist or blaming all Jews for the actions of Israel is, as the ADL has observed, “transparently a cover for anti-Semitism.”<sup>30</sup> By fostering anti-Israel sentiment on campus, with the University's apparent stamp of approval, MESA helps to foster and maintain a hostile environment for Jewish students, which violates GW's duties under Title VI.

MESA's continued presence on GW's campus may also jeopardize the University's 501(c)(3) tax-exempt status as an “educational” organization. The term “educational” is defined by a Treasury regulation that provides this guidance:

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.<sup>31</sup>

Here, MESA's adoption of the BDS resolution affects its ability to present a “full and fair exposition of facts,” as BDS is based on an unsupported opinion that presents a

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<sup>28</sup> Alyza D. Lewin, *Zionism: The Integral Component of Jewish Identity that Jews are Historically Pressured to Shed*, 26 ISRAEL AFFAIRS 330 (2020), <https://www.tandfonline.com/doi/abs/10.1080/13537121.2020.1754577>.

<sup>29</sup> Alyza Lewin, *Recognizing Anti-Zionism as an Attack on Jewish Identity*, 68 CATH. U.L.REV. 643, 644 (2019).

<sup>30</sup> Anti-Defamation League, “What Is... Anti-Israel, Anti-Semitic, Anti-Zionist?” (May 3, 2022), <https://www.adl.org/resources/tools-and-strategies/what-anti-israel-anti-semitic-anti-zionist>.

<sup>31</sup> 26 CFR § 1.501 (c)(3)-1(d)(3)(i). See also Erika K. Lunder, “501(c)(3) Organizations: What Qualifies as Educational?” Congressional Research Service, (Aug. 21, 2012), <https://sgp.fas.org/crs/misc/R42673.pdf>.

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version of events that is skewed, inflammatory, and often factually inaccurate. The IRS has found that while a nonprofit and an affiliate may work together on many levels to accomplish a wide variety of goals, each must maintain its own independent identity and purpose, with particular attention on delineating between nonexempt and exempt purposes and activities, to prevent jeopardizing the other.<sup>32</sup> The courts have often attributed liability to the host or parent organization based on the affiliate's actions in cases where the affiliated organization is shown not to operate independently.<sup>33</sup> This may threaten GW's tax-exempt status because, as previously stated, the close relationship between the two demonstrates that MESA is not an independent organization but part of GW.

We urge you to discontinue GW's association with MESA before your tenure as interim President expires in July. Such a step would help GW fight anti-Semitism and discrimination on its campus. It will also alleviate some of the hostility Jewish and Israeli students encounter at GW.

Please feel free to call us to discuss these issues.

Sincerely,



L. Rachel Lerman  
*General Counsel*



Deena Margolies  
*Civil Rights Legal Fellow*

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<sup>32</sup> Carlyne R. Dilgard, Jonathan F. Korman, Frederick J. Gerhart, Section 501(c)(3) Tax-Exempt Entities Forming Affiliations With Other Entities: Benefits, Risks, and Structural Considerations, (June 2011), <https://www.probonopartner.org/wp-content/uploads/2016/05/Affiliation-Primer-Unabridged.pdf>.

<sup>33</sup> The decision is based on the consideration of the facts as a whole. If the facts show that the parent exercised such excessive control over the subsidiary, an agency relationship can be found to exist, under which the parent company can be liable for the actions of the subsidiary. See *Elmer v. Tenneco Resins, Inc.*, 698 F. Supp 535 (D. Delaware 1988); *J.E. Rhoads & Sons, Inc. v. Ammeraal, Inc.*, 1988 WL 32012 (Del. Super. 1988); *Phoenix Canada Oil Company Limited v. Texaco, Inc.*, 658 F.Supp. 1061 (D. Delaware 1987); *Japan Petroleum Co. (Nigeria) Ltd. v. Ashland Oil, Inc.*, 456 F.Supp. 831 (D. Delaware 1978).